

TAKEAWAYS AND FOLLOW-UP SUGGESTIONS FROM THE 8 JULY RETREAT ON WTO DECISION MAKING & WAY FORWARD

Communication by H.E. Mr. Petter Ølberg,
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1 Introduction

1.1. On 8 July 2024, an offsite retreat on «WTO Decision Making & Way Forward» was held in Geneva, at Heads of Delegation level¹ – with 122 participants.² The objective was to engage in candid forward-looking discussions. Work immediately commenced in the six breakout group sessions, ably facilitated by six Ambassador-Facilitators. These were: H.E. Dr. Athaliah Lesiba Molokomme (Botswana); H.E. Mr. Matthew Wilson (Barbados); H.E. Ms. Mazlilah PG Mahalee (Brunei Darussalam); H.E. Dr. Sofia Boza Martínez (Chile); H.E. Mr. Muhammadou Kah (The Gambia); and H.E. Mr. Simon Manley (United Kingdom). On behalf of the General Council, I wish to express my sincere gratitude to these colleagues for agreeing to take on this additional responsibility.

1.2. As announced in the run-up to the retreat, as well as at the retreat, I have reflected on the discussions and have prepared a document outlining some high-level takeaway points. Respecting the Chatham House rule under which all sessions have been held, this document is neither aimed at capturing all discussions that took place, nor making any attributions. Instead, I attempt to draw on the discussions and identify possible follow-up actions.

1.3. As indicated in the modalities and retreat agenda communication³, I am circulating this document under my own responsibility. In other words, it is without prejudice to the positions of Members or to their rights and obligations under the WTO. This is my attempt, as the Chairperson you elected, to capture the essence that emerged in our exchanges that could carry our work forward. I thank all Members for their active, inspiring and insightful contributions and I also wish to thank you all for the trust you placed in me as your Chairperson. I am confident that we can build on the rich discussions that we held during the retreat and collectively work towards our shared objective and responsibility of providing this Organization – and us, a clear path and way forward.



¹ Modalities and Retreat agenda contained in JOB/GC/399; Logistics note contained in JOB/GC/400.

² List of participants circulated in an Addendum.

³ JOB/GC/399

2 Key areas of focus

2.1. Our discussions in the plenary were focused and structured around three main areas: (i) trust, (ii) consensus, and (iii) enhance Geneva.

Trust: Transparency and Inclusivity

2.2. *Inclusivity*: There was a strong call for transparency and inclusivity in all processes, ensuring that all Members are represented. This includes better use of, and potentially a strengthened role for, group coordinators and regional representatives to ensure all perspectives – and more importantly, all interests – are duly considered and represented.

2.3. *Green Room meetings, small group meetings and other configurations*: A recurring theme was the need to balance the efficiency of small, informal groups (frequently referred to as «Green Rooms») with the principles of transparency and inclusivity. The importance and utility of such configurations was widely acknowledged, including in facilitating decision making. However, many interventions also clearly emphasized that such configurations should not exclude Members and their interests unfairly and unduly. Instead, for the legitimacy of any configuration and process, it would be of paramount importance to ensure that all interests are duly and reasonably represented, and that those that are not directly participating in these configurations are kept abreast on an ongoing basis.

2.4. *Scope for enhanced transparency measures*: Suggestions included establishing clear and transparent guidance for the operation of small group configured processes, including Green Rooms; ensuring that all Members are informed about any such discussions and any preliminary understandings/decisions that may emerge from such configurations; and, when possible, live-streaming small group discussions to increase transparency and inclusivity.

Consensus: Understanding and implementation

2.5. *Definition and practice*: The discussions demonstrated that Members overwhelmingly wish to preserve consensus decision making. The concept of consensus was discussed extensively, with a focus on distinguishing it from unanimity. Consensus should not be (mis)used as a tool for vetoing but rather as a means to build convergence and foster genuine agreement.

2.6. *Transparency when objecting*: Members that cannot join consensus should explain their reasons in a straightforward and transparent manner. This could help address misunderstandings and provide opportunities for dialogue to find a practical and workable way forward.

2.7. *Improving the consensus mechanisms*: There were discussions on how existing tools could be utilized more effectively to foster consensus decision making. These tools include, but are not limited to, the application of footnotes, exemptions, opt-out and sunset clauses - to help Members navigate when deadlocks arise. In this context, the notion of «responsible consensus» was also mentioned in some interventions, calling on Members to use their right to object judiciously.

Enhance Geneva: Work in intervals between Ministerial Conferences

2.8. The discussion clearly demonstrated that there is a shared will to work more effectively and productively in Geneva and make better use of time and the power of Councils and Committees, in particular the General Council, in the intervals between Ministerial Conferences (MCs).

2.9. *Possible General Council reforms – «dramatizing Geneva vs de-dramatizing Ministerial Conferences»*: Participants called for more productive use of the General Council in the intervals between Ministerial Conferences to prepare for MCs, and in so doing, help reduce the burden on Ministers. This may include more substantive/thematic retreats and meetings in various formats on key issues, such as agriculture and fisheries. Also, Permanent Representatives are designated senior empowered officials and need to assume their role and show leadership.

2.10. *Role of Chairpersons*: The crucially important role of the GC Chairperson and Chairpersons of other Councils, Committees, or Negotiating Groups, as well as the role of the Director-General as TNC Chairperson, were highlighted as critical for facilitating discussions and assisting Members in overcoming potential obstacles and hurdles in negotiations. In this context, I also heard the need to empower and trust elected Chairpersons to perform the roles for which they were elected.

2.11. *Enhanced Secretariat role*: Suggestions were made to enhance the role of the Secretariat to take a more proactive role, including by providing relevant analysis and facilitating technical discussions. As with the Chairpersons, I heard the need to trust the WTO Secretariat, comprising international civil servants, to impartially serve the needs and interests of Members.

2.12. *Stakeholder involvement*: Increasing stakeholder involvement was suggested, with a focus on ensuring that stakeholder participation is meaningful and not merely ceremonial.



3 Specific follow-up suggestions

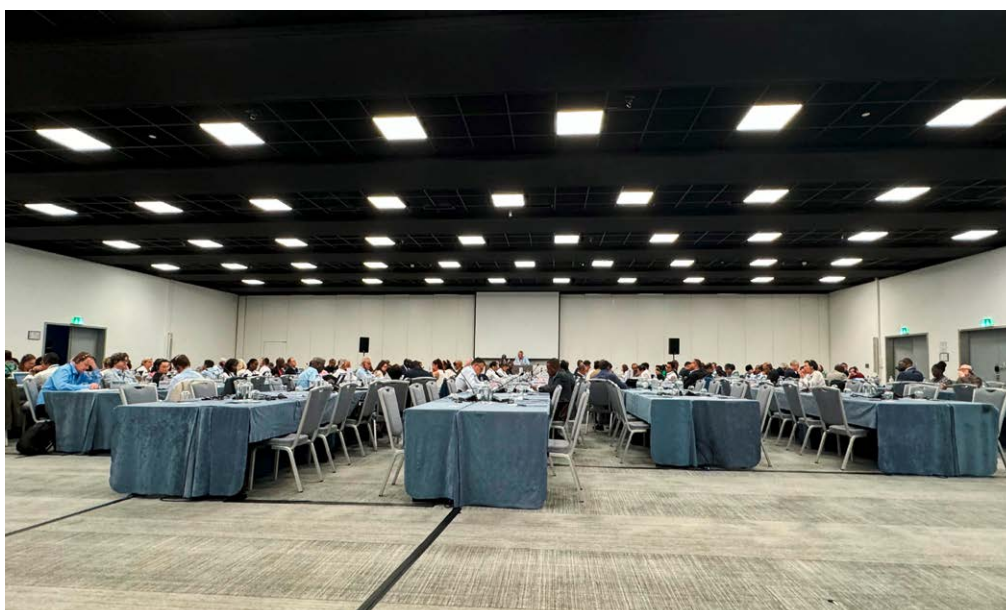
3.1. Based on the feedback we received from the Facilitators at the start of the plenary session, as well as our discussion during the plenary session, the following specific actions come to mind – which I suggest for Members' consideration:

- **Transparency and inclusivity principles for informal, small group processes:** Drawing on past experience, we could ask the Secretariat to formulate guidance for the effective operation of small groups, including green room meetings, to ensure transparency and inclusivity.
 - **To ensure transparency, the following could be considered:** live streaming when possible; listening-in rooms; information notes; informal plenary meetings to report on state-of-play; *ad hoc* briefing sessions for Members by Secretariat (especially during Ministerial Conferences).
 - **To ensure inclusivity and address capacity challenges, the following could be considered:** 'reasonable representation of all interests'-approach («burden sharing»); enhanced role of group and regional coordinators as appropriate; potentially topic-specific or 'reasonably representative interest' groups.
- **Call a spade a spade:** Not all small meetings convened by the Director-General, the GC Chairperson or the MC Chairperson are automatically Green Room meetings. Not all small meetings convened during Ministerial Conferences, or in the run-up to Ministerial Conferences, are automatically Green Room meetings. Small group meetings are often also convened by a Member - or a group of Members, these should also not be mistaken for Green Room meetings/processes.
- **Seek workable forward-looking solutions:** The use of footnotes, exemptions opt out and sunset clauses to help navigate around obstacles and impasses.
- **Improving the utility of GC meetings:** Instead of five regular GC meetings, retain four regular GC meetings (quarterly) to ensure the necessary space to take administrative and substantive action/decisions. In addition to these regular meetings, convene, as necessary, 1-2 thematic/dedicated informal GC/HoDs meetings, including in the retreat format, to address key issues in an honest and in-depth manner, including to prepare for MCs. This could help carry substantive discussions forward, improve the understanding of each other's positions and interests, as well as, in the context of Ministerial Conferences, reduce last-minute decision making or overloading of the MC/Ministerial agenda. Senior Officials' Meetings (SOMs) were also mentioned as a possible tool in this context.
- **Reaffirm «shepherd» role of Chairpersons:** Chairpersons ought to keep everyone informed and all interests on board. Chairpersons need to steer focus on substance rather than process. In turn, Members need to afford their elected Chairpersons due trust and space to perform the role and function for which they have been elected.

- **Enhance the role of the WTO Secretariat:** To facilitate discussions, enhance the Secretariat's role in providing expertise and analysis as a «neutral/impartial facilitator» serving Members' needs and interests.
- **Engage stakeholders:** Develop mechanisms to ensure that stakeholder involvement in Geneva is substantive and contributes positively to decision-making processes.
- **The power of «no» comes with accountability/responsibility:** I detected clear calls for accountability when a Member exercises its right to object. When a Member is unable to join consensus, that Member should accompany its objection with relevant information – so as to provide proponents with an opportunity to engage with the objecting Member(s) and arrive at mutually acceptable and workable solutions. The idea is not to allow matters to drag on indefinitely but rather to arrive at mutually acceptable and workable solutions.

4 Conclusion

4.1. In the discussions at the retreat, I detected a collective desire to enhance decision-making processes in Geneva, build and restore trust, uphold consensus decision making in a manner that delivers results and ensure the WTO remains fit for purpose. The takeaways and follow-up suggestions that I have put forward in this paper, under my own responsibility, aim to translate the insights that I drew from the wealth of our discussions into actionable steps that can drive the WTO forward.





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Find out more

