

**THE IMPORTANCE OF INSTITUTIONALIZING?  
STRUCTURED CONSULTATIONS IN EVALUATING TRADE  
PROPOSALS: LESSONS FROM INDIA'S EXPERIENCE  
AND THEIR WIDER RELEVANCE**

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## ABSTRACT

The government of India relies for external advice on an informal and largely unstructured consultative process with key business associations and other civil society groups, but these associations are not really institutionalized or set up to provide informed advice based on credible or usable information that relates to specific issues under negotiation in the WTO. Nor does the government of India generate this information internally.

Rather than helping to shape negotiating options, the consultative process is used to build support amongst the business community for proposals that often originate from within the NGO community. Their rather unique contribution to trade policy understanding arises because the NGO community in India has traditionally initiated detailed debates on economic and social outcomes to policy proposals of the government. Their intelligent use of the media has further enhanced their roles.

With the Uruguay round introducing a wide range of fundamental policy reforms with just such an anticipated impact, NGOs began to engage with the policy process in ways that brought implementation concerns relating to social, environmental and economic issues to the fore, often feeding an intense political debate about development models and other broad issues. As a result, the policy process is often overly political and insufficiently detailed in its assessments, with very uncertain consequences for poverty reduction strategies.

This paper suggests that a fairly simple series of institutional reforms centred on a mandatory and structured consultative process could significantly enhance the quality of policy and negotiating inputs by providing business associations with the incentives they need to invest in participating effectively in the policy process.

## INTRODUCTION

India's problems with relating international trade policy making to their domestic growth and development strategies, and more particularly to their efforts to reduce poverty levels, have been fairly well documented in recent years.<sup>1</sup> Efforts to address these issues have however had more to do with managing a complex political process arising out of the fragmentation of the political culture of the country than with looking at building institutional and organizational support and consultative systems that provide appropriate inputs that help evaluate complex policy options.

The current political environment now combines the need to manage a coalition of conflicting agendas with the need to accommodate new centres of political power operating within the country's federal structure, and thus requires a constant and demanding process of compromise and accommodation in order to build a political consensus.

While this approach has been reasonably successful in building political agreement there are, at the same time, concerns that the trade policy-making process is paying insufficient attention to the substance and implications of what is being discussed and negotiated at the multilateral and regional levels – that it is in effect still flying blind with respect to the impact of policy and negotiating processes especially with respect to two key issues:

- anticipating economic and social outcomes – both positive and negative, and
- linking trade prospects to domestic economic

1. Narayan, S (2006) 'Trade Policy Making in India'. *ISAS Insights*, Singapore, 2005; Alves, P (2004) 'Understanding Indian Trade Policy: Implications for the Indo-SACU Agreement'. *South African Institute of Economic Affairs, Trade Report No. 5*; Sen, J (2004) *Trade Policy Making in India: the reality below the water line*. (Jaipur, CUTS).

and growth strategies

The potential cost of miscalculation for a country like India with the highest concentration of poverty in the world and amongst the most unequal of societies (both vertically and geographically) could in these circumstances be catastrophic.<sup>2</sup> Given this reality a question arises as to whether anything can be done to rectify this apparent anomaly.

This paper will attempt to explain why this is so, and to look at some fairly straightforward procedural, institutional and organizational solutions that could perhaps help improve levels of awareness of policy impacts, particularly on the poor and on the distributional effects of policy choices in trade policy issues. At the same time, this paper will attempt to draw some more general lessons about India's experience that could be more widely applicable.

## THE LINK BETWEEN GOOD POLICY AND EFFECTIVE IMPLEMENTATION

It is equally true that Indian policy makers are fully aware that the process of liberalization unsupported by appropriate development and institutional support strategies that address problems of inequality and poverty at various levels of implementation can easily unravel if there is a repeat of the episode relating to cotton farmers,<sup>3</sup> or if their policies lead to massive and unrestrained internal migration.

2. Interestingly, the leadership of China – surely a 'successful' model – also identifies 'social stability' as their foremost policy concern in the context of economic liberalization, suggesting that they too are unsure of how policies and events will play out in a liberalizing and globalizing world.

3. Estimates of suicides amongst cotton farmers, particularly from the states of Maharashtra and Andhra Pradesh – amongst the most dynamic economically – now exceed 3000 a year. Farmers with small holdings were persuaded by banks, seed distributors and international cotton interests to invest heavily in intensive cotton farming with a heavy use of inputs (fertilizers, pesticides, water, electricity, etc).

While this only reinforces the basic question posed by this paper, it is not the principal focus of this brief, which is to explore ways to improve institutional arrangements governing the quality of trade policy-making. The need to do this in the context of poverty alleviation strategies is implied and the question of downstream institutional improvements in order to secure a better quality of programme delivery is understood as a separate function that also needs urgent attention.

## PERCEPTIONS AND REALITY WITH INDIAN TRADE POLICY MAKING

Given India's lively political system, administrative practices, academic traditions, strong business networks, media interests and extensive civil society networks, it is perhaps surprising that India's policy making process should be criticised for lack of quality and capacity. Indeed, of all developing countries, India should be amongst the most capable of delivering the sorts of inputs needed to support effective policy making in global trade negotiations, and to reconcile domestic strategies with international commitments. But this is really not the case and only in the last year or so – with respect to the preparation of the 11th Plan<sup>4</sup> – has any real and meaningful alignment taken place between domestic and international economic policy objectives.

There would appear to be four main reasons why political management has become so important in the broader scheme of things, all of which stem from a system that is essentially working at cross purposes with itself.

- First, the constitution imposes an obligation on the state to address issues of social, economic and civic reform almost as a precondition for economic growth.
- Second, the political culture of India has been growing increasingly insular over the decades effectively creating a political consensus that reaffirms constitutional commitments to social reform while simultaneously decentralizing power down through the federal structure.
- Third, India's broad foreign policy objectives have traditionally supported a high level of engagement with the global system and with global institutions creating a strong tradition of participation in global systems.
- Finally, India's business culture has shifted from an essentially protectionist position to a more open and globally active approach.

Taken together, these factors essentially pit one approach against another. That is, it pits an approach that seeks to redistribute wealth as a prelude to any major strategy for economic growth

against a more free market approach that assumes that social problems will be ameliorated through global economic integration and growth.

As the global system generally conforms to the latter approach, this effectively means that some very adept political management is needed within India's domestic context to find policy solutions that reconcile domestic priorities with an international system that functions to an altogether different set of priorities.

This situation has perhaps arisen because of an excessive concern with political consensus building, and insufficient attention to the basics of policy formulation – that is, gathering usable data and information, structured consultation procedures, making informed assessments of possible policy outcomes, and measuring the impact of policies on employment, migration, the environment and so on – leading to an unwillingness to deal with the problem of reconciling domestic and international policy perspectives.

Part of the reason for this is in the way the Indian system is set up.

## THE CONSTITUTIONAL ORDER AND THE POLITICAL CONTEXT

Constitutions create policy procedures that confer legitimacy and are thus about processes rather than outcomes, but the Indian constitution is different. The Directive Principles of State Policy (an idea taken from the constitution of the Irish Republic) lay down the broad direction in which policies should move while the rest of the constitution lays down the procedures to be followed.

The Directive Principles focus on social and economic reform as a precondition to the construction of an economic system that is independent of international (mainly British) influence, and capable of neutralising problems created by the extreme concentration of wealth or the hierarchies of social advantage, including the caste system. In policy terms this translates into the weakening of property rights (representing the status quo) in favour of more egalitarian human, civil and political rights.

In terms of trade and economic policy in contemporary India, this dynamic imparts a fundamentally contradictory impulse to the policy process. At one level there is the urge to liberalise and to use the strengths of the globalisation process to generate economic growth within India; while on the other there is strong recognition that the process of social reform mandated by the Directive Principles remains to run its considerable course and that liberalisation without economic and social reform can lead to an intensification of the social divide, and ultimately to civil strife.

Both instincts are present in the Indian system, and both are present in the current political discourse, which is deeply polarised. At the same time, finding and building a consensus that bridges this divide is something that India's political leaders pursue as a matter of overriding priority given the nature of India's multi-ethnic political and

3. continued Following a decline in global cotton prices they were unable to repay their loans and were in danger of losing their farms. Many committed suicide in desperation. Indeed one of the reasons the BJP is thought to have lost the last general elections was because of this catastrophic example of globalization.

4. Planning Commission, Towards Faster and More Inclusive Growth: an approach to the 11th Plan, government of India, 2007

social mix, coalition politics and the constantly shifting balance of power within India's federal structure.

How does trade policy-making fit into all this? The short answer is that it is a very uncomfortable fit in which trade policy making and trade negotiations have to be open, inclusive and sensitive to business interests at one level, while at the same time honouring the larger political commitments to social and political emancipation at the other. Negotiating constructively at the multilateral level is additionally complex because it suggests an underlying commitment to the principles of a liberal international economic system where the domestic tradition does not.

Indeed the system is, if anything, becoming more sensitive to the social question because it could undermine and destabilise the whole process of liberalization.

The policy-making process is thus subject to unimaginably complex pressures that pull in completely contrary directions – something that very few countries face on a similar scale. How policy making is actually made and the use of consultation procedures is described below.

## TRADE POLICY MAKING IN INDIA

The trade policy making process breaks down essentially into formal and informal systems. Most of the formal systems operate within the structures of government and even so are relatively informal compared to domestic policy-making requirements.<sup>5</sup> The informal system draws in the business community (both private and public sector), and all other civil society groups including NGOs, think tanks, trade unions and others interested in getting involved.

The formal consultation procedure usually deals with the final phase of the consultative process – that is when ideas have been firmed up and fleshed out through the informal process – and when approvals are needed at different levels of government. It thus tends to work with 'settled' positions.

The informal consultation process is the more productive and creative of the two and helps governments develop policy ideas through a fairly open and inclusive process. The informal process does not oblige the government to consult stakeholders, which means that those interested in the policy process (at least non-business interests) have to register on the government's radar first before they can or will be invited to participate; because the system is fairly open and inclusive this is not particularly difficult and any analysis of the meetings, consultations, etc. will bring out the very wide range of interests consulted and the importance given to them.

The Indian system is also peculiar in that there are no really clear lines of responsibility. The Ministry of Commerce and Industry (MOCI) leads in trade negotiations through its delegation in

Geneva, but has limited jurisdiction to implement commitments domestically – indeed it is not responsible for enforcing or co-ordinating policies relating to liberalization and applying the principles of non-discrimination in India's internal market. This responsibility is divided vertically between the federal and state governments (as in agriculture and services), and horizontally across ministries at both levels, perhaps explaining to an extent why consensus on any trade policy move is so critical to implementation and compliance.

Moreover, some of the subjects that it negotiates upon lie within the constitutional jurisdiction of state governments (as with agriculture) thus making the consultative process extremely cumbersome and sensitive to local political pressures.

To ensure policy co-ordination a number of measures are used. Broad policy co-ordination and guidance, often without reference to specifics, is addressed through the National Development Council (NDC) of the Planning Commission, an extra-constitutional body created in 1950 to coordinate India's planning strategy. It is chaired by the Prime Minister and includes most important cabinet ministers and the Chief Ministers of all Indian states. They approve National Plans (annual and 5-yearly) and within that approve India's overall trade strategy.

At best it provides the framework within which to consider specific policy proposals. It is interesting that the NDC invariably makes direct reference to the importance of poverty alleviation strategies as being of central importance to all economic and trade strategies, thus highlighting concern about the possible social consequences of uneven development and growth. It is then for the individual ministries and state governments to carry out their objectives and strategies. For the MOCI to honour calls for inclusive growth whilst negotiating on a fundamentally liberalising trade agenda which pays little attention to poverty impacts is hugely problematic.

At a more functional and operational level, trade policy-making usually has two points of origin, and procedures vary according to who initiates the debate or the process.

### The reactive process: proposals from the Indian delegation in Geneva

Most trade proposals originate from discussions or proposals generated by other delegations in Geneva, which are referred to the MOCI by the Indian delegation with a recommended response or with a request for directions.

The MOCI then consults both formally and informally (the extent and depth depending on the urgency of the situation) with other ministries of the federal government, state governments, and business associations. If it is a substantive issue with major implications it usually also goes to a group of senior civil servants (a Committee of Secretaries chaired by the Cabinet Secretary) and then to Cabinet Committee on Economic Affairs (CCEA), chaired by the Prime Minister for approval. The Prime Minister in turn will brief opposition or

5. Essentially following foreign policy decision making procedures which do not require parliamentary approval.

party leaders if he feels that their endorsement is necessary. If routine and relatively minor, it is usually approved by the minister in charge of the MOCI. Where time permits, consultation spreads wider and further through the system.

Overall this process is reactive and was commonly used during the Uruguay round where India made virtually no proposals of its own and simply reacted to what others were offering. The process itself depends very substantially on the advice of the delegation in Geneva since its members have the best sense of the totality of the situation and how a proposal in one area can be balanced against something being negotiated elsewhere in the system.

Though the process is reactive, it is, in a sense, effective, but doesn't really allow for any depth of analysis or assessment or any real evaluation of impact. This may explain why India often adopts a defensive position to so many proposals that emanate from other countries – she has simply had no time to think through the implications and would not like to commit to something that could cause problems.

Moreover the time allowed for 'national examination'<sup>6</sup> is invariably inadequate for a system as large and complex as India's, particularly where there has been no prior policy evaluation work to draw upon.

### The proactive process: ideas and instructions from Delhi

The Indian government has increasingly taken the initiative with respect to generating negotiating proposals in recent years, suggesting an altogether greater level of comfort with the multilateral process than during the Uruguay round. These ideas are in turn based on an extensive domestic consultation process, both formal and informal, that often takes months or years to complete.

As yet, the Indian system does not mandate consultation with business associations or with civil society groups as part of policy making except with reference to labour issues,<sup>7</sup> which perhaps explains (in part) why they are so intractable. The government of India is thus free to consult whom it pleases and when it pleases. It is equally free to accept or reject ideas generated through the consultation process.

The process itself usually starts with an informal consultation that brings together the largest trade and business associations with NGOs familiar with trade and economic development issues. These business associations tend to be good at identifying new business opportunities and key defensive strategies, while the NGO community uses its considerable knowledge of the multilateral negotiating process, the experience of other countries in the developing and developed world, and the principal interests at work, to advise on feasibility, strategy and tactics.

6. The process that gives time to national governments to scrutinise and evaluate proposals made in the WTO.

7. But only through the Labour ministry and only with respect to certain subjects.

Once some sort of industry-government consensus is reached, then the MOCI attempts to build a consensus within the federal government and amongst state governments, through formal consultation procedures, and then to extend this through the system by consulting in ever widening circles until everyone is (largely) behind any consensus. Of course this can take years as new ideas and new perspectives are considered and evaluated.

This consultation process is both serious and necessary: the minister in charge of Commerce and Industry is neither senior enough nor powerful enough to push through any major proposal without the full support of all the major constituents of the coalition or of all major state governments. Building a consensus is thus a very slow process and is sometimes hostage to other political forces.

The consultation process within the government is formal and follows a structured process. Ministries concerned with particular policy areas have to be consulted in writing and their views have to be presented to the CCEA when the time comes. This is in marked contrast to external consultation which is selective and informal.

Approval of the Cabinet Committee for Economic Affairs (CCEA) is invariably required for major proposals, as with India's offer in Services and – especially where a strong defensive position is taken – approval of the National Development Council and sometimes of key parliamentary committees is also sought (if there is time). This has the effect of conveying to other countries that there are some red lines that India is not prepared to cross. Undoing this level of consensus is almost impossible. An example of the sort of issue that commands this level of (defensive) consensus is agriculture liberalization.

Interestingly, this overall process brings out some very peculiar features of the Indian system. The informal process is probably more useful and informative than the formal process, while most detailed thinking and analytical work relating to trade proposals comes from the NGO community and independent think tanks, and not from the government, academic or business community.

NGOs are uniquely placed, in a sense, to bring a host of complex economic and non-economic issues together in a language that policy makers and the public can understand, and are thus capable of influencing policy debates very significantly. The NGO community in India also draws extensively on their international networks to analyse the social and environmental impact of proposals. By doing so they are able to surmount a particular weakness of the Indian system, which is also something that prevents the government itself (either directly or through its various agencies<sup>8</sup>) from being able

8. The Indian Institute of Foreign Trade (IIFT) – which is part of the MOCI – should or could play this role, but really does not and indeed concentrates mainly on educational programmes. Where it does engage with the trade agenda, it tends to do only very narrow sectoral studies based largely on economic and commercial criteria and is thus of limited use for trade negotiations.

to evaluate the impact of proposals: the lack of usable, credible or reliable trade and commercial data.

The business community and their associations<sup>9</sup> are not as well equipped to do this, since they also lack credible data, and nor do they have a sense of the wider social and environmental implications of their proposals. Moreover, business associations in India were established, in the main, to lobby the government in their members' narrow interests, and not to influence the policy process more broadly. They have yet to complete the shift from being lobbyists to participants in the policy process.

At the same time, academic institutions play almost no role either in assessing proposals and their impact, or in formulating ideas. This is partly because they have never really ventured into research work relating to policy impacts (perhaps because they are largely government funded) and partly because of the same problem that bedevils the whole system – lack of data and statistics that they can work with.

As a result, Indian trade policy is largely shaped – though often indirectly – by the NGO community, and to that extent is probably well served in terms of finding and adopting strategies that will help reduce poverty levels and that will reduce social and regional disparities. However, this is hardly a system given that consultation is informal and that the basic stock of data and information is so weak.

Parliamentary oversight of the policy making process is also informal and often post-facto, and is decidedly less significant – in terms of generating policy proposals – than the informal consultation process. Consultation with parliament is however taken seriously and constitutes one element of the consensus building strategy.

At the conclusion of trade negotiations, the government only needs to obtain cabinet approval before signing an international agreement. This limits exposure in parliament but does not necessarily limit criticism (as was evident following the Uruguay round). In a sense, the power of the executive to enter into international agreements makes it all the more important to ensure that the provisions of that agreement enjoy widespread support. Otherwise – as was evident in India's case after the Uruguay round – implementation becomes hugely problematic.

## STRENGTHS AND WEAKNESSES

The Indian system is thus strong at bringing out the depth and durability of its political consensus on any particular issue, which often includes a strong poverty reduction perspective, but is weak in its capacity to assess the precise impact of negotiating proposals – whether economic, social or environmental – with respect to narrower debates. It is therefore good at articulating general fears (as with agriculture liberalization) but poor at

assessing whether there are in fact any sub sectors in agriculture or services (for example) where global market integration could be of benefit.

While a united political position is of some advantage in complex negotiations it does not really permit selective global economic integration, and nor does it allow for progress to be negotiated across a narrower range of issues. This in turn can neutralize the advantages of the whole negotiating process in Geneva. It is thus easy to see why many of India's negotiating partners complain of her negativity, particularly as her share of global trade is so small.

The foremost weakness has however to be linked to the issue of informal consultation. For private sector and civil society institutions to commit resources to a complex consultation process, suggests that they need to be assured that they will remain part of this process. By providing them a more formal role in the process, the government would be in effect telling them that basic research and data collection would be an investment worth making if it does indeed augment the quality of their participation. In the absence of formal channels of consultation, this incentive may not materialise leaving the system good at making broad assessments but poor at evaluating sector specific ideas.

## ANALYSIS

Underlying it all, there would thus appear to be two major reasons why India's trade policy making systems are so problematic and uncertain: weak information systems and inadequate consultation procedures – both internal and external – that somehow conspire to produce a very political position on major negotiating issues that effectively precludes constructive engagement with specific proposals. For example, neither the government of India nor the business community anticipated three critical developments in the last few years relating to implementation consequences of trade negotiations:

- The significance of outsourcing: the use of modern communications technology (a product of a 1996 WTO agreement on basic telecommunications that was much criticised in India at the time) created major new business opportunities for the outsourcing of various back office services, which are now projected to be worth US \$31 billion. To be sure almost no one anticipated this development in either developing or developed countries, so India was by no means unique in this respect, but perhaps this is a reflection on the general lack of technical capacity of all delegations during the Uruguay round.

- The impact on cotton producers of market based initiatives: the government failed to anticipate the instability in domestic cotton markets arising out of liberalization proposals in this traditionally productive (and profitable) sector. The collapse in domestic cotton prices drove thousands of small farmers to ruin and/or suicide. This chastening and indeed horrifying experience has led the government to fear all forms of agricultural liberalization.

9. The Confederation of Indian Industry (CII) and the Federation of Indian Chambers of Commerce and Industry (FICCI) are the most frequently consulted.

• The survival of the public sector: One major reason for India's reluctance to open her economy during the Uruguay round was that India's public sector would be unable to compete or adapt and would thus collapse leaving millions unemployed.<sup>10</sup> On the contrary, India's public sector continues to dominate some areas in the domestic economy and provides an effective platform for the export strategy of private companies. Part of this is because of the slow pace of reform and residual protectionism, but much of it is due to their capacity to adapt. This composite outcome was completely unexpected, with opinion swerving between radical privatization solutions to isolationist solutions. The public sector has weathered the transition far more effectively than anyone anticipated.

In other areas as well the impact on India's domestic economy of trade agreements has not been even moderately well anticipated. Textiles, pharmaceuticals, services, etc. have all faced major changes, but have all adapted reasonably effectively. To be sure there are two issues at play in all such situations. What policy makers assume will happen (usually based on a series of static assumptions) and how business copes with challenges associated with liberalization policies.

At the very least therefore the Indian system should have the capacity to analyse and assess the impact of major policy initiatives in areas such as these – more so where they relate to poverty alleviation strategies where the cost of failure can lead to economic and social calamity, as with cotton, but this capacity fails to exist either within government or the private sector or the academic sector. Most policy decisions are thus taken on the assumption that unless there is complete confidence that a decision to liberalize will benefit the country (and more specifically the poor) it should not be taken, or because ideas that work elsewhere should work in India. This is hardly a model of how policy decisions should be taken.

This raises questions of what sort of information is needed, how it should be collected, and what sort of consultation structure should be put in place to get the best out of the system. At the same time, the strengths of the current system – that is the use of political consensus to clarify limits to compromise – should not be jettisoned. A combination of political solidarity and strategic clarity on negotiating issues (born of informed internal debates) would indeed be formidable and would represent a breakthrough in levels of developing country engagement with the global economic agenda.

## THE NATURE OF THE PROBLEM

The policy making process currently relies for information, data, and statistics upon government agencies, mainly connected with customs and excise, the Reserve Bank of India (for banking and investment statistics), and assessments made by government established autonomous

bodies (such as the FIEO – Federation of Indian Export Organisations), trade promotion councils, and marketing boards. This is supplemented by information and assessments provided by business associations and industry lobbyists. For the most part these inputs are of extremely limited value and are often out of date. International agencies and international NGOs often have more useful and credible information but this is of limited use when assessing the domestic impact on jobs, poverty, etc.

How can this situation be rectified, especially given general governance problems, with tax compliance, data regarding employment in the unorganized sector, and the widespread falsification of invoices for both imports and exports particularly where small and medium enterprises are concerned?

At the same time, how can credible and independent assessments be generated outside the structure of governments and independent of business interests (defined in terms of lobbying interests); and how can this overall situation be improved against the background of an economic system where almost half the economy operates in the shadows.

Then, coming to the issue of consultation, how can consultative systems that do not have the means to generate independently reliable assessments of policy options rely on business led assessments which are often even more ill-informed? Will the system not end up relying on NGO assessments, which is essentially what happens now?

At one level these are typical governance issues associated with many developing countries and the quality of policy outputs is clearly related to the quality of inputs. However, a systematic effort to address these issues and to improve the quality of inputs should be possible for a country like India where there is evidently considerable willingness to consult and confer with the key stakeholders in any trade negotiation, and where everyone seems to recognise that the nature of consultation in the current context has moved well beyond former systems of lobbying.

The status of trade and business associations in the Indian policy making process has never been properly defined, and as a result they have no right to be heard, nor have they any status to claim that right. This is the same for all other civil society groups, with the single exception of trade unions.

Trade and business associations cannot register as lobbyists, though of course they can operate officially and openly as legal entities. The same is true of their functioning at the state government level. Structurally therefore their access and influence – except for the largest associations – depends on their relations with ministers and senior civil servants. This situation often arouses deep suspicions, particularly in the Indian context, relating paradoxically to the excessive influence of these bodies.

As mentioned earlier, these associations were established to lobby the government with respect to various policy issues of concern and interest

10. A point he famously made to business people at Davos during the early 1990s

to their membership, and not to assist the government in preparing for multilateral trade negotiations. Organizationally therefore they are not particularly cohesive where issues of market access and competition are concerned since the purpose of their lobbying has little to do with market liberalisation and everything to do with market management. Their membership, again for the most part – though this is changing rapidly – has little knowledge or interest in the outside world and has not developed common positions that transcend the narrow sectors in which they operate.

## SOME POSSIBLE IMPROVEMENTS

### Structured consultation

For this situation to change, the government probably needs to institutionalize a structured consultative framework that provides every association (that operates at the national level) with the right to be heard on issues that would or could affect them. Something like the Administrative Procedures Act in the US would perhaps be appropriate, together with much higher standards of transparency and access to government sources.

If a similar arrangement were to operate at the state level, and if it were to be extended to civil society groups, think tanks and academic institutions, the impact on the organization of trade and industry associations and others capable of policy research would be significant, if not transformational.

For business associations there would be less emphasis on high level contacts designed to parley their position and influence to advantage, than on genuine research and evaluation of policy issues and policy options. The whole operational culture would (hopefully) become more professional, and the orientation of these bodies would in effect match the expectations of their membership in terms of genuinely informing the policy-making process in respect of internal trade policies, and perhaps helping to shape trade policies in respect of the multilateral process.

A decision to institute a mandatory and structured consultation process would also provide the incentives needed for trade and industry to invest in internal systems and procedures that generates usable and credible statistics and commercial data.

Better still the process could similarly mandate that the objectives of poverty reduction and inclusive growth form the basis for any policy recommendations that emanate from these bodies. Thus the government would receive advice about preferred policy options including some detailed analysis on how these options would address the government's social and environmental priorities.

A structured process would also create a market for these services that could be met through the academic system or through NGOs, thus effectively widening the consultation process significantly, and helping to build an altogether more informed policy community.

Perhaps the key contribution would be in assessing the impact of negotiating proposals on specific economic sectors. At the moment no one really has any idea how proposals would play out in terms of employment, economic growth, the environment, regional development, etc. with respect to any specific sector under review. This consultative process would provide some much needed clarity with respect to this process and would offer business associations and other civil society groups an assured prospect of having their research and analytical work considered seriously – a situation that doesn't exist at the moment.

The downside of this proposal is that the sheer scale of the consultative process could effectively deadlock the decision making system entirely. The size and complexity of the Indian system is such that no quick process would be possible – at least not if consultation was to be wide and deep.<sup>11</sup> It would be a challenge to design a consultative process that is both quick (where needed) and deep (where there were no time pressures), and that embraces consultation at the state level as well, and perhaps the procedures followed by other federal countries could serve as a model.

Obviously the key to success in designing such a system would lie in anticipating negotiating options and proposals well before they are formally articulated at the WTO level, and to set in train the consultation process with a sufficient lead in time to collect the data and generate the research needed. Initiative to set this process in motion could, in the Indian system, only come from the Prime Minister and the cabinet.

In terms of costs – again a very real consideration for developing countries – the beauty of this approach is that it would essentially create an opportunity for business associations and others to take advantage of. This in turn could generate a market for research and analytical services of its own that would not depend on government intervention; and simply by mandating that policy options need to consider poverty reduction and inclusive growth objectives, the government would succeed in creating a vital institutional tradition within the commercial and academic sectors that would systematically look at these issues from a social perspective – again at no major cost to the government.

The direct cost to the government would be in servicing this entire process, which could be considerable. However, given the possible benefits (both commercial and political) it would be well worth the effort.

Moreover, from a purely political perspective one of the problems with the current system of a rules based multilateral system is that structures of domestic accountability are weakened. By establishing a process of this sort, a reasonable proxy of the domestic policy making process could be achieved in terms of its legitimacy.

11. This is the problem of 'giantism' identified by Lewis (1995).

## Information and statistics

While a structured and mandatory consultation process may indeed improve the quality and reliability of statistics and commercial data generated through the business and NGO sectors, there is still a lot of information and data that only the government and their various agencies can generate. While most of this could be fed into the public domain, some of it would remain confidential.

An extensive exercise thus needs to be done (both within the government and in consultation with others) to identify the types of information and data required, the degree of detail, frequency and levels of reliability, and to find the funding for its collection, collation and dissemination. This is potentially a huge exercise, but could initially be limited to generating information in critical areas where policies are currently under negotiation. The Indian Statistical Institute (ISI), which was created in the 1950s for this very purpose and which has done valuable work over the decades could easily be funded to co-ordinate this ambitious requirement.

From the government's point of view resources are limited and they would need to concentrate on generating material in select areas of interest and priority to them, against tight deadlines, and with specific reference to the poverty reduction perspective.

Analytical work could be outsourced again to independent agencies outside the government, which would add to the market generated by business association led research work. No single 'system' as such would appear to be appropriate, as it really wouldn't matter whether an academic institution, a trade union, a business association or an NGO did the study, as long as the contents were credible and usable. A far more open approach to this area of functioning would perhaps probably pay the greatest dividends over time.

The key issue here would be to find the funding. Given the extreme sensitivity of trade related issues and the enormous costs of failure as against the rewards of success, it would seem entirely logical that the government should find the resources needed to generate this information internally. Tax deductions could encourage private investment in policy research, but tax resources would be needed to generate the data from within the government for this extensive capacity building programme.

Where government funding is needed it should not be financed by aid agencies or international organisations. This is for two reasons. The first, finding the appropriate mix of trade and economic policies that serve a poverty reduction objective should in any case be a domestic policy priority. With aid agencies and foreign governments getting involved there will be a danger that the agenda will be adapted to serve paymaster interests. The process will thus enjoy much higher domestic credibility if it is entirely free of foreign influence.

It would also give these countries a greater sense of control over their economic destinies that many currently feel is slipping away. This in turn

would strengthen structures of accountability and legitimacy, which in turn and in time would address a host of other governance issues.

## Wider applicability

By demonstrating that this is really not difficult or expensive to carry out, but rather a matter of organisational clarity and some selective institutional upgrading that can be induced by offering structured consultation procedures, these recommendations could have similar relevance to other developing countries faced with similar dilemmas regarding the quality and relevance of policy inputs and their relationship to poverty reduction strategies.

At the same time, the scale of policy process reform in other countries could be easily adapted to their requirements. In India's case this would need to cover most economic sectors given the diversity of India's economy, its federal structure, and the broad front on which it negotiates globally. For many countries the challenge would be more limited and could perhaps be addressed through the simple restructuring of consultation procedures that will induce the necessary improvements at very little additional cost.

It is also true that for many countries this approach would be difficult to adopt either because most organised business operating in the domestic economy is foreign owned and would therefore have little interest in poverty reduction as a policy objective, or because the cost to governments of setting up and running systems of the sort described above would simply be too high.

Here again there are some lessons from the Indian experience that are instructive. The first is that most useful inputs on trade policy matters come from the NGO community and not from the business community, and only now is this beginning to change. Their advice is generally more sensitive to poverty related issues and can form an effective first stage in the policy consultation process at very little additional cost. It is also remarkably well informed. Most developing countries have a fairly well developed NGO network (although sometimes contaminated by donor influence) which would for the most part respond happily to inclusion in consultation processes.

Secondly, the NGO community in these countries could draw – as in the Indian case – on the work done in other countries and thus share useful policy experience. This is not something that the business community is particularly good at, but it is something that the NGO community has been doing for years at the national and multilateral levels.

Thirdly, the NGO community is also adept at dealing with the larger political context in which governments operate – and here I refer to dealing with the World Bank and the IMF with reference to debt relief and other structural adjustment strategies. Their participation in the consultative process could in effect draw on policies like the Millennium Development Goals to highlight the poverty reduction issues relating to trade policy

choices that would be useful.

Obviously the choice of model will ultimately be uniquely national, and prescriptive suggestions are of only limited value. Nevertheless, developing countries need to find reasonably low cost solutions to the problems of raising their negotiating capacity, and harnessing the strengths of NGO networks could be one way of achieving this.

## CONCLUSION

The current consultative process may be good at political consensus building but lacks an institutionalised procedure for effective engagement with the trade policy agenda because it is informal and ad hoc. Moreover, it relies for its assessments on a fundamentally weak layer of data and statistics, thus compromising the reliability and dependability of the whole process.

The overall impact of a more transparent, accountable and legitimate policy making process, based on formalised and institutionalized systems, and on more credible information and data resources, would directly help governments address problems of poverty and inequality through both market and non-market based approaches. It would in turn impart clarity to the nature of the policy challenge they face and give greater confidence in their choice of policy solutions.

At the same time any redesign of the system would need to consider the complexity of the policy process in India and to think through how these mechanisms could be set up to deal with the possibility of endless delays.

This briefing paper argues that limited institutional reform in a country like India could help drive a transformational process that would not only raise the quality of policy debates and ensure that they are altogether better informed on the details of proposals being considered, but would additionally tie them more closely to broader strategies of economic growth and development that ultimately succeed in achieving the goal of inclusive growth.

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