



Paving the Way for Consensus

Improving the Effectiveness of Multilateral Negotiation
Management at the WTO

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1 Bertelsmann Stiftung and WTO Reform

If international trade is not governed by rules, mere might dictates what is right. The World Trade Organization (WTO) serves as a place where trade policy issues are addressed, disputes arbitrated, legal frameworks derived and enforced. Through these functions, the WTO ensures that the rules of trade policy are inspired by fairness and reciprocity rather than national interest. It is more important than ever to vitalise the global public good that it represents against various threats that have been undermining it.

The Global Economic Dynamics project of Bertelsmann Stiftung is a firm believer in rules-based international trade and the WTO. In 2018, we published an extensive report with propositions on how to revitalise the WTO, based on the deliberations of our High-Level Board of Experts on the Future of Global Trade Governance. In 2019 and 2020, we follow up on this report with a series of policy contributions, providing fresh ideas and elaborating on concepts already introduced in the report. These contributions cover the areas of the Appellate Body crisis, dealing with the competitive distortions caused by industrial subsidies, enabling Open Plurilateral Agreements within the WTO while providing reassurance to concerns of the membership at large with such forms of flexible cooperation and, finally, improving working practices in WTO Committees. MC12 in Kazakhstan will be a natural focus point of attempts to upgrade and reform the WTO.

We are grateful to the Centre for Multilateral Negotiations for organising a training workshop for the Kazakh representatives and for the excellent collaboration on this Policy Paper.

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2 The Centre for Multilateral Negotiations

The Centre for Multilateral Negotiations works towards fostering deeper cooperation on key global challenges by enabling more effective negotiation processes. It thereby strives to contribute to the global public good. Incorporating a wealth of knowledge and experience in multilateral negotiations, the Centre for Multilateral Negotiations provides public officials, non-state actors and academics with a better understanding of the key skills necessary for reaching agreements in highly complex multilateral settings. It maintains a central knowledge repository on negotiation management based on practical experience and rigorous academic research. Our work seeks to reduce the loss of expertise caused by rotating negotiation hosts, to spread best practices, and to contribute to better negotiation outcomes. Recent projects include:

- Advice to Argentina as the host of the eleventh WTO Ministerial Conference
- Advice to the French, Moroccan, Fijian and British Presidencies of UN climate change negotiations

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3 Executive Summary

- Reaching decisions on international trade by **consensus** amongst 164 governments is an **extraordinarily difficult** task. Social science research demonstrates that the management of the negotiation process by the **host government and WTO Secretariat** can play an important role in **tipping the balance** between deadlock and agreement. This requires close coordination between the representative of the host country and the Director General of the WTO.
- While effective process management alone will not solve the problems that the WTO faces, it can create **more favourable conditions for reaching consensus**. Conversely, poor process makes this already-difficult task practically impossible.
- Effective negotiation management consists of seven key elements: **preparing** well in advance; **teamwork** both within the host team and between the hosts and the Secretariat; transparent, consistent and realistic **communication**; selecting the **right individuals** for the job; breaking the process down into **small-group negotiations** and handling this with care; leveraging the legitimacy that **non-party stakeholders** can bring to the process; and increasing the likelihood of agreement through managing the **agenda, draft texts, and the overall atmosphere** of the negotiations.
- Both **process** and **context** determine negotiation outcomes. Comparing the 1999 Seattle Ministerial Conference with the 2001 Doha Ministerial Conference allows one to hold the context relatively constant, thus demonstrating the **independent effect of process management**. Variation in process management by the respective organisers of the two summits led to very different outcomes.
- The 2015 Paris Agreement on climate change was a notable **success for multilateralism**. Like WTO negotiations, climate negotiations also take place in the challenging environment of consensus decision-making. Process management by the French hosts is considered a **model of best practice**, and has been widely credited as a factor behind the successful outcome. Lessons can be learned from this case.
- Future hosts of Ministerial Conferences are specifically recommended to pay attention to the following:
 - It is vital to **consult with as many members as possible** in advance of the Ministerial. If budget allows, it is preferable to **travel to capitals** to demonstrate respect.
 - To avoid conflict further down the road, **clearly define the respective roles of the Director-General and the Conference Chair** from the outset, with the Conference chair taking the **political lead**.
 - The host government cannot manage the entire process alone and will need to appoint **facilitators** to chair issue-specific working groups. This critical role requires **specific skills and experience**. Organising a **workshop** for facilitators in advance of the Ministerial could increase their effectiveness.
 - The **format, attendees** and **timing** of small-group negotiations at the Ministerial can all affect results. Whatever form these meetings take, **transparency** is a key consideration.
 - Seemingly trivial details such as **room facilities, security and catering** at the venue all matter to delegates and can cause **unnecessary friction** when mismanaged.

4 Introduction

Managing global public goods requires close cooperation of all parties involved. Such multilateral negotiations are inherently difficult, as they bring together a multitude of stakeholders with many conflicting, diverse and interlinked interests. Improving the way such negotiations are organised and managed is not a sufficient criterion for success, but it is a necessary one. If the positions of the negotiating parties are too distant, even the best negotiation management would not be able to facilitate a consensus. Vice versa, poor negotiation management can be an obstacle to a possible negotiated outcome even if the interests of stakeholders are closely aligned. Therefore, in order to make progress in global politics, effective negotiation management is essential. All multilateral negotiations are different as their substance invariably changes, and the nature of the substance under discussion also has a bearing on the way negotiations are managed. There is therefore no 'silver bullet' that solves all negotiation challenges. In this paper, we identify a set of key elements of negotiation management that can help to bridge divides and pave the way to consensus. They do not represent a panacea but rather a helpful guideline.

Global trade has many positive effects, from reducing global poverty, to fostering innovation and connecting people worldwide. However, trade can only show its benign face once it is grounded in rules and institutions fit to enforce them, as they can prevent a regulatory race to the bottom or other welfare-diminishing trade activities. This is precisely the role of the WTO, which serves as a place for member states to deliberate on issues regarding international trade, set common rules and see any disputes resolved. As such it constitutes a vital global public good. The focal point of WTO rulemaking are the biennial Ministerial Conferences. If successful, such conferences can resolve trade policy controversies and set new objectives for the policy agenda. Unsuccessful conferences, however, tend to cause a hangover during which it is difficult to advance policymaking.

This paper looks not only at past experiences at WTO Ministerial Conferences. In addition, it also looks for negotiation management innovations in negotiations over another vital global public good – climate. Research for this paper was conducted by surveying the existing academic literature and drawing out the most relevant insights and case information. All referenced works can be found in the bibliography. Additionally, a number of highly experienced practitioners of WTO negotiations were interviewed and their responses integrated into the analysis.

Multilateral negotiations always depend on many elements, ranging from larger geopolitical developments to the character of negotiators and the chemistry between them. As a result, negotiation management is more an art than a precise science. Therefore, it is impossible to provide a simple and inflexible manual for negotiation management. What this paper seeks to contribute is a description of the tools available to host countries and Secretariats and a discussion of different elements that might be helpful to bring negotiation parties together in a constructive way. This paper describes the different paving stones that, when skilfully put together, can form a path to consensus.

5 Seven Dimensions of Negotiation Management



WTO negotiations are a challenging environment for reaching agreement. The governments of 164 member states are required to reach consensus on a multitude of contentious and inter-related trade issues. The Marrakesh Agreement that established the WTO requires that the Ministerial Conference (MC) – which is the highest decision making body of the institution - meets at least every two years. These meetings are held in a WTO member state whose government, as a host, has considerable influence over the preparation and organisation of the MC. The host government is supported by the WTO Secretariat and its Director-General.

Previous research by the Centre for Multilateral Negotiations identifies seven dimensions of negotiation management that need to be considered by these actors. When best practice is followed in each of these seven dimensions, negotiation management can be considered effective, which in turn increases the likelihood of reaching a negotiated agreement.

5.1 Preparing the Ground



The two-week summit represents the tip of the iceberg, and the large proportion of the host government and the WTO Secretariat's work takes place in the months leading up to it. Good preparation lays a solid foundation for work at the summit.

- Host governments can lean on the expertise of the outgoing hosts and the WTO Secretariat to understand and leverage the state-of-play of the negotiations. By conducting **handovers and briefings**, the incoming hosts can build upon progress made in previous meetings and foresee potential pitfalls.
- In order to understand their respective positions, expectations and flexibilities, organisers should consult as widely as possible with key players and (groups of) countries who have felt excluded in the past, by travelling to capitals and by organising preparatory consultations (for example 'mini-ministerials') in Geneva or the host country. **Outreach** by the host government and WTO Secretariat is critical to understand the interests behind parties' positions and gain information that can be used to identify potential landing grounds. A lack of consultation can reduce legitimacy and ownership in a member-driven forum like the WTO
- Such consultations should take place both in **Geneva and beyond**. An intensified exchange between the WTO missions can help to understand positions and potential areas of movement. They also offer the opportunity to engage on a technical level. The intensity and the management of such deliberations can have a crucial effect on the success of the Ministerial.
- The repeated nature of WTO meetings, whereby the same ambassadors work together for many years, brings a human element to multilateral negotiations. Close relationship between key organisers and ministers can be pivotal in the final days. The host government and WTO Secretariat should therefore invest in **building trusting relationships** at all levels: from Geneva ambassadors to government ministers. Building trust takes time; organisers should leverage their existing networks of contacts and start early.

5.2 Teamwork



Negotiation management requires a united front with alignment on goals, strategy and communication between all key organisers and facilitators. In such complex settings, the working relationships and efficiency of cooperation both within and between the host government and the WTO Secretariat can help or hinder the negotiation process.

- In coordinating the Ministerial Summit, the host nation's trade ministry is likely to come into contact with a number of other stakeholders, such as the Prime Minister's office or the Foreign Ministry. Differing views on how to approach the negotiations can negatively affect the **unity of the host government**. This also includes a close working relationship between the Trade Ministry of the host country and their Geneva representation. With high stakes and publicity at Ministerials, the risk of competition can be averted by clearly defining roles and responsibilities from the outset.
- The organisational culture and the **unity of the WTO Secretariat** represent another lever. The Director-General and senior management set the tone for the rest of the Secretariat and should encourage cohesion and collaboration. Past experience indicates that decisions concerning the appointments for these top positions can be divisive.
- An effective **partnership between the host government and WTO Secretariat** can boost the chances of a successful outcome, in particular when a good cooperation exists between the Conference Chair and the Director-General. A clear division of roles and responsibilities and effective communication channels can prevent potential rivalry and/or duplication of efforts. The political lead, and responsibility to take risks when necessary, lies with the Conference Chair.

5.3 Communication



In complex multilateral negotiations, information is gold. Bringing together small subsets of the membership helps to advance negotiations – but it comes with the risk that non-involved players feel disenfranchised, which can seriously imperil the success of negotiations. Therefore, the ways in which this information is shared, both between key organisers and with member states and other stakeholders, is a critical driver of negotiation management. Information may refer to the progress of the negotiations and proposed way forward, or practical issues such as schedules or group arrangements.

- Meetings take place in parallel and not all members attend every meeting, so organisers should share information on the negotiations' state-of-play and their proposed way forward. **Transparency** serves a number of functions. Negotiators cannot agree to a deal when they are not fully informed about its content and origins nor are they likely to grant their support if they feel they had insufficient opportunities to introduce their own concerns and positions. A lack of transparency threatens the legitimacy of the process and can lead to objections, delays and even derailment. Keeping ministers waiting for information can be interpreted as a lack of respect. Host and Secretariat have a delicate balance to strike between keeping members informed about the ongoing negotiations in general terms and finding the right moment to communicate details of the negotiations reached.
- The plethora of stakeholders involved in WTO negotiations can pose a challenge for **communication alignment**. When key organisers put in place internal coordination mechanisms it makes it easier to speak with one voice and deliver coherent messages. A central point of communication can be helpful for maintaining consistency in external communication.
- Communicating a clear and realistic vision for the summit can calibrate the heterogeneous expectations of diverse member states and the broader public. **Expectation management** involves crafting a target narrative for the summit that is in line with anticipated outcomes.

5.4 Key organisers and facilitators



There are a number of organisers and facilitators involved in negotiation management, each with different roles. The decision on whom to select and how to deploy them represents another lever of negotiation management. All key organisers and facilitators should have experience in both the substance and process of the negotiations, and enjoy the trust of the parties.

- The **role of the host government** is to provide overall political direction for the negotiations. The Conference Chair is selected from the host government to lead the negotiations and take risks when necessary to achieve a positive outcome. Ideally, this individual should hold a high-ranking position in government and wield political ‘clout’.
- The **role of facilitators** is to chair working groups on specific issues and produce compromise text. Selecting the right individuals to lead these negotiations is a delicate process with many factors to consider, including the candidates’ level of issue-specific expertise, their experience and network in the WTO, and their personal qualities. Furthermore, it is important to achieve a balanced geographical representation of facilitators and consider which delegations have strong stakes in certain issues or, alternatively, would be perceived as impartial. As their expertise in a given substance area is usually the key factor in determining the appointment of a facilitator, it is essential that the host government is well acquainted with the specialist community of a given substance area and can identify individuals that master the technicalities as well as being perceived as a honest broker in this field.
- The **role of ministers** is twofold. First, ministers have the decision-making power to make the necessary concessions in the endgame and agree a deal. Furthermore, through their opening statements, ministers – particularly those representing political heavyweights – can set the tone for the rest of the Ministerial Conference, be this positive or negative.

5.5 Informal dialogues



In multilateral negotiations little progress is made in plenary settings; informal dialogues in smaller settings reduce the number of participants and level of formality, thereby helping to expedite the process and help identify potential areas of consensus. However, such settings should be carefully managed by organisers. Questions of participation, format and transparency need to be considered in every kind of informal setting.

- ‘Mini-ministerials’ are an example of **preparatory dialogues within the WTO**. These take place during the months prior to a ministerial summit and allow organisers to bring together key players to try to identify potential solutions or areas of consensus. Retreats or other kinds of team-building activities are relatively rare in the WTO. A meeting of the Breakfast Group at Corfu after the failed 2011 Ministerial helped to overcome divisions and distrust and created a new momentum for negotiations.
- Ministers may also meet in the margins of Davos, the OSCE, the G20 or other **preparatory dialogues outside the WTO**. Although not convened by the organisers of WTO Ministerials, leaders can leverage them to progress high-level discussions informally and keep the goals and target narrative of the Ministerial Summit high on the agenda.
- **Small group meetings at the summit** are necessary for the concession-trading that can lead to a deal, yet by their nature they exclude the majority of member states. To ensure their legitimacy and acceptability, organisers must ensure that all major negotiating groups are represented at such meetings, and feed information back to those not present.

5.6 Non-Party Stakeholders



In recent years multilateral negotiations have witnessed an expansion of stakeholders beyond governmental actors to include NGOs, businesses or sub-national actors. This new lever of negotiation management offers both opportunities and challenges.

- By increasing the engagement of these non-negotiating actors in the process, organisers can **leverage non-party stakeholders** to increase legitimacy, bring new ideas to the table and mobilise support when their participation is carefully managed.
- **Managing participation** of non-party stakeholders poses new logistical and procedural challenges for organisers. Conference facilities need to be able to cater for a much larger number of participants and events, and be prepared for demonstrations or other forms of civic expression.

5.7 Convergence strategies



Organisers and facilitators have access to a toolbox of strategies that can, when used effectively, help to move the negotiations closer to agreement. These include the careful ordering of agenda items, linking different issues together to form a package deal, and bringing forward draft negotiation texts with progressively fewer bracketed options. However, all of these tools can backfire when mismanaged.

- Through **agenda management and issue linkage**, organisers can decide how to order and connect different issues in a way that is most likely to result in a package deal. The simultaneous negotiation of multiple issues is a defining feature of multilateral negotiations that can be either a helpful tool or a barrier to reaching agreement depending on the way the process is managed.
- The **negotiation atmosphere** can either facilitate or inhibit the reaching of agreement. Various factors including the layout of the room, catering, IT, the language/s spoken and interpretation services and the level of formality and representation can all influence delegates' well-being.
- Organisers can move parties closer to consensus through their **management of draft texts**. These texts may either take the form of a more cautious 'compilation text' that brings together different parties' proposals and options in square brackets, or a more ambitious 'chair's text' that contains compromise language and fewer brackets. This latter option can inject momentum into the process but risks being rejected if the parties perceive it as being unbalanced. Parties should always be kept informed about the origins and evolution of draft texts, and the timing of their release is also an important consideration.

Summary: Seven Dimensions of Negotiation Management

Preparing the ground	Handover and briefings	Outreach	Building trust and relationships
Teamwork	Unity of host government and conference chair	Unity of WTO Secretariat	Partnership between host government and WTO Secretariat
Communication	Transparency	Communication alignment	Expectation management
Key organisers and facilitators	Role of host government	Role of facilitators	Role of ministers
Informal dialogues	Preparatory dialogues within the WTO	Preparatory dialogues outside the WTO	Small group meetings at the summit
Non-party stakeholders	Leveraging non-party stakeholders	Managing participation	
Convergence strategies	Agenda management and issue linkage	Negotiation atmosphere	Management of draft texts

6 The Seven Dimensions in Practice

The launch of the Doha round was a true “roller-coaster ride” of trade negotiations (Monheim, 2015, p. 172). The 1999 ministerial conference in Seattle broke down in acrimony without any negotiated outcome or even a commitment from states to continue negotiating. Two years later, in Doha, the same negotiating states agreed upon the work programme of the Doha Development Agenda. Geo-political and economic conditions remained generally unchanged between 1999 and 2001, and the same states were negotiating the same ‘whether and how’ to launch a new negotiation round in each case. A critical difference was the way in which the process was handled by the US and Qatari hosts and the WTO leadership. The case comparison demonstrates the independent effect of process management on negotiation outcomes while controlling for contextual factors.

6.1 Seattle



Preparing the ground

Preparatory negotiations with ambassadors to the WTO started in Geneva months before the Seattle Ministerial Conference of 30 November – 3 December 1999, but they were overshadowed by a dispute over the appointment of the next WTO Director-General (DG): developed countries generally supported Mike Moore from New Zealand, whereas developing countries advocated for Supachai Panitchpakdi from Thailand. The eventual solution was to appoint each nominee for a three-year term, but the delay in reaching a decision left the WTO without a DG from May to September – a critical period for preparation and outreach. As a result, organisers failed to invest time in consultations with members that could have been used to build trust and identify a potential consensus.



Teamwork

The WTO leadership dispute took five months to resolve. As a result, DG Mike Moore had only been in the role for a few months – and his Deputy DGs a few weeks – when Seattle opened (Kumar, 2018, p. 97; Odell, 2009, p. 284). This left little time for them to organise themselves, let alone start working as a cohesive team. Monheim (2015, p. 188) also suggests that the US hosts and the WTO Secretariat were not fully in agreement about the approach to managing the negotiations.



Communication

The Conference was chaired by US Trade Representative Charlene Barshefsky. Her style of communicating with delegates created negative expectations of a lack of transparency and inclusiveness, and also provoked feelings of irritation and mistrust. When addressing plenary, she threatened working groups into reaching agreement: “If we are unable to reach that goal, I fully reserve the right to also use a more exclusive process to achieve a final outcome. There is no question about either my right as the chair to do it or my intention as the chair to do it.” (Narlikar, 2004, p. 421; Odell, 2009, p. 286).

When the process moved to smaller settings, organisers failed to keep those members who were not present informed, either of the names of the members who were invited (Odell 2009, p. 285), or of the content and progress of the negotiations (Kumar, 2018, p. 93). Excluded ministers were furious to be wasting their time standing around drinking “endless cups of coffee” (Kumar, 2018, p. 95). This proved to be a fatal mistake.



Key organisers and facilitators

All three of the key organisers - the Director-General, the General Council chairman and the Conference Chair – were in weak positions going into the Ministerial Conference. The aforementioned dispute over the WTO leadership meant that Moore and his deputies had very little experience at the start of the Ministerial. Furthermore, the Director-General lacked the support of developing countries and General Council chairman Mchumo also came under suspicion for having backed him (Kumar, 2018, p. 79; Odell, 2009, p. 284). Conference Chair Charlene Barshefsky lost the trust of the parties for her lack of neutrality and her confrontational style.



Informal dialogues

The management of small group meetings at the Seattle Ministerial was subject to fervent criticism. Organisers failed to invite a representative group of countries or to adequately report back on progress. Kenya, for example, representing the African Group, was excluded from the meetings, effectively denying a voice to an entire continent (Monheim, 2015, p..180). The vast majority of members were left in the dark regarding the progress of the negotiations. The lack of transparency and inclusiveness led to a de-coupling of substance and process, whereby a number of developing countries refused to join whatever consensus was reached in the Green Room setting due to the unfair procedures followed. The African Group decried their exclusion from the process and the lack of transparency: “Under the present circumstances we will not be able to join the consensus” (Kumar, 2018, p. 95).



Non-party stakeholders

The participation of non-party stakeholders was abysmally managed by the organisers of the Seattle Ministerial. The writing was already on the wall at the Geneva Ministerial Conference in May 1998, where NGOs' anti-globalisation protests stole the limelight from the commemorations of the fiftieth anniversary of the establishment of the multilateral trading system (Kumar, 2018, p. 71-2). In spite of this clear warning, organisers failed to make adequate provisions to manage the protests that took place in Seattle. Over 50,000 demonstrators gathered in the streets around the site and blocked the entrance to the venue, preventing some delegates and ministers from entering. Protests turned violent and police used tear gas to disperse them. As a result of this chaos, the opening ceremony was cancelled and an entire day of the conference was lost (Kumar, 2018, p. 91).



Convergence strategies

The leadership struggles in the WTO and the lack of progress in Geneva resulted in a highly-bracketed draft text that was completely unsuitable for negotiation by ministers (Kumar, 2018, p.p. 88-9; Monheim, 2015, p.p.172-3). General Council Chairman Mchumo refrained from proposing a chair's text. Rather, he brought forward a compilation text in October 1999 that presented competing bracketed proposals that covered the views of all members. The text has been criticised not only for being too unwieldy but also for being too cautious (Odell, 2009, p.p. 284-5). His extremely inclusive approach failed to leave out inflammatory proposals that served to amplify the differences between the members. Furthermore, seeing their proposals in the text encouraged members to “dig in their heels” (Odell, 2009, p. 285) and defend them, rather than making concessions to facilitate consensus.

Logistical oversights both soured the negotiation atmosphere and limited the possibility of reaching a consensus. The first day of the Ministerial was lost to the NGO protests, and on the final day when agreement was still not forthcoming (as is often the case in multilateral negotiations), organisers were not able to extend the deadline because the venue had already been booked for a conference of optometrists (Narlikar, 2004, p. 420; Odell, 2009, p. 287). As Odell (2009, p. 287) argues, some progress had been made in number of working groups and the

Ministerial could have ended differently were it not for these preventable logistical errors: “In 1986 in Punta del Este, agreement had required six days. This time the chief mediators had allotted only four, had squandered one, and had left themselves only the option of simply announcing that the conference had failed.”

6.2 Doha



Preparing the ground

In the year leading up to the Doha Ministerial Conference, WTO Director-General Mike Moore travelled to consult with as many countries as possible, and particularly with those countries that felt excluded in Seattle. He travelled to Africa on six separate occasions and was the first DG to have visited the continent. This was a conscious strategy to rebuild the trust that was lost in Seattle. He later reported that this outreach was the “crucial element in launching the round” (Moore, 2003, p. 113). General Council Chair Bryn of Norway (and later Stuart Harbinson of Hong Kong) also undertook extensive consultations on the question of internal transparency that allowed those parties excluded in Seattle to “let off steam” (Kumar, 2018, p. 106).

In the months prior to the Ministerial Conference, the WTO leadership convened two ‘mini-ministerial’ meetings in Mexico and Singapore. These preparatory meetings were designed to promote honest and frank discussions at the political level and explicitly refrained from negotiating text. Odell (2009, p. 290) reports that the relationship building that took place during these mini-ministerials was instrumental for achieving success in Doha.



Teamwork

By the time preparations had begun for the Ministerial Conference in Doha, the leadership of the WTO already had the benefit of a year spent working together, and two years by the time the Conference opened on 9 November 2001. Additionally, DG Moore reported having positive working relationships both with General Council chairmen Bryn and Harbinson, and with Conference Chair Sheikh Youssef Hussein Kamal, Qatari Minister of Finance (Monheim, 2015, p. 190).



Communication

At the first meeting of the General Council after Seattle in February 2000, DG Moore already sent clear messages to the members that issues of transparency and inclusiveness would be addressed (Kumar, 2018, p.p. 102-3). He announced that consultations would take place, and as a result of these consultations a number of more transparent practices were introduced. Facilitators would report to delegations on a daily basis about the progress of their respective groups; small group meetings were to be announced publicly, and interested delegations given the chance to provide input ahead of the meeting; and after the meetings, the results of the meetings would be published for all to see (Monheim, 2015, p. 179, Kumar, 2018, p. 106).



Key organisers and facilitators

In addition to DG Moore’s greater experience in the role, developing countries were more comfortable with the fact that it was his final year before Supachai Panitchpakdi would take over (Monheim, 2015, p. 188). In contrast to

Barshefsky in Seattle, Conference Chair Kamal was perceived as both politically neutral, and personally charming (Jawara & Kwa, 2003, p. 90; Monheim, 2015, p. 189).



Informal dialogues

The organisers took steps towards more balanced representation in their preparatory dialogues. For example, the mini-ministerials were attended by two African states. At the Ministerial itself, Conference Chairman Kamal stressed that official working groups would remain at the heart of the negotiations, and that small-group meetings would be managed with greater transparency and inclusiveness in mind. In addition to sharing information both before and after such meetings for those members not present, organisers ensured that the composition of attendees was more representative. In the Green Room setting in Doha, only six of the 22 ministers present came from developed countries (Monheim, 2015, p. 180).



Non-party stakeholders

As a result of Doha's inaccessibility and the organisers' decision to ban any public demonstrations, the protests that marred Seattle were avoided (Odell, 2009, p. 291). Beginning in Doha and continuing over the following years, modest steps were taken to improve non-party stakeholders' access to and participation in the negotiations, including the derestriction of all documents, organising symposia to facilitate interaction between the WTO membership and NGOs and the provision of additional information through the WTO website (Kumar, 2018, p.p. 114-5).



Convergence strategies

In July 2001, Moore and Harbinson already announced that they would bring forward a chair's text in September to avoid the situation in Seattle whereby the summit opened with an unworkable, bracket-ridden text. By communicating with delegates in this way, they kept everyone informed on the progress and evolution of the text. Crucially, delegates knew that if they did not negotiate compromises among themselves, the terms of compromise might well be determined by the chair. Harbinson and Moore's text was much more streamlined than Mchumo's 34-page text of 1999. It represented a bold and risky move, removing certain options where it was clear consensus would not be reached and employing brackets only when absolutely necessary. The draft is credited as being a good summary of the discussions that had taken place in Geneva, a useful starting point for ministers, and a turning point that moved the negotiations closer to an agreement (Kumar, 2018, p. 132; Odell, 2009, p. 289).

On the final day, Chairman Kamal issued a final version of the earlier Moore/Harbinson draft text, but since the plenary could not agree the negotiations moved into the Green Room setting. After an all-night negotiation marathon, organisers presented a take-it-or-leave-it proposal. Following some last-minute deal-making, parties reached an agreement in plenary on the evening of 14 November.

While the context, issues and negotiating parties remained the same, process management contributed to the failure to launch a new negotiation round in Seattle, and subsequent achievement of this objective in Doha. The steps taken after Seattle to improve transparency and inclusion and the broader outreach and consultation resulted in a lack of procedural complaints and greater goodwill to find an agreement, including from those countries who opposed an outcome in Seattle. Whereas a number of delegations took the unprecedented step of staging walk-outs in Seattle in protest at the processes followed (Kumar, 2018, p. 103), in Doha, developing country delegates welcomed the increase in transparency in their statements, and the creation of a working group facilitated by a minister from the Least Developed Countries (Monheim, 2015, p. 176). The Nigerian trade minister reported that: "Unlike in Seattle, Africa has been satisfied with all the stages in consultations and negotiation processes in Doha." Improved process management was a decisive factor that facilitated the reaching of consensus on the launch of the Doha Development Agenda.

However, process management was certainly not the only factor at play. The heightened risk of repeated failure was an additional factor that increased members' willingness to compromise and find agreement. In the intervening years, a number of parties softened their positions and were willing to make concessions in Doha they had not been willing to make in Seattle. Notably, the US showed greater flexibility in Doha as they were subject to less pressure from their domestic constituency. Effective process management is one of a number of necessary levers for reaching consensus in complex global negotiations. When parties' interests are too far apart, not even the most skilled chair or flawless process can force an agreement (Monheim, 2015; Pfetsch, 2009). Nevertheless, these cases support the conclusion reached by researchers that process management is a decisive factor that can make the difference between agreement and failure when interests overlap narrowly (Monheim, 2015, 2016; Odell, 2005, 2009; Walker, 2018).

A number of lessons can be drawn by examining UN climate negotiations, which in 2015 adopted the Paris Agreement on climate change, a long-awaited global deal that commits every state to reducing their greenhouse gas emissions. The French government that hosted and managed the negotiations received broad praise for its exemplary process management, which researchers attribute as one of a number of conditions enabling a successful outcome (Brun, 2016; Dimitrov, 2016; Oberthür & Groen, 2018; Walker, 2016, 2018). The 'French Presidency' introduced a number of procedural innovations that potentially be applied to WTO negotiations. Along all seven dimensions of negotiation management, their performance is considered best practice to follow.

6.3 Paris: Climate negotiations



Preparing the ground

The French Presidency conducted unprecedented outreach in the lead-up to the 2015 summit. They leveraged their extensive diplomatic network but also sent high-profile individuals – including former President François Hollande and Foreign Minister Laurent Fabius, who was also the conference chair – to capitals to listen to the interests behind countries' positions and in the process build trusting relationships (Walker, 2016, pp. 16–17). French travel diplomacy was not limited to "key players"; they made a particular effort to reach out to smaller countries that had felt excluded in the past (Walker, 2018, p. 9).

The French Presidency convened a series of ministerial meetings in the months prior to the summit, which employed an innovative format: after an initial round of reading from prepared speeches, ministers were split into small breakout groups and asked to discuss a number of cross-cutting issues, focusing on areas of potential consensus (Brun, 2016, p. 120). No text was negotiated, and no notes were taken. Afterwards, the French produced summaries of the meetings to ensure transparency for those who were not present (Walker, 2018, p. 11). These meetings served a number of purposes: they allowed for an open and constructive discussion and improved understanding between ministers; they promoted positive working relationships between ministers; and they allowed the French team to identify promising ministers that they could later call upon to facilitate particular issues at the summit (Walker, 2016, pp. 18–20).



Teamwork

The Paris summit was a high-profile event that generated enormous publicity. To avoid competition for the limelight and to ensure a smooth cooperation, a joint team was created from the Ministry of Foreign Affairs and the Ministry for Environment, with the lead given to Foreign Affairs from the outset (Walker, 2016, p. 16). The joint team was housed under a single roof, and monthly ministerial coordination meetings, chaired by the Minister of Environment, ensured that everyone was on the same page. During the summit itself, the team would convene each morning to share information and assign tasks.

Procedures were also put in place to ensure a harmonious partnership with the Secretariat. The French Presidency appointed a liaison officer from their team to take up a desk within the Secretariat, ensuring a steady flow of information and a stable point of contact between the two teams. During the final days of the summit, a joint drafting team composed of members of the French Presidency and the Secretariat worked together to craft the final wording of the Paris Agreement.



Communication

In addition to ensuring coherent and consistent communication within their team and between their team and the Secretariat, the French Presidency also employed repeated messaging to foster perceptions of transparency in the eyes of the parties. They developed a mantra of “no surprises” and engaged in an effective “branding” exercise by stressing that the negotiations would be guided by principles of transparency, inclusion and a “party-driven” process (Walker, 2018, p. 11). They produced summaries of informal dialogues that took place before the summit, and during the summit itself they regularly communicated the progress of the negotiations and what the next steps would be during plenary “stocktaking” sessions (Walker, 2016, p. 27) The origins, input and evolution of the draft text were clear to all parties throughout the process, so that the final agreement, although penned by the Presidency and the Secretariat, had broad ownership and support (Walker, 2018, p. 14).



Key organisers and facilitators

The French Presidency made judicious staffing decisions. Conference chair Laurent Fabius, who previously held the French seat on the UN Security Council, enjoyed considerable authority to chair meetings from the podium (Walker, 2016, p. 16, 2018, pp. 12–13). Former French Minister of Environment, Ségolène Royal, was deployed to oversee ratification of the Paris Agreement in an effective division of labour. A number of “roaming ambassadors” were selected to conduct outreach on the Presidency’s behalf in the months leading up to the summits. These individuals were highly experienced and respected diplomats selected not for their substantive understanding of climate change, but for their understanding of local contexts, their cultural expertise and their large networks of contacts (Walker, 2018, pp. 9–10). From top-to-bottom, the entire French Presidency team was staffed with highly capable officials and enjoyed an unusually high level of trust.

Having observed a number of candidates at the ministerial meetings they convened prior to the summit, the French Presidency selected ministerial facilitators to chair negotiations on specific issues. They chose individuals they perceived to be knowledgeable and competent, but who also held difficult positions or who had held a hard line in the past (Walker, 2018, p. 14). By bringing these individuals “into the fold”, they neutralised potential opposition and directed their energy towards constructive ends. The decision to invite heads of state and government to the opening of the conference was an intelligent move, since the speeches they gave in favour of achieving a deal provided an unambiguous mandate to their ministers and negotiators (Brun, 2016, pp. 119–120; Walker, 2016, p. 22). Furthermore, it avoided the debacle of the failed climate negotiations in Copenhagen in 2009, where leaders arrived at the end of the summit to an unfinished text, which they were then obliged to draft line-by-line themselves.



Informal dialogues

The informal ministerial meetings held before the summit were carefully managed for balanced representation and transparent reporting afterwards. The efforts taken by the French Presidency to ensure an open, inclusive and transparent process created an atmosphere of trust amongst the parties. When the final days of the summit approached and the French Presidency needed to move to smaller, informal, closed-door processes, parties did not object as they had done in the past (Walker, 2018, p. 15). Because of the confidence they had in the Presidency, they allowed them to conduct the final days of the summit entirely in secret “Presidential consultations”. These closed-door meetings were essential for achieving the necessary convergence and compromise for a deal to emerge (Dimitrov, 2016, p. 6).



Non-party stakeholders

Working alongside the outgoing Peruvian Presidency of the previous negotiation round, the French Presidency implemented the “Paris-Lima Action Agenda”. This platform ran in parallel with the intergovernmental negotiation process to showcase civil society, sub-national and industry action on a scale not seen before. In addition to building legitimacy and buy-in for the process, the participation of these non-party stakeholders served a number of instrumental purposes. First, the momentum it built and the commitment it demonstrated created pressure for governments to follow suit. It also served to expand the range of concessions, creating a space where side-deals could be struck that did not form part of the official agreement but which facilitated the reaching of agreement (Walker, 2016, pp. 20–21).



Convergence strategies

During the Paris summit the French Presidency assumed responsibility for progressing the draft negotiation text that had been developed by the parties during the formal negotiation process. Brackets remained in all areas of the text and many doubted whether an agreement could be reached in the time remaining. The French Presidency put forward a chair’s text containing ‘bridging proposals’ that they were able to craft based on their extensive consultations with the parties. Although the preference in many multilateral negotiations is to work with compilation texts, thanks to the trust and goodwill that the Presidency had accumulated, parties agreed to work with their text. This marked a turning point in the negotiations, providing momentum and moving the process closer to consensus (Walker, 2016, pp. 29–30).

With regards creating a conducive negotiation atmosphere, the French Presidency understood the importance of physical comforts. Delegates praised the French hospitality, including the conference facilities, the public transport connections, and - most frequently – the quality of coffee on offer (Walker, 2018, p. 12). They invested heavily in logistics and security, and the summit passed smoothly without incident, despite the terror attacks that took place in Paris just two weeks before the opening ceremony.

To ensure that exhausted delegates could get a good night’s sleep, the Presidency provided shuttle buses to hotels that ran throughout the night. They took care to time the release of successive versions of text and would inform delegates when they could expect the next version, so that they could be certain of a period of rest. For the core Presidency team, who worked around-the-clock, beds were provided in the conference centre itself (Walker, 2016, p. 23). On the morning of the final day, the French Presidency announced that the final text was ready, to a rapturous ten-minute standing ovation (Walker, 2018, p. 16). However, they did not release the text until after lunch, with the insight that a full stomach can be conducive for reaching agreement (Walker, 2016, p. 32).

7 Policy Recommendations

7.1 Prepare the ground through outreach and consultation

It is imperative for the host government and Secretariat to reach out to member states and consult widely during preparations for the ministerial summit. The information gathered through outreach **helps organisers to understand the interests** behind countries' positions and **map out the contours of a potential landing zone**. Outreach also brings about less tangible – but no less important – benefits: it builds **legitimacy** in the process, **trust** in the organisers and creates a sense of “**buy in**” for members who feel their concerns have been heard.

Consultation can take place in two ways. First, organisers can **travel to capitals** to listen to specific members' views. Although resource-intensive, this demonstrates a high level of **respect** and is effective for building relationships. The more widely organisers are able to travel – and the more high-level officials they are able to send – the better. Second, organisers can invite groups of ambassadors or ministers to Geneva or to their capital for **informal consultations**. These meetings have the potential to backfire when not managed carefully. The following should be considered:

- When inviting participants, ensure that all regions and negotiating groups are represented
- Use the format of “mini-ministerials” in more interactive and deliberative ways. Avoid the practice of participants repeating known positions from prepared notes. Encourage genuine dialogue through innovative process (see ‘Paris’ example) and/or through an informal, ‘retreat’-style setting. Try to obtain a sense – either in one-on-one meetings or in larger groups – of where member states might be prepared to show flexibility if other member states show themselves a willingness to compromise.
- A Chairperson’s paper should be released after the meeting in coordination with participants that summarises the main takeaways and the direction in which you see the negotiations heading. Make your paper available to those members who were not present to ensure transparency.

7.2 Ensure effective teamwork between the Director-General and the Conference Chair

The relationship between these two key individuals can be **competitive** or **cooperative**. It is also possible that no relationship exists at all. When the two pull in different directions, it compromises the effectiveness of the process by diverting time and energy away from the issues at hand and souring the mood. More can be achieved when there is a united front and the DG and Chair are pulling in the same direction. Encourage effective teamwork by:

- **Clearly defining roles and responsibilities from the outset.** At the 2015 Ministerial Summit that adopted the Nairobi package, DG Azevêdo and Conference Chair Mohamed avoided possible tension by dividing their tasks, with DG Azevêdo responsible for the agreement on eliminating agricultural export subsidies, while Conference Chair Mohamed took charge of the Ministerial Declaration.
- **Establishing procedures to ensure smooth flows of information.** Regular coordination meetings should take place before, during and after the summit to exchange information, divide labour and ensure a consistent approach. During the summit itself, such meetings should occur at a minimum on a daily basis.
- **Using the physical facilities to encourage a team spirit.** Ensure that the DG and the Chair’s offices are as close as possible, and create common spaces in the same building where the respective teams and their heads can have coffee together.

7.3 Appoint the right facilitators, and invest in them

Facilitators of working groups, whether at ambassador or ministerial level, have a significant impact on the process. A good facilitator assists organisers by putting forward compromise text on a specific issue, but a bad facilitator can derail the process or turn something relatively uncontroversial into a “hot issue”. Consider the following when appointing facilitators:

- Facilitators should be **knowledgeable** on the subject matter, but should benefit from a number of “soft skills” including patience, humour and listening skills.
- **Preparatory consultations** can be used to identify potential facilitators (see ‘Paris’ example).
- A balanced regional representation of facilitators lends legitimacy to the process; groups who have a facilitator appointed from their number feel respected.
- Potentially difficult negotiators with a strong position can be “**brought into the fold**” by appointing them as a facilitator. On the other hand, facilitators must be perceived as impartial and trusted by all relevant participants as an honest broker.

Facilitators hold considerable responsibility, yet no forum exists for **drawing lessons** and passing on **best practices**. Organisers could consider convening a **workshop for facilitators** prior to the summit and inviting process veterans to share their experiences of potential dilemmas and pitfalls not included in the rules of procedure (Odell, 2005, p. 447). Such a meeting could also serve to foster a team spirit and stocktake on the negotiations’ state-of-play.

7.4 Manage small-group meetings carefully during the summit

Legitimacy and efficiency are a fundamental trade-off in multilateral negotiations: it is not possible to negotiate with all members sat around the table together. It is therefore essential that organisers strike the right balance when managing the dynamics between small-group negotiations and heads-of-delegation meetings. Getting these informal, small-group meetings right is a delicate and risky affair that can easily backfire. **Convening the right meeting, with the right people, at the right moment is key to achieving success.**

Right meeting: the schedule and the type of meeting can have an effect on the progress of the negotiation. Depending on the substance of the negotiations, different groups of countries can meet informally, group together as coalitions and interact in different formats with facilitators. A balance needs to be struck between bringing the negotiations forward and making sure substantial objections by Members are noted and taken into account.

Right people: the composition of the group should be led by the substance of the issue(s) under negotiation; different topics involve different key players. Regardless of the issue, organisers should ensure a geographical balance of participants and that all key groups are represented.

Right moment: a feel for the right timing is important. If small-group meetings are convened too soon, they reduce the momentum and legitimacy of the official working groups, but if they come too late, they may fail to produce results. Do not allow small-group meetings to go on too long without reporting on any progress and exhaust the patience of those ministers left outside waiting.

Alongside a fair representation of invitees, **transparency** before and after small-group meetings is crucial for their acceptance by the rest of the members. Before the meeting, inform delegates on the time and composition of the meetings so they can send their key points to the representative of their group. Ensure a back-and-forth of information between the group and the plenary, particularly if the meeting lasts for a long time.

7.5 Foster convergence through a conducive negotiation atmosphere

Practitioners and researchers indicate that seemingly trivial details, such as the conference facilities, can make a difference. Although the temperature, the lighting and the seating arrangement of the room will not make-or-break the outcome alone, when these factors are not managed correctly they make it even harder for irritated delegates to find a deal. Organisers should delegate time and resources to ensure that the summit runs smoothly from a logistical perspective, paying special attention to:

- **Catering and coffee:** hungry and tired delegates are less willing to compromise. Ensure a good catering selection that stays open as long as delegates continue negotiating.
- **Security:** lengthy queues to enter the venue hamper the efficiency of the process and the mood of the delegates. Plan in advance how to deal with potential civil unrest.
- **Room facilities:** ensure sufficient staff on-site to quickly respond to requests to alter the lighting, temperature or seating arrangement of the negotiating rooms.



*Director General Roberto Azevêdo and Minister Amina Mohamed concluding the Nairobi Ministerial conference.
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8 Conclusion

No two multilateral negotiations are alike. WTO Ministerials like any other negotiations are to a large extent driven by substance. It is impossible to develop a one-size-fits-all approach to help negotiation partners to find a way to convergence. Instead, negotiation management has to adapt to the substance under discussion and to the parties involved in the negotiations. The elements presented in this paper cannot guarantee success – but they can serve as a menu of options for the Secretariat and the host government to choose from. A negotiation is not like a classical concert that follows a strict sequence of notes. Rather, it resembles the interaction of a jazz combo that brings together unscripted individual improvisations. For this to work, musicians need to have an intuitive understanding of each other, a good ear to listen and excellent technical skills. Similarly, the organisers of a negotiation ideally possess strong subject expertise, a “feeling” for the process and a good relationship with each other.

The WTO is in urgent need of revitalisation. There is a real danger that the lack of forward movement damages the standing of the institution with its members and their willingness to invest political capital into negotiations at the WTO. If that happens, the valuable public good of multilateral trade coordination will begin to fade. As a result, the future of globalisation could be less rules-based and more power-based. Less accessible to all players but with privileged roles for some powerful ones.

MC12 comes at a crucial time for the WTO. It is a chance to show that the system can adapt and move forward. While on many issues, there are marked differences between the policy positions of key member states, MC12 and the route towards it could mark a step towards convergence.

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