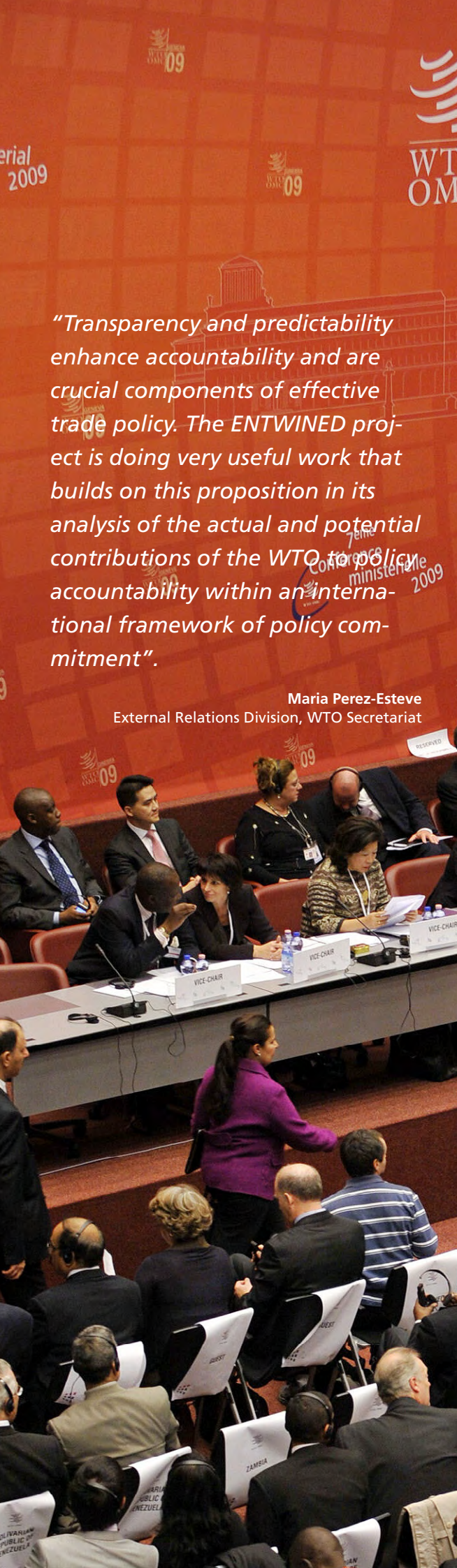


Looking Back, Looking Forward: Civil Society Contributions to WTO Accountability

By Mark Halle and Robert Wolfe with assistance from Christopher Beaton





“Transparency and predictability enhance accountability and are crucial components of effective trade policy. The ENTWINED project is doing very useful work that builds on this proposition in its analysis of the actual and potential contributions of the WTO to policy accountability within an international framework of policy commitment”.

Maria Perez-Estevé
External Relations Division, WTO Secretariat

ABOUT THE AUTHORS



Christopher Beaton is a Research Analyst and Communications Officer at the International Institute for Sustainable Development (IISD). His work on governance has primarily focused on options for the reform of global environmental governance (GEG) that would best meet the needs of African countries. He has also performed policy research on various themes within the domain of trade and climate change, including a lead role in the drafting of the Enabling Conditions chapter of UNEP's Green Economy Report, and, under the IISD's Global Subsidies Initiative (GSI), a range of projects on fossil-fuel subsidies and renewable-energy subsidies. He also manages the GSI's website and is the editor of its bi-monthly e-newsletter *Subsidy Watch*.

Mark Halle is Executive Director at International Institute for Sustainable Development – Europe (IISD-Europe) and is also Director of IISD's global programme on Trade and Investment. Born in the United States, Mark grew up in Switzerland, taking degrees from Tufts University (USA) and Cambridge University (UK). He began his career in the Diplomatic Secretariat of the Conference on Security and Cooperation in Europe. At the close of the conference he joined the United Nations Environment Programme (UNEP) where he worked on the cycle of “State of Environment” reports. He was one of two UNEP members of the team that drafted the World Conservation Strategy, launched in 1980. From UNEP he joined the World Wildlife Fund (WWF) from which he managed the new conservation programme in China and served as conservation assistant to the WWF President, HRH The Prince Philip, Duke of Edinburgh. He then joined the International Union for Conservation of Nature (IUCN), working successively as Director of Field Operations, Director of Development and, finally, Director of Global Policy and Partnerships. He left IUCN in 1998 to establish the European office of IISD in Geneva.



Mark works and writes on a range of topics linking economic policy and sustainable development, in particular trade, investment and subsidy policy. He is currently setting up a new initiative on accountability, focused on the WTO and on the international environmental governance regime. He also works on the link between natural resources management, conflict and peacebuilding.



Robert Wolfe is Professor in the School of Policy Studies at Queen's University in Kingston, Canada, and an IISD Associate in the Trade and Investment Program. He was a foreign service officer for many years, serving abroad Dhaka, Bangladesh and in the Canadian Delegation to the Organisation for Economic Co-operation and Development in Paris. In Ottawa he worked in the National Security Section; the U.S. Trade and Economic Relations Division; as Executive Assistant to the Ambassador for Multilateral Trade Negotiations and Prime Minister's Personal Representative, Economic Summit; and in the International Economic Relations Division. Since joining Queen's in 1995, where he teaches policy analysis and trade policy, Dr Wolfe has published widely on trade policy and institutions, and on public opinion about trade. He is the coordinator of Canadian participation in the Canada-UK Colloquium, and a member of the Canadian Agricultural Trade Policy and Competitiveness Research Network.

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THIS BRIEF TARGETS

- Civil society organizations, researchers, WTO Secretariat, national trade policy officials.

KEY MESSAGES

- Since its inception, the WTO has significantly increased its transparency and active engagement with civil society, thereby enhancing the extent to which civil society can contribute to WTO accountability.
- Civil society has played an instrumental role in encouraging WTO to go further, through efforts to disseminate information and analysis about the WTO, as well as monitoring and evaluation of Member performance against commitments.
- Looking forward, WTO and civil society should expand on previous contributions to improving accountability in the areas of transparency, monitoring and evaluation, and consultation.
- Participants in a workshop at WTO in May 2011 identified opportunities for improving civil society contributions to WTO accountability, although many questions remain about the status of existing activities and the feasibility of the suggestions proffered.

PURPOSE OF ISSUE BRIEF: On May 9th 2011, representatives from the WTO Secretariat, civil society and academia gathered at the World Trade Organization in Geneva to discuss the role that civil society does and should play in ensuring WTO accountability.¹ This brief broadly summarizes the issues that were discussed and highlights the most promising areas that were identified for future study and action.

The notion of accountability is one that we all understand in our own ways, but stems from a fairly simple idea; if you promise to do something, and you don't, there is a price to pay. Operationalizing this principle, however, becomes much more complicated as it moves from personal and local to the organizational and national levels. If applied to global governance regimes, it becomes enormously complicated. The aim of this research programme is to try to unpack this system. Who is liable or accountable and to whom? What are they accountable for? Through what processes and by what standards? And with what effects on the actors involved? The premise of the IISD collaboration with ENTWINED is that such questions will become more urgent for the pursuit of environmental and sustainable development issues in the WTO in an era when formal negotiations appear to be blocked.

One component of this work is to focus on the role that civil society can play in answering some of these questions. On what issues have civil society organizations tried to hold the WTO and its Members accountable, and through what processes? With what effects on the ground? And does the WTO act to enable or disable such efforts? What else could civil society do to improve WTO accountability and how could the WTO enable such activity?

LOOKING BACK: HOW FAR HAVE WE COME?

In 1999, when the WTO Ministerial Conference in Seattle was famously disrupted by large protests, the prospect of a workshop on civil society within the WTO itself would have created a considerable stir. At the time, large sections of civil society perceived the WTO to be a non-transparent organization where faceless bureaucrats made decisions that went beyond the traditional territory of the interna-

tional trading system. National governments were accused of having given up decision-making power on important issues, particularly regarding labour rights, and many NGOs wanted the WTO to throw open its doors so that third parties could observe and participate in negotiations. At the same time, other parts of civil society were equally adamant that the WTO needed to take an increasingly interventionist role in domestic politics on issues like labour and the environment. Workshop participants agreed that attitudes and activities of both the WTO and civil society groups had changed considerably since the WTO's troubled beginnings, and spent some time discussing the broad outlines of these changes.

THE EVOLUTION OF RULES AND PRACTICES IN THE WTO

As detailed by Perez Esteve (2011), the WTO's stance on transparency and engagement with civil society has undergone significant changes in the past ten years, despite little change in the formal rules. Key developments in practice have included:

- **Evolution in WTO Secretariat engagement with NGOs:**

Although the WTO's 1996 Guidelines for Arrangements on Relations with NGOs stated that the Secretariat could not allow NGOs to have direct involvement with the WTO or its meetings, the WTO's founding agreement still gave the Secretariat considerable flexibility in how it could go about informing, consulting and cooperating with civil society. Up until 2001, such activity largely focused on accrediting NGOs, organizing ad-hoc issue-specific symposia and running briefings for NGOs on work undertaken by committees and working groups. Between 2001 and 2006, a second wave of improvements took place, with NGO seminars in Geneva, workshops outside Geneva, NGO participation in online discussions, regular briefings held in preparation for meetings and the creation of informal NGO and business advisory groups. In a third set of improvements that began in 2006, the long-standing practice of holding briefings for NGOs was institutionalized and the WTO undertook an active outreach programme to make the WTO more accessible and explain to civil society how the WTO functions.

- **The development of the WTO website:** The WTO website was discussed as the primary vehicle through which the organization communicates with the global public and promotes transparency about its activities. Although first launched in 1996, it was significantly improved in this regard in 2002, when a decision was taken to make restricted documents publically available at an earlier date. Today, the website includes news on negotiations, material on disputes, trade statistics, publications, a dedicated NGO section, photos, podcasts and videos, and receives over 1 million hits per month.

- **The WTO Public Forum:** Workshop participants hailed the annual Public Forum in Geneva as the WTO's largest outreach event, giving the general public access to meeting rooms, interaction with members and participation in workshops about international trade and the WTO itself, with proceedings being compiled in a widely distributed publication, also available online. It was noted that efforts have recently been made to increase participation through the creation of an online forum.

CIVIL SOCIETY

Workshop participants also discussed how civil society's engagement with the WTO had evolved over the past ten years, seeing some strategies change in response to the WTO's increased engagement, and in other cases acting as a contributing factor to the changes in the WTO's practices. The general trend was considered to be a move away from demanding increased transparency and a different market access component framework, and towards increased engagement with the Secretariat and efforts to influence the regulatory framework being created by Members.

In the course of discussions, two key functions of civil society in promoting WTO accountability were identified:

- **Improving transparency:** The International Centre for Trade and Sustainable Development's trade news publication Bridges was held up as an example of an instrumental NGO initiative that has increased WTO transparency, through its two main functions of providing information and organizing multi-stakeholder initiatives. As an information service, it was emphasized that Bridges had correctly decided not to be simply a clearing house for information, but rather to complement this with filtering and analysis – giving the stakeholders of governance not only the facts but the “capacity of critical judgement” to formulate their concerns and interests (Nanz & Steffek 2004). Begun in a period when negotiations were highly secretive, it operated on the premise that greater scrutiny would improve the outcome of trade negotiations, reducing the extent to which special interest groups can influence government decisions through closed-room negotiations. The aim of its multi-stakeholder dialogues was to explain the details of ongoing negotiations and give people the tools they needed to better engage with the WTO, as a concerted effort to close the gap between WTO insiders and outsiders. Bridges was held up as one of the civil society organizations that played an important role in the ongoing trust-building with the WTO, and its activities arguably encouraged increased openness from the WTO – either to correct the record or offer its own interpretation of events.

- **Conducting monitoring and evaluation of WTO Members:**

The group also discussed the conclusions in the recent ENW-TINED paper analysing the impacts of one civil society watchdog initiative on the WTO – the Global Trade Alert's (GTA's) online monitoring and evaluation of G-20 countries' commitment not to impose new import barriers, export restrictions or WTO-inconsistent measures in response to the financial crisis (Wolfe, 2011). Although the paper concluded that the WTO Secretariat ultimately provided more accurate information than the GTA, it was argued that the type of activity conducted by the GTA created useful pressure to encourage this high level of accuracy.

LOOKING FORWARD: PROBLEMS, OPPORTUNITIES AND QUESTIONS

A wide-ranging discussion took place on potential issue areas where civil society could further contribute to promoting WTO accountability. By and large, participants concentrated on the themes that had already been identified with respect to past activities, but asked



how these could be strengthened or scaled up in the future. Three of the key areas were transparency, monitoring and evaluation, and consultation.

1. Transparency

It was proposed that transparency in the WTO was no longer a question of requiring more information; despite the ongoing desire to know more instead of less about negotiations, the current challenge was to focus on access and analysis, as well as addressing any knowledge deficits.

The first of these points – removing barriers to access and increasing analysis – was considered to be a key step in allowing for transparency to be meaningful, and a starting point in enabling civil society to hold governments accountable. Suggestions to this end included making documentation available in more languages and increased contextualisation of reporting at regional and national levels around the world. One participant observed, “Giving someone a document doesn’t necessarily make a whit of difference. Success has been to build stories around pieces of information.”

Access was also depicted as a question of relationships; thinking about which parts of civil society were able to engage with the WTO directly in Geneva and how else the WTO might give dispersed civil

society actors a ‘personal’ sense of the institution and its staff. Significantly, it was observed that too great a reliance on online communications could be damaging, with one participant citing complaints that ‘reference to a website is the first step toward exclusion’.

Knowledge deficits were identified as areas where there was currently little or no analysis informing the international trade regime. Some speculated that the WTO needed to conduct increased consultation to become aware of what its deficits might be. Others specified the most important of these gaps as the lack of analysis on the impacts of trade agreements. It was acknowledged, however, that this is currently an active debate among economists, and that parsing out the policy context created by trade agreements from the national government policies taking place within that context was an extremely challenging area of analysis.

Unresolved questions:

- Is WTO reporting sufficient to ensure accountability?
- What else should the Members and the Secretariat report on, and how?
- Have civil society organizations pressed WTO to make information sufficiently user-friendly?
- Is the information needed by civil society for advocacy purposes different from that needed to ensure WTO accountability? Using the jargon of the accountability literature, in the one role they are principals; in the other they are the delegates of citizens.

2. Monitoring and Evaluation

As opposed to general transparency, workshop participants considered monitoring and evaluation as a separate activity whereby civil society actors could hold the WTO accountable by generating information and analysis regarding performance with respect to specific promises. Importantly, participants emphasized that a distinction needs to be drawn between attempts to hold the WTO Secretariat accountable – which can only be done with respect to a few select issues, as it has few autonomous operational roles – and attempts to monitor and evaluate the performance of WTO Members, following the example of the GTA. The two key opportunities identified where monitoring is relevant were existing agreements and setting benchmarks.

The first of these came from observations that there are many WTO commitments against which Members perform poorly, but there are no formal processes to hold them accountable. A prominent illustration of this was the Agreement on Subsidies and Countervailing Measures (ASCM), which requires countries to notify their subsidies to the WTO. The WTO Secretariat receives many late and incomplete submissions. For example, in 2006 Germany reported only €1.25 billion of its €10.8 billion in subsidy programmes (Thöne & Dobroschke, 2008). It was argued that in such cases, where there are agreements with clear criteria against which performance can be measured, then either civil society, through independent analysis and reporting, or the WTO, through an evaluation committee or its trade policy review mechanism, could usefully apply pressure for countries to keep their promises, or (as in the case of the GTA) both.

More ambitiously, the idea of setting benchmarks focused on the potential for civil society groups to create clear criteria for the analysis of performance where no such clear criteria exist. It was argued that even in cases where criteria are created with respect to goals we do not know how to achieve – such as sustainable development – that this can still be a powerful force in driving innovation. One comparison was made with a recent exercise regarding the IMF, where civil society organizations working with a team of retired IMF staff conducted a review of the institution and made recommendations for its future direction. Others suggested that a less confrontational, bottom-up approach might be more effective for the WTO, given its institutional character.

Unresolved questions:

- What do civil society organizations currently contribute to policy monitoring and, thereby, to the accountability of the WTO?
- Are there NGOs currently involved in naming and shaming with respect to WTO commitments?
- Are NGOs assessing accountability against different standards than WTO Members?
- Do civil society efforts help the organization advance its mandate faster than some Members might wish, by increasing the space for new ideas?

3. Consultation

Consultation was a third theme that was considered to contain important problems and opportunities, held to be distinct from transparency in its emphasis on interaction: the need for iterative exchanges between the WTO and civil-society stakeholders, with each adapting its positions as a result of the communication. This was thought to be especially important if the ‘delegation’ model of accountability was to be feasible, where it is argued that civil society groups are a viable conduit through which citizens can achieve representation within international organizations like the WTO. The issues that were prominent in discussion regarded who is being consulted and how?

It was generally acknowledged that there is a northern bias in existing consultations with the WTO, in large part due to the organization’s physical location. This gave rise to debate about the possibility of establishing WTO regional offices. A significant number of participants opposed this suggestion, on the grounds that the WTO’s lack of an operational role would make the expense difficult to justify. Training and capacity were also discussed, although it was noted that some of this is already on-going, with the WTO Chair’s programme providing capacity building on trade issues in 12 universities in developing countries. Though acknowledging the potential exclusionary nature of placing too much emphasis on web resources, it was also argued that increased use of web tools could be an effective way to increase participation.

The question of ‘how people are being consulted’ focused on the impacts of current consultation activities: are current dialogues a genuine attempt to hear the voice of civil society, or a mere strategy to keep organizations quiet? It was suggested that it would be use-

ful to conduct research to estimate the impacts of existing outreach tools like the WTO’s Public Forum. Suggestions for improving the quality of participation included creating spaces where national delegates could meet civil society more directly, such as through brown-bag lunches or by organizing ‘informal’ side meetings that allow delegates to speak more broadly on their specialist subjects.

Unresolved questions:

- Is the Public Forum the best way for WTO to engage in reasoned debate with civil-society organizations about the accountability of its actions?
- Do civil-society organizations learn through their discussions with the WTO?

WAY FORWARD

Looking back over the past 15 years, it is clear that the WTO has made great strides in its efforts to increase accountability with regard to transparency and engagement with civil society. It is equally clear that civil society has played a significant role with respect to increasing transparency, giving a voice to various sub-sections of the public in the international trade regime. Looking forward, however, it is also clear that this agenda is far from exhausted. Information could be made more readily available and in forms that make it more accessible. Dialogue can be broadened to include those who are not close to the WTO and do not have travel resources and/or sufficient access to the internet. Dialogue must also be a genuine interaction; not just a tool to silence objections.

An increased role for monitoring and evaluation is arguably the greatest area for constructive contributions to WTO accountability, with civil society holding Members accountable for promises that can be easily measured and exploring the uncharted territory of promises for which results are difficult to determine. Civil society organizations should seek to supplement official sources and probe for gaps in official data, while devoting the bulk of their resources to alternative interpretations of state actions. Underlying all of these issues is a need for greater understanding regarding the status quo (to what is there a need for change?) and an assessment of the potential costs and benefits of different strategies for increasing accountability.

POLICY IMPLICATIONS/ POLICY RECOMMENDATIONS

There is a risk of conflating accountability for doing the right thing (e.g. open inclusive negotiations) with achieving the right thing (e.g. a trading system that would support sustainable development). We also risk conflating access to raw information with useful aggregations of information. The WTO Secretariat should prepare analytical reports that are useful both to governments and the public, so that citizens can use the information to hold their governments to account.

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¹ The workshop was conducted under the Chatham House Rule to facilitate frank and open discussion, meaning that this report does not identify participants – with the exception of those acting in the capacity of facilitators and presenters. All of the background papers are available on the web: http://www.iisd.org/trade/policy/wto_accountability.aspx. We are grateful for the support for the workshop provided by ENTWINED, a research programme funded by the Swedish Foundation for Strategic Environmental Research (Mistra).

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ENTWINED
Box 210 60
SE-100 31 Stockholm
Sweden, +46 (0)8 598 56 300
info@entwined.se
www.entwined.se
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The research programme ENTWINED – Environment and Trade in a World of Interdependence – examines the interplay between the global trade regime and environmental policies promulgated by governments and private entities with a particular focus on the treatment of transboundary problems. ENTWINED is actively engaged with policy makers and other stakeholders to the Trade and Environment Debate. The team

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