

With respect to the issue of internal legitimacy, I shall argue that the difficulty with the decision-making procedures in the WTO do not result from defects in the rules, but rather from the revealed preference of the Members of the WTO to proceed largely by consensus, cumbersome as that might be. Changing the procedures for taking decisions is not likely to change the attitudes of WTO Members. Furthermore, changing the decision-making rules would only exacerbate the problems of internal legitimacy within the WTO, because it would increase the perceptions of developing countries that they are not included in the decision-making processes. However, the WTO has become a very complex enterprise and needs a smaller body than the General Council to address the many administrative, procedural and housekeeping issues that arise, as well as to help set priorities and to help provide direction for the system. In my view, a management board could be made to work in a way that would be inclusive of all WTO Members.

With respect to the issue of external legitimacy, it is the dispute settlement system that has attracted the most attention in the last few years. Whereas the political and legislative bodies of the WTO have been viewed as weak and incapable of taking decisions, the WTO dispute settlement system is viewed by most delegations and observers as having been extremely effective—some would even say "too strong".<sup>1</sup>

To an important extent, this line of criticism of the WTO is emerging from the United States. There is a growing perception in Washington—especially among lawyers representing U.S. industries in antidumping, countervail and safeguards investigations—that the WTO panels and Appellate Body have been

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<sup>1</sup> European Trade Commissioner, Pascal Lamy, in a speech to the German Council on Foreign Relations in Berlin on November 27<sup>th</sup>, 2001 (after the Doha Ministerial Meeting) stated that "the WTO is fundamentally a weak institution. ... The WTO has a substantial body of rules, including a very strong (some would say too strong) dispute settlement system, but its rule-making machinery is heavy-handed and indeed sometimes chaotic—decisions reached by consensus, usually only at the intermittent biannual Ministerial meetings." Trade Commissioner Lamy's speech is available at [http://europa.eu.int/comm/trade/speeches\\_articles/spla86\\_en.htm](http://europa.eu.int/comm/trade/speeches_articles/spla86_en.htm).