

Senator Cordy asked a question near the end of the session that Mr. Weekes answered, but I did not answer in the interests of time. However, it was a very important question on which I have written and thought a lot about. Her question was how should the WTO negotiate in future – should it change its negotiating procedures, given the failure of the Doha Round? I have addressed institutional reform of the WTO’s rulemaking and decision making machinery in a number of articles that I have written, including the following:

The House that WTO Members Built

Debra P. Steger

University of Ottawa - Common Law Section

July 22, 2014

Debra P. Steger, ed, World Trade Organization: Critical Perspectives on the World Economy (London: Routledge, 2014).

[Ottawa Faculty of Law Working Paper No. 2014-13](#)

Abstract:

The World Trade Organization (WTO) is an anomaly among international organizations in the world today. It is one of the newest of all the international organizations, born less than twenty years ago, yet it has a pedigree going back to the end of World War II. Why has the WTO been viewed with such scepticism by civil society and non-governmental organizations? Did the Uruguay Round negotiators make egregious mistakes by agreeing to extensive, intrusive, international rules on trade in goods, services and intellectual property, and creating a highly legalistic, binding dispute settlement system? Is the WTO now in decline? The WTO’s first ten years seemed to be so brilliant and full of promise. Is it a victim of its own success by expanding the scope of the rules and commitments and its membership too fast?

The Uruguay Round negotiators built the WTO Members a house: the WTO, in which they can administer the existing agreements, observe the practices of others, discuss relevant matters, negotiate new agreements and changes to existing agreements, resolve disputes, and cooperate with other international organizations. The WTO faces several major challenges to its continued viability and credibility as an international organization. Is the WTO constitutionally flawed, with decision making and rulemaking systems that do not work for the benefit of all Members? Is its dispute settlement system too strong, and its rulemaking system too weak and ineffective? How can the credibility and legitimacy of the WTO be improved? With the increasing proliferation of PTAs, how can the centrality of the WTO be maintained in the multilateral trading system? Is the WTO a house made of bricks, or straw? It has a strong foundation, but the responsibility lies with the Members to decide whether they want to work together to meet the significant challenges that lie ahead.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2469951

The Culture of the WTO: Why it Needs to Change

Debra P. Steger

University of Ottawa - Common Law Section

September 1, 2007

Journal of International Economic Law, Vol. 10, Issue 3, pp. 483-495, 2007

Abstract:

The WTO is an international organization with its own distinctive culture, which is derived from the practice and experience of the GATT. The WTO, however, is not the old GATT. The multilateral trading system was transformed into an international organization in 1995, and today, the WTO also administers a host of agreements that contain detailed rules regulating international economic activity. The membership of the WTO has grown to 150, the vast majority of which are developing countries. Most importantly, the trading system, which was once bi-polar, driven by the United States and the European Union, has changed dramatically to become multi-polar, with the large emerging economies, such as China, India and Brazil, becoming major economic powers in their own right. The WTO needs major surgery in order to respond effectively to the new political realities in the international economic system. The current impasse in the Doha Round is in large part due to the great transformation in geopolitical power relationships taking place in the world today. If the Round fails, it will not be the end of the WTO. On the contrary, it might provide a useful time out for the multilateral system to find its new stride. A related problem is that the mandate of the WTO is no longer clear. This article suggests that WTO Members work together to define the new purpose and mandate of the WTO to make it relevant to governments, companies and people in the 21st century. Institutional reform of the WTO is needed to provide it with the architecture and decision making machinery that will allow it to become a vibrant, responsive and accountable organization.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1152150

The Future of the WTO: The Case for Institutional Reform

Debra P. Steger

University of Ottawa - Common Law Section

December 1, 2009

Journal of International Economic Law, Vol. 12, Issue 4, pp. 803-833, 2009

Abstract:

Institutional reform of the World Trade Organization (WTO) is needed to equip it for the challenges of the future. However, the major problem with rule making and decision making in the WTO is not the consensus rule or the decision-making rules in the Marrakesh Agreement Establishing the WTO. It is not the final phase of adoption of a rule-making proposal that causes the delays and blockage in the WTO system, but rather the lack of formal mechanisms at the initial and intermediate stages of the rule-making process and the absence of a management or executive body, analogous to the executive boards of the International Monetary Fund and

World Bank, that leads to the lack of direction and drift in the Organization. This article maintains that it is necessary to establish a formal, limited-membership management committee or executive board within the WTO. The roles of the Director-General and the Secretariat of the WTO should also be enhanced. The WTO has been criticized for its lack of transparency and accountability vis-à-vis NGOs and civil society. Developing a parliamentary dimension to the WTO would go a long way to remedying these deficiencies. Finally, the idea of developing more formal mechanisms for receiving input from non-state stakeholders, with an emphasis on business and consumer groups, should be explored.

I hope these articles are helpful. If her time is limited, the first two articles are perhaps more relevant to her question. The third one proposes institutional reforms to the WTO. One point I did not emphasize yesterday is that I do not think rounds are important any longer. Indeed, progress is being made in the WTO without commencing major rounds. It was overly ambitious to launch the Doha Round in 2001, and in my view, would be a disaster to launch another major round in the near future. It would be far better to continue to negotiate issues incrementally on a smaller scale.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1528323

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