

**HOW DOES CIVIL SOCIETY INFLUENCE WTO'S
GOVERNANCE SYSTEM**

Hugo Miguel Marques Gonçalves de Carvalho Agostinho

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Supervisor:

Maria do Rosário Costa e Silva da Veiga, Assistant Professor, Department of
Accounting, ISCTE-IUL, Lisbon University Institute, Lisbon, Portugal

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RESUMO

O objetivo principal desta dissertação é avaliar o estado da arte acerca da influência e participação da sociedade civil no sistema de governança da Organização Mundial do Comércio (OMC), analisá-lo e extrair conclusões. A partir de evidências encontradas em estudos de vários autores, uma análise conceptual e histórica é feita sobre a Sociedade Civil, a OMC e a relação entre ambos. Padrões de transparência e meios de participação existentes para a sociedade civil na OMC são submetidos a análise crítica de pontos-chave relacionados com a crise de legitimidade da OMC. A crise de legitimidade da OMC (e também a legitimidade das exigências da sociedade civil para maior representação dos seus interesses no seu processo de decisão) é explicada através de deficits de transparência, falta de representação e representatividade, e inexistência de meios formais de participação mais efectivos para alguns dos seus stakeholders internos e externos. Conclusões e sugestões futuras são sugeridas, recomendando que a OMC e o seu processo de decisão se tornem mais representativos, abertos e responsivos, corrigindo ou fortalecendo alguns dos seus padrões de transparência e participação no curto prazo e, finalmente, caminhando para a criação gradual de uma Assembleia Parlamentar incluída na hierarquia formal de governança desta organização intergovernamental.

Palavras - Chave: Sociedade Civil; OMC; Deficit democrático; Participação

JEL class system: F13 - International Trade Organizations; H1 - Structure and Scope of Government;

ABSTRACT

The main objective of this dissertation is to assess the state of the art regarding civil society influence and participation at WTO's governance system, analyze it and draw conclusions out of it. Upon evidence found in studies of several authors, a conceptual and historical analysis is made to Civil Society, WTO and the relationship between both. Evidences of existing transparency standards and participation means for civil society at WTO are put under critical analysis of key points regarding WTO legitimacy crisis. WTO legitimacy crisis (also the legitimacy for civil society demands for more voice) is explained to be connected to deficits of transparency, lack of representation and formal participation means towards some of its internal and external stakeholders. Conclusions and future suggestions are drawn recommending that WTO needs to become more representative, open and responsive by correcting or strengthening some of its transparency standards and participation venues in the short-term and ultimately, walk towards the creation of a Parliamentary Assembly included in its formal decision-making hierarchy.

Keywords: Civil Society; WTO; Democratic deficit; Participation

JEL class system: F13 - International Trade Organizations; H1 - Structure and Scope of Government;

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GLOSSARY

CSO – Civil society organization

DG – Director-general of WTO

DSB – Dispute settlement body

DSM – Dispute settlement mechanism (synonym of DSS)

DSS – Dispute settlement system

DSU – Dispute settlement understanding

EU – European Union

GATT – General agreement on tariffs and trade

GC – General Council

ICSTD – International centre for trade and sustainable development

IGO- Inter-governmental organizations

IMF – International Monetary Fund

IO – International organization

IPU – Inter-parliamentary Union

ISSO - International standard-setting organization

ITO – International trade organization

LDC – Least developed countries

MC – Ministerial conference

NGO – Non-governmental organization

OECD – Organization for Economic Co-operation and Development

OMC – Organização Mundial do Comércio

SPS – Sanitary and phytosanitary measures

TBT – Trade barriers to trade agreement

TPRB – Trade-policy review body

TPRM – Trade-policy review mechanism

TRIPs – Agreement of trade related intellectual properties

TTIP – Transatlantic trade and investment partnership

UN – United Nations

UNHCR - United Nations High Commissioner for Refugees

UNWCAR - United Nations World Conference Against Racism

WB – World Bank

WTO – World Trade Organization

WTOA – WTO Agreement

1. Introduction

Presently working as an Export manager provided me with the experience of international trade reality in a variety of ways. As an ordinary citizen, I've always accounted for World Trade Organization (WTO) as the grand moderator of international trade but had no further references about it. Its history, purposes, governance structure, decision-making processes and real scope of action were a question mark to me.

It became my perception that regarding WTO, excluding people directly linked to the international trade in its political or diplomatic domain (mostly who work for governmental foreign trade affairs, belong to a strict academic community or are advocacy activists on a related matter), close to nobody knows much about it, as nobody makes many questions about it anyway. Whether because they're out of the legal and trade expertise needed to analyze it or because they don't attain the practical implications of WTO policies in everyday life of countries and citizens, the vast majority of ordinary citizens seems to be quite ignorant about an organization that, one way or the other, regulates and decides on matters concretely affecting their daily lives. Also, finding out about an obscure past and a poorly democratic present of WTO justified some of my ignorance about it, but didn't explain the legitimacy of it.

Some concrete realities and hot topics of current global political, social and economic scenario made me raise questions about who's ruling such complex and concrete phenomena like international trade, the impacts it has in the lives of citizens and how is Civil Society representing its voice in the progress of global trade system. Such questions become more evident if one puts them on specific practical contexts: The dependency of export-firms supplying processes to governmental institutions, rules and accreditations at home and in the destination countries; the dimension and diversity of the legal bureaucratic process that is the operational face of international trade of goods; the on-going and exhausting standardization agenda of trade processes among a number of countries like the European Union (EU) ones; the environmental, intellectual property and public health regulations impacting the exports of goods; the impacts international trade agreements have on currencies valuations and domestic economies performance; the possibly unethical "industrial colonization" of multinational corporations to developing countries like Ethiopia; commercial sanctions from EU to Russia in the banking, finance and energy sector, its causes and effects; the case of the infamous

Transatlantic Trade and Investment Partnership (TTIP) in protecting big corporation profits above any legal constraints and public interests; the protectionist political panorama of USA and other countries; the prosperity of arms international business; and even the negotiations of Brexit;

In demonstrating how impactful international trade policy-making has become, one might look at the evidence of WTO, and its predecessor General Agreement on tariffs and trade (GATT), as one of the main pillars of global governance system and identify its responsibilities in leading and ruling the economic globalization process in the last decades. Trade liberalization agenda impacts, at least indirectly, all the players involved in an export-import chain from workers to consumers, as well as activists on matters affected by trade like environment or labour rights. Undoubtedly, nowadays becoming a member-state of WTO means dealing with significant changes to be made on domestic policies of trade in goods, services and intellectual property (Wenyuan, 2016).

In a broad context, many relevant questions are left to be answered in the current discussion regarding WTO and Civil Society: Who are the citizens of WTO? How has WTO been representing those citizens? How transparent, accountable, accessible and open is WTO's decision-making process? How legitimate is WTO in ruling World trade? How are we, the impacted citizens, participating in the democratic development of International trade? How does Civil Society influence WTO's governance system?

WTO governance system and civil society have walked hand in hand in the last decades. WTO is one of the main pillars of global governance system and a primary driver of the economic globalization process. However, concerns about the accountability and democratic legitimacy of this intergovernmental organization (IGO) question its authority.

WTO is going through a legitimacy crisis. It lacks democratic accountability to member-states (directly) and their respective constituencies (indirectly), who much question the issue internally and externally. Leading causes for this democratic deficit are the lack of transparency within internal decision processes, lack of representation at the national-level, fruitless performance of the Doha round and the unilateral discourse of WTO towards civil society. Such a democratic deficit is on the basis of civil society organizations' (CSOs) legitimacy to demand more direct participation in WTO's governance system.

This failure to meet stakeholders expectations can be dissipated through creating more direct participation means for CSOs, enhancing openness in negotiations, decisions and disputes, fostering formal and informal consultations with CSOs as field experts on "trade and issues", and improving internal procedures transparency for a fair access and acceptability of all member-states and civil society organizations within the decision-making process.

This essay is divided into eight major sections that compose the Thesis Body. Thesis Body is written comprehending state of the art upon selection of relevant topics that describe the current reality and debate of the subject at stake and draw critical analysis on crucial points.

Chapter 2.1 Defining Civil Society tries to grab the deepness of the concept of Civil Society and finally assumes a practical conception of the definition to test it in the context of WTO. Chapter 2.2 WTO Governance System and Civil Society exposes evidences of contact between WTO and civil society to bring relevance to their relationship and demonstrates a chronological report on general developments of that relation. Chapter 2.3 reports the main guiding purposes of WTO and CSOs regarding international trade and towards each other. The process of negotiation and decision of WTO are described in chapter 2.4 whereby the main functional principles of WTO are highlighted, the hierarchical chart of WTO is exposed, and functional processes and responsibilities of organizational bodies described. Chapter 2.5 Transparency standards deals with the concept of transparency applied within an IO, follows a chronological approach on the evolution of transparency standards at WTO. The chapter finishes stressing out how Legitimacy is linked to Transparency in democratic governance and points out future concerns about transparency at WTO. Chapter 2.6 Participation means pictures the main strategies of influence and participation channels CSOs use to engage with the WTO. Roles and consequent effects of such participation are also highlighted before finishing with a description of the numerical behavior throughout the years of CSOs population attendance to Ministerial Conferences and the Public Forum. Connecting to the last content of chapter 2.6, chapter 2.7 Representation and Distribution of CSOs at the WTO opens with an analysis on the evolution of diversity within CSO's population attending the Ministerial Conferences and the Public Forum. Some other ad hoc asymmetries of representation are emphasized before concluding the chapter with an overview of the causes and future concerns about the reported asymmetries. The final chapter of the Thesis Body (2.8 How did CSOs found legitimacy to participate?) is about the reasons CSOs found to ambition deepening their formal participation in the WTO decision-making process. Several reasons

are detailed and placed under practical examples. Also, some existent contradicting effects are reported of enhancing formal participation before specific transparency deficits are not dealt by within WTO.

Conclusions, recommendations and further research questions are the summary of the Thesis Body main topics in perspective of the critical analysis exercised about it. Some final analysis and recommendations are written as a conclusive term for this essay.

2. Thesis Body

2.1 Defining Civil Society

2.1.1 Civil Society: A concept of conceptions

In distinguishing between a concept and conceptions, "a concept describes a role or function within the context of achieving a broader ideal, while conceptions are the various proposals intended to fulfill that role or function in the ideal" (Jensen, 2006, p.40).

The definition of Civil Society has been discussed for quite a long time. However, its conceptual boundaries concern many philosophical, historical and more pragmatic observations that evolve as society itself evolves. The concept is implied very often in many different contexts, driving its meaning to a somewhat vague standard. Trying to define a core idea, many theorists believe that 'civil society' has a similar conceptual structure to justice. They describe it as a broader ideal concept built upon a variety of conceptions of it, which, besides different among them, relate to each other and, ultimately, found the boundaries of a single core concept (Jensen, 2006). As Rawls puts it in 1999 for the concept of justice, "it seems natural to think of the concept of justice as distinct from the various conceptions of justice and as being specified by the role these different sets of principles, these different conceptions, have in common." (p.5). The same reasoning applies to the concept of civil society.

2.1.2 Three rival concepts of Civil Society

In 2006, Jensen defended the argument that "...the expression 'civil society' does not admit of a single concept. Instead, we have a collection of conceptions that all go by the expression 'civil society' but fall under different concepts"(p.40). According to this author, three rival concepts of Civil Society should be taken into account:

1) *The Sphere Concept*

This concept pictures two distinct spheres in modern democratic society: Government and Civil Society. Civil society is the sphere of social life where citizens freely and voluntarily associate with each other, forming different associations in values and aims, on a necessarily plural society, to "shape their norms, articulate their purposes, and determine for

themselves the internal structure of group authority and identity." (Rosenblum & Post, 2002, p.41).

In a nutshell, civil society describes the arena in which citizens pursue individual and social goods. Through this pursuit, two important outcomes are achieved: a) Normative pluralism: under free association, a diverse set of views is expected to be generated; b) Citizenship education: citizens learn the principles, rules, and practices associated with citizenship in modern democratic society (Jensen, 2006).

2) *The Scottish Concept*

This concept presents Civil Society as a space in which private and individual interests reconcile with public and social goods (Seligman, 1992). According to Seligman, "Civil Society", as an expression, is currently used under 3 distinct forms: (a) it is a concrete political slogan; (b) it is a sociological concept that means the same thing as democracy; (c) it is a normative political ideal: a locus of ethical and social solidarity.

Only the third usage of the expression (c) can be considered as a single concrete entity, says Seligman. The first and second cases are inadequate as they invoke the expression in different and contradictory ways according to different practical, historical and cultural contexts (a), or the expression cannot pick a self and unique practical and theoretical meaning (b).

As a normative political ideal, civil society specifies a distinct ethical space in modern liberal democracies where ethical and social solidarity is achieved, under the belief that human society is a social whole with independent moral authority and a unified commitment to the common good.

Briefly, in the Scottish concept, civil society is a public, ethical space regulated by laws, within which citizens pursue their private interests in harmony with the common good, seen by citizens as a legitimate authority in their private, individual lives (Jensen, 2006). Finally, this is a social space within which the contradictions between two legitimate sources of moral authority are reconciled, private interests and the public common good (Seligman, 1992).

3) *The Lockean Concept*

Jensen resumes Locke's view on the concept of civil society to be a normative achievement: representing people's departure from the state of nature to establish legitimate coercive power. In Locke's words, "Whenever, therefore, any number of men are so united into one society as to quit every one his executive power of the law of nature and to resign it to the public, there and there only is a political or civil society." (Locke, 1988, p. 325)

Dunn (2001) supports Locke's view of civil society referring to the condition that people in the state of nature want to achieve. Locke and Dunn conclusions, however, don't intend to draw a sharp boundary between civil society and the state of nature. Dunn adds that since we cannot distinguish civil society from the state before we consider actual societies, civil society cannot be defined as a normative, conceptual lens to look at society.

Finally, in the Lockean concept 'civil society' is described as a state of affairs that people try to introduce and make effective. It highlights the contrast between civil society and 'uncivil' society, central to the definition of the concept of civil society. In sum, the concept theoretically refers to the vague and subjective condition that humans enter when they depart from the state of nature (Dunn, 2001).

2.1.3 Theoretical, Practical and Historical Conceptions

The reason why we can't trace a strong connection among the various conceptions of civil society is the fact that that connection doesn't exist. The disagreement among those who deploy the expression is constant independently of which of concepts shown above one appeals. When one discusses the concept of Civil Society, significantly different conceptions of democratic political ideals and arrangements of human social nature are immediately at stake, which drives us to different concepts of civil society (Jensen, 2006).

Theoretical, practical and historical conceptions of Civil Society will eventually fall inside one of the concepts presented above, maybe even relate to more than one of them simultaneously. Below, you can find a brief screening of how some conceptions of civil society position themselves among the broader attempted concepts discussed above (Jensen, 2006).

Liberal egalitarianism: Liberal egalitarian conceptualizations of civil society result in versions of the sphere concept. Civil society is defined as networks of social exchange outside

the political sphere, a realm in which citizens pursue different goals and learn the principles and practices that build up modern democratic society (Jensen, 2006).

"Classical liberalism: Classical liberal conceptualizations of civil society result in versions of the Lockean concept. Classical liberals take civil society to be that association formed by social contract out of the state of nature; it represents a normative social unity distinct from each individual's private interest. On this view, it is a universal, singular, and public association." (Jensen, 2006, p.51).

"Civic republicanism: Citizens' ultimate aim is to achieve the common good. Civic republicans' conceptualizations of civil society in their ideal typically result in versions of the Scottish concept, though this is not always the case." (Jensen, 2006, p.52).

"Critical theory: Critical theorists' conceptualizations of civil society in their ideal typically result in versions of the sphere concept. On their view, the function of civil society is to provide the social basis for a democratic public sphere. More specifically, the associations that together constitute civil society are viewed as interconnected elements of a democratic public space within which deliberation and democratic decision-making take place. Civil society is therefore the place in which the virtues necessary for democracy and deliberation are formed and exercised." (Jensen, 2006, p.52).

In a more practical approach, Robertson (2000) bases the expression 'civil society' on the link between civic responsibility and community service, in which voluntary organizations somehow fill gaps in social structures and the market system that aren't totally met by governmental services, like providing recreational activities, caring social solidarity and charity initiatives, etc. In this group of entities, recreational clubs, churches, private charities, boy scouts, women's institutes, even search and rescue organizations are included. In present days, 'civil society' may also include labor unions, environmental groups, human rights associations and development non-governmental organizations (NGOs), industry groups and economic think tanks (Robertson, 2000).

Hannah et al. (2017) take "civil society to be private individuals and representatives of non-state groups, including NGOs, labour (organized and unorganized), academics, business associations, and consumer organizations." (p.431).

In this dissertation and for the sake of the WTO governance system context, it is assumed as a pragmatic definition of civil society the sum of the interest groups listed above by Robertson (2000) and Hannah, et al. (2017).

2.2 WTO Governance System and Civil Society

The purpose of this chapter is to provide an overview on how WTO Governance System and Civil Society have gone hand in hand in the last decades, what major events and concerns have arisen and still flourish from their relationship, as well as the challenges and questions left to be answered in the present days.

2.2.1 Evidence of contact

Before going into more in-depth analysis of how the WTO Governance System and Civil Society may relate and impact each other, it is essential to emphasize some evidence of contact between both broadly.

The World Trade Organization (WTO) is one of the pillars of the current global governance system since it has played a very significant role in driving and shaping economic globalization. However, concerns about the legitimacy, public accountability, and the lack of democratic pieces of evidence on the institution are questioning its authority. (Hopewell, 2017)

There's a diverse set of public affected by WTO policies. As an intergovernmental organization, the WTO trade liberalization agenda is at least indirectly responsible to workers, corporations, financiers, and suppliers in both export-oriented and import-competing industries, also to consumers who benefit from lower prices and greater diversity of consumption. Environmentalists and activists for labor standards and human rights are also affected in their specific issues by the World trade system (Jones, 2014). A good example of this is the Agreement of Trade-Related Intellectual Properties (TRIPs) often accused of negatively impacting civil society groups such as "consumers of pharmaceutical goods in developing countries, victims of environmental problems, small- and medium-sized farmers, and indigenous populations" (Wenyuan, 2016, p.30).

More specifically, many authors like Xiao-shan (2006) account the direct impact WTO dispute and appellate panels decisions have on domestic policy areas. These days, a member's accession to WTO can cause relevant changes in domestic labor markets, agriculture, and

other sectors. Again, the TRIPs agreement example suits the case. Briefly, the agreement enforced all WTO members to transform their domestic laws and implementing regulations in accordance with new global criteria for patents, brands and other intellectual property. (Cabrera, 2007).

In the last two decades, many observers like McGinnis and Movesian (2000) developed the characterization of WTO ruling system has a "constitution for global commerce" establishing ever deeper into national governance systems. Such definition entails a whole new reality to be dealt with by the organization and its stakeholders. This scope was recognized in the Final Declaration of the Parliamentary Conference of 2003 in Geneva as quoted: "The WTO is rapidly becoming more than a mere trade organization. Unlike most international treaties, WTO agreements not only bind nations with regard to the definition of common objectives, but also provide for their enforcement through an effective dispute settlement mechanism. The WTO's decisions have a growing impact on services, utilities, intellectual property rights, government procurement, public health, education, employment, food safety and the environment, as well as the management of natural resources such as forests, fisheries and water." (Cabrera, 2007, 229).

2.2.2 Past

The creation of GATT

After World-War II, in Bretton Woods 1944, a new international economic order was to be raised. From that conference two global institutions were born: the International Monetary Fund (IMF) and the World Bank (WB). Short after, in Geneva 1947, the General Agreement on Tariffs and Trade (GATT) is signed, and the international agenda for trade tariffs reduction and global trade calibration process into a multilateral rules-based system, is set in motion.

The Club Model and GATT's Isolation

The trade regime was then operated by a "club" for a long period (Keohane and Nye, 2001; Esty, 2002). The Ministerial conference of GATT members was at the top of the decision-making body. They would meet regularly in informal, restrict (small number of national delegates) and "out of the public sight" trade negotiations, the named "green room" meetings, where proper majority vote procedures would be left behind and consensus decisions took place (Raghavan, 2000; Piewitt, 2015). This Club Model generated a series of

accomplishments towards trade liberalization and successful settlement of international economic disputes. Through eight successive rounds of multilateral negotiations, the GATT managed to become a "place" of "commitment to tariff reductions and the creation of a system of rules to guide international commerce" (Jackson, 1996; Esty, 2002).

For a long time the low profile and obscure workings of the "Club Model" were driven by a sense of pursuing prosperity and against the chaos WWII had left, in a vision of open markets and deeper economic integration (Gilpin, 1987; Jackson, 1994). Allegedly, the isolation of the opaque "club" regime has put trade policymaking process out of the politics and civil society spotlights, keeping private and protectionist interests of many countries away from the multilateral trade negotiations which its main goal was reducing barriers to international trade. (Schott, 1996; Esty, 2002; Piewitt, 2015).

Adding to the isolation of GATT towards societal interest groups engagement (except for some business interest groups through lobbying pressure – see Cabrera, 2007), its technocratic nature made it an unappealing structure for lobbying (Steffek and Kissling, 2006). With no access to the organization by transnational lobbying, state-society interactions on international trade issues would mostly exist on a national level domain, which Putman (1998) and Evans et al. (1993) would describe as two-level games (Hanegraaff et al., 2011).

From the process of trade liberalization in economic globalization, the interests asymmetry between its beneficiaries (the broad public lowly motivated to politically intervene) and its losers (special interests who face new competition highly motivated to politically intervene and protect their monopolies) seemed to create a strong legitimacy for such kind of modus operandi (Petersmann, 1992; Esty, 2002).

Replacing GATT with the WTO

Broadly speaking, the original idea of creating a WTO goes back to the post World War II and the Bretton Woods efforts to establish what was to be named an International Trade Organization (ITO). Along with the IMF and the World Bank, the plan was to create another formal institution that would oversee international trade and lead trade liberalization agenda further as part of a global architecture to govern the World economy (Matsushita et al., 2004; Reisman, 1996). However, ITO creation never really happened, and the GATT agreement passed through as a mid-way solution. Not surprisingly, among other issues, what greatly differentiated the ITO and the GATT was its relationship with civil society. As Piewitt

(2015, p.62) states: "The ITO was designed to cooperate and to consult with interest groups and civil society organizations (CSOs). The GATT, by contrast, closed its doors to civil society" (see also Charnovitz, 2000, 2002), personified in the "club model' regime of international policy-making, as already mentioned above.

Hence, replacing GATT with the WTO involved many changes in what regards to engage with interest groups and civil society ambitions of more direct participation. Several causes pressured the need for a profound transformation:

- 1) Since the beginning of the 1990's, in particular during the Uruguay Round, a growing awareness arose about the broad scope of influence of international trade in other policy areas like labor rights, environment, services, food safety, education, health care, and culture (Esty, 2002; Smythe & Smith, 2006). This was evident firstly on the controversy of nations regulatory traditions, putting several domestic regulations to often distort trade on an international context (see the Tuna-Dolphin case in (Charnovitz, 2000)). In addition, economic globalization and technological advancements gradually created more favorable economic, political and social conditions for "exporting firms (a quite concentrated political force), import-competing sectors, publicly owned service industries and consumers to better form a global level political agenda on a broader range of interest and agree or disagree with the goals, means and consequences of trade liberalization. As a consequence, the GATT started to be monitored by the transnational NGO's community, which intensified its demand for a voice in the decision- making process of International trade governance system. (Hanegraaff et al., 2011);
- 2) An increasing domestic pressure on some member-states to open up international trade policy – would end up enabling interest groups participation in the Ministerial Conferences (Marceau & Pedersen, 1999);
- 3) Public protests and demonstrations like the massive street gatherings of the Seattle Ministerial Conference in 1999 brought tensions for more openness, closer scrutiny by NGO's and raised questions about the legitimacy of the recently founded WTO to an international and visible level (Delimatsis, 2014; Piewitt, 2015);
- 4) Historically, the GATT and the WTO system had not been managed by elected officials accountable to a defined public. As described above, its legitimacy derived almost entirely from a perceived efficacy and expertise as part of a Post-World War II international economic management structure. This appointed, technocratic, elitist,

opaque and often bureaucratic governance model could not anymore respond to the rise of Civil Society interest and scrutiny of the International trade institutional goals, processes, and impacts. What may have been a virtue under the Club model times, was now a main obstacle (Estly, 2002).

- 5) The commonly used argument that including civil society would enhance the transparency and the democracy of the multilateral trading regime (Piewitt, 2015), "contribute to legitimization" (Lamy, 2001) and generate consent for the activities of the institution (Charnovitz, 2002); The GATT and its successor WTO were accused of carrying a democratic deficit, which raised serious concerns about the legitimacy and transparency of its global governance system. (Smythe & Smith, 2006).

The challenge of WTO proving its legitimacy as a formal institution in the face of a more involved Civil Society and a rapidly changing global scene became imminent, urgent and revealed to persist. Questions about the organization's purpose, structure, representation, decision processes, and legitimacy (Bodansky, 1999; Stephan, 1999) became pertinent, sensing trade liberalization was not anymore sufficient to justify the existence of the IO. Especially its judicial branch was much questioned because of some controversial decisions in politically hot and greatly mediatized disputes (Howse, 2001; Delimatsis, 2014). The WTO's potential in accomplishing its own mission of economic efficiency and prosperity was now at stake (Esty, 2002).

Meanwhile, this legitimacy crisis was dealt with by the WTO with the gradual introduction of formal and informal mechanisms for Civil Society representation in the international trade policy-making process. Those lobbying mechanisms were pretty much based on the guidelines of the planned ITO. (Keohane and Nye, 2001; Esty, 2002; Piewitt, 2015)

According to Hannah et al. (2017, p.437), infamous events like Seattle in 1999 and others that followed, forced the constitution of a new institutional strategy to engage with civil society. That strategy covered three main priorities: "1) promote public understanding of the benefits of trade; 2) dissipate civil society hostility towards the WTO and the multilateral trade agenda; 3) preserve a close relationship between members and civil society groups.". Hannah et al. (2017) conclude, however, it resulted in an "uni-directional flow of information about the benefits of trade and the WTO" from the organization to Civil Society, with minimal feedback possibility. Moreover, by keeping public interest and civil society

engagement movement to be dealt by the members-states, the WTO was resisting to a direct-lobby relation between non-governmental actors and the organization (Scholte et al., 1998).

An evolving Mode of Engagement

As highlighted before, in a first phase, the WTO pushed the responsibility for civil society engagement to the member-states *a la GATT*, avoiding a direct-lobbying relation between the organization and non-state actors (Scholte et al., 1998; Piewitt, 2015). Aiming to combat criticism, this effort was allied to a defensive and judgmental form of engagement strategy in trying to impose WTO's preciousness of existence to civil society through a series of disseminated own-information like the '10 Common Misunderstandings about the WTO' (1999).

However, since the turn of the millennium, under fire from Civil Society demands for cooperation and concerns on the legitimacy of the WTO governance system, the secretariat's engagement strategy evolved to a mode of political neutralization. The WTO was successful in taking some "political heat" out of Ministerial Conferences and Public Forums, and shifting somehow its communication format (more accessible language of publicly available documents) and virtual presentation. However, the goal was then to merely policy the boundaries of the debate about International trade and the WTO (Hannah et al., 2017).

The WTO (foundation until present days)

In any case, since the 1st of January 1995 (date of foundation of the WTO), the number of interest groups (namely international law scholars, export-orientated companies, import-competing groups, state regulators and policymakers, NGO's and the public) attracted by the potentially broader WTO scope increased significantly and today, a large number of CSOs seek access to decision makers in order to impact international trade policy outcomes (Hanegraaff et al., 2011; Delimatsis, 2014).

Since its inception, the WTO has started negotiations on the Doha Development Round (Piewitt, 2015), a round of trade negotiations among the WTO membership aiming to achieve major reform of the international trading system (20 trade areas included like agriculture, services and intellectual property) which have not yet been concluded. The objectives of the Doha Round are to lower trade barriers and revise trade rules, improve trading prospects of developing countries and address the problems these countries face in implementing the current WTO agreements).

Unlike the GATT regime, the WTO promotes a system of 'single undertaking'. Once a member signs its memberships, it adheres to the additional multilateral trade agreements of the amended GATT, the General Agreement on Trade in Services, the Trade-Related Aspects Of Intellectual Property Rights Agreement, Dispute Settlement System and the Trade Policy Review Mechanism (TPRM). (Piewitt, 2015)

Today, the WTO has 164 members (as of 29 July 2016. Source: <http://www.wto.org>). Since its creation, WTO is attached to three main important challenges that impact civil society participation: "(1) The addition of new issues to the policy agenda (like the Doha Development Round); (2) The establishment of a new legal basis and the extension of the institutional scope; (3) The development of an advocacy regime" (Piewitt, 2015, p.67).

2.2.3 Present

What's at stake nowadays?

In present times, due to the Globalization process and a rapidly enlarging scope of inter-exchangeability between the nations and citizens of this World, national governments strive to prove sufficiently accountable for their citizens. At the same time, civil societies on a global to a local scale demand for more voice and power of participation in the Global governance system and its institutions (Wenyuan, 2016).

If WTO is often admired for its generally-perceived effective dispute settlement system, its decision-making processes to advance trade liberalization is perceived as weighty, making trade negotiations very slow and annoying. The basis of WTO decision-making is consensus, which means trade rounds are only formalized with the total agreement of all members. Member votes are formally equal to avoid that most powerful countries control the processes/negotiations (Murphy, 2012).

Currently, its decision-making system does not allow formal participation rights to NGO's which contradicts a standard norm in the global governance of intergovernmental institutions. (Charnovitz 2000: 187; Willetts 2002).

As Murphy (2012) resumes, many criticize the IO of failing to find an equilibrium between economic interests and societal concerns, justifying with that the legitimacy and capacity of NGO's to repair the existent democratic deficits within WTO (Charnovitz 2000; Esty 2002; Marceau and Pedersen 1999; Willetts 2002). Others raise concerns on

strengthening the status of NGO's in terms of participation means by questioning the size, impartiality and representativeness to society of such organizations. (Robertson, 2000)

Input and Output Legitimacy

For the sake of contextualization, I resume below Smith & Smythe (2006) inputs on the legitimacy of a democratic political system.

In democratic political systems, input legitimacy is about the law-making procedures and the ability of citizens to hold governments accountable for the consented and representative decisions it makes. Citizens hold governments accountable through the formality and clarity of their decision-making process and also through the citizens' right to access information about the purpose and the *modus operandi* of that process. So input legitimacy is somehow linked to the transparency of the government decision-making process. Output legitimacy is based on the impacts and effectiveness in accomplishing community values and ambitions, meaning the degree of acceptance of a given decision. (Smythe & Smith, 2006)

Democratic deficit and Legitimacy Crisis

Every day more, WTO's legitimacy and accountability are questioned. Such enduring challenge threatens the "efficacy and democratic validity of the WTO" (Mitchell & Sheargold 2008, 1064).

To restore this democracy deficit, administrative law-type mechanisms, procedures, rules, and principles were designed and started operating, through several formal and informal organs, forming what we may call a "global administrative law" (Kingsbury, 2005). Within global administrative law field, some common standards are developed like: "procedural participation and transparency; reasoned decisions; access to review mechanisms; proportionality and reasonableness; avoidance of unnecessarily restrictive means; and legitimate expectations." (Mitchell & Sheargold, 2008, 1064).

The legitimacy of every democratic system is dependent on the existence of two facts: the system has the consent of the governed; on a rule of the majority there is respect for rights, equality and an effective rule of law

. Often, it is argued that these two premises are missing on the general global governance system, which explains an existing democratic deficit on the international level of governance. (Scholte, 2002)

In what regards specifically to the WTO, it is based on the very principle of sovereign equality, in which only states can be official members of the organization. The WTO's legitimacy derives exactly from its sovereign member states decision power. Official representatives of member states negotiate and make decisions within WTO structures like the General Council. Directly (via election) or indirectly (via elected representatives), those officials are accountable to their own citizens. (Smythe & Smith, 2006)

In this context, although members represent the interests of the majority of the population by whom they've been elected, such system arguably excludes minority groups within states from formal representation at WTO. Also, there's the criticism that individuals lack the possibility to agree or deny the laws and decisions issued by institutions like the WTO. (Mitchell & Sheargold, 2008)

Legitimacy and Transparency

If in the past international institutions and rules like GATT/WTO were seen as facilitators of economic prosperity allowing for a greater autonomy and presence of the role of the state on international trade domain, the deeper penetration of the international institutions scope of action into domestic systems, states have lost that high degree of autonomy (Zurn, 2004). Such loss directly raises concerns of the accountability and legitimacy of national governments, a hole that is not filled on a supra-international level. (Woods, 2003)

Thus, the problem of legitimacy escalates on both national and international level. In a nutshell, as WTO's agenda impacts more deeply into national regulation ground, the organization confronts the problem of being simultaneously distant and interfering in citizens everyday life (Woods, 2004).

In recognizing its legitimacy crisis, the WTO puts in relief the need to improve its transparency and openness externally, to non-state actors, and internally, to its state-members. On the one hand, "greater transparency, openness, consultation and accountability" are put in evidence as a direct source of legitimacy among citizens to whom the organization is also accountable. On the other hand, addressing this crisis is also taking into account concerns

about lack of internal transparency and informality of decision-making procedures which consequently lead to the marginalization of a majority of less powerful member-states. (Smythe & Smith, 2006)

A Growing low openness-level...

As Van den Bossche (2008) demonstrates, unlike GATT, to which “outsiders” participation was very limited, the WTO has been slowly increasing its record of access opportunities. Nevertheless, when compared to all other international organizations (IOs) it is the least open one towards society’s interest groups. As a consequence, many CSO’s demand for a more responsive WTO (Esty, 2001; Hanegraaff et al., 2011; Scholte, 2012).

WTO is definitely performing lowly in including Civil Society inputs of “setting agendas, shaping the way issues are understood, implementing and operationalizing global norms and enhancing transparency, legitimacy, and accountability” (Buntaine, 2015; Hannah et al., 2017, p.429).

WTO Openness to Civil Society: The DSS, the Public Forum and the Ministerial Conference

The established advocacy regime predicts different mechanisms for consultations between policy makers and civil society. These formal dialogue mechanisms are "associated with a general level of decision making but not with the making of specific policies" (Piewitt, 2015, 73).

In present times, some of the most relevant structures, in what regards to Civil Society participation at WTO, are the Dispute Settlement System, the Public Forum and Ministerial Conferences (Hannah et al., 2017).

1) Dispute Settlement System

Article XXIII; 2 of the GATT Agreement predicted disputed settlements allowing states to complain about the behavior of another party, which is still the basis for the current settlement of disputes. When this is so, a panel for investigation and recommendations was to be created. However, the agreement favored the practice of bilateral settlements (Article XXII GATT Agreement) which led very much the GATT to function on under an informal and bilateral disputes system (Piewitt, 2015).

The Dispute Settlement System exists to make sure all the member-states effectively comply with the obligations of the WTO international agreements. It was established by the WTO members during the Uruguay Round of Multilateral Trade Negotiations, soon after the signing of the WTO agreement itself. The Dispute settlement system aims to fairly arbitrate the international trade conflicts between members and mitigate the imbalances between stronger and weaker players (Source: <http://www.wto.org>).

WTO dispute settlement process attracted some NGO's to lobby governments to include their voices and policy documents in official submissions to dispute panels. Because of this pressure and public scrutiny concerning WTO's legitimacy, by November 1998 every dispute panel and Appellate Body appeal was authorized to take submissions (amicus brief) directly from NGO's (Robertson, 2000).

This way NGO's have access to the Dispute Settlement System, an evolving system of case-law, and governments can be accounted by Civil Society to comply with international law that results from the system, above the domestic one (Robertson, 2000).

Anyway, there is still no direct participation of CSO's in the DSS, which remains a constant and growing point of debate.

2) The Public Forum

In striving to face the dilemma of relating more closely with Civil Society while keeping its "gates closed" to non-state direct inputs, the WTO created the Public Forum (initially established as the Public Symposium). In this Forum, CSO's representatives were made able to engage with the organization context, still away from the Ministerial Conference which is the most prominent decision-making organ (Hannah et al., 2017).

The event takes place every year and became the largest annual WTO's outreach event composed of civil society and governmental (government reps, parliamentarians and other IGO reps) participants. It serves as a forum of discussion about the recent progress of World trade and debate on potential initiatives to improve the multilateral trade system (www.wto.org).

3) Ministerial Conference

In Ministerial Conferences, there is a general interaction between interest groups and negotiators. However, formal consultations on the decision making of specific policies usually don't occur. (Piewitt, 2015)

Modes and Means of Engagement

Currently, WTO's strategy to engage with civil society is still mainly focused on a public relations basis and a centralized communication channel (see Ecker-Ehrhardt, 2017 for centralized communication causes). Designed at a time when the goal was to highlight the importance of WTO in the face of public criticism and protest demonstrations, it's not anymore sufficient to fulfill the imminent needs of broadening the debate about WTO's context, civil society and the full scope of trade, and bring concrete transformative results (Hannah et al., 2017).

Regarding the means of engagement with civil society, the Public Forum and the Ministerial Conference still remain the core bodies (Hannah et al., 2017)

Also, within WTO's advocacy regime an access badges mechanism was recently introduced, another evidence of evolution in engagement between the IO and civil society through a lobbying channel (Piewitt, 2015; more deeply exposed in section 2.6 Participation means).

CSO's big contribution to WTO governance

As described by Wenyuan (2016, p.38), effective contributions of CSO's to improve WTO global governance performance include “enhancing their democratic accountability through transparency advocacy, consultation, evaluation, and correction”. Thus, NGO's for example, are seen as “potential democratizing agents”. (Murphy, 2012)

A whole new scope

Many observers, like McGinnis and Movesian in 2000, had already characterized the WTO ruling system has a “constitution for global commerce” establishing ever deeper into national governance systems. Such definition entails a whole new reality to be dealt with by the organization and its stakeholders.

In the face of the expansion of trade liberalization impacts WTO recognizes a “so-called trade and issues” scope of responsibility and accountability. By issues, its meant mainly development (especially in Least developed countries (LDCs)) and environment, which are already compromised formally in the preamble of WTO and the creation of specialized committee (Piewitt, 2015).

As shown before, deeper and broader integration comes at the price of higher pressure from impacted actors in achieving formal inclusion in the decision-making process of WTO. This is very clear, for example, in how developing states demand more inclusion in negotiations and reduction of agricultural subsidies. A steering committee within the WTO Parliamentary Conference was created in order to better include developing-state voices (more about this committee in Section 2.6.3)

As can be expected, pressure for more accountability and transparency in WTO governance system will keep on rising, guiding the organization to a greater openness level (Cabrera, 2007).

2.2.4 Future

Departure scenario

WTO - Civil Society engagement performance, besides slowly growing (little impactful changes since 1998) and requiring an inherent gradual character, is still poor. However, on a wide perspective, having CSO's acting as reformers of global governance institutions and IGO's opening their structures to involve Civil Society groups has been an effective formula in promoting global democracy and good governance. A formula that is bearing margin for development in the future (Piewitt, 2015; Wenyan, 2016; Hannah et al., 2017).

In WTO, the current mode of engagement happens mainly through the Public Forum and NGO's attendance at the Ministerial Conferences. Such limited progress reveals the outdated goals and perceptions of the organization towards the significance of Civil Society. The mindset is still based on questioning what Civil Society can add to the WTO and not the other way around. This is definitely a matter in need of transformation (Hannah et al., 2017).

Nowadays, it is often argued that the citizens of a member-state are also the citizens of the WTO (Sassen, 2003). Consequently, the possibility for them to participate in the WTO decision-making process, individually or collectively (CSO's), is essential in their contribution to building democracy within this IGO (Mitchell & Sheargold, 2008).

Future potential benefits and limitations of CS-WTO engagement

Civil society participation can:

1) help developing countries and weak constituents representing their interests against powerful multinational corporations, more powerful member-states and international institutions. (Wenyuan, 2016).

2) enhance WTO's democratic accountability and legitimacy to all its stakeholders (Cho, 2005; Scholte et al., 1998; Wenyuan, 2016; Hannah et al., 2017).

3) stimulate, broaden and enrich the debate about trade decisions issued from the WTO, and questioning the organization's positions and processes in public. (Scholte et al., 1998; Hannah et al., 2017).

4) raise public awareness about the benefits and costs associated with the efforts of global trade liberalization (Hannah, 2016; Hannah et al., 2017).

5) bring back marginalized voices, quieted by a long period of unbalanced and unfair trade agreements (Hannah, 2016; Hannah et al., 2017).

6) monitor and evaluate trade negotiations and issued policies from its development to its implementation stage, improving transparency standards (Hannah, 2016; Hannah et al., 2017).

7) influence trade policy makers to align the policy agendas in discussion with a sense of public responsibility (pursuit public welfare) and broader social values (sustainable development, human health, environment preservation, labour rights). (Hannah et al., 2017).

Limitations and Risks to greater CS-WTO engagement:

1) CSO's should search for progress in what regards to their own accountability and in finding new ways of channeling their involvement with the WTO (Wenyuan, 2016).

2) Because coalitions of NGO's are often unsuccessful in influencing trade liberalization advancements (Pianta, 2014; He and Murphy, 2007), they initiate a "protest agenda" against any kind of multilateral trade agreement (de Bièvre, 2014). (Hannah et al., 2017).

3) With limited resources already allocated to its primary function of supporting the needs, interests and actions of WTO member states within the organization, WTO's secretariat potential action might be too constrained and lowly autonomous to create a more open relationship with CSO's (Cho, 2005; Hannah, 2016; Hannah et al., 2017). Pushing in the direction of more openness without accounting these limitations might damage the Secretariat's performance and WTO's political integrity (Cho, 2005).

4) Risk of damaging WTO's reliability through needless and detrimental over-politicization. CSOs, and especially NGOs, can use improved external relations means to merely promote their broad political agendas and weaken WTO political autonomy and effectiveness, without accounting for the jurisprudence authority of this IGO inherent to issued-decision through the DSS (WTO Consultative Report, 2005). Such kind of engagement might ignore part of WTO's legitimacy to rule (Cho, 2005).

5) Engagement with Civil Society being resumed to a superficial public relations process (Scholte et al., 1998; Hannah et al., 2017).

Future scenario

On future horizons, individual citizens should be informed and educated about the whole context of WTO as a legal system. Ultimately, the organization's legitimacy is firstly dependent on its users (the ones to whom WTO pretends to raise living standards sustainably, and just after on CSO's (Cho, 2005).

If the IGO is going through an output legitimacy crisis, it seems inevitable that it needs to work on its input legitimacy. This means enhancing internal and external transparency to the same standards of growing civil society expectations (Smythe & Smith, 2006).

The openness degree WTO should achieve towards Civil Society participation remains a topic of discussion. Authors supporting a more open WTO claim that a thicker and more diverse interest groups involvement will ensure more expertise, accountability, and legitimacy (Charnovitz, 2000; Robertson, 2000; Hanegraaff et al., 2011) also keeping away the risk of WTO becoming too technocratic, unrepresentative and captured by specific interests. On the other side of the debate, some voices resist in maintaining limited access of civil society or even narrow it further. The main argument is that WTO needs to keep it's state-driven mode, with restrained participation of CSO's, in order to avoid the bias and unaccountability of interest group populations which could boost power asymmetry among member-states

(developing vs developed countries) and trap the WTO into the influential web of special interest groups (Fried, 1997; Spiro, 2000; Shaffer, 2001; Hanegraaff et al., 2011).

2.3 WTO purposes versus CSOs purposes

Defining the guiding purposes of the WTO as an IGO and CSO's in the context of the WTO governance system is fundamental to understand and access on the engagement relation between both. On the CSO's side, NGO's ambitions are highlighted because of their greater activity and impact among civil society groups. In this section, the goal is to clear out what are both sides' general responsibilities and intentions towards each other.

Operationally speaking, a fundamental task of WTO is to 'facilitate the implementation, administration and operation, and further the objectives' of WTO agreements (Article III:1 WTO Agreement). Besides this general purpose, it serves other practical functions: "1) serving as a forum for negotiations among members; 2) administering dispute settlement procedures; 3) administering the Trade Policy Review Mechanism (TPRM); 4) enhancing cooperation with the IMF and WB." (Piewitt, 2015). All of this tasks are guided by the two main principles: market liberalism and nondiscrimination (Wenyuan, 2016).

On a broader and long-term sense, the organization seeks to accomplish a list of objectives: Raising Living standards; Full employment; Expand production and trade; Optimal use of resources; Seek sustainable development by protecting/preserving environment; Fair distribution of benefits of social and economic development (with special alert to least-developed countries;" (Robertson, 2000; Piewitt, 2015) It proposes to achieve them by supporting and stimulating intergovernmental bargaining, dispute settlement and a political and economic agenda for international trade liberalization (Wenyuan, 2016). In a nutshell, the WTO is itself a system of rules-issuing that aims to "manage international economic interdependence". (Esty, 2002)

Generally speaking, within the WTO context, CSO's pursue uniformization of standards in global trade and compensate the democratic deficit they claim to face at the national level by achieving greater and direct participation in the WTO decision-making process. One of CSOs priorities regarding WTO governance system is to include concerns on core issues of human development, such as the "environment, labor standards, gender justice,

human rights, consumer protection, and economic development” (Jordan and Van Tuijl, 1998; Robertson, 2000; Wenyuan, 2016, p.30).

WTO’s fundamental motivation to engage with civil society is to gather field information and advisory about the economic system and the impact of trade decisions in it (Piewitt, 2015).

2.4 Processes of negotiation and decision

2.4.1 Consensus rule and Sovereign Equality

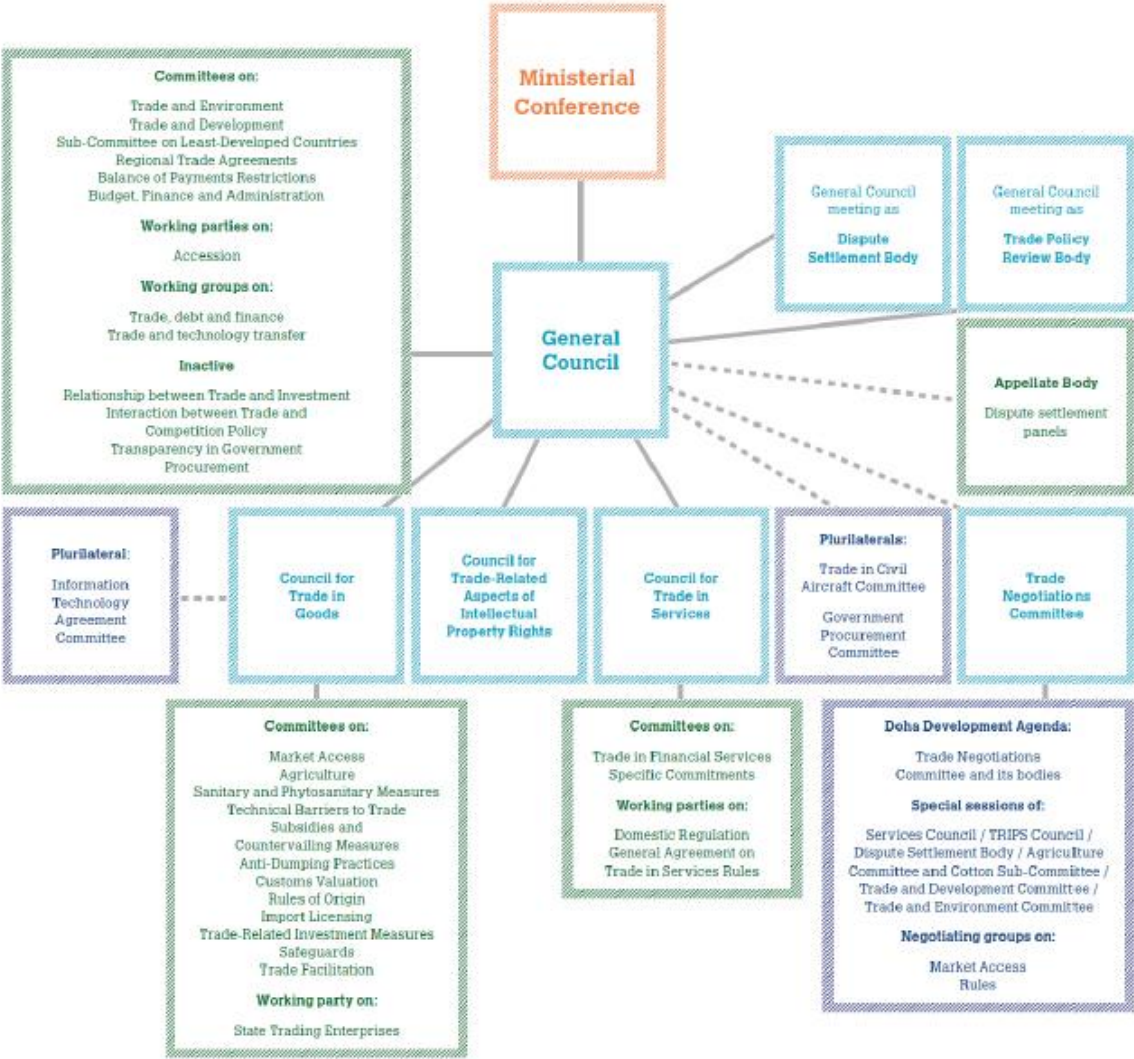
Two distinguished fundamental principles guide the main decision processes at WTO: Consensus rule and Sovereign Equality.

Just like GATT, WTO is a member-driven organization that kept the practice of Consensus of GATT 1947: when no member attending the meeting opposes to the decision to be taken. (Art. IX, WTO Agreement (WTOA) ; Delimatsis, 2014)

Ultimately, member-states are the ones who decide on the premise of one nation, one vote. All major decisions to be approved and issued are dependent on the consensus of the totality of members (Mitchell & Sheargold, 2008; Piewitt, 2015). In the case of a decision where consensus is not possible to apply, procedures are made by voting, and decisions of the Ministerial Conference (MC) or the General Council shall be made on “majority of the votes cast” (Article IX:1 WTO Agreement).

2.4.2 Decision-making and Administration Structure and Procedures

Figure 1. WTO’s Organizational Chart



Source: www.wto.org

Unlike its “brother” institutions (IMF and WB), the WTO doesn’t own a restricted executive organ (Alvarez-Jimenez, 2009). Yet, this IGO comprehends a great number of specialized committees that grow along the course of negotiation rounds (Delimatsis, 2014), which can be a risk for some institutional entropy.

The MC, the General Council, Councils and Committees

The WTO’s highest decision-making body is the Ministerial Conference, where ministers of trade of each member-state meet at least once every 2 years (Article IV:1 WTO Agreement). Between MC’s meetings, operational responsibility is given to the General Council, the top decision-making body in the MC’s absence (Article IV:2 WTO Agreement),

and to three supplementary councils: Councils for Trade in Goods, Trade in Services, and Trade-Related Aspects of Intellectual Property Rights (Article IV:5 WTO Agreement). Such councils institute several issue-specialized committees or subsidiary bodies (Article IV:6 WTO Agreement). Moreover, on a top-down action, the Ministerial Conference established five other committees which directly report to the General Council: Committee on Trade and Development, Committee on Trade and Environment, Committee on Regional Trade Agreements, Committee on Balance of Payments Restrictions, and Committee on Budget, Finance, and Administration.

Below is a list of the Ministerial Conferences that have occurred so far at WTO:

- Buenos Aires, 10-13 December 2017
- Nairobi, 15-19 December 2015
- Bali, 3-6 December 2013
- Geneva, 15-17 December 2011
- Geneva, 30 November - 2 December 2009
- Hong Kong, 13-18 December 2005
- Cancún, 10-14 September 2003
- Doha, 9-13 November 2001
- Seattle, November 30 – December 3, 1999
- Geneva, 18-20 May 1998
- Singapore, 9-13 December 1996

The DSB and the TPRB

The General Council, on the same structure but different function, also meets as Trade Policy Review Body (TPRB) and the Dispute Settlement Body (DSB) (Article IV:3–4 WTO Agreement). The TPRB heads and supervises the WTO's TPRM (Trade Policy Review Mechanism), responsible for ensuring the multilateral-trade regime functions and that member-states trade policies and practices comply with the WTO agreement rules on a general picture (Part A of the Annex 3 TPRM to the WTO Agreement).

Regarding the Dispute Settlement System (DSS), it is frequently perceived as efficient because of its enforcing legal power and issuing of compulsory decisions that predict “sanctions against non-complying parties” (Matsushita et al., 2004: 18). The body in charge of settling disputes in the WTO is the DSB. Its functions include monitoring of disputes,

establishing panels, the appointment of panelists, ensure compliance of members to rules and disputes resolutions, and the adoption or not of panel and Appellate Body reports (Article 2.1 Dispute Settlement Understanding).

The Appellate Body, established by the DSB, has the main task of reviewing panel rulings. This body is composed of seven appointed “judges” by the DSB for a period of 4 years (see Article 17 of the Dispute settlement understanding for terms of appointment and representation).

To make it as clear as possible, and based on the information gathered by Piewitt (2015), below is described the typical several phases of the dispute settlement procedure:

Consultation: Before going for a panel procedure, a complaining member can request for consultations to the other party. The requested member “must reply within 10 days after the date of receipt of the request and must enter into consultations within 30 days. If the consultations fail to reconcile within 60 days after the date of receipt of the request”, the complaining member can advance for a panel solicitation (Article 4 DSU).

Setting-up: On this stage, the DSB has the authority and task to set-up a panel and appoint its panelists.

Panel Procedure: The panel procedure includes various rounds of “hearings, rebuttals, expert consultations” (Article 12, 13, and 15 DSU). A panel procedure shall not exceed the time limit of 6 months, being concluded by a final panel report announced to the implicated parties and the WTO members (Article 16 DSU).

Final Decision: The panel report becomes the DSB’s final decision within 60 days, unless it is rejected by consensus. (Article 16 DSU). The concerned parties may appeal that panel’s decision. On that case, three members of the Appellate Body prepare within 60, or a maximum of 90 days, a report proposing a confirmation, adjustment or suspension of the panel’s decision. If the DSB doesn’t deny the appeal report by consensus on the period of 30 days, it is considered accepted and approved. (Article 17 DSU).

Roberston (2000) exposed some inefficiencies to how dispute proceedings are designed that are still debatable nowadays. Firstly, the fact that dispute panels is composed of trade experts and the Appellate Body constituted by legal experts often generates discord between the two instances reports and decisions. Additionally, a case-law system is inevitably more

familiar to countries carrying Common law domestic legal systems than to countries where Civil Law is the legal tradition, which creates a questionable gap in regards to how efficiently both parties move in the DSS.

The WTO Secretariat

As Piewitt (2015) well structures, the top-executive and leader of the WTO Secretariat is the Director-General, someone appointed and defined in its duties by the Ministerial Conference (Article VI:2 WTO Agreement). The Director-General of WTO (DG) appoints the WTO Secretariat professionals and guides their daily tasks often in cooperation with some committees already mentioned above that report directly to the General Council like the Committee on Budget, Finance and Administration (Article VI:3 WTO Agreement).

2.5 Transparency standards

2.5.1 What is an IO's governance transparency?

In the context of an IGO like WTO, transparency is about, in a way, the possibility that interested stakeholders have to access and receive information on the activities, rules and issued-decisions. On the other way, this transparency also includes the degree of openness and opportunity such stakeholders have to concretely participate in the decision-making process of the organization (Delimatsis, 2014).

These days, the scope of transparency for an IGO extends beyond just a legislative process or the mere access to governmental documents. Transparency means now that governance systems (the process of governmental decision) need to be understandable, accessible, formal (evidence of who influences decisions and what is being talked as public information) and provide chance of participation to a broader range of affected stakeholders, including the citizens who are ruled and impacted by such governance. Regarding the information made available to include deeper participation, it must be “reliable, understandable, relevant, and timely”. Also, to WTO (a member-driven organization), transparency of domestic regulations is essential to ensure non-discrimination between members regarding trade in goods and foreign investment (Canadian House of Commons Standing Committee on Industry, Science and Technology, 2001, p.1.; Smythe & Smith, 2006).

Importantly, one should look at transparency of an IO in light of three separate relationships: between the IO and its members (administering international trade through transparent mechanisms benefits all members, especially the weakest ones); between the IO and other IOs (build-up awareness, trust and possible synergies); between the IO and private parties (asymmetry of information between both generates few incentives for disclosure of information without instruction from members) (Delimatsis, 2014).

2.5.2 Evolution of Transparency at the WTO

From GATT to WTO

The lack of transparency at WTO, particularly regarding its decision-making process, is and has been detrimental to the World trading system. Since GATT times, the multilateral trade agenda advanced based on means of obscurity and informality. With the entering of non-Western countries in the organization, the divergence between far-different legal traditions and governance structures made the impacts of transparency less clear. At the same time, membership rise stimulated demands for a more open, less hierarchical and inclusive WTO. On this context, with two different currents of thought inside the organization (western vs non-western; developed countries versus LDC), the transformation process of WTO is not supported by a solid debate on how to improve the decision-making process of this IGO in respect to transparency (Delimatsis, 2014).

Nowadays, WTO is seen worldwide as one of the most important IGO's. Such importance gain had a deep impact on the previous structure of GATT (Keohane & Nye), which however managed to keep the informal and secretive character of negotiations (Howse, 2002; Delimatsis, 2014).

Green Room

A case of the evolution of transparency at WTO, is the so called Green Room process. In its first times, it was reserved for the most powerful developed countries. Over time, and especially after the MC failure and public manifestations of Seattle 1999, other countries, developed and developing, got involved. Joining the usual "club" (i.e. EU, US, Japan, and Canada), today this kind of meetings has to count with the participation of India, Brazil, and China. Such new-comers, indirectly represent other members interests, as they belong to coalitions among WTO member-states like the Cairns group, G20, G30 or the 'friends' of a specific matter like anti-dumping or fisheries. Briefly, formally or not, members have their

own internal linkages regarding “transparency, co-ordination, communication of positions, participation, and inclusiveness” (Birkbeck and Harbour, 2011; Delimatsis, 2014).

Doha Development Round

After the infamous events, quarrelsome judicial processes and poorly prepared MCs of the late 1990s, transparency finally became an agenda.

The successful launch of the Doha Development Round came to affirm a big change in the way multilateral trading system is done. Today, two thirds of the WTO members are developing countries. As some players suggest, negotiations arrive more easily to an impasse comparing to “the club” governance times.

Regarding transparency, the Doha Declaration recognized the insufficient level of internal transparency in the WTO as a matter to be discussed in light of the organization’s broader number of members and the effective participation of all members in decision-making as a crucial factor. Such recognitions raise expectations that concrete actions are taken within the governance model of the organization. Thus, WTO’s transparency reform should entail an internal level with better means of negotiation and participation and an external level with more and efficient communication with WTO’s exterior community (Delimatsis, 2014).

The TPRM

If the birth of the WTO itself, along with the domestic ambitions to attract foreign investment, is often seen as having increased transparency in domestic policies affecting global trade, the creation of the Trade Policy Review Mechanism (TPRM) has played and still plays a core role in this respect (Delimatsis, 2014).

Changes in external transparency

After the turn of the millennium, changes have been made regarding external transparency:

1) Access to documents:

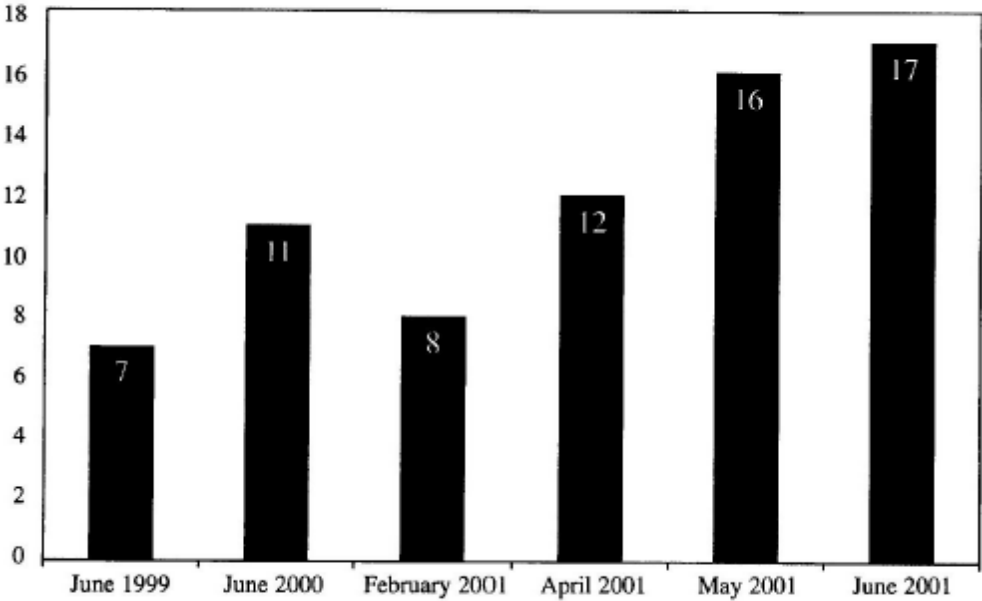
From 1996 to 2002, the subject of automatic derestriction of all documents was discussed several times by the General Council. In that period, most WTO documents were eventually decided to be made available immediately after approval, leaving around 30 percent of the documents with limited access. In 2002, such exceptional

limited access documents were shortened in its waiting time for derestriction to an eight week time frame. Since, member-states themselves don't constrain their submissions to the WTO, in 2006, WTO officials estimated that about 96 percent of documents were made available to the public (Smythe & Smith, 2006).

2) The creation of a website:

Created in 1995, the WTO website revealed a main channel to access documents and information about the organization. After 1999 Seattle MC, visits to the website have grown exponentially (as Figure 1 shows). In 2003, annual hits number in the website reached 270 million and visits, in September of that same year, achieved 868,950 from 179 countries. The web traffic verified a peak just before each MC. (Smythe & Smith, 2006)

Figure 1 World Trade Organization Website Hits (in millions)



Source: World Trade Organization, External Relations Office.

Source: Smythe & Smith, 2006

When comparing dissemination of information among several IGOs, WTO ranks actually pretty good. In the Global Accountability Report 2003 elaborated by One World Trust, a study that included also World Bank, the UN High Commissioner for Refugees (UNHCR), the Organization for Economic Co-operation and Development (OECD), and the Bank for International Settlements, WTO ranked second in online access to information. If

compared to some often critical big NGO's like Oxfam and WWF, WTO performed better in terms of scope of information about the organization provided online (Smythe & Smith, 2006).

3) NGO's presence at ministerial meetings:

Since 1996, more exactly in the Singapore MC's, a significant number of NGO's has been present at ministerial meetings. However, no specific or enforcing procedures were designed by the General Council (GC) to formalize NGO's accreditation and participation means in the ministerial meetings. Accreditation criteria are very broad and the accredited NGO's can attend to just certain parts of the meetings (Smythe & Smith, 2006).

The WTO Consultative Report, released on the 17th of January 2005, identified some of the WTO's institutional challenges, provided recommendations and attempted to stimulate debate around those challenges. As noted by Cho (2005), the report recognizes NGOs and other civil society groups as suitable contributors in enhancing transparency, and thus, legitimacy of WTO. Regarding WTO-CS engagement it documented some steps forward on greater derestriction and dissemination of documents and information, better access to relevant meetings like the MC or public symposia. It qualified this engagement as "proper", promoting WTO's reputation and awareness as well as allowing CSOs to inject expertise and participate in the multilateral trading system debate. Education and social marketing were seen as valuable tools to strengthen WTO's public perception and thus, improve legitimacy. The report finally accounted CSOs effective ability to pressure member-states in committing to the agreed rules within the WTO context and accelerate them in overcoming barriers to trade liberalization (Cho, 2005).

2.5.3 Transparency at the WTO

At WTO, transparency takes shape on two distinct domains: The first linked to WTO decision making processes; the second one regards the transparency standards of the WTO dispute settlement procedures, such as accessibility to documents and meetings or the nomination criteria of the WTO judiciary body representatives (Delimatsis, 2014).

Regarding transparency, it is relevant to notice the great number of mentions in the WTO Agreement to transparency of domestic policies on trade and demands for formal or informal discussion among WTO members within the proper WTO committees like the SPS (Sanitary and phytosanitary measures) that deals with food safety and animal and plant

health, and TBT (Technical Barriers to Trade Agreement) which ensures non-discriminatory technical regulations and assessment procedures; avoids obstacles and encourages the creation of international standards to a predictable international trade environment, guarantees implementation of legitimate policies and objectives regarding areas like human health and environment protection (www.wto.org; Horn et al., 2013).

Definitely, WTO has gone from a power-based system to a rules-based system. This is evident in how WTO promoted reforms in IOs that are somehow linked to the organization like the ISSOs (international standard-setting organizations such as the Codex Alimentarius Commission or the International Organization for Standardization). Such transformation, along with trade liberalization and globalization, made WTO an easier target for stakeholders seeking openness than GATT was. Thus, one might conclude transparency brings greater interest and mobilization around WTO activities from its community actors (Delimatsis, 2014).

Currently, WTO regulations recognize the general right to transparency only to WTO members which puts responsibility for transparency in trade in domestic legal system's hands. This opens the chance for interest groups to shout their voice and indirectly influence WTO decision making through their domestic governmental structures and representatives (Helmer & Wolfe, 2007).

Anyway, the multilateral-trade system institutionalization and its shift to a rules-oriented management brought higher transparency standards (through greater legal formality) to both domestic and WTO instances (Delimatsis, 2014).

Director-General Selection procedure

Regarding its DG selection, WTO has relatively transparent procedures when compared to other IGO's which reserve the position for a specific country. This highlights the WTO efforts towards more transparency and openness in its decision-making process in last recent years.

In fact, the DG selection of Roberto Azevedo in 2013, with nine nominees on the race, was the most open and inclusive selection processes built by consensus of any IO chief to date. In this process, internal transparency and effective participation were assured. Regarding external transparency, related information was made available through the website and the minutes of the GC meetings (typically 2-3 months after the meetings, respective minutes are

posted online). The campaign period was respected in allowing publicity to all candidates equally (Delimatsis, 2014; see WTO Director-General selection process at www.wto.org)

Transparency at the MC

Several months before a MC, the GC and Heads of Delegations (HoDs) prepare an agenda of items throughout regular meetings and discussions. The MC will take decisions based on that pre-established schedule. Such preparation processes happen both publicly and informally, which means not all documents are publicly made available by the time they're in use or discussion by members (Delimatsis, 2014).

Documents submitted by members should be derestricted after 90 days in any case. However, during meetings members may switch to informal mode which avoids documented positions being attributed to specific members in the minutes of those meetings (Delimatsis, 2014).

Sovereign Equality Transparency

The principle of sovereign equality (one-country-one-vote) (Art. IX:1WTOA) at WTO indirectly empowers each member with a veto right upon any decision to be taken at the plenary. Nevertheless, vetoes are very rare as agendas are pre-discussed and pre-determined in previous meetings with the necessary countries (commercially or diplomatically powerful ones) to ensure consensus among all members when in plenary (Delimatsis, 2014).

The Green room

As described before, over time the Green Room process opened up to involve a greater number of countries other than the historically most influential players. India, Brazil and China participation in such meetings is indispensable nowadays, as these countries play an important economic role in global trade and indirectly represent different formal and informal coalitions of WTO members who have their own views about transparency, derestriction standards of documents, inclusiveness and “outside” participation (Birkbeck and Harbourd, 2011; Delimatsis, 2014).

This is proof that at the highest decision-making level of WTO there's need for greater transparency, representativeness and accountability (Delimatsis, 2014).

Transparency at the TPRM

The TPRB, head of the TPRM and grand-responsible for establishing a mechanism of policy review capable of ensuring the functioning of the trade regime and compliance of domestic policies to WTO rules by member-states, prepares periodic reviews to member-states.

The higher the influence of a member in the World trade regime (measured by the share of World trade), the higher will be the frequency of such reviews to that country: trade policies of EU, USA, Japan and Canada are reviewed every 2 years; the next 16 most impactful countries on a 4 year-basis; the rest of the countries are subject to review every 6 years (Piewitt, 2015).

The mechanism of review (TPRM) is about two reports: one conducted by the member concerned and another made by the WTO Secretariat. After review, the reports are published and dispatched for the Ministerial Conference acknowledgment (Part C of the Annex 3 TPRM to the WTO Agreement).

Documents Available and Information Accessibility

At WTO, it is not possible to reflect on participation of interest groups without taking into account the accessibility to information provided as a necessary tool to monitor activities and decisions occurring at the organization. Knowing that, Piewitt (2015) approaches the availability and accessibility of information pretty much as the following paragraph resumes.

Besides the WTO Agreement doesn't account for access to information, in 1996 the GC agreed on the 'procedures for the circulation and derestriction of WTO documents' (WTO 1996b, WT/L/160/Rev.1) and revised them in 2002 (WTO, 2002, WT/L/452). Such procedures implemented the principle of derestriction of any WTO documents unless they are classified as exceptional ones like working documents (draft documents, agendas, proposals, decisions, and WTO Secretariat background notes), minutes of WTO bodies, or Ministerial Conference Summary Records. Usually, exceptional cases are considered for derestriction 6 to 12 weeks after circulation (Van den Bossche, 2008;). Other documents predict longer periods or may only be made available when the process at stake is complete, and still the number of documents under such regime has been reduced over time (Scholte; Wenyan, 2016). All official WTO documents ought to be made available on the WTO's website in English, French and Spanish languages.

CSO's have played and still play, a significant role in increasing WTO's accountability by supporting the organization's in improving its transparency standards (especially external transparency ones, since internal transparency lies much more on the organization's hands). A good example of this success is CSO's several campaigns and protest efforts to speed up WTO documents disclosure and circulation to the general public (Wenyuan, 2016). Additionally, a practical example, evidenced by Smythe & Smith (2006) studies, of CSO's initiatives improving public access to information is the creation of the ICTSD (International Centre for Trade and Sustainable Development), founded in 1995 by five NGOs and co-funded by small European countries and foundations, based in Geneva. The ICTSD aims to "translate" the often complex, technical and bureaucratic development and environmental issues, meanings, decisions, scope and context in international trade to the interested public all over the World (particularly non-trade specialists) "through objective information dissemination, policy dialogues and research support.". The center serves Civil Society also as a resource and information provider and facilitator of contact to WTO decision-makers (see www.ictsd.org)

Avoiding biased communication of documents is a good reason for greater transparency to be in the best interest of WTO. In fact, these days a good amount of documents supposedly unofficial and highly restricted are published online by NGOs or other interest groups (can be a member-state willing to delay the process or push its interests forward) a few hours after they start circulating in a WTO meeting (Delimatsis, 2014). This creates a debate on the adequate level of external transparency of WTO versus the limits of inclusiveness of civil society in its decision-making process.

Smythe and Smith (2006) point out another additional concern on external transparency improvements that are still left to be answered. As WTO derestricts greater quantity of information, civil society expectations and ambitions for deeper scrutiny arise. The point in which this process is to have achieved a sufficient standard is hard to define.

External Relations Office

Aiming to deal with NGO's and national parliamentarians, an External Relations Office was created in 1995 within the organization. The office runs a small budget for workaday activities, and it must appeal the council for an isolated budget whenever it wishes to arrange a conference or forum. In terms of structure, it is composed of one director and two professional staff, a rather small structure for continuously growing demands and activities of

the last two decades. Media affairs are dealt with by a separate and larger department (Smythe & Smith, 2006).

The External Relations Office must become a more autonomous department through carrying a bigger budget and greater independence from the council's approval for external actions and activities. Only a larger and less restricted structure can perform adequately in bringing more effective external engagement in the face of the increasing demand for information, debate and participation. Doing so would only benefit WTO that despite being a member-driven organization should bear the impartiality and autonomy to actually discuss and scrutinize international trade agenda and its inherent issues with civil society. Such scenario helps to legitimize WTO as the grand observer, arbitrator and ruler of the multilateral trade regime.

2.5.4 Legitimacy needs Transparency

The relation between legitimacy of an IO and its transparency has become much obvious in the last years. With globalization, the deepness and wideness of the role of international law and the legalization of international relations achieved incomparable standards (Kennedy, 2009). Given this, the demands for greater transparency within IO's governance systems flourish worldwide as less transparent standards are immediately perceived as abuse of power (Bianchi, 2013).

The outcomes of an IGO can be considered legitimate, as the reflection of the motivations of the ones affected by them, if there is an effective and equalitarian participation opportunity for stakeholders in the processes that generate such outcomes. Such transparency of open and accountable procedures can even reduce costs in avoiding more litigation or quickening negotiations by promoting public acceptability and thus, voluntary compliance to the due outcomes (Delimatsis, 2014).

As referred before, transparency ensures the input legitimacy of a government in the sense that it is the basis for its accountability. Only if citizens are able to follow-up their government's intentions, procedures and decisions, they'll be able to evaluate and trust the political system. This is true for governance at both national and international level. (Smythe & Smith, 2006). Thus, a continuous flow of information both within an IGO and also directed to the wider affected public turns out to be a core matter (Delimatsis, 2014).

Since most of IO's, as WTO, don't hold popular election, it becomes quintessential that they own legal processes that allow all their impacted public to scrutinize, assess and rectify inadequate or harmful policies through indirect instruments of democratic accountability (Wenyuan, 2016). WTO will become more legitimate if it's able to better open information, discussion and decision-making processes to the global trade community (Civil Society, NGO's, traders, unions, governments, etc) by means of higher transparency standards and wider participation opportunities (Cho, 2005).

2.5.5 Future of Transparency

Calls for more

Demands for more transparency and accountability have gone far beyond domestic or international legal systems. If developed countries require higher transparency from developing countries political systems when somehow supporting their development, developing countries and other interest groups (especially the ones dealing with development matters) demand for greater openness and accessibility to more transparent, formal and regulated IO's governance systems. In this context, transparency, accountability and participation become strategic pillars in avoiding the risk of abuse of power in any democratic governmental organization (Delimatsis, 2014).

A global-scale participatory democracy

In 2002, Esty resumed a scenario of needs and impacts on the state and future of transparency at WTO, which revealed to be accurate until present days and still applies for future challenges within the organization's quest to solve its democratic deficit. The idea of democratic participation on a global-scale is often seen as too idealistic. (Keohane and Nye, 2001). However, the centralized decision-making processes of WTO regarding international trade in such a globalized and populated World have been democratically insufficient. More transparency and openness in engaging with civil society when in debate and decision processes has enriched WTO policy-making performance. This way, decision-makers are in contact with a whole different set of views, data and issues, reinforcing the representativeness and legitimacy of its outcomes (Esty, 1998; Esty & Geradin, 2001; Habermas, 2001). As referred before, in order to accept and support a fair governmental authority, it is essential that the public knows who is making decisions and what are the reasons and/or values driving those decisions. This is only possible if administrative law and procedures entail the exposure of information for the foundations of decisions and who is influencing the decision-making

process (disclosure of lobbying information) (Aman, 2001; Shapiro, 2001; Delimatsis, 2014). In these matters, WTO still has space for improvement.

A highly used rhetoric by trade officials concerning CSO's lack of access means (real-time information, consultation and participation) to decision-making procedures is that it is the only way negotiations can occur on an effective, wise and impartial manner. They argue that if critical NGOs had such kind of access they would understand and support official positions. Such argument evidences a unilateral view of officials and member-states about consultations and information briefings, perceiving them as mere tools of self-promotion of the importance and acumen of governmental delegates' roles and decisions and not as a crucial part of a more representative decision-making process. Contrarily, after being consulted, CSOs (especially NGO's) will try to monitor the utility and impact of their contributions and demand more information about deliberative procedures and who's influencing decisions (are powerful corporate interests talking louder through informal influence channels?). Thus, CSOs have often considered such engagement channel a mere hollow public relations operation. Indeed, effective consultation by official delegates with NGOs will take more resources and complexity to ensure their interests are represented and brought together with other already accounted interests like corporate ones (Smythe & Smith, 2006)..

In regards to fortifying administrative law and procedural transparency, Delimatsis (2014) proposes the creation of a review mechanism of WTO decisions, one to be in charge of WTO adjudicating bodies (DSB, Appellate bodies and panels). Such mechanism would have the mission of improving transparency of decision processes. There are some examples of Chairpersons of councils, committees and working parties (elected by member-states by consensus) and Secretariat representatives overriding the limits and roles of their functions, something that could be avoided or corrected through this judicial review mechanism that would drive up organizational cohesion and credibility of its procedures (Delimatsis, 2014).

Costs of Transparency and commitment to Transparency

Increased transparency and more exhaustive participation in negotiations will certainly bring WTO some added costs. In this matter, transparency includes creating tools to make procedures visible and derestricted, but also building effective processes for interested actors to access such procedures. Such reality will be translated in more extensive negotiations and higher transaction costs. Thus, the institutional performance and effectiveness of results at

WTO will be disturbed, as the IGO is deficient in deal-intermediation processes (Cottier & Delimatsis, 2011). Moreover, in a consensus-based decision-making process, more real-time transparency and access may also mean more informal talking on the back-door and too careful public speeches, bringing a too political character to the negotiation process (Slaughter, 2004). In any case, as Cabrera (2007) criticizes, decision-making processes aimed at protecting the progress of allegedly democratic outputs should never be ones that are not democratic themselves. The means for the progress of democracy must be democratic themselves. Hence, at WTO, only providing civil society with means for access to information and participation in the decision-process will make the results (whatever they are) of the process democratically legitimate (Cabrera, 2007). Even though costs might come with the creation of more open deliberative processes, they are necessary for a more democratic governance system. WTO and its members will have to face the challenge of enhancing transparency and representativeness without damaging efficiency of the decision-making process (Delimatsis, 2014).

Moreover, to pursuit higher transparency standards WTO will need more resources. When compared to other IGO's like the WBB or the OECD, WTO is a small structure composed of approximately 650 staff (source: www.wto.org). In the face of the increasing density and scope of multilateral-trade system and rules, this staff is already insufficient.

Furthermore, if those added resources are to be invested in greater external transparency on one hand, WTO members will have to strive for consensus more than before in addressing eminent issues like internal transparency procedures and equal opportunity of participation for the least developed countries as weakly and unilaterally recognized in the Doha Declaration: "Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall, therefore, at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system." (WTO, Doha Declaration, 2001, p.10)

Clearly, WTO resumes its commitment to transparency to a one-way speech towards the public in trying to prove how necessary and right WTO is. Panel reports exemplify

somehow this attitude as they're written in highly complex and technical manners, impossible to understand by ordinary people if they are not specialist in international trade law (Cho, 2005). This prevents civil society to prize WTO as a legal system as they are not educated about the norms issued by it. A changed approach would bring enlightenment and overall acceptance of WTO legal outputs at the national level. Member-states and CSOs may have a role to play in this field in demystifying and circulating WTO norms within their constituencies and thus, upkeep WTO legitimacy (Cho, 2005).

Attempts to control information or create boundaries to public debate is ineffective since the flow of information becomes harder and harder to control. Nowadays information can be easily leaked by members or other interest groups. A good example is leakage of the Doha draft declaration, circulating through NGO's and internet even before it was posted at the WTO website. This is a sign of how critical and activist interest groups, especially NGO's, will keep on being in striving to make their voice heard in regard to environmental, development and other issues within the WTO negotiations agenda. It is then evident that mistrust and critical voices should be dealt in a more constructive manner by opening debate, disseminating more timing, complete, understandable and relevant information and making decision processes accessible to civil society's closer examination at both international and national level (Smythe & Smith, 2006).

2.6 Participation means

2.6.1 General picture

In trying to influence an IO, CSOs do it through intermediation of a state-channel or directly engaging with the IO. Whether CSOs make the decision to use one way or the other, it's a matter of their strategic decision. However, such decision is conditioned and influenced by several factors entrenched in the IOs and states structures, capacities and interests: "1) the porousness of state and IO structures determine the range and depth of initial CSO access; 2) a CSO's own social capital plays a role by providing the CSO with contacts within the state or IO; 3) a variety of situational elements may determine the degree of alignment between the interests of the CSO and its contacts.; 4) the relative power of different policy-makers determines whether aligned contacts are capable of implementing the CSO agenda." (Pallas and Uhlin, 2014, p. 186-187).

In other words, when deciding to use the state as a channel to influence an IO, CSOs will depend on a mixture of porousness, access to contacts, alignment of interests and the effective power to implement such interests. Thus, in such case CSOs need to be dealing with a porous state structure, be able to contact with the right influencers and have a state-ally more powerful than the IO counterparts. Such situational factors favor a limited group of highly equipped CSOs from porous and powerful states, a sign of inequality in Civil Society engagement with IOs, the same inequality present among states (Pallas and Uhlin, 2014).

At WTO, it is clear that the possibility of NGOs, one of the most active, critical and capable CSOs sector, to participate in the governance system of this IGO depends very much on how their objectives align with the interests of WTO members. When this is the case, NGOs are able to augment the negotiating power of a specific member-state and more concretely participate in the decision-making process (besides they are officially excluded from it) (Murphy, 2012).

As described already on this dissertation, pretty much since its inception, the WTO was pressured and acknowledged the need to answer NGOs concerns. The legal basis for the inclusion of interest groups participation at WTO lies at the WTO Agreement itself. ‘The General Council may make appropriate arrangements for consultation and cooperation with NGOs concerned with matters related to those of the WTO.’, says Article V:2 composed and approved at the Marrakesh Agreement in 1995 (Smythe & Smith, 2006). The GC, departing from this article, issued the ‘Guidelines for Arrangements on Relations with Non-Governmental Organizations’ on 23 July 1996 (WTO 1996a, WT/L/162) which are inconsistent regarding the role of interest groups by simultaneously putting responsibility on member-states to account public interest (Article VI) and upholding engagement with interest groups at the international level. Moreover, the guidelines predict a greater engagement between WTO Secretariat and NGO’s as valuable contributor to the public debate (Article IV); encourages relations with interest groups through the operationalization of public symposia, informal consultation processes or measures to improve transparency and dissemination of relevant information; permits WTO councils and committees to set-up means for civil society participation (Article V). From these guidelines, a varied set of mechanisms for interest groups representations was gradually implemented since 1996 (Piewitt, 2015).

2.6.2 Strategies of influence

When influencing WTO's governance system, CSO's make use of three major strategies: "lobbying, educational campaigns, and alliances with developing country governments" (Wenyuan, 2016, p.31).

Briefly, in regards to lobbying, CSOs admit that attending Ministerial Conference meetings is a very important part of interest groups lobbying strategy on WTO decision-making process (Hanegraaff et al., 2011). Also, a great deal of dynamic of WTO non-governmental stakeholders around the activities of this IGO takes place at the domestic level with exhaustive lobbying initiatives on state officials and institutions delegated to negotiate in Geneva, hence indirectly influencing WTO decision-making (Delimatsis, 2014).

Furthermore, CSOs do take participation actions through external campaign operations. By promoting international and street protests, educational workshops, debate conferences and publishing contents regarding WTO's scope of action and other relevant IGO's, they produce support and awareness around their agendas and activities, and ultimately increase public alertness of the multilateral global trade system (Murphy, 2012; Wenyuan, 2016).

Finally, another strategy CSO's use to influence WTO's policy-making process is establishing alliances with developing member-states and have their concerns dealt in the decision-making arena. A good example of this case is the access to medicines campaign starting in 1999, one that aimed to clarify WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) inequality and limitations in access to essential medicines when applied to the LDC, and help developing countries issuing policies that would grant better access to patented medicines. It resulted in turning such concerns into key points of debate at the Doha ministerial conference, the amendment of TRIPS safeguards and provisions in 2005, and ultimately in the general allowance for the generic substitution of off-patent medicines and parallel importation of patented medicines. Another example is NGO's campaign against the inclusion of foreign investment negotiations in the Doha round agenda. The reasons supporting such movement were "that it would grant multinational corporations too much power in the global economy at the expense of developing states; that it was antithetical to the development character of the Doha round; that it would be a 'disaster' for equitable and sustainable development; and that domestic policy flexibility would be lost (Bailey et al. 2003); that limited progress on key issues of importance to developing countries, including

market access, agricultural barriers, and special and differential treatment; hypocrisy and ‘historical amnesia’ of industrialized nations supporting an investment agreement (Chang and Green 2003), as most had in the past systematically discriminated between domestic and foreign investors in their industrial policy in order to generate economic growth;”. With such agenda implemented in a variety of ways, NGOs successfully persuaded developing countries to block the subject at the WTO’s 2003 Cancún ministerial conference (Murphy, 2012, p.477). This is clear evidence of CSOs will and ability to judge and correct defective WTO policies, acting somewhat as valuable policy-entrepreneurs (Wenyuan, 2016).

2.6.3 Main participation actions and roles

If allegedly WTO, as a member-driven intergovernmental organization, doesn’t formally include private interest groups in its decision and governance structure, it is undeniable that in time CSOs have been playing an important role in co-operating with member-states to build a more relevant and representative member participation at the WTO arena. Therefore, CSO’s have been at least indirectly part of the development of the Multilateral trading system and the WTO itself (Delimatsis, 2014). In a practical sense, CSOs operate an informal influence by attending WTO’s Ministerial Conferences and meetings with Secretariat representatives (Wenyuan, 2016; Hannah et al., 2017).

NGO’s and other private groups participation at WTO committees works has been often welcomed because these actors own significant technical knowledge and expertise regarding certain issues of debate (especially “trade and issues” areas like environmental protection of which WTO officials are often less aware), thereby adding valuable and consistent insights to the background documents prepared by the Secretariat (Delimatsis, 2014).

Formally speaking, the Marrakesh Agreement has built the institutional space for WTO’s consultation and engagement with NGOs. Wenyuan (2016) resumes such relationship in four channels: “1) The Public Forum (named Symposium before 2005); 2) circulation of WTO position papers and information; 3) secretariat responses to requests for information and briefings; 4) participation of chairpersons of WTO councils and committees in discussions with NGOs” (Wenyuan, 2016, p.31; Hannah et al., 2017).

Ministerial Conferences and official trade meetings

Since the first Ministerial Conference of WTO in 1996, Singapore, interest groups were provided with the chance to access the meetings. CSOs that fit a not clearly defined set of criteria can apply and be elected for an “accreditation” allowing them to attend some plenary sessions of the MC as observers (no right to speak) and additionally access an NGO center, whereby they can meet, access technology facilities to communicate themselves the event to the public and gather information from daily briefings organized by the External Relations Office (Smythe and Smith, 2006; Van den Bossche, 2008; Piewitt, 2015).

Interest groups that officially apply for such accreditation are ‘requested to supply, in detail, all the necessary information showing how they are concerned with matters related to those of the WTO’ (WTO, 2005). Upon the WTO Secretariat formal verification on the eligibility of the group (based on Article V, para. 2 of the WTO agreement), and after approval of the General Council, accreditation is given, or not, to the interested CSO (Hanegraaff et al., 2011, Piewitt, 2015). Normally, accredited interest groups should be organizations like business associations, labor unions, NGOs, think tanks, local governments, and not individual firms/entities, (Van den Bossche, 2008). Such vague and informal access procedures and modes of participation haven’t changed much over time.

In these MC meetings, predictable, tedious and set speeches about negotiation positions are read by country delegates to assembled delegates and no real discussion occurs (Howse, 2003; Smythe and Smith, 2006). Also, the accreditation procedures somehow restrict Civil Society access to participate in these meetings, even if just as observers. Even when accredited to access MC meetings (similar accreditation of journalists), CSOs are not allowed to attend and thus influence official trade negotiations (Van den Bossche, 2008), which are led by government officials and accessible only to trade officials (Hanegraaff et al., 2011). Similarly, WTO councils and committees bearing everyday responsibilities do not allow interest groups to participate formally in meetings, confining access to a small number meetings to which, not on a routine basis and upon unclear criteria, observers presence is allowed (Steffek & Ehling, 2008; Piewitt, 2015). Briefly, this is a very hypocrite and hollow access opportunity to real happenings, since “big deal” negotiations and decisions are still occurring at closed-doors.

However, the MCs are still a relevant indirect channel of representation and participation through which interest groups can lobby member-state officials, contact media

representatives and disseminate information or network with any participant or observer (other CSOs, for example) of the conference (Steffek & Ehling, 2005; Smythe and Smith, 2006; Piewitt, 2015).

As Table 1 shows below, until the 2003 MC in Cancún, NGOs made use of the opportunity such access accreditation to meetings offers (Smythe and Smith, 2006).

Table 1 NGO Attendance at WTO Ministerial Meetings

Location	Number of NGOs	Number of Delegates
1996 Singapore	108	235
1998 Geneva	128	362
1999 Seattle	767	2,089
2001 Doha	365	365 ^a
2003 Cancún	955	NA ^b

Source: World Trade Organization, data available online at www.wto.org/english/forums_e/ngo_e.htm.

Notes: a. This is the number registered the week before the ministerial. A number of NGOs were unable to attend, and the limit per organization was one delegate, in contrast to Seattle where four was the limit.

b. The number of groups that were registered. Final figures of delegates are not available.

Source: Smythe & Smith, 2006

Robertson (2000) argues that before considering CSOs (namely NGOs) to participate in MC meetings, interest groups would have to find ways of forming a more uniform and consistent group of voices in order to become more representative. Also, it would be important that a WTO-designed participation code of conduct (comprising identification of their mission, disclosure of financial and funding records, commitment to domestic regulations and certain ethics standards, etc) was accepted by these organizations. After that, member-states should bear responsibility of selecting a group of CSOs to formally participate in several trade meetings, not necessarily the MCs.

Hannah et al. (2017) go further in proposing that a consultative committee composed of those selected CSO’s should be created to allow civil society’s broader interests and concerns being accounted in the agenda-setting process, a contribution for greater transparency and legitimacy (Hannah et al., 2017). Delimatsis (2014) had defended before a suggestion in the same line for the creation of such kind of structure, proposing it should be composed of a mix of public and private actors covering representation of different regions, coalitions, issue interests and domestic political parties. The Secretariat would ensure representatives accountability and transparency towards their respectively represented

constituencies (Sutherland, 2004) upon pre-established criteria. Governmental representatives of member-states should be included in this body entailing a core group of permanent members (based on the highest trade volumes) and a set of rotating countries (based on region, population, trade volume, etc) that would bring some enforcing power to this committee. Issued agreements should be communicated to all WTO members and their following objections heard, a good opportunity to test the effectiveness of current region-based coalitions and enhance the development of more issue-based coalitions. A structure like this would institutionalize and legitimize the Green Room process, through granting representation and participation of all member-states interests (not only the Club ones). At least partially, meetings would be open to the public and allow individual interventions of CSOs (NGOs, labour unions, companies, etc) and other transnational regulators. Such kind of structure was already successfully implemented in other intergovernmental venues like in the United Nations World Conference Against Racism (WCAR) in 2009, Durban (University of Warwick, 2007). Regarding this proposal, Jones (2004) also proposed the creation of a rotating steering committee, under composition criteria already referred, would allow adequate representation of interests and issues to all members in negotiation meetings. Such kind of practice was already adopted in the World Bank and the IMF (Cabrera, 2007).

At WTO the existence of a steering committee is already a reality at the Parliamentary Conference. This committee is composed of 30 representatives from several member parliaments of the Inter-Parliamentary Union (IPU), The European Parliament and other international organizations. The committee is observed by senior WTO Secretariat representatives who often do briefings on developments of negotiations to parliamentarians (www.wto.org). Cabrera (2007) suggests this might be the start of designing a formal WTO Parliamentary Assembly that would serve in the future as a channel of representation to civil society in trade negotiations. He proposes an official Parliamentary Assembly at WTO (like the European Parliament at the EU) raised from the growing importance of the Parliamentary Conference in engaging with trade negotiators about more sensitive issues, that would finally exercise a formal co-decision authority, along with other organs of decision at WTO.

The Parliamentary Conference, or a future Parliamentary Assembly, is undeniably an influence channel to be accounted and better explored by CSOs. It is at least a good opportunity for valuable information exchange between civil society and parliamentarians about the status of trade negotiations at WTO. Also, it is a point of access to lobby for a greater representation of CSO's interests. Currently, parliamentarians may indirectly

influence through lobby (at the international level), and directly influence through their legislating role (at the national level), member-states positions at the WTO formal negotiation and decision arenas.

Official national delegations

A very important influence channel CSO's seek to make their voice represented at the WTO decision-making process is being part of official national delegations (usually of their country of origin). For that, they lobby member-states in order to secure a place for their representatives in delegations to WTO meetings (Hanegraaff et al., 2011; Murphy, 2012). As members of a national delegation, interest groups are able to follow negotiations more closely and avoid a great deal of already referred institutional (WTO) restrictions (Hanegraaff et al., 2011; Murphy, 2012; Piewitt, 2015).

The selection criteria and the extent of participation (for example, what kind of meetings they can participate in) of CSOs representatives integrating national delegations is member-states' responsibility (Piewitt, 2015). Murphy (2012) and Piewit (2015) point out the following examples: The EU alternately selects a group of NGOs representatives to join its delegations attending the Ministerial Conferences; Kenya and Uganda settled heterogeneous stakeholders advisory boards on trade policy that resulted in NGOs joining national delegations to MCs; Several NGOs were granted accreditation to join official national delegations of the United States, Canada, New Zealand, Denmark, Norway, Egypt, Tunisia, Burkina Faso and South Africa at the 1996 Singapore MC, allowing access to government briefings and officials; At the infamous Seattle MC of 1999, NGOs reps were part of national delegations of United States, Norway, the United Kingdom, Denmark, the Netherlands, the European Union, Kenya and Sweden;

On the other hand, some limitations to this participation channel exist. When integrating national delegations generally interest groups are not allowed to access the Green room meetings. Only a very small and restricted group of non-state actors benefit from such allowance (given by member-states) when participating in WTO members official delegations. Thus, access to delegations is not a synonym of access to all formal meetings which is a limitation for CSOs to monitor and participate on some real and impactful negotiations. Besides, being part of a national delegation obliges representatives to some confidentiality and control when making public political statements, another drawback that

limits Civil Society participants voice and action (Steffek and Kissling, 2006; Hanegraaff et al., 2011).

However, national delegations openness to CSO reps is believed to be a crucial contributor to civil society participation and democratic enhancement of decision-making. This channel may work as a balanced landmark between those who claim formal participation of CSO at the WTO and those defending these organizations lack sufficient representativeness, consistency and legitimacy standards to achieve such kind of status (one that is best left exclusively to member-states, the ultimate legitimate actors of public policy-making) (Slaughter, 2004; Murphy, 2012).

The Green Room

An indirect way of civil society actors to be represented at the Green room meetings is engaging “from the outside” with members that have a seat at those meetings. Moreover, such members belong to coalitions like the Cairns group, G20, G30 and others, who often welcome co-development of agenda with interest groups that are aligned with them on the will to see certain issues addressed at those meetings (Birkbeck and Harbourd, 2011; Delimatsis, 2014).

Public Forum

Born in 1997, at the time by the name of Public Symposium, as a joint initiative of the WTO Secretariat and the UN Conference on Trade and Development, it has been held once a year in Geneva since its creation. The goal is gathering civil society interest groups to exchange views on WTO issues with other actors like country delegations, academics, and the secretariat (Smythe & Smith, 2006; Hanegraaff et al., 2011). Access to the Forum is unrestricted and no requirements verification process exists to allow participation (Piewitt, 2015). It is operated on a conference format with several workshops and seminars whereby panelist and participants debate on WTO issues (Van den Bossche, 2008). However, few governmental officials are present in these dialogue spaces and most of the topics of discussion are about decisions that have already been made, a factor of limitation regarding the possibility interest groups have to influence or watch over present trade negotiations (Hanegraaff et al., 2011).

Each year, the event is subject to a specific thematic as Table 3 below shows.

Table 3 World Trade Organization Public Symposia

Year	Title	Date
Symposium 1997 (WTO/UNCTAD)	High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development	24 October
Symposium 1998	WTO Symposium on Trade Environment and Sustainable Development	17–18 March
Symposium 1999	High Level Symposium on Trade and Development	17–18 March
Symposium 2001	Symposium on issues confronting the world trading system	6–7 July
Symposium 2002	The Doha Development Agenda and Beyond	29 April–1 May
Symposium 2003	Challenges Ahead on the Road to Cancún	16–18 June
Symposium 2004	Multilateralism at a crossroads	25–27 May
Symposium 2005	WTO After 10 Years: Global Problems and Multilateral Solutions	20–22 April
Symposium 2006	What WTO for the XXIst Century	25–26 September
Symposium 2007	How Can the WTO Help Harness Globalization?	4–5 October
Symposium 2008	Trading into the Future	24–25 September
Symposium 2009	Global Problems, Global Solutions: Towards Better Global Governance	28–30 September
Symposium 2010	The Forces Shaping World Trade	15–17 September
Symposium 2011	Seeking Answers to Global Trade Challenges	19–21 September
Symposium 2012	Is Multilateralism in Crisis?	24–26 September
Symposium 2013	Expanding Trade through Innovation and the Digital Economy	1–3 October

Note: WTO, World Trade Organization; UNCTAD, United Nations Conference on Trade and Development

One can assess how impactful and effective the Public Forum is, as a formal engagement channel, looking at the number of participants in the event. In 2004, the Public Forum “Multilateralism at a Crossroads” counted with the participation of more than one thousand people. Departing from this Forum, several briefings, meetings, NGO and member-states co-organized workshops, were generated in the year that followed the event (Smythe & Smith, 2006).

Working papers

Interest groups can submit working papers to WTO Secretariat (to the External Relations Office). If such papers are approved, they will be put circulating among member-states and posted on the WTO’s website. Requirements for approval as position papers are that they relate to WTO issues and are not collected from newsletters, brochures, etc (Van den Bossche, 2008). Aside with access to MCs, this is the only institutional tool (inserted in the organization’s decision-making routine) for interest groups to channel their voices to decision-makers.

Geneva Access badges

According to Hannah et al. (2017), the Secretariat allows Geneva-based organizations to submit to special access badges. This accreditation is meant to permit CSO’s (mostly NGO’s) receive small-scale informal briefings from the Secretariat on a regular-basis (after major meetings of WTO bodies), attend some WTO dispute settlement public hearings and

simplify their entry at the WTO headquarters (Centre William Rappard). At the moment, 52 Geneva-based NGO reps hold these badges.

Regarding this badges system, one might wonder: What kind of elitist limitation is this? What is the purpose of such geographic criteria? Hypothetically, a Brazilian NGO that lacks the resources to have physical representation in Geneva is automatically excluded from this access opportunity. Is it fair for CSOs that for some reason are not based in Geneva (many from LDC which, as we've seen, are already in comparative disadvantage to developed countries CSOs in terms of representation) not having the same means of participation? Even those excluded CSOs that have the necessary advocacy skills, knowledge, purpose and accountability to represent interests of civil society at WTO, they are, in any case and because of geographical distance, out of this participation channel.

Dispute Settlement Mechanism

With the introduction of the WTO dispute settlement system, NGO's started to lobby governments in order to include analysis and opinion documents of their own in official submissions to dispute panels. On the *turtle-shrimp* case (see https://www.wto.org/english/tratop_e/envir_e/edis08_e.htm), after the panel report went to appeal stage, the Appellate Body decided panels should consider all submissions (even non-requested ones) to the panel and were allowed to accept them as *amicus briefs* (friends of the court submissions) from NGOs or other interest groups. As soon as the Appellate Body report was accepted by the DSB in 1998, CSO's submissions (*amicus curiae* briefs) to panels were then to be considered as consultative elements by panelists for any dispute process, including at the appeal stage (Article 13 of the DSU; Piewitt, 2015). Many CSO's grabbed the opportunity to formally include their voice in an evolving case-law system (suiting their advocacy skills and ambitions), and turn international law into a stronger tool to contest their domestic governments (Robertson, 2000; Howse, 2003; Mitchell & Sheargold, 2008). The Dispute Settlement Mechanism became a relevant and formal channel of influence for CSO's. Indeed, CSOs have lobbied and succeeded to be represented in this decision-making structure as part of their purposes to grasp a greater impact in the international trade law-making and hold a greater role within WTO governance system (Wenyuan, 2016).

Howse (2003) drew a good critical analysis on the first impressions and impacts of such relevant change among WTO members, as exposed in the following paragraphs. Firstly, this unprecedented measure from the Appellate Body allegedly created tension among some

member-state officials, especially the developing countries. The argument was that *amicus* practice would often be inclined in favour of developed countries, while developing countries NGOs were actually benefiting from the practice, which makes the argument an ironic one. The practice itself had originated from cooperation between developed and developing country NGOs, which would be the case again in future occasions and even with the additional support of developing countries governments (as for example within intellectual property area the already mentioned amendment of TRIPS safeguards and provisions, concluded in 2005). In fact, the true back-stage opponents of the *amicus* practice would end up being the “Club” member-states, who sounded alerts and encouraged revolt of members (especially developing countries ones) on the alleged lack of legitimacy of such process, in a distrusting attitude towards this form of non-state actors’ more direct participation.

Morocco in 2001, a developing country member-state, profiting from the *amicus* practice on the Sardines case (Morocco was not participating in the dispute either as a party or third party; see details at https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds231_e.htm) is a good example of how this practice may align with these countries’ interests and how cost-effective this influence channel can be for a country with limited resources to formally participate in dispute proceedings as a party or third-party (more expensive). Some interest groups like business associations (especially from developed countries) don’t make much use of this practice as they have means (greater access to government officials and necessary resources to reach the necessary lawyers, lobbyists and consultants) to operate other influence channels in the dispute settlement system and have their voice heard. Thus, it doesn’t apply the case of the *amicus* practice being swallowed by or deviated in favor of corporate and developed countries’ interests. Amicus practice allowed for the opportunity that some interests that were not able to have their say on the table of decisions could now influence disputes, and thus WTO governance system. Such fact triggered distrust among the most powerful WTO members. Indeed, *amicus* briefs submissions balance the legal influence Club members exert on the mainstream legal interpretation and discourse of disputes (Howse, 2003).

In 2008, allied with the European Communities requests, lobbying pressures from CSOs induced the Appellate Body to open dispute settlement proceedings to the public for the first time. That was by the occasion of the Canada-Continued Suspension and US-Continued Suspension case (issue: the United States and Canada should have removed its retaliatory measures since the EC had removed the measures found to be WTO-inconsistent in the EC —

Hormones case) (See https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds320_e.htm; Mitchell & Sheargold, 2008; Wenyuan, 2016). This was a significant step towards openness and transparency, although still short regarding effective and lasting participation of private actors at the WTO decision-making process (Mitchell & Sheargold, 2008).

Finally, Delimatsis (2014) points that by submitting *amicus brief* reports, the degree of influence CSOs may exercise at WTO has definitely increased over time. Nevertheless, authors like Charnovitz (2000), Van den Bossche (2008) and Hanegraaff et al. (2011) highlight the low frequency such briefs are in fact included in the proceedings which evidences some limitations to the effective power of this influence channel. Additionally, calls for more inclusiveness and openness for non-state actors representation are still very active (Esty, 2002 & Dunnof, 2004) under the argument that they are essential players in evaluating the broader impacts of the matters debated by member-states (Cottier, 2007). This drives us again to the insistent and much debated limitations of the observer status CSOs are subdued to within the WTO arena (Charnovitz, 2005; Piewitt, 2015). Another example of participation limit is that interest groups cannot start a dispute settlement proceeding (Piewitt, 2015). Departing from this last example, one can wonder: Why not? Why can't the WTO formally become a sort of international court of trade, open, to a certain extent, to ordinary citizens? Why is the WTO still so member-driven, as only government representatives (who are all appointed and not elect) can directly participate in the DSS? If it would be the case of a change in this sense, national authority would not necessarily be at stake regarding the quality of trade policies but rather with regard to their international legality. This would be possible if we accept as beneficial the implementation of a multilateral liberal international trade system sustained by global legal standards (which is actually one of the main flags of the WTO Agreement: single undertaking) in which all member-countries participate under the same fair, transparent and non-discriminatory conditions. If we accept it then we must assume it also at the citizens-level, the maximum users of the system, and provide them with means of participation for the development of international trade law through a more representative and robust advocacy body (the DSB).

Public communication and External activity

Another form of CSOs participation and representation of their interests at the WTO showground is through external communication and activities. Informational campaigns,

workshops and seminars and physical protests on an International and local level help raise public awareness of WTO and the Global trade system (Wenyuan, 2016).

2.6.4 Measuring Participation

Ministerial Conferences

The number of CSOs applying for an observer accreditation to attend WTO Ministerial conferences has shown growth until 2005, a sign of the increasing quantity of CSOs engaging with the rules, decisions and impacts originated in the realm of the International trade regime.

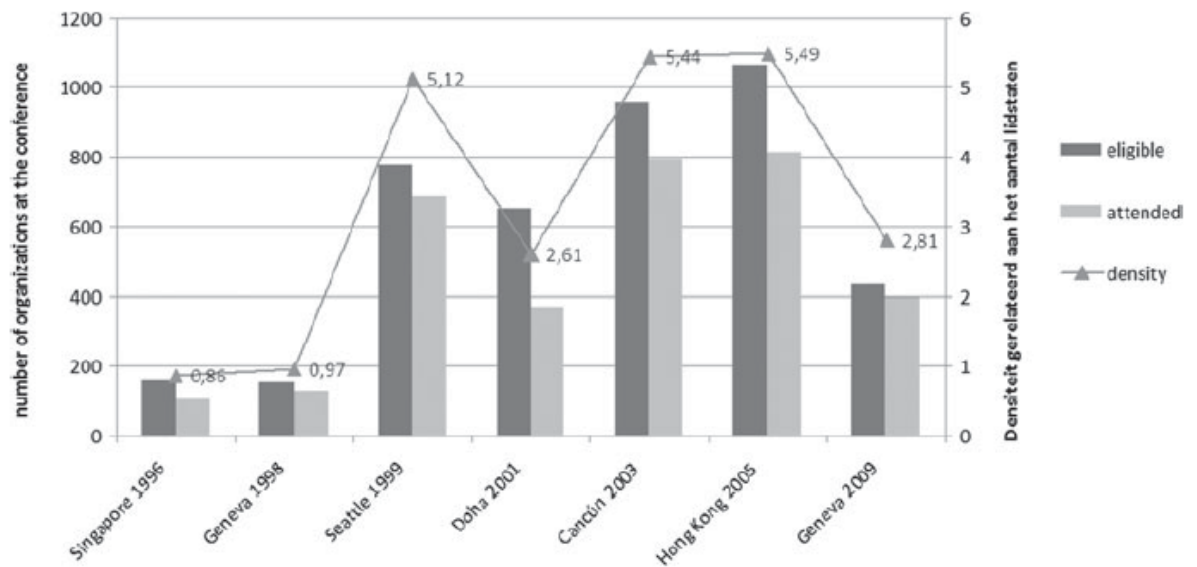
Table 1 and Figure 1 below, display an overlook on the participation of non-state actors at the MCs from 1996 to 2005.

Table 1. Eligible, attending, and number of organizations in the WTO dataset

Ministerial conference	N eligible organizations	N organizations attended	N organizations in the dataset	% difference with eligible	Number of individuals
Singapore 1996	159	108	108 (=attended)	32%	235
Geneva 1998	153	128	128 (=attended)	16%	362
Seattle 1999	776	686	738 (<eligible)	5%	1,500 approx
Doha 2001	651	370	370 (=attended)	43%	370
Cancún 2003	961	795	948 (<eligible)	1%	1,578
Hong Kong 2005	1,065	812	812 (=attended)	24%	1,596
Geneva 2009	435	395	430 (<eligible)	1%	490

Source: Hanegraaff et al., 2011

Figure 1. Comparing density of WTO population over time



Source: Hanegraaff et al., 2011

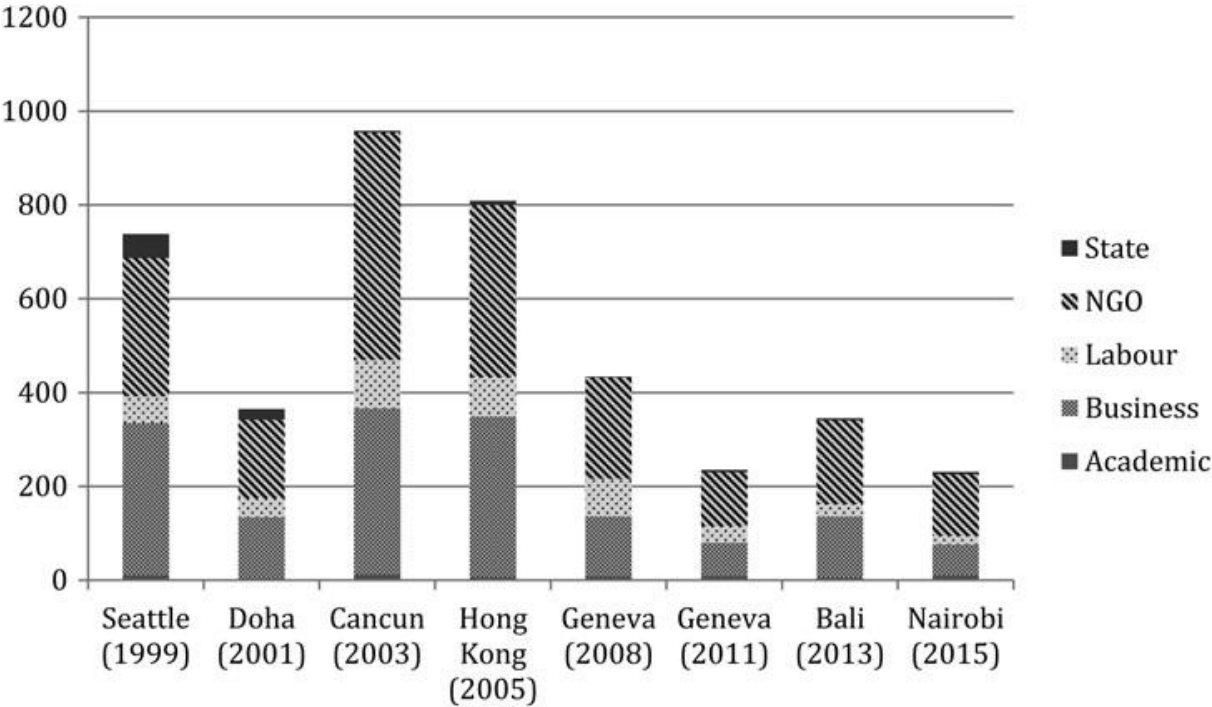
Consequently, besides institutional restrictions on a more formal participation possibility, the number of accredited organizations attending the MC rose from 108, in 1996 (Singapore), to 802, in 2005 (Hong Kong) (Hanegraaff et al., 2011; Murphy 2012). Slowly progressing in the first years after non-state actors were given the opportunity to attend the MC meetings (1996 and 1998) (Nownes, 2004), the population of interest groups participating has grown exponentially in the following four MCs with its peak in 2005 (with exception of Doha 2001). The “Doha-effect”, a contradicting decrease in the density of organizations attendance within the growing trend the time period, is explained by the fact that the event took place shortly after the 9/11 which, for obvious reasons, affected attendance results. After 2005, the number of eligible and effective participants declined to more than half as only 395 organizations attended the Geneva 2009 MC from the 435 eligible ones.

Even taking into account the slightly crescent variance of WTO members between 1996 and 2005, the performance of these numbers doesn’t change, which leads to the conclusion that most of the interested non-state organizations are original from the founding members of WTO. Another conclusion to be taken when looking at the down in participation of the 2009 Geneva MC, is to recognize maturity and stableness of interest groups participation at the WTO. (Hanegraaff, Beyers, & Braun, 2011)

Supporting this argument, Wenyuan (2016) highlights evidences found in the 2014 WTO Annual Report which accounts for the participation of 395 CSOs at Bali MC in 2013,

the exact same attendance of the 2009 Geneva MC. Moreover, Hannah et al. (2017) reinforce this idea reporting that the quantity of CSOs eligible (successfully registered) and actually attending shows decline, as the Nairobi MC in 2015 counted with just 232 CSO’s attending the meetings. Figure 2, below, represents well the truth of these numbers.

Figure 2. Civil society organizations attending ministerial conferences, 1999–2015 (note: the bar for Cancún 2003 relates to the number of eligible CSOs and not the ones actually attending)



Source: Hannah et al., 2017

CSO’s engagement with the MC has declined to a point in which influential organizations like Oxfam declared meetings are not anymore essential enough to be worth sending a delegation (Benicchio, 2013).

In general, three stages can be observed regarding CSO’s engagement with the WTO MCs: Firstly, a slow growth (1996-1999); From 1999 to 2005, a sharp increase much embedded in excitement of the Doha Development Agenda preparation and run-up; Lastly, a stage of gradual disengagement (2005 - 2015) (Hanegraaff et al., 2011; Hannah et al., 2017).

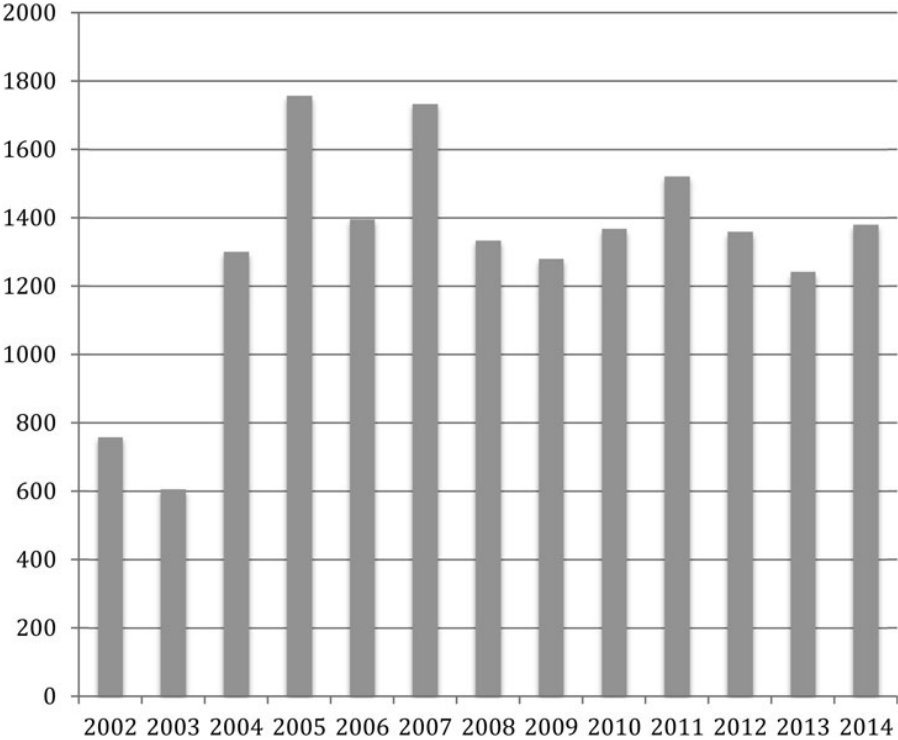
Two conclusions are to be taken: More openness to civil society groups participation is not a linear synonym of growth in density of attendance to MCs (Hanegraaff et al., 2011); Clearly, the dragging and fruitless negotiations of the Doha Development round have faded

out CSOs believe that participating in the MCs would be an optimal channel to make their voices heard and agendas effectively dealt with.

Public Forum

As Figure 3 shows, in the Public Forum, the total density of participation has been quite constant. The event had its heights in 2005, 2007, and 2011. Nevertheless, regarding civil society participation, the population has declined significantly. The stability of the total number of participants at the Public Forum has been guaranteed by the crescent quantity of state and other IGO representatives registering to the annual event. (Hannah et al., 2017).

Figure 3. Public Forum participants, 2002–2014



Source: Hannah et al., 2017

NGOs Interest is fading-out

From the exposed numbers regarding CSO’s attendance to probably the two most important influence venues at WTO (MC and Public Forum), one can conclude interest of the most contentious CSOs (mostly NGOs) towards global trade agenda and the WTO is today resumed to a whisper of what it has been in the first years of WTO’s existence. This fact evidences an urgent need to review the purposes of dialogue/consultation relations between the WTO and civil society.

2.7 Representation and Distribution of CSOs at the

WTO

In accessing Civil Society engagement with WTO governance system, besides analyzing the means by which CSOs participate in negotiations and decision-making procedures, it is crucial to understand the diversity of the interest groups that are part of it. What kinds of organizations are exactly representing Civil Society? What's the distribution of such population of CSOs in regards to their interests' agenda, area of specialization, country of origin or main purposes? How asymmetric is CSOs representation compared to civil society broad scope and diversity? Who's still not represented? In fact, who is actually participating as a Civil Society representative at the WTO arena?

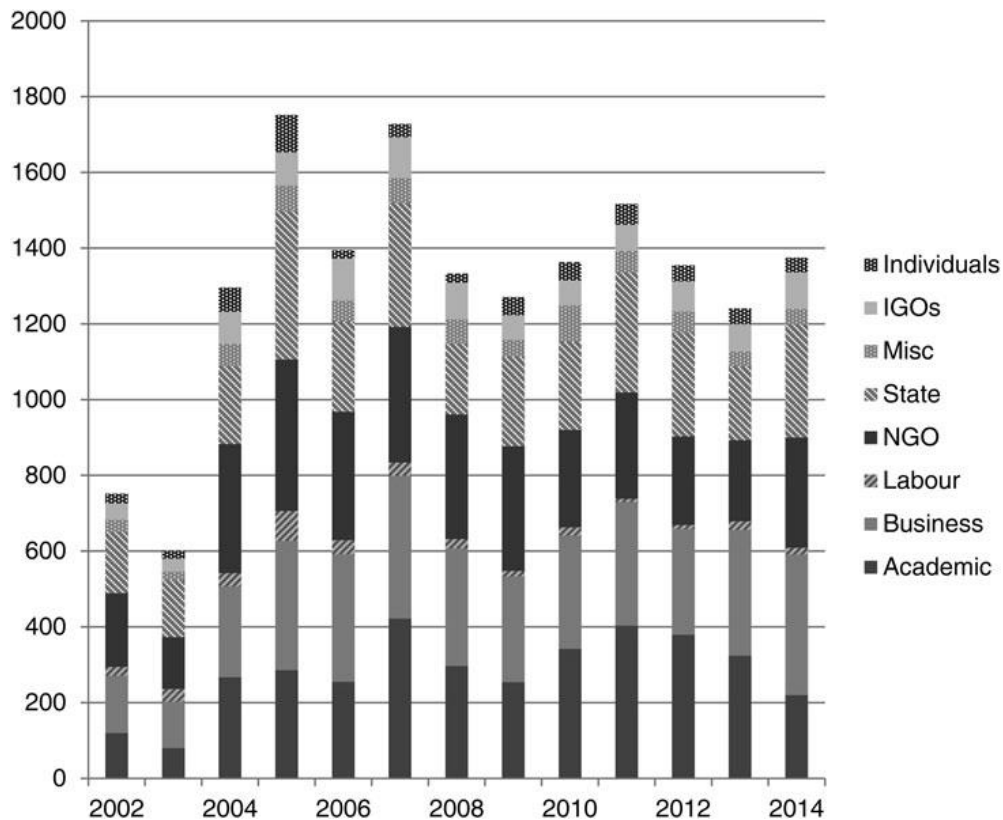
As Robertson (2000) very accurately questions, "how comprehensive is civil society"? What level of representation is and should be delivered to different, sometimes politically opposite, groups like labour unions, industrial associations, environmental, religious and development NGOs, think tanks, consumer and human rights organizations, and individual citizens. What are the criteria of representativeness driving participation inclusiveness for such an extensive, and often vague, conceptual group like Civil Society?

2.7.1 Distribution of CSO's population

Public Forum

When looking at the composition of the population attending the Public Forum, a clear change in time regarding Civil Society participation is that it went from a majority of NGOs representation to an economic interests' representatives one. Figure 1 shows that from 2010 onwards business groups (including industry representatives or business associations) became the largest category of participants at the Public Forum, a place typically occupied by NGOs (Hannah et al, 2017).

Figure 1. Public Forum participants by category, 2002–2014



Source: Hannah et al, 2017

Nowadays, two other groups are more represented than NGOs at the Public Forum, making it the fourth largest group: State representatives and academic representatives (from universities and high schools). Along with NGOs, another CSO category which has dropped down its relative representation at this influential channels are labour organizations (like unions), whom represented 4% of the total in 2005 and ended up, after 2008, at a mere 1% representation in the total number of participants (Hannah et al., 2017).

Effects of such changes are also justified by the subjects at stake in Public Forum panels. Participants (increasingly composed of business, state and other IGO reps) propose panels. The Secretariat, based on the quality of speakers, scope of interest and fit with the general theme of the event, does a selection of panels which invariably ends up impregnated of the detailed mechanisms, procedures and subjects involved in improving the multilateral trade system functioning and highlighting the benefits of its effects. Very few panels open opportunities for critical debate about the risks and undesirable features of the global trade regime. This creates a vicious circle in which the less diversified proposed and selected panels or themes are, the less interested will other interest groups, besides the current major ones, be

in making proposals or even attend the event. In fact, looking at Table 1., one can match the years in which the main topic of the Public Forum was actually questioning the system itself with the years in which the number of participants revealed higher (until 2009) (Hannah et al., 2017).

Table 1. WTO Public Forums and Symposia

2015—Trade Works!*
2014—Why Trade Matters to Everyone
2013—Expanding Trade through Innovation and the Digital Economy
2012—Is Multilateralism in Crisis?
2011—Seeking Answers to Global Trade Challenges
2010—The Forces Shaping World Trade
2009—Global Problems, Global Solutions: Towards Better Global Governance
2008—Trading into the Future
2007—How the WTO Can Help Harness Globalization
2006—“What WTO for the XX1st Century?”
2005—WTO After 10 Years: Global Problems and Multilateral Solutions
2004—Multilateralism at a Crossroads
2003—Challenges Ahead on the Road to Cancún
2002—The Doha Development Agenda and Beyond
2001—Symposium on Issues Confronting the World Trading System

Note: *The exclamation mark appears not on the WTO’s description of the forum but on the forum description on the dedicated website. Azevêdo suggested during the first plenary that a word was missing, that it should read ‘Trade works if ...’ which of course fundamentally changes the meaning. *Source:* https://www.wto.org/english/forums_e/public_forum15_e/public_forum15_e.htm.

Source: Hannah et al. (2017)

WTO should break up this trend and resist to too often choosing the topics and panels that satisfy the major status quo population and unilaterally avoid debate about the weaknesses of the international trade system and WTO itself (Hannah et al., 2017).

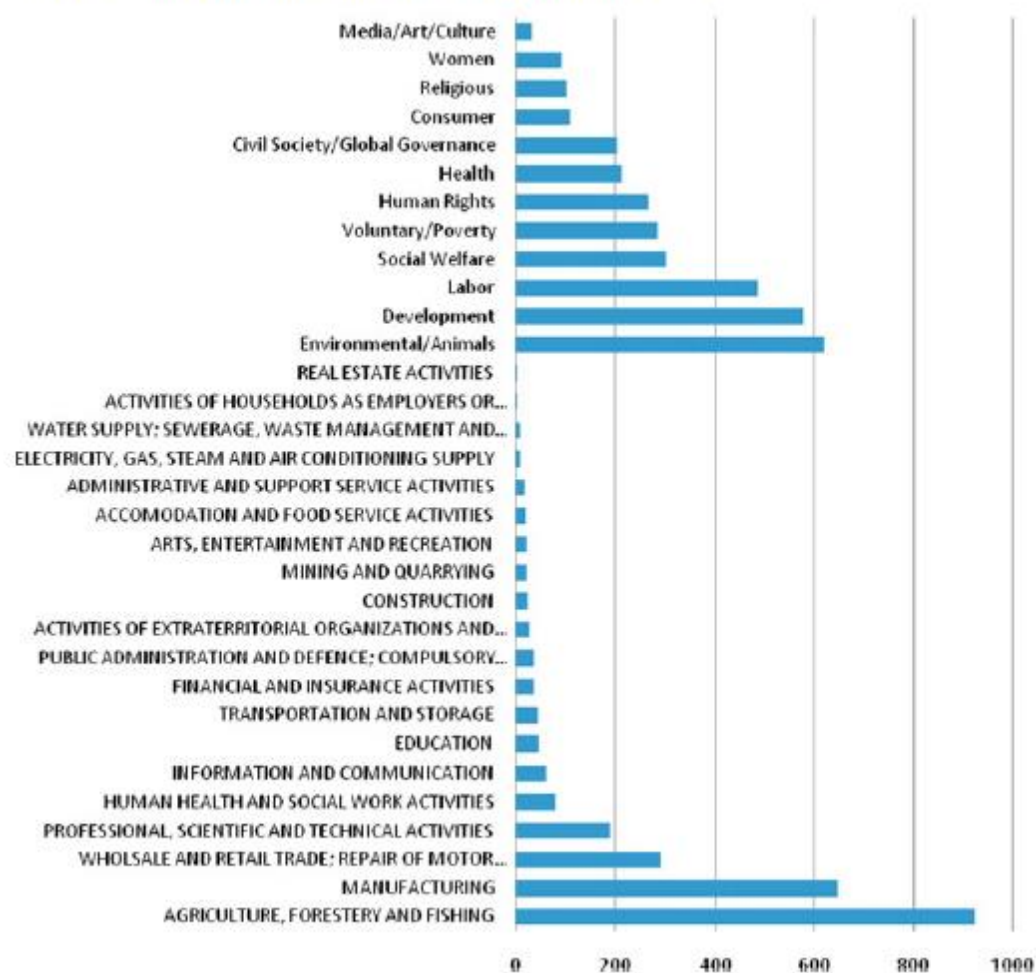
Ministerial Conferences

As Hanegraaff et al. (2011) well noted, when characterizing the diversity of CSOs population attending the MC, it is important to take into account three different aspects : 1) Distinction between Economic and Non-economic interest groups; 2) CSO type (distinction between business associations, NGOs, labor unions, and institutions; 3) the country or region of origin;

1) Economic and Non-economic interest groups

Figure 2, below, evidences the distribution of all CSOs present at all MCs until 2009 on non-economic issue areas (the first 12 categories) and economic issue areas (the last 20 sectors).

Figure 2. Distribution of attention per issue area (N=5,793)



Source: Hanegraaff et al. (2011)

On economic sectors, one can perceive a clearly biased distribution with a major fashion on the Agriculture, Forestry and Fishing area, as well as prominent representations of CSOs dealing with Manufacturing, Retailing and Professional activities. The representation of issue areas at the MCs is directly linked to the potential impact WTO decisions may have on such areas (Real estate is a good example of a low impact leading to low exposure). However, some issue areas were expected to have higher coverage like Financial and Insurance activities, and Transportation and Storage. In regards to non-economic issue areas,

the distribution reveals a much more diverse and balanced scenario as almost all categories have a substantial representation at the MCs. These conclusions are also supported by the evolution of the percentage number of the three major issue areas covered within by economic and non-economic interest groups (see first six rows of Table 2).

Table 2. Development of issues, type, and origin of organizations at MCs (percentages)

	Singapore (1996)	Geneva (1997)	Seattle (1999)	Doha (2001)	Cancún (2003)	Hong Kong (2005)	Geneva (2009)
Economic interests							
agriculture	11	33	37	31	38	40	42
manufacturing	36	24	26	29	25	25	24
wholesale and retail	18	13	12	15	10	11	12
Non-economic interests							
environmental	19	20	22	17	17	17	12
development and poverty	23	26	20	21	24	25	24
labour	11	12	16	16	11	14	14
Organization type							
institutes	19	15	18	17	12	13	15
labor	11	17	7	10	9	9	13
NGOs	36	37	35	35	37	34	39
business	35	31	40	38	42	44	33
Primary level of political mobilization							
national (including)	43	42	60	53	59	58	60
regional	21	21	17	23	20	19	19
global	36	37	23	24	22	23	20
Type of country							
least developed countries	5	7	3	6	6	6	17
undeveloped countries	36	19	16	23	29	29	30
developed countries	59	74	81	71	65	65	53
Region of origin							
Africa	5	9	4	9	10	8	16
South America	2	3	5	2	5	3	6
Oceania	2	0	2	3	2	5	1
Asia	36	15	11	21	18	25	24
Europe	33	24	23	38	28	25	30
Northern America	22	48	54	27	32	32	20

Source: Hanegraaff et al. (2011)

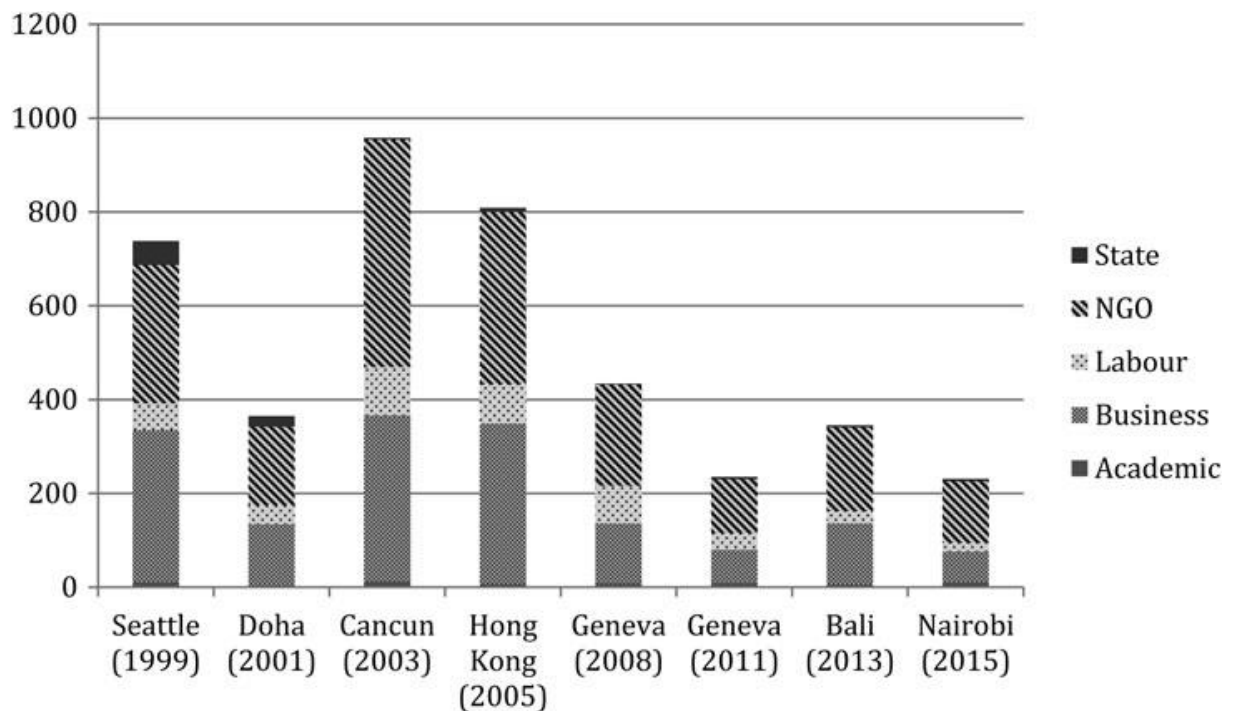
The gradual dominance of agriculture issues representation of economic interest groups is explained by the fact that agriculture has indeed been one of the hottest subjects of debate at the MCs for this time period. However, it also means that the WTO has not been able to attract other issue-specialized economic interest groups. Concerning non-economic

issue areas, environmental CSO's seem to have cooled down their will to be present at the MCs after the Doha, while development and poverty issues attendance show a slow increase after the event. Visibly, the launch and progress of the Doha development agenda had an impact (positive or negative) on the attendance of issue areas interests to subsequent MCs. That impact is probably related on the potential influence CSOs feel they might have in attending MCs and trying to make their voice heard about specific issue areas.

2) CSO type

Still looking at Table 2, another relevant character of the diversity of CSOs attending the MCs is the type of organizations (see the third set of rows in Table 2). Four different types are assumed: institutes (private companies, individuals, direct supporters, think-tanks, local governments and authorities, and universities), labour (unions), NGOs and business. In regards to business and NGOs, the two major attendant types, their attendance remains quite steady and similar over time (each representing between 33% and 44% of the total population over time). Labour unions attendance keeps substantially low (between 9% and 17%). From these numbers, one can conclude that, unlike often argued, non-business interests are not underrepresented in detriment of business interests, at least in terms of official attendance to the MCs, as also attested by Figure 1 in Hannah et al. (2017). Generally, in respect to the types of organizations, the composition and diversity of the population of CSOs attending the MC has revealed quite stable.

Figure 1. Civil society organizations registering to attend ministerial conferences, 1999–2015



Source: Hannah et al. (2017)

3) Country/region of origin

The country or region of origin of interest groups is also essential when accessing the quality of interest groups attending the MCs (see the last three rows in Table 2). Undoubtedly, domestic-based groups comprise the largest and most increasing portion of organizations present (increased 17% since 1996, achieving a percentage representation of 60% in 2009). Regionally-based organizations (the majority are EU-level business organizations and NGOs) have been a rather constant segment of total population. On the other hand, global movements became a less expressive part of the pie.

As protectionist policies and governments are acclaimed, elected and applied all over the World, representation of national-level organizations in detriment of global-level ones raises alerts on the importance, now more than ever, of bringing transnational interest groups and global movements to the “table of influence”. Not meaning that domestic-based groups only represent nationalistic/protectionist interests, such data is, indeed, relevant to put in light of the present geo-political scenario.

Data also confirms the already referred increasing use by domestic organizations of international political arenas like the MC at WTO as an extension of their home lobbying strategy and way to observe their national governments movements at the international-level closely. In this context, Goldstein and Martin (2000) highlight the key functions domestic interest groups might assume as policy change-makers in the face of protectionism rise, which is also explained by the fact that much of regulatory policies still belong to national-level legal systems.

Concerning the variable region of origin, countries from the Global North are by far the most represented ones. Some variations occur mostly influenced by the proximity geographical places MC take place (for the Seattle MC there's a high number of US organizations as for the Doha MC there's a height in Asian and African organizations attendance). Yet, one can conclude that the great majority of the CSOs attending the MCs come from Global North developed countries, a majority that has slightly decreased in size mostly because of the crescent attendance by LDCs.

Table 3 shows the nominal dispersion indices and diversity in the WTO interest groups population attending the MCs from 1996 to 2009, according to the several quality classifications (Issue areas, Organization Type and Origin) we've been over the last paragraphs.

Table 3. Nominal dispersion indices and diversity in the WTO interest group population

	Singapore (1996)	Geneva (1997)	Seattle (1999)	Doha (2001)	Cancún (2003)	Hong Kong (2005)	Geneva (2009)
Issue areas							
overall dispersion	0.95	0.95	0.93	0.95	0.95	0.95	0.94
dispersion economic areas	0.83	0.83	0.81	0.79	0.81	0.80	0.79
dispersion non-economic areas	0.95	0.94	0.94	0.95	0.96	0.96	0.95
Organization type							
NGO, business, labour, institutions	0.93	0.96	0.90	0.92	0.88	0.89	0.93
Origin							
global, regional, domestic, subnat	0.85	0.89	0.83	0.83	0.83	0.85	0.84
region	0.50	0.77	0.71	0.83	0.87	0.88	0.89
development	0.78	0.55	0.48	0.66	0.73	0.73	0.90

Index: dispersions lower that 0.70 are put in bold.

Source: Hanegraaff et al. (2011)

By evaluating the nominal dispersion index, one may conclude:

- 1) In respect to types of organization, the population of CSO's is quite diverse and balanced between business and non-business interest groups;
- 2) The country of origin character of attendance has become more diverse over time , with developing countries being more represented;
- 3) Domestic-based groups are the historical dominators at the MCs, which means the CSOs population hasn't globalized much during this period. Nevertheless, it is worth noting trends involving regional groups who are increasing their presence based on global interests organizations and becoming more geographically diverse.
- 4) Overall, diversity didn't grow too much over the time period within the interest groups population (already noted exceptions for developing countries' and regionalist organizations to which some degree of diversification occurred).

One important detail also advanced by Hanegraaff et al. studies in 2011, is that the number of organizations attending MCs more than once remains very low and that the rate of non-repeating attendant organizations after attending one MC rose over time. This leads to the conclusion that in the long-term organizations find it hard, not effective or not interesting to attend the WTO MCs as an influence/participation channel.

2.7.2 Asymmetries of Representation

Regarding some asymmetries of representation inside the CSOs population engaging with the WTO structure and activities, what the numbers presented in the previous section might not show, other authors expose or deeper explain through studies or self-knowledge.

Going back to Pallas and Uhlin (2014) studies about CSOs deciding to use or not the state-channel when trying to influence decisions in International Organizations, the degree of influence a CSO might have is directly linked to the power distribution symmetry within the specific IO. They conclude that in asymmetrical IOs, CSOs will succeed if they belong to powerful and democratic states. Oppositely, in symmetrical IOs the possibility to make an impact is open to a wider range of CSOs, even though offering their expertise or others resources to states that lack them, facilitating their effective participation in the IO.

Moreover, CSOs that reach contacts to most of the state representatives are not always the ones representing a majority or the "unheard" ones. Qualified and specialized CSOs operating in the countries' capital city normally reach more easily contact with state

representatives than peripheral standard citizen movements. Briefly, grassroots movements tend to lack proper representation (Cho, 2005).

Also, to align with states, CSOs need to be able to give back technical or constituent support. Such fact puts aside more radical interests to play an influence through the state channel. Generally, only moderate reformist agendas reach powerful state allies, which is not only a limitation to participation but also to representation of a significant number of civil society voices.

Indeed, the contacts, resources, information and knowledge Global North CSOs, business associations and think tanks have generates privileged access to national executives, trade negotiations and WTO. Also, specifically among NGOs, northern ones have far more resources and capacity than southern ones (WTO Consultative Report, 2005). Thus, a greater degree of influence and representation of their interests exists when compared to Global South CSO's, peripheral and other popular interest groups (Smythe & Smith, 2006;Wenyuan, 2016). Generally, the Secretariat should make a greater effort engaging with Global South organizations in Public Forums and Ministerial Conferences (Hannah et al., 2017)

WTO External Relations Office explains that having more contact with Northern hemisphere interest groups is partially explained by the fact that the first groups demanding access to the organization's decision structure were environmental organizations, mostly from the Global North. This trend has been contradicted by an increase in engagement with development NGOs, mostly original from the Global South. An important detail is that operational work NGOs like most of development CSOs reach less direct contact with the WTO and its decision-makers than advocacy specialized ones, another source of limitation and misrepresentation (Smythe and Smith, 2006).

Furthermore, asymmetries of interests' representation within CSOs populations (common among interest groups populations of IOs) might have more to do with the way they self-organize in terms of lobbying efforts than with the institutional character of the IO itself (Beyers et al., 2008). Some asymmetries are already part of the interest populations and are merely reflected on a given IO's engagement results.

2.7.3 Future concerns

As Hannah et al. (2017) notes, the quality of civil society groups engagement with the WTO through the Public Forum and the MCs has changed significantly over time. Unlike the period close to the turn of the millennium, today public protests and disagreement manifestations are rare at these two main influence channels mostly populated by state actors, which very much dictates the shape and content of subjects, procedures and interactions taking place at meetings. Thus, a prevailing status quo view makes up the bulk of debate and influence processes, leaving a narrow space for more critical voices. This is an effect of WTO neutralizing debate around itself and the global trade regime.

Embedded in such unprogressive environment, the lack of progress of Doha round is certainly one of the main reasons why civil society interest in the WTO decreased so much, particularly NGOs one. CSOs with limited resources tend to concentrate their activities on areas and arenas where they can glimpse the impact and progress of their agendas. That's briefly what happened at the WTO after 2008 with the deadlock of the Doha negotiations.

Disengagement drives reduction of debate diversity, which leads to a further lack of interest and representation. WTO made some progress over time in building inclusive methods for Civil Society to participate in the progress of the WTO agenda, but it urgently needs to change the purpose of its engagement with civil society from a unilateral status quo education and political neutralization around the international trade regime to one that wishes to deal with the most delicate issues of it and attract the broadest range of voices and interests to the table of discussion.

2.8 How did CSO's found legitimacy to participate?

2.8.1 WTO's lack of Accountability and its Democratic Deficit

Historically, the GATT and the WTO executed its activities for a long time out of public sight on a technocratic basis. Such was justified as a necessary discretion to achieve effective negotiations and agreements between opposing states interests for the sake of trade liberalization and global prosperity. Member-states strongly supported this *modus operandi* that put them in the positions of ultimate and only responsible for decision-making in a so-called member-driven organization (Esty, 2002; Smythe & Smith, 2006).

Nevertheless, the scope expansion of trade agenda impacting other issue areas and the deepening of International trade law into domestic legal systems raised public awareness. WTO's input and output legitimacy were then called into question (Esty, 2002; Smythe & Smith, 2006).

Currently, as exposed in previous chapters of this essay, WTO is going through a legitimacy crisis. The IGO is deemed to lack democratic accountability to member-states (directly) and their respective constituencies (indirectly), who much question the issue internally and externally. Allegedly, WTO is experiencing a democratic deficit (Joseph, 2011).

On a simple base, WTO's legitimacy would be granted by the governmental legitimacy of its member-states. However, in present days the case of WTO's legitimacy as an IGO is not considered to be so simple. In respect to how WTO performs at mirroring the expectations of a growing number of stakeholders, member states and non-state groups point out that such goal is being challenged by the character of internal processes in trade negotiations and the DSS, that limit member-states capacity to represent the voices of their electorate and often disfavor developing countries. Frequently, national representatives don't have the time or resources to assess extensive and technically complex single-undertaking agreements negotiated among a closed group of the most powerful members (the infamous Club-Model and the Green room process). Dispute Settlement procedures and hearings at Panels and Appellate Body stages, of which decisions impact broad areas of public notice like health and environment, contain shady levels of confidentiality and access restriction (Smythe & Smith, 2006). Moreover, the current major round of negotiations (Doha round) is on an impasse as little progress has been done to accomplish some compromises signed in the Doha Development Agenda, namely arriving to a consensus between developed and developing countries regarding trade in agriculture and Singapore issues or improving rules and procedures of the DSS (Cho, 2005; Wenyuan, 2016). Furthermore, on the very institutional side, dispute and appellate panelists are appointed by the DSB (which is the GC in other functions) and the Director-General of the WTO himself is appointed by the MC (with previous agreement by consensus). Chairpersons of the General Council, Goods Council or Services Council, of the DSB are also appointed by the MC. Minor councils and committees elect their chairpersons by acclamation after informal talks to reach consensus. National representatives (usually ambassadors or diplomats) at the GC are appointed themselves by domestic trade ministers. Taking into account the current global impact of

WTO issued policies in everyday life of citizens, such logic of direct appointment backed by informal conversations that reach consensus through unclear means (and other IGOs) might also be a source of discredit to the legitimacy of WTO. Thus, CSOs have been most critical about how isolated, opaque, informal and secretive WTO's governance system still is, especially relating to external stakeholders (themselves) (Cho, 2005).

This picture of failure to satisfy stakeholders expectations launches serious doubts about the effectiveness and legitimacy of WTO as an IGO accountable for its activities, procedures, policy-making and affected stakeholders, intensifying the power and legitimacy of interested voices that wish to participate more closely (Elsig, 2007; Wenyuan, 2016).

The WTO Agreement, more specifically Article V:2, and the "Guidelines for Arrangements on Relations with Non-Governmental Organizations" designed by the GC, serve as the institutional pillar opening a ground of legitimacy, though not very clearly, for CSOs to search for inclusion and participation means at the WTO. These documents enforce the need for engagement, consultation, cooperation, public debate, greater transparency and access to information towards interest groups at the international level, recognizing it as beneficial for WTO (Piewitt, 2015).

Cabrera (2007, p.227) argues the need for changes that improve WTO's democratic accountability is embedded by the principle of democratic symmetry which "holds that individuals should be able to influence policy formation in proportion to the impact or potential impact the policy will have on their lives". To solve its democratic deficit, WTO should bring more politics into its system, meaning more formal means of engagement and debate with civil society thus, supporting the expansion of the global trade regime with political diversity and consensus. Moreover, reducing global citizens' formal participation to the representation of trade officials nominated by elected national representatives in an already biased political system builds up a too restrictive channel of engagement. Civil Society will take WTO as legitimate not only by knowing that their electoral will is expressed in the decision-making structure of this IGO but also if their values and views (regardless of their country of origin) are accounted in a decision-making process that includes fair procedures and open debate instances (Esty, 2002).

On the other hand, Delimatsis (2014) argues such openness may not sufficiently appease people's mistrust about WTO. The fact is, and as exposed before, what is usually designated as global civil society participants might not be representative enough of grass-

roots marginal voices within real and broader global civil society. Hypothetically, part of the citizens does not account NGOs or other CSOs as their legitimate representative actors in the trade and issues debate arena. As the WTO consultative report also notes in 2005, these NGOs (or other CSOs) might not be sufficiently transparent (in regards to their funding sources, for example) and accountable (the fact that they are not elected, for example) and thus, legitimate, to be formally included in the decision-making (a role reserved exclusively to member-states). WTO has been resistant to provide a greater level of effective participation to civil society organizations, for example offer beyond observer status access to CSOs at trade meetings. Hence, reality shows only official member-state delegates can negotiate, really participate in meetings and use the advocacy system of WTO as CSOs stick to a complementary participation role. It is important to remember that WTO's legitimacy is ultimately sustained on the will of individual citizens, the general public, the final and actual users of the WTO-designed international trade system (Cho, 2005).

Some authors don't agree more openness and access towards CSOs will improve the quality, representativeness and legitimacy of WTO decision process and its outcomes. They argue openness standards are currently sufficient and that there's an intrinsic bias (regarding issue sectors, global region, resources and knowledge) within the interest groups population independent of WTO engagement. It remains unclear if fostering inclusiveness means for civil society groups within the system will dissipate the current bias of the CSO's population of business interest representation (exposed density and diversity of population attending the MC and the Public Forum don't confirm it) (Hanegraaff et al., 2011). Moreover, opening up the decision process entails the risk of highly motivated protectionist interests (like domestic corporate ones who would like to avoid international competition in their country) to undermine the process itself (that aims for progress in trade liberalization) and its public benefits (Cabrera, 2007).

But if general civil opinion is that member-state representatives are often biased in the exercise of their functions and thus, insufficiently representative of civil society interests, openness of procedures in negotiations, decisions and disputes might well be the only way to restore public trust in WTO (Stasavage, 2004). For this, the causes, weaknesses and future challenges behind WTO legitimacy crisis should be addressed in consultation with civil society, which means fostering external political debate and developed more effective and representative participation means for civil society actors (Piewitt, 2010).

2.8.2 Lack of Representation and Representativeness at the national –level

By the book, member-states are to fully represent their constituencies in the international trade arena of decision, which besides being a challenging mission may also be an utopic one (see Cabrera, 2007). The truth is government officials are often driven by interests very distant from the people's wills and voices. Frequently, powerful corporate commercial interests, actively supported by members like EU and USA, dominate negotiations and agreed decisions like it was the case of the TRIPs (Smythe & Smith, 2006). This is a clear sign of underrepresentation that justifies closer and more formal participation of CSOs in order to make many muted voices heard. Arguably, WTO's legitimacy crisis generates another kind of legitimacy on CSOs to be comprised at the WTO decision-making process. If that is so, CSOs might well function as specialized public relations operatives linking WTO to a broader set of trade affected stakeholders (many underrepresented by their governmental officials) who are interested in trade and issues (like development, environment, labour, gender, human rights, consumer defense, etc) subjects (Wenyuan, 2016). This would make WTO a more people-centered organization.

The fact is, so far CSO's failed in using the state-channel as a mean of participation or representation. Their lobbying efforts to influence member-states on particular agendas were frustrated (Robertson, 2000). Pallas and Uhlin (2014) explain in their model why this is so. Reminding what has been stressed before, for CSOs to be able to access and effectively make use of state as an influence channel within IOs, four conditions need to be combined: 1) the state governance structure is porous; 2) the CSO must have contacts; 3) both sides interests have to be aligned; 4) the state in case must be more powerful than competing states or other actors within the IO;. Looking at such restrictive conditions for the successful use of the state-channel in engaging CSOs views with IOs decision making, citizens or organizations from non-porous states, with limited resources and expertise, out of big urban centers' networks, assuming more radical ideas or belonging to a less powerful country are automatically excluded, which is rather a huge part of the total civil society interest groups population. If civil society participation is to inject more representation and democracy into WTO's decision-making process, than all civil society organizations should have the same opportunity of access and impact (Pallas and Uhlin, 2014). Hence, direct participation of CSOs at the WTO decision-making process could compensate this exclusion of representativeness seen at the national-level (Smythe & Smith, 2006). Finally, representation of civil society voices through governmental representatives is undermined by the lack of

democratic legitimacy they often carry. Some member-states carry high levels of corruption and social inequality that make their governments barely democratic. Also, trade officials and ministers doing everyday impactful job at the WTO were appointed and not directly elected by citizens, which again highlights a dim and distant democratic legitimacy of governance.

WTO criteria for the selection of officials integrating national delegations to the several negotiation meetings are inexistent. Those requirements are regulated at the domestic level. If it is the case that that selection itself is not a democratic one (or is made by a non-democratically elected government body) then both national and transnational legitimacy of this process are at stake. In that case, national delegations will not be representative of their constituencies' and the outcomes of their negotiations will absorb that same character. Some domestic legal procedures of appointment don't even demand officials to act with procedural fairness. If procedural fairness would be a requisite of the negotiations process, civil society effective participation would be granted to the same extent civil society could influence the negotiating position of their respective national delegate at the national-level (Mitchell & Sheargold, 2008). Additionally, appointed governmental delegations will mostly represent the political interest of their elected majority coalition or party (who appointed them), which automatically excludes, with no alternative formal way, representation of domestic political opposition (that probably represent a significant share of civil society wills) (Howse & Nicolaidis, 2003). More direct participation of actors out of official delegations could help to close this gap by pushing forward unrepresented domestic concerns (Cabrera, 2007).

2.8.3 Lack of formal participation means

So far, CSOs were not able to find adequate means of formal participation at the WTO decision-making process. They, and especially NGOs, regard their current means of engagement with WTOs governance system as too informal, narrow and insufficient to even effectively represent the allegedly unheard civil society interest to which they are accountable (Wenyuan, 2016). CSOs are seen as valuable potential contributors to balance democratic deficits, bridging states participation (which often prioritizes representation of economic interest) at WTO to a wider set of civil society interests. However, they are rarely recognized as formal participants of the International trade governance regime. Indeed, even though we've seen some improvements since WTO's inception, CSOs access and influence to WTO deliberations is quite a limited one (Murphy, 2012; Piewitt, 2015). The fact is civil society organizations don't have any formal individual participant status to access any formal meeting, trade negotiations, committee workings or hearings of the DSB (Van den Bossche,

2008; Hannegraff et al., 2011). As observers, they can access the MCs and some committees and councils under strict conditions and often upon a meeting-by-meeting allowance basis. Other IGOs like some United Nations agencies and the World Bank, took visible steps in opening up their governance systems to more formal CSOs access means which increases expectations of WTO following such trend (Smythe & Smith, 2006).

The Public Forum and public briefings, although they comprehend autonomy for CSOs to propose topics of debate and engage with governmental actors, normally these meetings are not much populated with such representatives and information or discussion is generally grounded on already occurred decisions. Also, these events are definitely not a formal channel of influence but more of an opportunity for indirect and informal engagement (Hannegraff et al., 2011).

Regarding means of participation at the DSS, *Amicus briefs* practice, although considered to be a progress, is actually not formally nor routinely incorporated at proceedings (formally, it rarely has been accounted in disputes) (Van den Bossche, 2008). However, offering greater access and formal participation means to interest groups in this field (like making hearings open to public or strengthening *amicus* submissions potential influence) bears the risk of politicizing a legal space, which is also democratically incongruent (Cho, 2005)

At the MCs, the somehow restrictive observer accreditation grants CSOs access (with no right to intervene) to some plenary sessions whereby not much of impactful and real discussion is red or sad by national delegations (Howse, 2003). Alternatively, if CSOs are able to be part of their respective national delegations, thereby participating more closely in these meetings, they still lack access, like some official governmental representatives do, to Green room meetings in which “big deal” negotiations and decisions are made (Hannegraff et al., 2011).

CSOs can submit the called and much used working papers to the Secretariat in order to present their positions to decision-makers. Still, there’s no guarantee on how contemplated these submissions are by the receivers (Steffek and Ehling, 2008).

Since 2008, a Geneva-badges system was implemented by the Secretariat. Upon previous applying and selection process, such annual badges allow permanent access to WTO edifices and facilities for a small group of active Geneva-based WTO-related CSOs. Yet,

trends from other intergovernmental arenas like the European Parliament tell us that this kind of badges system is a typical tool used for informal and selective lobbying regimes (Piewitt, 2015), which might easily become a biased interests engagement channel for reasons already highlighted in this essay.

All these limitations on Civil Society engagement with WTO governance system raise legitimacy for CSOs to demand for a more open and accountable decision-making process when it comes to include civil society effective participation means (Steffek and Kissling, 2006; Hanegraaff, Beyers, & Braun, 2011).

2.8.4 Lack of transparency

Probably the roughest and most criticized signal of lack of internal transparency at WTO still is the green room process (Piewitt, 2015). Inherited through its ancestor GATT, it personifies the segregation of most of WTO members from central decision-making while a “club” of maximum seven powerful and/or influential member-states agree on the agenda to be discussed or even take decisions and re-pass them afterwards to the rest of the nations on a single-undertaking mode. The way this process of centralized consensus is conducted lacks existence of formal procedures in regards to communication of participants and their negotiating positions, coordination of coalitions and inclusiveness of other member-states participation (Birkbeck & Harbour, 2011; Delimatsis, 2014). Ultimately, from a democratic point of view, it lacks legitimacy.

Thus, WTO is still ruled on a so-called Club-model regime (Keohane & Nye, 2001), as key issues are discussed and decided in closed-door meetings by appointed governmental delegations or delegates representing a very restrictive set of powerful countries. With no opportunity for monitoring or participation at these meetings the political heat is neutralized as well as many alternative opinions (parliamentarians, NGOs, politically reformist LDC member-state representatives) are avoided. This means some domestic interest, especially of the LDC member-states, are excluded from the definition of negotiation agendas and development of rules process (Cabrera, 2007).

Regarding the Dispute Settlement Mechanism, one of the most powerful bodies at WTO's governance system with legal authority, through the DSB, to force any member-state comply with issued-rules, procedural transparency is still not satisfactory. Although the Appellate Body can accept *amicus brief* submissions to disputes independently of any other actor or body, it doesn't happen on a frequent basis. Apart from some exceptions, access to

disputes hearings for non-disputant states delegations or any other actors is denied (Cabrera, 2007).

Limiting CSOs participation to such kind of engagement is very restrictive, especially if we take into account the strategic role these organizations can play in impacting policy-making process; intermediating and accessing developing countries coalitions; supporting developing country members with their expertise and other resources; monitoring and communicating trade negotiations happenings through a more civil and social point of view; bringing WTO matters to other international circuits; questioning the institutional performance of WTO as an intergovernmental organization accountable to its members and respective constituencies; (Murphy, 2012).

Moreover, status quo business associations are deemed to have advantaged access to decision-makers compared to critical NGO's, which reaffirms biased openness criteria of WTO to a certain sector of interests among civil society represented ones (Murphy, 2012). A practical example of this is of dispute settlement disputes in which business interest groups (especially coming from developed countries) often don't need to apply *amicus briefs* in order to make their voice heard and thus influence decisions (access to the necessary governmental representatives, lawyers and lobbyists who will drive their interests to deliberative procedures) (Howse, 2003).

Finally, the opacity of WTO governance system within several of its decision-making forums (some at the top level of authority) typifies an urgent need for greater transparency, representativeness and accountability (Delimatsis, 2014).

2.8.5 Transparency versus Formal participation

A relevant debate among WTO challenges is the possible existence of some contradicting venues in enhancing transparency and formal civil society participation simultaneously. Many WTO members' delegates (a big share belonging to developing countries) who argue for the need of an increased internal transparency, participation and inclusiveness (especially for least developed countries) at WTO deliberative process, claim as well for less openness or less priority towards non-state actors formal engagement (Smythe & Smith, 2006), which resumes transparency standards improvement pretty much to an internal institutional challenge. However, this view might be blind to the current degree of influence civil society stakeholders play in a multicultural globalized world and how they actually exert fundamental participation in everyday operations of international trade (Delimatsis, 2014).

Regarding issues of external transparency and participation of civil society groups, member-states still haven't agreed on measures to strengthen the observer status CSOs can apply to attend trade meetings or to foster greater civil society access and participation means to dispute hearings. Some developing country members like India see increased external transparency and CSOs formal participation as a way of prioritizing Global North interests. Thus, they claim WTO should focus primarily on improving transparency of its internal processes, a very important issue regarding the growing majority of developing country members. Arguably, augmenting participation means for CSOs at WTO before correcting internal transparency flaws might only multiply current representation and participation asymmetries (domination of well-resourced Northern corporate CSOs over Global South ones) found within civil society population engaging with the deliberative process.(Smythe & Smith, 2006).

2.8.6 WTO's type of engagement

Hopewell (2017) developed analysis to the discourse of WTO towards civil society. He reached the contradicting conclusion that the IGO self-positions as open, impartial and expert while simultaneously discredits civil society roles and activities in questioning the deficits of WTO. WTO is defensive and unresponsive towards the introduction of civil society issue agendas into its arena, often fleeing from addressing key CSOs' concerns. Moreover, it communicates trade rather as a technical issue, avoiding its political character and delimiting debate on WTO issues as matters of scientific fact and specialized knowledge (the themes selected for Public Forum panels, for example). All this is part of WTO's strategy to neutralize public political debate around trade issues and promote a certain kind of status quo reputation regarding WTO and the multilateral trade regime. The fact is interest groups are consulted by trade negotiators as a source of expert advisory, but public debate is not fomented, which is justified by the profile of such negotiators as non-accountable bureaucrats and technocrats who don't need to fight for a civil reelection (they are appointed by WTO members). This is another proof of the unilateral and character of the WTO type and content of engagement that blocks representation of non-economic interest at WTO (Kapoor, 2004; Piewitt, 2015). Such character of discourse nourishes a sense of superiority towards civil society and undermines possibilities of further engagement and participation of civil society representatives within International trade discussion and decision-making processes.

A direct and evident impact of this unilateral type of engagement is the already noted decrease in civil society attendance to WTO fundamental venues like the Public Forum and

the MCs, a movement that deserves some reflection and future correction from the Secretariat if the WTO and its debate/decision mechanisms (more and more populated by business and non-civil society actors) are to keep their relevance, critical thinking ability and effective accountability to civil society. In rethinking the means of engagement with civil society, WTO should definitely consult interest groups and make sure their thoughts and wills are accounted (Hannah et al., 2017).

Additionally, embedded of a changed attitude, live streaming of meetings, public communications and documents release should occur avoiding the use of technical language which would increase perceptibility, awareness and legitimacy of WTO's operations towards citizens curiosity (Delimatsis, 2014).

2.8.7 Other solutions and synergies

The erosion of WTO's democratic accountability towards its members and constituencies feeds up CSO's legitimacy to demand more formal participation at the organization's governance system. Civil Society legitimacy to participate is in the center of WTO legitimacy to rule.

At the national level, civil society actors currently play a key role in the development and implementation of regulations for various sectors of the economy. They, their participation in the rules-making process and subsequent acceptance of its outcome, as field specialists and maximum users of imposed rules, are the main guarantors of the legitimacy of such measures national government. This provides private actors with a kind of legitimacy and authority in the law-making process that should be accounted. Similarly, at the international level and namely at WTO, the same reasoning should be applied. In that context, formal openness of WTOs decision-making process to non-state actors will be a key step to overcome its legitimacy crisis or at least to keep its relevance (Delimatsis, 2014).

Such complex and magnanimous change in regards to external transparency and participation standards lies much in the hands of member-states. Some steps in this direction have already been taken like the allocation of observer status to CSOs at trade meetings. If CSOs are more involved in the decision-making process they will probably contest its legitimacy, and WTO's one in general, much less. Additionally, interest groups can be precious assets in locating trade-policy inefficiencies and contradictions. If they were somehow and to some extent included in the TPRB meetings, WTO would benefit in authority and effectiveness by collecting such consistent and valuable feedback. Finally,

involving CSOs collaboration in monitoring and development of the decision-making process would help to vanish WTOs budget and staff size limitations (Blackhurst, 2012) and improve the quality and representative legitimacy of the process output (Delimatsis, 2014).

3. Conclusions, recommendations and further issues of research

Answering the question “How does Civil Society influence WTO’s governance system?” is not a matter of a closed answer. Indeed, grasping the truth of such variable becomes a hard task. In terms of its quality, measuring and defining this relationship is difficult concerning the scope and diversity of civil society groups itself and the informal standards an IGO like WTO carries in its internal functioning and external outreach.

Defining the concept of civil society has been a matter of much debate. Its several different conceptions and appliances in varied contexts make it simultaneously a broader ideal and a concrete body structure (with specific purposes and roles) defined within the social, economic and political structuring of society. In fact, the concept of civil society and its conceptions while society itself progresses throughout history. In a practical sense, and for the context of WTO, civil society comprises the population of non-state groups (civil society organizations), stakeholders of WTO and the multilateral-trading system, who engage through their representatives. Interest groups include NGOs, labour unions, business associations, academic institutions, think tanks and private individuals.

WTO governance system and civil society have walked hand in hand in the last decades. WTO is one of the main pillars of global governance system and historically a main driver of the economic globalization process. However, concerns about the accountability and democratic legitimacy of this IGO question its authority.

WTO trade liberalization agenda and its decisions affect a broad public. The WTO is then, at least indirectly, accountable all those impacted by its policies. Additionally, WTO legal frame work (the DSS) directly impacts domestic policy and legal systems of member-states within several sectors of governance, from labour markets to agriculture or intellectual property.

Indeed, the effects of WTO decisions are so wide and binding it becomes inadequate to look at it as a mere trade organization. At WTO, not only common intergovernmental objectives are settled but also concrete and impactful decisions are made.

Since its inception, WTO has been dealing with changes regarding engagement with an ever demanding and participative civil society. A greater number of stakeholders (much attracted by the Doha round), increasing domestic pressure for more openness of international trade policy, public demonstrations of disaffection, concerns about transparency and democratic legitimacy of its bodies and procedures and interest groups contributions in dissipating such deficits have been the cause for such changes.

Gradually, some formal and informal participation means mechanisms have been introduced to promote public understanding and foster engagement between both parties. However, the result has been a unidirectional flow of information (WTO-CS) and the creation of somewhat hollow means of engagement. WTO kept pushing primary responsibility of engagement to member-states, neutralizing political debate and avoiding direct relation with CSO's.

Unlike other IGOs, WTO doesn't allow formal participation of CSOs in its decision-making structure. Many criticize the imbalance between business and societal representation of interests (especially through informal means of engagement).

The principle of sovereign equality at WTO is probably excluding minority groups within states from being represented. Alternative means of representation might not be sufficient to balance such deficit. The lack of representation through the national level is then not compensated at the international level.

Clearly, transparency and participation standards need to be improved at WTO, externally (to civil society) and internally (to member-states). Regarding civil society engagement, the most relevant structures are the DSS, the Public Forum and the MCs.

The DSS became an attractive point of lobby for CSOs to include their voices in members' official submissions. More importantly, the amicus practice became the most direct mean of engagement at this decision body, allowing greater representation of muted opinions and issue areas.

Hearings should more often be open to the public as they too often address matters of global public interest. Such fact occurred in rare occasions and it had a beneficial impact for WTO as a rule-based impartial arbitrator of international trade policy.

The fact that interest groups can't start a dispute is very questionable. It is my opinion that the DSS should develop in a certain extent to become a kind of International Court of trade whereby civil society groups can participate and thus, take part in the development of International trade law. This would generate more efficiency and legitimacy to WTO, and would not challenge members-states authority but only their compliance to international law. In this sense, the DSB is probably one of the only efforts of world politics that produces legal decisions with active accountability and direct implementation at the national level right upon membership, which is a great responsibility, a challenge and a great exercise of legitimacy.

The Public Forum is designed to be a large gathering of information exchange between civil society reps and governmental officials about the WTO context. However, few governmental officials are present at discussion panels and most chosen topics address already made decisions or technicalities of trade and law. As a result, although total participation in this event has remained constant, NGOs have been decreasing their participation. State and other IGO representatives have been populating this event in the last years (not necessarily trade officials). In fact, the population of CSOs attending the Public Forum went from a majority of NGO's to a majority of business interest groups which also a disappointing effect of chosen themes and topics and the narrow space for debate in panels.

The MCs, important but not routinely, allow general interaction and attendance to part of trade meetings through providing an observer accreditation to CSOs upon certain criteria. CSOs make use of lobbying when attending MCs as an extension of their domestic lobbying efforts. Also through alliances with developing countries they make alternative interest represented. CSOs act as valuable sources of expertise in consultation with trade officials (at MC and all the subsequent councils structure).

In MC meetings, tedious and prepared speeches are red with no big-deal negotiations occurring in open-doors. CSOs don't have access to official trade negotiations. Arguably, CSOs may lack accountability and representativeness to participate in official trade meetings.

After increasing since WTO's inception, the CSOs population attending these meetings is now stable, which might reflect some disappointment on the dragging of the Doha Development round. Regarding its diversity, it is well-balanced between business and non-business interest groups. Although the presence of CSOs coming from developed countries has been increasing, the domination of Global North over Global South ones is still clear.

Still, all these engagement channels and up somehow trapped in a mere public relations exercise and not in effective debate and participation opportunities. This is somehow a limitation if ones takes into account the broader role of CSOs as potential democratizing agents, enhancing accountability through expertise consultation, monitoring of procedures, demands for transparency and representation of marginal voices.

In trying to access WTO through the state channel, because they have a greater contacts network and resources, expertise information and knowledge and/or a more conformist character, Global North CSOs, business associations and think tanks have privileged access to national executives and trade negotiations. A trend that is worth being corrected, if WTO is to become less biased in the selection of civil society interests to be represented.

Lack of transparency is definitely detrimental to WTO and consequently to the global trading system. Informality and secrecy still characterize WTO general mode of decision-making (justified by the need for consensus). Membership rise increased demands for a more open and inclusive WTO. Pursuing those expectations went from a power-based system to a rules-based one It is now time to become a more people-centered organization.

The Green room process, although it improved in representation since GATT times, is democratically unacceptable if it is not formalized. It's a great example of internal transparency deficit at WTO.

On the other hand, the TPRM is seen as playing an effective role towards internal transparency and CSOs could play a more active role in supporting the TPRB monitoring members compliance with WTO issued-rules.

Availability, access and dissemination of information to official documents improved a lot in the last two decades. Nevertheless, WTO should change its unilateral, self-promoting and technocratic communication mode in official documents. Greater openness to CSOs and public understanding will generate legitimacy.

The External Relations Office plays a key role in keeping CSOs updated on negotiations developments. However, this department is too dependent on budget limits and approbation from the council to organize external activities with greater outreach.

As transparency standards rise, civil society ambitions for deeper scrutiny increase. The optimal point of this never-ending phenomena towards the allegedly inherent and necessary informal character of trade negotiations is hard to define.

In any case, internal and external transparency sustain the input legitimacy of WTO. Some costs will come with increased transparency like longer negotiations and informal talks. However, the means for achieving democratic outcomes need to be democratic themselves. WTO will have to find a way to enhance transparency and representativeness without damaging the efficiency of its decision-making process.

As exposed, WTO is going through a legitimacy crisis. It lacks democratic accountability to member-states (directly) and their respective constituencies (indirectly), who much question the issue internally and externally. Such democratic deficit is in the basis of CSOs legitimacy to participate more directly in WTO's governance system.

Below, find a final summary of the causes for such democratic deficit:

- Lack of transparency within internal decision processes in trade negotiations (Green room process) and the DSS (closed hearings and non-procedural use of the amicus practice)
- Lack of representation at the national-level; Biased selection of interests access through informal engagement; Informality standards in negotiation procedures (under the justification of consensus reaching) of appointed (non-elected) official representatives
 - Doha Round impasse
 - General isolation of WTO towards more formal engagement with CSOs
- Unilateral and technical type of engagement with civil society

Such failure to meet stakeholders expectations can be dissipated through creating more direct participation means for CSOs, enhancing openness in negotiations, decisions (ex: strengthen the length of observer status accreditation) and disputes (ex: procedural amicus practice), fostering formal and informal consultations with CSOs as field experts on “trade and issues”, and improving internal procedural transparency for better access and acceptability of all member-states and civil society organizations within the decision-making process.

A final recommendation go as follows: The creation of a Parliamentary Assembly

Current Parliamentary Conference at WTO still doesn't hold a formal place in the organization chart of the organization, meaning it stands as a consultative and a political acceptability ground for WTO decisions. This organ is composed by parliamentarians of all member-states. It is also composed of a steering committee (composed of 30 representatives from different intergovernmental parliaments) responsible for deciding the agenda of matters to be discussed in the conference. Such committee, observed and often briefed by the WTO Secretariat, should also include a selection of CSOs under criteria exposed by Delimatsis (2014). As Cabrera (2007) proposed, departing from the actual structure of the Parliamentary Conference and adding civil society to its steering committee, the creation of a Parliamentary Assembly (pretty much like the European Parliament in the EU) at WTO is possible. This organ would formally belong to WTO decision structure and better represent interests of civil society and developed countries muted voices and hold a much broader political spectrum of each member-state.

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