



Following the failure of the Cancun talks, EU Trade Commissioner Pascal Lamy sets out the reforms needed to enable the World Trade Organisation to cope with the challenges it faces today

UPDATING THE WTO'S 'MEDIEVAL' SYSTEM

'The failure of Cancun, the pressures of globalisation and the challenge of governance force us to take a fresh look at the WTO'

In Seattle back in 1999, I rashly commented that the World Trade Organisation was "medieval".

This was a spontaneous outburst, born out of lack of sleep and frustration at the grinding sense of impossibility that we all felt at that time.

Four years on, in Cancun, where the sea was warmer and the tacos were softer, the process and the results felt much the same. So I have revised my assessment, given that medieval governance was perhaps not so bad after all – perhaps one baron or two too many, overuse of the death penalty and sieges, but nonetheless a sense of order with *chevaliers* and their *seigneurs*?

Anyway, I plumped for the description "jurassic", so now it is up to the WTO to convince us all that it is not 'pre-Cambrian'.

By now, most readers of *E!Sharp* will be well aware that the WTO Ministerial Conference in Cancun in September 2003 failed. It was meant to advance work on the Doha package and build up sufficient momentum to conclude the trade round by the end of 2004.

It was always going to be a complex process, with around 20 challenging issues

on the table and 148 WTO members with very diverging interests who needed to agree on a common position by consensus.

In light of this major policy setback, the European Union launched a period of reflection and consultation to check back with its authorising environment in order to adjust European policy as necessary.

One of the reference points for that consultation was the WTO as an organisation: does the WTO, its ground rules and organisational principles, still meet today's needs? If not, are there reforms we can address in the short term which are of a purely organisational nature, but indispensable if we want the WTO to work more efficiently? What about the increasing difficulty in building consensus among an ever wider membership on issues which may be technical but now affect the lives of billions of men and women, and consequently have far-reaching political implications?

No one, including those inside the WTO, argues that it is perfect or that its procedures, staffing levels and funding do not need addressing. In this light, some maintain that the focus should simply be on the organisation of ministerial conferences, given the setbacks in Seattle and Cancun. Others argue for going further by looking more

closely into the consensus principle, given such a diverse membership.

Depending on where one focuses, we must then ask how the impact of reform processes on the future of the Doha Development Agenda (DDA) negotiations should be managed.

More generally, we have to strike a balance between the need to use the negative momentum of Cancun to start a long-overdue process of organisational improvement, and the need to avoid getting bogged down again in debates on voting versus consensus at the expense of substantive issues. The two should be addressed in parallel.

In my view, it is important that we address organisational matters in the WTO so as to respond to the new challenges and pressures of a more truly multilateral and 'multipolar' trading system.

The WTO is one of the relatively few islands of governance in a sea of globalisation: it imposes rules such as the Dispute Settlement Mechanism, which transforms these rules into effective disciplines. But this has blinded the public into believing that the WTO is both a supremely efficient *and* illegitimate body, when it is neither.

The one man/one state/one vote principle is not fundamentally misguided, nor is the attachment of many participants to the member-driven nature of the organisation.

However, the theory that each and every single decision of the WTO has to be drafted by 148 delegations in a sort of grand 'sit-in' is simply not a sustainable approach to decision-making and, in practice, displayed its insufficiencies long before Cancun.

The result is the potential for sub-optimal legislation, which nevertheless is binding on WTO members, and impacts upon their laws and upon the lives of billions of people. Or, if nothing happens because of negotiating sclerosis – again, see the breakdown in consensus in Seattle and Cancun – problems can lie unsolved for years.

With a tiny staff of roughly one quarter the size of the Organisation for Economic

Cooperation and Development (OECD) in Paris and a consensus-based, member-driven ethos, one might genuinely ask whether the WTO sets out to legitimise what it cannot deliver – an ironic outcome if true.

But if so, we can and must try to reform the organisation so that it can deliver what 148 members have signed up to see it deliver.

This is, of course, assuming that the international community does retain a common sense of what the WTO is for and has a continued desire to see that it functions as an effective forum for trade negotiations. The fact that so many countries have chosen to join the WTO and that many others are seeking to join it suggests this to be the case.

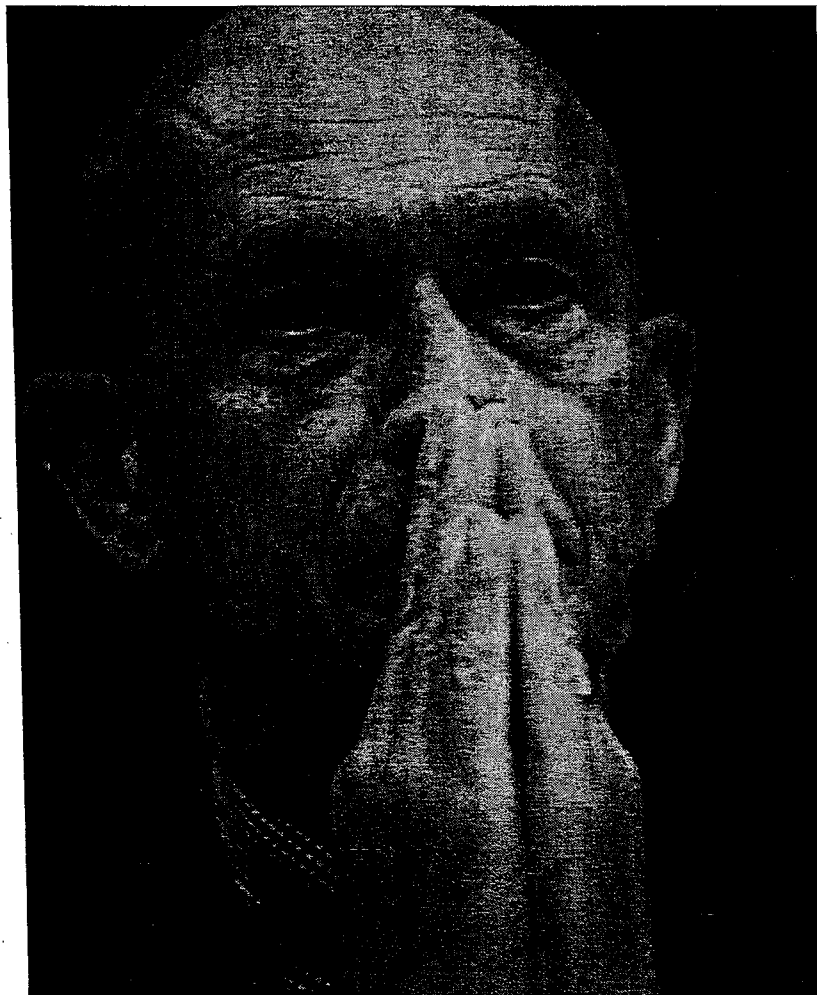
Organisational improvements seem to be inevitable if the WTO is to be restored to its original vocation as a successful

multilateral trade-negotiating forum. There must, therefore, be another, more efficient way of ensuring there are mechanisms and an environment conducive to negotiations and to achieving results.

For example, some commentators have suggested – and I agree with them in principle – a need to review the fact that the WTO's director-general has no power, not even any right of initiative. He cannot convene a meeting of the general council or decide himself on its agenda.

If members are confident that we need a well-functioning WTO, as we are in the EU, this situation ought to be addressed. But how? For if proposals to revamp or review this process are too radical, we risk overloading the boat.

More important in the short term, however, is the need to address those organisational shortcomings, which need remedying before the next ministerial



Photograph: Reuters

Lamy: argues reforms are vital to ensure that the WTO can deliver

conference in order to ensure a more successful negotiating process.

We in Europe have thought of practical measures that could help, which are important for ensuring the smooth conduct of such important meetings and for enhancing their chances of success. But this is not the only issue: another, which has been around since Seattle but has not yet been sufficiently addressed, is the need to facilitate the participation of developing-country members, in particular 'non-resident' members, in WTO negotiations.

There is the idea, long raised in academic circles, of establishing an informal, yet (and crucially) fully representative advisory group to prepare and facilitate (but not take) decisions.

Another ongoing topic of discussion concerns the WTO's transparency (both internal and external). Since Seattle, this issue has remained alive, with more intensive debate and action in the preparatory phases before ministerial and other major meetings, and considerable civil society interest. The European Commission has been active in these discussions.

Minor improvements have been made since Seattle to enhance the transparency of the process, in particular on the external side, while on the internal side, considerable progress has been made in the way ministerial meetings are prepared in Geneva.

The Doha Declaration itself recognised the challenges posed by an expanding membership and stressed WTO members' responsibility to ensure internal transparency and the effective participation of all members. A number of organisational and process-related issues are also being discussed in specific WTO fora, such as under the Doha trade and environment mandate.

These are all issues, then, for 'soft' reform which, in the EU's view, would be relatively easy to implement, would not require any radical changes to decision-making in the WTO or to its basic constitution, and would go some way to responding to criticisms of the WTO's organisation.

More generally, reform of the WTO as a tool of global governance must be seen in the wider context. Globalisation has produced a genuinely radical and increasingly accelerating force, impacting on sovereignty, democratic accountability, legitimacy and, above all, on the real economy and real people. Globalisation fuels the sense of powerlessness by challenging our identity and our sense of belonging. While it brings closer the prospect of personal riches for the few, it dramatically weakens the social fabric of society.

But, as we painstakingly develop international organisations, it must be admitted that we in the WTO, indeed in the EU and elsewhere, are running into a major legitimacy constraint.

So far in the governance debate, the focus has been almost exclusively on efficiency, to the detriment of legitimacy. Of course, the efficiency rationale is key, but legitimacy is crucial in order to ensure accountability. In my view, international organisations need augmented levels of legitimacy when compared to national or local bodies, precisely because of this feeling of powerlessness, which gives rise to calls for legitimising checks and balances.

But the conventional legitimising systems here do not work the same at different levels of governance. International governance runs into problems of the aggregation of interests: we need to recognise that the legitimacy of international organisations cannot satisfactorily be addressed by simple reference to their constituent parts, the nation states.

Reliance on this notion of derived legitimacy has led them to under-invest dramatically in legitimacy and in asking the question 'how does a collection of nation states – whether in the WTO or the EU – adequately address the general interest?'

For consensus to be arrived at in the WTO from the individual views of its members, there must be a degree of collective 'trust' in the director-general and his secretariat to express the general interest by generating proposals for that consensus. This is an issue which WTO members should address in the medium term.

The failure of Cancun, the pressures of globalisation and the challenge of governance force us to take a fresh look at the WTO to confirm that its ground rules and organisational principles still meet today's needs and demands for legitimacy.

This is crucial in order to ensure that decisions which, however technical, nonetheless affect the lives of billions of people and consequently have far-reaching political implications, are transparent and in the interests of all.

This also means that organisational improvements should be addressed at the earliest opportunity by all WTO members to enable the institution to work more efficiently and promote consensus-based results.

