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THE ROLE OF PARLIAMENTS IN SCRUTINISING AND INFLUENCING TRADE POLICY

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on

**THE ROLE OF PARLIAMENTS IN SCRUTINISING AND INFLUENCING TRADE
POLICY**

- A COMPARATIVE ANALYSIS -

Abstract:

The study covers most important aspects of national parliaments' involvement in trade issues, including the WTO parliamentary conference and interparliamentary relations. It examines parliaments' working style, "legislative-executive relations", the channels of parliamentary scrutiny and the general impact of parliaments' activities on government policy and WTO outcomes. The study includes 11 country studies on the trade scrutiny activities and competences of parliamentary bodies in the United States, Mexico, Australia, Russia, South Africa, Iran, Thailand, Switzerland, India, Brazil and Japan.

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The Role of Parliaments in Scrutinising and Influencing Trade Policy

o

A Comparative Analysis

Report

by

German Institute for International and Security Affairs

(Andreas Maurer, resp.)

under Contract No. EP/ExPol/B/2005/09

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I. Introduction: The Role of Parliaments within the WTO

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Do the dynamics of international trade politics and global governance erode parliamentary democracy? Against the backdrop of the overall evolution of the WTO, some national parliaments are intensifying their focus on issues relating to their role in international trade, multilateral trading systems and international trade organisations' decision-making. This study seeks to show **how national parliaments (re)-act in and adapt to a dynamic institutional and procedural set up. How do parliamentary actors in different national and socio-political settings, and forged in different national traditions, adapt to common challenges, constraints and opportunities for which they are mainly responsible themselves, since they have ratified the fundamental set-up of these opportunity structures?** Do international treaties matter - and in how far do they matter - for the set-up and the functioning of parliamentary involvement on the national level of global governance?

Elected representatives have a „legitimate role, not only in representing citizens, but also in expressing the will of the State in international relations. Governments must share the competence, authority and space to conduct international relations out from Executives and officials (diplomats and others) to elected representatives.”¹ During the last years, many national legislatures and interparliamentary groups have expressed support for a greater role for parliamentarians in global governance. In this respect, the September 2000 declaration of the presiding officers of national parliaments meeting at the United Nations underlined that „Parliaments embody the sovereignty of the people and can, in all legitimacy, contribute to expressing the will of the State internationally [...] parliaments and their members must assume increased responsibility in international relations”² They therefore called on all national legislatures to „strengthen their activities and capacities at the domestic level in order to undertake larger international responsibilities. This should include „continuous dialogue” with the public on international affairs, better use of current legislative procedures, involvement of all parties and members, contributions to government negotiations, better information gathering, and „a more proactive role in ratification and compliance with international agreements.”³ As regards interparliamentary cooperation for exchanging views on parliamentary scrutiny in transnational governance, the Inter-parliamentary Union and the European Parliament have acted as joint initiators of this kind of dialogue.

In theory, Parliaments may use their traditional control and ratification powers to shape international regimes and try to maximise the returns on this use of power. Yet in order to assess their capacity to do so, it is important to define the nature of the challenges facing parliaments in a growing international trade regime. To this end, the following background conditions are of relevance:

- the dynamic evolution of new and refined agreements leading to an ever-increasing set of frameworks for policy-making in the area of trade policy, e.g. the construction of the services trade regime on the multilateral level in the form of the General Agreement on Trade in Services (GATS) in the framework of the World Trade Organisation;
- the subsequent widening of the functional scope of the WTO leading to a sectoral differentiation of an increasing variety of policy issues within the trade regime, and thus involving more and more national actors;
- the creation of institutions by subsequent trade agreements lead to an increasing number of interaction styles and modes of governance within the process of regime-building;
- the set-up of different kinds of formal and informal procedures, which provide the actors with several opportunity structures for consensus-building. The WTO regime foresees complex decision-making rules, and decisions in the WTO are always taken by consensus. This procedural differentiation increases the complexity of regime-building in the area of trade policy and the need of national actors to improve their procedural skills;

- the activation of policy networks, as well as procedural and working mechanisms, which allow a growing set of interest groups outside the ‘official’ array of institutions to participate in International Trade Organisation (ITO) policy-making. This specific kind of regime-building within the WTO gives rise to the imperative of allowing more and more actors to articulate their opinions. Consequently, the WTO regime induces an increasing need to take political sensibilities in a broader set of coalition games into account;
- the increase in scope and density of legal obligations. The growth of the WTO’s *acquis* indicates both the rise of the para-constitutional set-up as well as the ‘invasion’ of the legal space of member states.

Given these background conditions, we ask whether national parliaments are catching up with the profound change of their politico-institutional environment: are parliamentarians the losers of international policy-making in trade matters? Alternatively, are we witnessing a process of institutional adaptation to the WTO’s trade regime? Within the framework of our study, these questions need to be addressed by focussing on two facets of the WTO regime: the very nature of the WTO as a regime for establishing a multi-level system of governance, and - as a consequence - the opportunities and challenges for shaping a specific kind of parliamentary governance within the WTO’s institutional design and its dynamics.

1. Steps towards a parliamentary dimension of the WTO – from Bangkok to Brussels

The **first interparliamentary exchange of views on international trade policy and the WTO dates back to February 2000**, when an initial parliamentary meeting was held on the occasion of UNCTAD X in Bangkok, Thailand.⁴ The meeting was organised by the Inter-Parliamentary Union (IPU), and attended by representatives of 53 Parliaments who adopted a Declaration on the IPU „as the world organisation of parliaments of sovereign States, to pursue and strengthen its dialogue and cooperation with multilateral institutions active in the field of trade [...], in particular with WTO, UNCTAD and the Bretton Woods institutions” with the objective of providing a parliamentary dimension to these multilateral negotiations. Participants called upon the governing bodies of IPU „to establish an **Ad Hoc Commission to look into issues relating to parliamentary follow-up** to the third WTO Ministerial Meeting in Seattle and to make appropriate recommendations for action”.

The European Parliament strongly favoured this development and organised on 8th and 9th June 2001, the first Parliamentary Meeting on International Trade „For a free, just and equitable multilateral trading system: providing a parliamentary dimension” was held in Geneva, Switzerland with members of over 70 parliaments. The meeting adopted a final declaration highlighting the necessity of reinforcing national parliaments’ oversight and control of government in trade negotiations, and expressing the desire to develop a parliamentary dimension to these negotiations. On that basis, in Autumn 2001 the European Parliament and the IPU organised the Working Group to prepare a parliamentary meeting on the occasion of the fourth WTO Ministerial Conference. The group adopted a first substantive report on „**Parliaments and International Trade**”, which became a basis for the debate among parliamentarians in Doha. On 25th October 2001, the European Parliament passed a Resolution on openness and democracy in international trade, in which the MEPs proposed „**the creation of a parliamentary Assembly within the WTO with consultative powers**”.

On the occasion of the fourth WTO Ministerial Conference in Doha, Qatar, on 9th-13th November 2001, the parliamentary meeting that was jointly convened by IPU and the European Parliament discussed **two different institutional strategies for strengthening the parliamentary dimension of WTO**. While one group of participants proposed the establishment of **a unique parliamentary body** formally linked to the WTO, another believed that the **parliamentary dimension of the WTO should be provided through the IPU**. Given these opposing views, a steering group under the joined European Parliament/IPU aegis was set up to propose options for the parliamentary dimension of the WTO and to prepare a Parliamentary Conference on the WTO for February 2003. The final declaration of this Conference adopted a compromise position by proposing regular **Parliamentary**

Conferences on the WTO held once a year and on the occasion of WTO Ministerial Conference with the aim to „oversee and promote the effectiveness of WTO activities; maintain dialogue with governmental negotiators and civil society; and facilitate information exchange, sharing of experiences and capacity-building for national parliaments in matters of international trade, in particular, concerning the WTO, and to exert influence on the direction of discussions within the WTO“.

Thus, on 9th and 12th September 2003 the Parliamentary Conference on the WTO on the occasion of the Cancun WTO conference brought together more than 320 delegates from 70 countries and 5 regional parliamentary assemblies. Whereas the preceding Conferences discussed strategies for establishing a multilateral forum for parliaments with regard to the WTO process, this meeting focussed on **unilateral means for strengthening parliamentary accountability in WTO matters**. The final declaration of the Cancun meeting called the governments participating in the 5th WTO Ministerial Conference to *more closely associate parliaments with the activities of the WTO*. The meeting called on all WTO Members to „include members of parliament in their official delegations to future Ministerial Conferences.“ To streamline parliamentary scrutiny in WTO matters, the parliamentarians stated their commitment „to increase our activities in all parliaments to oversee and influence government policy“ in the field of international trade.

The following Parliamentary Conference was held from 24th to 26th November 2004 in the European Parliament. **As a step towards institutionalising the Parliamentary Conference, this meeting adopted Rules of Procedure (RoP)**. According to the RoP, the IPU and the European Parliament are formally recognised as joint hosts, organisers and presidents of the Parliamentary Conference on the WTO which is an official parliamentary event that is open to the public. The objectives of the Conference are (Art. 1 RoP): to act as „a forum for the exchange of opinions, information and experience, as well as for the promotion of common action on topics related to the role of parliaments and the organisation of parliamentary functions in the area of international trade issues.“ The parliamentary dimension of the WTO is to be provided by (Art. 1.3 RoP) „overseeing WTO activities and promoting their effectiveness and fairness – keeping in mind the original objectives of the WTO set in Marrakech; promoting the transparency of WTO procedures and improving the dialogue between governments, parliaments and civil society; *and* building capacity in parliaments in matters of international trade and exerting influence on the direction of discussions within the WTO.“

2. The imperative and nature of a parliamentary dimension to the WTO

In a more and more interdependent world, questions of international trade have become so important that they can no longer simply be left to governments. Therefore, **individual legislators realise that their national bureaucracies should be subjected to vigorous democratic oversight by parliaments. Moreover, the issues dealt with by the WTO have escaped the boundaries of what might narrowly be defined as ‘trade policy’**. The creation of the WTO with its legally binding decision- and rule-making as well as adjudication powers, and the widening scope of application of these powers towards more and more policy fields in subsequent years (the WTO rules extended beyond the traditional domain of tariffs and trade in goods, and now incorporate policy fields such as intellectual property, services, banking, telecommunications, government procurement, health, education, employment, food safety, environment, as well as the management of natural resources such as forests, fisheries and water), encroached upon some of the traditional prerogatives of legislators as the primary lawmakers in a democratic state.⁵

As Kobsak Chutikul, MP of the Parliament of Thailand, points out, **the international „policy-making process rapidly loses its legitimacy when the WTO extends into [...] national policy spheres requiring significant parliamentary debate and oversight**. [...] The increasing influence of the executive and the internationalisation of decision-making means that **the legislatures, and therefore also the people, are underrepresented**. As a result, trade policy often fails to reflect the full diversity of views and opinions that are required to ensure a balanced outcome. Unless corrected, such lack of balance inherent in the current approach may cause more and more citizens to question the legitimacy of the WTO and may ultimately undermine public support for an open, rules-based multilateral trading

system. Moreover, failure to do so may pose a threat to national interests and democracy itself, as has been amply manifested by protests seen all over the world - from Seattle to Bangkok and from Genoa to Porto Allegre.”⁶

The debate within and between parliaments arising from these developments may have far-reaching implications: many actors and observers ask whether as important a global policy-making organisation as the WTO should not have a parliamentary structure associated with it, and if so what the latter’s role, functions and structure could be. The first meetings of the Parliamentary Conference of the WTO showed that there are different means to reduce the democratic deficit of the WTO.⁷ We could roughly **differentiate between unilateral and multilateral instruments for allowing parliaments to participate in the WTO policy-cycles.**

In this context, parliamentarians are confronted with the task of identifying the **relationship between the national level of parliamentary scrutiny and the parliamentary dimension of the WTO.** Given the actual linkages between the WTO parliamentary fora and the variety of unilateral, national mechanisms for parliamentary participation in WTO policies, this relationship can be considered as a complimentary or an exclusive one. While acknowledging the efforts made by the Inter-parliamentary Union and the European Parliament in establishing a multilateral format for parliamentary scrutiny in WTO affairs, **our study concentrates on the unilateral instruments.** The objectives are:

- To explore the ways in which parliamentary actors in different national settings ‘acclimatise’ to the common challenges of having to improve their input into the decision-making of International Trade Organisations (ITO),
- To identify good as well as poorer practices in national parliamentary engagement in ITO decision-making,
- To analyse the impact of mechanisms for national parliamentary input into ITO policy-making.
- To highlight national differences in policy priorities and formal as well as informal scrutiny procedures of national parliaments’ engagement in multi-levelled decision-making.

Thus, since actors in national parliaments operate not only on different formal bases but also with different interpretations of national parliamentary participation in International Politics – ranging from „control” to „scrutiny” to „cooperation”, we intend to explore the differing basic understandings and scrutiny mechanisms of national parliaments’ participation in ITO policy-making as well as their effectiveness.

3. Methodology: Exploring the parliamentary dimension of the WTO’s system of multi-level and multi-actor governance

While there has been a quantitative growth in trade policy on the regional and multilateral level, as well as in trade in services, the institutionalisation and constitutionalisation of the global trade regime remains under construction. The WTO regime is a flexible and unstable pattern of global and multi-level governance. We adopt the definition of multi-level governance⁸ as the pattern of interactions and decisions by which actors from several and distinct arenas⁹ allocate values¹⁰ through joint problem-solving and taking of collective decisions which are supposed to be binding on governments and other actors.¹¹ Assuming a polyarchical, decision-making process, the WTO’s arenas do matter but only as one realm of collective decision-making and implementation. International multi-level governance thus contributes to a „decrease in the unilateral steering by government”¹², and an increase in the self-governance of various actors and arenas. Multi-level systems use different means to regulate inter-institutional relations, to give legitimacy to their institutions and to make democratic decisions. Certain instruments like elections and inter-governmental procedures work only on the condition that non-institutional and collective political actors - such as governments and administrations, parliaments, political groups, political parties and intermediary actors - cooperate well within an open net of cross-level interaction arenas.

The increasing scope of WTO activities and the differentiation of institutional and procedural outlines affect and undermine the traditional legislative function of national parliaments. The functions of national parliaments are reduced to three major tasks: ensuring the accountability of governments with regard to their activity in WTO affairs, ratifying Treaties and Treaty amendments, and implementing legislation.

Within this multi-level system, national unilateral modes of scrutiny and influence remain the bedrock of parliaments' efforts to exercise influence over trade policy. It is these channels of influence which form the prime focus of the study. **A simple stocktaking of national modes of influence and scrutiny indicates a wide range of channels through which parliaments can affect trade policy as well as a broad overlap between parliaments in the kinds of channels used.** This is indicated in the below Table „National Parliamentary Tools of Scrutiny”, which also synthesises some of the results of the country studies. Despite the overlap in the tools available to them, the Table shows considerable variation between parliaments in terms of the impact of these rights and powers, where they exist. The two right-hand columns, meanwhile, give values for the extent to which parliaments disseminate opinion and involve civil society, rather than for the impact of such efforts; they again show large variation.

Scope, Impact and Practice of National Parliamentary Tools of Scrutiny and Influence in Trade Policy

	Mandate negotiators/ shape negotiators' guidelines	Hearings/ Investigations/ Questions/ Debates	Consultation by the executive	Observer Status/ Participation in Negotiations	Ratification/ Approval of agreements	Disseminate information and opinion	Involve civil society
U.S.	~ (F/I-Pr)	+ (F-Pr/D/Po)	+ (F-Pr/D/Po)		+ (F-Po)	~	+
Mex.		~ (F-Po)			~ (F-Po)	+	+
Aust.	- (I-Pr)	~ (F-Pr/D/Po)	~ (F/I-D)		~ (F-Po)	+	~
Russ.	- (I-Pr)	- (F-Pr/D/Po)				~	~
S.A.	- (I-Pr)	~ (F-Pr/D/Po)	~ (F/I)		~ (F-Po)	+	+
Iran	- (I-Pr)	+ (F- Pr/D/Po)	~ (F)		~ (F-Po)	+	~
Thai.		- (F)/ o	- (I-Po)			-	-
Switz	~ (F-Pr)	+ (F-Pr/D/Po)	+ (F-Pr/D)		~ (F-Po)	-	+
India	o	- (F-Po)	o		~ (F-Po)	-	-
Braz.		- (F/I)		~ (F-D)	~ (F-Po)	+	-
Jap.	- (I-Pr)	~ (F-Po)			~ (F-D/Po)	~	~

+/-/~/: Strong / Weak / Moderate / Extremely Limited or Non-existent

F/ I: Formal / Informal right or power

Pr/ D/ Po: Pre- / During / Post- negotiations

Apart from their relative impact on trade negotiations, modes of influence and scrutiny can be disaggregated according to a number of specific features. One concerns their **position in the trade negotiation process**: *Ex ante* modes of influence include parliaments' capacity to shape negotiators' specific guidelines or even to mandate negotiators. *During* negotiations, some parliaments enjoy rights of consultation, or even observer status. *Ex post* modes of influence, meanwhile, include the power to approve and ratify international agreements, as well as to translate them into national legislation. However, simply because such modes of influence are located at the end of the trade negotiation process does not infer that they are irrelevant at earlier stages, since governments will be aware of the need to clear future parliamentary hurdles throughout the course of negotiations.

Another point of difference lies in the **formality of these powers**. The scope of a parliament's informal powers is often very large, even if they are usually somewhat weak. Those parliaments with few formal and direct powers to influence trade policy may nevertheless be able to organise debates or disseminate information in order to put pressure on the government. Others may be able to exert informal influence through their links with the governing party. Moreover, parliaments can gain informal influence over trade policies by coupling outcomes of trade negotiations with the use of their formal powers in other areas; in other words, if parliament enjoys robust powers in another area of policy-making it may be able to use the threat of blocking government action in that sphere in order to promote its preferences in trade policy. Significantly, these kinds of linkages can be used to (formally) change the relationship between executive and legislature in trade policy.

Although it is not captured by the Table, which gives a static picture of current practice, **parliaments' capacity to rebalance the relationship between legislative and executive can be imperative to their efforts to maximise their powers under national channels** and to adapt to the ITO context. It is not only in making linkages between trade negotiation outcomes and the use of parliamentary powers in other policy areas that parliaments can alter their role *vis a vis* the executive: although the search for efficiency in trade negotiations appears to have strengthened the executive, the need to legitimise them can reinforce the legislature. Here parliaments can boost their ability to provide legitimacy by involving civil society in their scrutiny procedures. The ITO context has created a dynamic institutional situation in which they can seek to expand their role. **Institutional adaptation to deal with the changing ITO context can therefore take a number of different forms. Parliaments can, for example, seek to rebalance legislative-executive relations, cultivate multilateral and bilateral relations with other parliaments, as well as optimise internal working methods.**

In our analysis of the ways in which national parliaments influence and scrutinise international policies, we refer to the criteria originally proposed by Laprat¹³ and Scoffoni¹⁴ for *measuring* parliamentary participation in EU affairs, and adapt them to our research on ITO politics:¹⁵

- **The scope of information:** effective scrutiny depends firstly from the extent of documents forwarded to parliaments by their governments. Secondly the scope is influenced by the internal parliamentary procedures which national systems have established for organising an efficient and functionally oriented sifting of documents and the human and technical resources parliaments have at their availability for this.
- **The timing and management of parliamentary scrutiny:** effective scrutiny presupposes that parliaments receive ITO related documents promptly and that they have enough time to examine them. The legal provisions concerning the transmission of relevant documents to parliaments differ largely between parliaments if they exist at all with regard to ITO documents.
- **The impact of parliamentary scrutiny on the government's room for manoeuvre:** we can roughly distinguish between formal and informal arrangements between parliament and government, procedures aimed at substantially influencing the content of the government's position in WTO negotiations and those which are aimed at giving rough guidelines or setting the larger framework for the WTO negotiations and thus give more independence to the government. The two extremes are, on the one side, those parliaments that are able to mandate their government's representative before an ITO decision takes place and on the other those without any formal means of influencing their government's standpoint. In between we might find parliaments that are able to express their views on a certain proposal, but remain dependant on government's decision over whether to incorporate them or not.

Although strictly speaking outside our terms of reference, we also take account of:

- **Parliaments' openness to interparliamentary activity**

Political systems differ with regard to the established **relationships between government and parliament**, party systems and the ideological spectrum mirrored by parties and other societal groups. These differences can shed light on variations in the means and effectiveness with which scrutiny is carried out, as well as the ways that parliaments adapt to the ITO context. We will thus look at the internal organisation of parliaments, as well as at the roles, functions, styles of parliamentary democracy in the different national settings:

- We explore the relationships between standing committees, special or select committees, the plenary and cross-party working groups. Their impact on the potential behaviour of individual members, political groups and parliamentary committees must then be taken into consideration too. The nature of committees may reflect variations in government-parliament relations: the types of executive-legislative relations and the subsequent differences in type and structure of parliamentarism vary between floor-centred ‘talking parliaments’ and committee-centred ‘working parliaments’.¹⁶ Pahre identifies three necessary conditions for strong parliamentary oversight. Although he specifically discusses these in relation to EU integration, parallels can be drawn with the WTO context. He argues that: „there must be a significant portion of the public, and at least one party represented in parliament, that prefers the *status quo* to further integration. Second, a country must have frequent minority governments. Third, there must be some party that would rather enjoy a policy veto through an oversight committee than join a majority government.”¹⁷
- With regard to international law-making, specific factors have to be considered: public opinion on international politics in general, on democracy and the *loci* of democratic legitimisation of policy-making, on institutions and the distribution of institutional roles, and on the functional scope of ITO politics and the allocation of powers differs widely between the states.¹⁸ Public opinion may generate political traction between political parties. However, these ‘pushed’ demands for debating ‘global governance’ do not automatically determine specific forms of parliamentary scrutiny: political systems which favour polarisation in parliament would necessarily produce forms of scrutiny, which would differ from those arising in systems which are largely characterised by a consensual mode of party politics. Moreover, the salience of ITO politics as a source for political conflict varies across the states. Consequently, we need to analyse the relationship between the contentious orientation of parliamentary involvement in international politics and the traditional working styles of parliaments in national politics.

II. Findings and perspectives

Andreas Maurer, Daniela Kietz, Roderick Parkes, Annegret Bendiek

Two basic findings of this study stand out as particularly important.

- First of all, **the quality of national parliaments’ involvement in scrutinising trade policy in eleven selected countries cannot be reduced to categorisations concerning regime type - authoritarian vs. democratic system, or type of democracy – presidential vs. parliamentary system of government.** Nevertheless, it is notable that the only two country studies (Switzerland, United States) which reach a positive conclusion on the performance of national parliaments in shaping international trade policy involve political systems in which power is generally shared among many actors and levels.
- The second important conclusion is linked to the **policy performance of parliaments**, especially insofar as the Iranian case is concerned: here, **the rather authoritarian style of government does not neutralise the impact of efforts towards scrutinising and influencing international trade policy by individual parliamentarians.** However, with regard to the authoritarian-democratic dichotomy it can in general be concluded that democratic systems have the slightly better record.

Hence, parliamentary systems such as the Swiss, Australian and South African Parliaments do clearly outperform the presidential-authoritarian systems in respect to the quality of parliamentary scrutiny and their involvement in trade regime building on a global scale as well as with regard to the openness of parliaments towards inter-parliamentary linkage and transparency of their general orientation towards trade, scrutiny and the multi-level/multi-actor nature of ITOs. Analysis shows that **larger countries and presidential systems such as the United States, Russia and Brazil have stricter mechanisms to centralise and control parliaments’ collective involvement in trade negotiations.**

These basic findings have a practical implication for the nature of scrutiny processes as well as for the real, i.e. formal *and* informal processes of trade regime building, which vary hugely along the indicators we applied to our country studies.

1. Key features of parliamentary scrutiny and influence

The findings of the country studies can be synthesised according to the four indicators- scope of information, timing and management of scrutiny, impact of scrutiny, openness towards interparliamentary linkages-, as well as with reference to the background factors –parliaments’ working style, executive-legislative relations, basic orientation towards scrutiny- which may shed light on the former. These elements are tabulated below and then taken up individually in the following paragraphs. As well as exploring parliaments’ current level of multilateral activity, paragraph 1.7 ‘Openness towards interparliamentary linkages’ sets the strengths and weaknesses of national modes of scrutiny in a multilateral context, asking whether they can be improved by interparliamentary cooperation.

Countries	Seven key features for the role of parliaments within ITO regime building						
	Basic indicators			Procedural indicators of national parliamentary participation in ITO issues			
	Parliament’s working style	Executive-Legislature relations	Basic orientation of scrutiny	Scope of information	Timing and management of scrutiny	Impact of scrutiny on government’s policy	Openness towards inter-parliamentary linkages
United States	Com-Pro-Ind	Leg	Ins	+	+	+	~
Mexico	Sel-Rea-Ind	Exe	Sup	~	-	-	+
Australia	Com-Rea-Ind	Exe	Ins-Sup	-	-	-	+
Russia	Sel-Rea-Dep	Exe	Sup-Ins	-	-	-	+
South Africa	Com-Pro-Ind	Leg	Ins	+	-	-	+
Iran	Sel-Pro-Ind	Exe-Leg	Ins	+	~	+	+
Thailand	Sel-Rea-Dep	Exe	Ins-Sup	+	-	-	+
Switzerland	Com-Pro-Ind	Leg	Ins	+	+	+	+
India	Sel-Rea-Ind	Leg-Exe	Sup	-	-	-	~
Brazil	Sel-Pro-Dep	Exe	Sup-Ins	~	-	~	+
Japan	Sel-Rea-Dep	Exe-Leg	Sup	~	~	~	+

Key:

Com: Comprehensive / **Sel:** Selective attitude towards incoming pieces of ITO legislation;

Pro: Proactive and anticipative / **Rea:** Reactive and accidental style of participation in ITO policy-making;

Ind: Parliament acting independently / **Dep:** Dependant on the Government in ITO policy-making;

Leg: Legislative autonomy / **Exe:** Executive dominance in ITO policy-making;

Sup: Orientation towards supportive scrutiny / **Ins:** Orientation towards formulating and/or voting instructions.

+ good; - poor; ~ moderate

Of the eleven parliaments, we can roughly distinguish two cases of what, according to our criteria, could be termed ‘strong practice’ and nine cases of ‘poorer practice’ regarding parliamentary participation in ITO policy-making. This discrepancy is linked to the fact that many parliaments do not (yet) make full use of their capacity to scrutinise government activity in trade negotiations. With WTO

issues gaining in salience we observe the development and reinforcement of relevant mechanisms. Our indicators meanwhile give a static picture of current practice.

1.1. Parliaments' working style and its adaptation to the WTO/ITO context

Institutional adaptation on the part of national parliaments seeking to digest the WTO's growth can take a number of forms: parliaments can, for example, seek to adapt legislative-executive relations, multilateral and bilateral relations, and internal working methods to the ITO context. Since national parliaments focus on 'one-level'-scrutiny and advice within the model framework of government-legislature relationships¹⁹ internal changes to working methods are of enormous importance. Thus, despite a growth of bi- and multilateral interparliamentary activity, **traditional modes of state-bound scrutiny prevail. Most national parliaments exercise these one-level roles primarily according to the constitutional and political context of their country rather than according to the specific conditions of global, multi-level and multi-actor governance.** Given the self-made multitude of portfolios, parliaments and their committees face the problem of remaining locked in the national organisation of parliamentary business.

Nevertheless, analysis reveals that the common conditions of the WTO/ITO context are eliciting similar adaptations amongst parliaments' modes of scrutiny, even if the responses are refracted through existing national constitutional and political structures. Three major evolutions are worth considering as regard to good performers:

- **A greater specialisation of parliamentarians with regard to the policy areas and functions of parliaments (Switzerland),**
- **A greater activity of committees within the management of parliamentary business (Switzerland, United States) and**
- **An increasing use of parliamentary instruments linked to WTO issues (Switzerland, Australia).**

It is possible therefore to identify some convergence in organisational adaptation - i.e. the establishment of specific bodies within parliaments that deal with the incoming documentation of the WTO/ITO's policy processes- even if this is heavily dependent upon existent national constitutional structures, and there is strong variation in the *degree* of change

It appears that the greatest degree of internal institutional adaptation has occurred amongst those parliaments that enjoy a strong position in the legislature-executive relationship. The opposite might have been predicted, since one might expect weak parliaments to optimise internal practices in order to gain influence over trade policies. Nevertheless, parliaments in weak positions *vis a vis* the executive may be discouraged from making internal changes because of the strong influence of the executive over working methods (Russia), or where any interference in the executive's foreign and trade policy competences is seen as detrimental to the national interest (India). At the same time, though, it is possible to identify the same kinds of changes in these systems as in those where the parliament is relatively dominant, even if developments or pressure to change are more modest. In Mexico, for example, there have been (as yet unsuccessful) proposals to create a committee to deal specifically with WTO affairs.

These observations give rise to the question of whether -and how- national parliaments should maximise their traditional modes of state-bound scrutiny. Any answer to this question is of a normative and political nature, depending in large part on the self-understanding of parliaments and parliamentarians within their national context. There is certainly no „ideal” model that fits each national system.

1.2. Executive-legislature relations

The more a national system displays a close unity between majority party and government, the less its parliament tends to be directly and independently engaged in scrutiny (Russia, Japan).

Parliamentary scrutiny is then a matter of passive participation and getting or remaining involved without developing a systematic anti-governmental stance. In political systems where the government cannot rely on a large majority in parliament and the executive-legislative relations are thus characterised by consensual bargaining, opposition parties and their parliamentary groups appear less inclined to follow the Government's politics as 'supportive scrutinisers'.

In many countries, international trade policy is treated as a constituent part of foreign policy, and thus as the traditional preserve of the executive; in some though, the conceptual and structural links between international trade policy and internal economic and fiscal policy are clearer, and the Parliament enjoys relatively large influence (US). Other parliaments enjoy an important role in the more domestic aspects of international trade policy -for example in setting tariffs on imports-, despite their marginalisation in most other parts of it (Mexico). The fact that some parliaments enjoy only a weak position in international trade policy (as understood in a narrow sense) but a strong position in a wide range of other policies is particularly relevant given the way that WTO activities are expanding into ever new areas. We also note that parliaments' strength *vis a vis* the government often varies, depending on the stage of the negotiation process: most obviously, some parliaments enjoy a strong position when it comes to translating international agreements into national legislation (Australia).

It was noted above that parliaments can use their relative strength in some areas to gain informal powers in others. It was also suggested that parliaments might be able to exploit their relative strengths in order to formally alter the legislature-executive relationship in the ITO context. However, the country studies show no evidence of this occurring in a fashion comparable to the EU context where the European Parliament has made use of its relative strength in aspects of budgetary policy. Some alteration in the executive-legislature relationship in the countries under consideration has of course occurred. For the most part this has been due to the aim of achieving efficiency in negotiations- a goal which has favoured the executive (US). Meanwhile, the growth of NGO activity outside 'proper' channels suggests that many parliaments are also failing to provide legitimacy for trade activities- something which may further weaken their position in the executive-legislative relationship. We do nevertheless note recent developments in favour of the legislature (Switzerland, Mexico).

1.3. The basic orientation of parliaments' scrutiny efforts in the multi-level ITO context.

Parliamentarians wish to get involved in the WTO/ITO policy cycle, and to facilitate the digestion of incoming draft acts, they have created specific bodies, which are entitled to sift documents, to elaborate reports and to prepare resolutions for the plenary. In this regard, the activity of parliamentary committees varies depending on the general orientation of parliaments' work and the intra-parliamentary focus on committee-work. This means that parliaments tend to focus their efforts on traditional state-bound mechanisms of scrutiny, whereas the development of ITOs calls for a greater sensitivity to multi-level activity.

The problem of focussing scrutiny efforts upon one level also becomes visible in the fact that the handling of WTO/ITO affairs does not influence the rolling agenda of national parliaments. Compared to governments' ministerial administrations, parliamentarians need to allot their capacities to several agendas. Members of trade committees are not re-elected for focusing their campaign towards the handling of WTO/ITO affairs: despite the intrusion of WTO issues into central national competencies they are still considered to be international issues of less salience. In addition - and partly for the same reason - the Parliaments' agendas remain oriented towards national debates. Particularly in those parliaments where one particular committee is charged with scrutinising international trade policy, the way that ITO/WTO competencies have expanded into new policy areas has actually been detrimental to the relevant committees' standing: the role of the relevant committees (trade or foreign affairs) has become increasingly problematic in intra-parliamentary relations as they have gained areas of scrutiny, which challenge the competencies and - more important - the reputation of other committees.

1.4. The Scope of Information

Information is the ultimate basis for participating in public policy-making. The fact that parliaments focus primarily upon the national level of the multi-level ITO system can prove detrimental to the exercise of their legislative role; yet the self-made loss of original legislative powers in the upstream process of WTO policy-making may be compensated for by an increase in their control function vis-à-vis their governments.²⁰ Nevertheless, **given the fact that parliaments have largely failed to break away from the national level in their scrutiny efforts, the scope of parliamentary participation in WTO/ITO affairs remains disproportionately dependent upon the degree to which documents are forwarded to parliaments by their governments.**

The country reports explored the extent to which national parliaments receive draft proposals of WTO related acts. The supply of information is comprehensive in Switzerland. The Parliament of South Africa has established an extensive network for the availability of relevant information. The resulting government 'translations' of WTO information are of high political relevance, since they allow MPs not only to discuss the documents as such, but also their government's perspective on a given issue. Furthermore, there is a clear divide separating the parliaments of the OECD countries from those of the LDCs. While the OECD parliamentarians (Australia, Mexico, Japan, Switzerland, US) enjoy the use of the internet both for research and relations with other institutions, this is less the case in parliaments of less developed countries. However, both in developed and less developed countries parliaments make intensive efforts to follow trade negotiations on a global scale. Yet the IPU confirms the finding that parliaments have resorted to few new means of finding information outside the existing national committee system.²¹

1.5. Timing and management of scrutiny

Parliamentary involvement in ITO affairs is a product of efficient procedures. **Parliaments are confronted with the growing diversity of inter-institutional deliberation and decision-making processes at the WTO ministerial level. Only the US Congress and the Swiss Parliaments are able to run with their governments in WTO affairs effectively.** These two parliaments not only have access to the overall amount of incoming draft documents, but manage to oblige their governments to provide comprehensive explanatory information in order to facilitate the sifting of documents between MP and committees. None of the other national parliaments examined are able to keep up with the frequency and speed of intergovernmental negotiations and the relevant intragovernmental decision-making. The consideration of the different steps in the WTO/ITO policy cycle also generates different time constraints for parliamentarians and their committees. If parliaments anticipate WTO politics, the real scrutiny process starts earlier and the involved committees must therefore meet more frequently. If parliaments (Australia, South Africa) manage to have an effective and efficient scrutiny procedure as regard to the timing and management, this could have a positive effect on their constitutional rights in shaping international trade policy.

1.6. Impact of scrutiny on government's policy

The impact of parliamentary scrutiny differs between those parliaments (US, Switzerland) which enjoy a formal power through which they can (seek to) shape negotiators' guidelines, and parliaments with extremely limited - or no - formal or informal means of effectively influencing their government's standpoint (Thailand, Japan, Mexico). It is important to note that some parliaments do enjoy formal powers -or potential channels of informal influence - in this area, which for complex reasons they do not take advantage of (India). Meanwhile, some national parliaments have helped develop means by which to draw other actors into the national preparatory phase of ITO negotiations. In South Africa, each WTO ministerial round of WTO negotiations is prepared or discussed by a national consultative conference where interested parties can participate in informing the development of South Africa's approach to the WTO conference.

It might be assumed that such *ex ante* tools of scrutiny and influence would have the greatest impact on government policy and action: by influencing governments at the earliest possible stage,

parliaments are unlikely to be presented with a *fait accompli* at the end of negotiations, which does not match their preferences. Seen in this light, formal *ex ante* measures might be expected to deliver the best results. Nevertheless, robust *ex post* means of influence, particularly in the US, can be used informally to exert pressure on the government from the inception of the negotiation process through to its conclusion. This counterintuitive finding is captured in the above Table „Scope, Impact and Practice of National Parliamentary Tools of Scrutiny and Influence in Trade Policy”.

1.7. Openness towards inter-parliamentary linkages

Any critical conclusions on parliaments’ efforts at scrutiny by unilateral means must take account of their multilateral activity: difficulties experienced by parliaments in exercising scrutiny by unilateral channels may be mitigated by seeking alternative, bi- or multilateral channels. Unilateral and multilateral activities of parliaments are complementary in terms of improving the scrutiny of trade negotiations and at times even mutually reinforcing. The distinction between the two levels is somewhat artificial; they rather have to be seen as part of one overall parliamentary effort to influence global governance.

The below Figure on Interparliamentary Networks indicates a degree of institutional adaptation undertaken by all the parliaments under consideration as regards multilateral activity. Some parliaments, whose scrutiny via unilateral channels is weak, are multilaterally well-connected. The **Australian Parliament**, alongside regional Australian parliaments, takes advantage of its post-colonial links within the Commonwealth Parliamentary Association. Thanks to its geographical position, it also enjoys a ‘dialogue partnership’ with the ASEAN Inter-parliamentary Organization (AIPO) and membership of the Asia Pacific Parliamentary Forum (APPF). Similarly, the **Russian Parliament** makes use of the country’s geographical position to gain membership of AIPO and APPF, as well as of the COE and OSCE Assemblies. Some of the Parliaments examined are effective in unilateral efforts, as well as being well-connected multilaterally. This is particularly true of the **Swiss Parliament** which uses its cultural resources to participate in the Francophone Assembly, and its geographical resources in the OSCE and COE Assemblies.

The **Mexican Parliament** focuses much of its attention on inter-parliamentary organisations and assemblies in Latin America. The Parliament of **South Africa** takes great interest in the development of several African parliamentary structures, notably the SADC Parliamentary Forum and the Pan-African Parliament. The **Iranian Majlis** played a crucial role in the creation of the Parliamentary Union of OIC Member States, whose Secretariat is located in Tehran. It appears, though, that the possibilities for multilateral activity are spread unevenly between parliaments, depending not only on trade patterns, but also historical and geographical factors.

If parliaments use multilateral fora as something more than an opportunity for ‘parliamentary tourism’, a number of the specific structural problems associated with unilateral behaviour can be overcome. Parliaments can improve their timely access to information as well as the expertise of their members. Parliamentary majorities can develop independent channels of scrutiny that do not require direct criticism of the national government. The type of venue chosen for scrutiny can even permit parliaments to play a pro-active role in policy-making, helping to shape responses to policy-choices such as whether trade agreements are concluded bi-laterally or multilaterally, and with which states.

Multilateral parliamentary fora also constitute an opportunity to voice general concerns and interests that all national parliaments have in common. The WTO parliamentary conference for example can be used to deliberate on issues such as transparency in trade negotiations or fair trade with developing countries. It is important to retain, however, that such issues are also treated unilaterally on the national level. The Swiss Parliament for example has made a significant number of interpellations in recent years on issues such as human rights, transparency and fairness in international trade with the aim to make its government support these issues in WTO negotiations. This indicates that **national parliaments do not contribute to global governance through multilateral channels alone**. Despite the salience of narrower national issues at the national level, parliaments are also capable of consciously pursuing issues of ‘global’ significance.

Nevertheless, the participation in interparliamentary networks in general and the WTO parliamentary conference in particular can raise awareness amongst national parliamentarians for problematic issues of global governance and international trade and thereby work as an incentive for parliaments to increase their unilateral efforts in holding governments accountable. Here, a parallel can be drawn to the interparliamentary cooperation in the European Union which significantly helped to increase the awareness of parliaments for the need to scrutinize government activities in the EU institutions, offered best practises and thereby streamlined unilateral scrutiny and works as an important means of information sharing between parliaments.

More generally, the creation of new parliamentary structures modelled around the emergent ITOs can encourage national parliaments to adopt suitable *modi operandi*, and best practice as regards openness and civil society. Norms concerning the rights and duties of parliaments can become formalised. The complexity and opacity of the multi-level system can be alleviated by reducing national parliamentary variations in the ITO context. **Generally speaking, the higher the level of institutionalisation, the more such benefits accrue.**

The **European Parliament**, alongside the IPU, has played a driving role in the development of regional and sectoral interparliamentary activity, and the IPU reports broad support amongst national parliaments for such efforts.²² The European Parliament has a key role to play in future efforts, not least because of its vocation as a promoter of democracy, and its position as an enmeshed and resource-rich multilateral player and novel parliamentary structure.

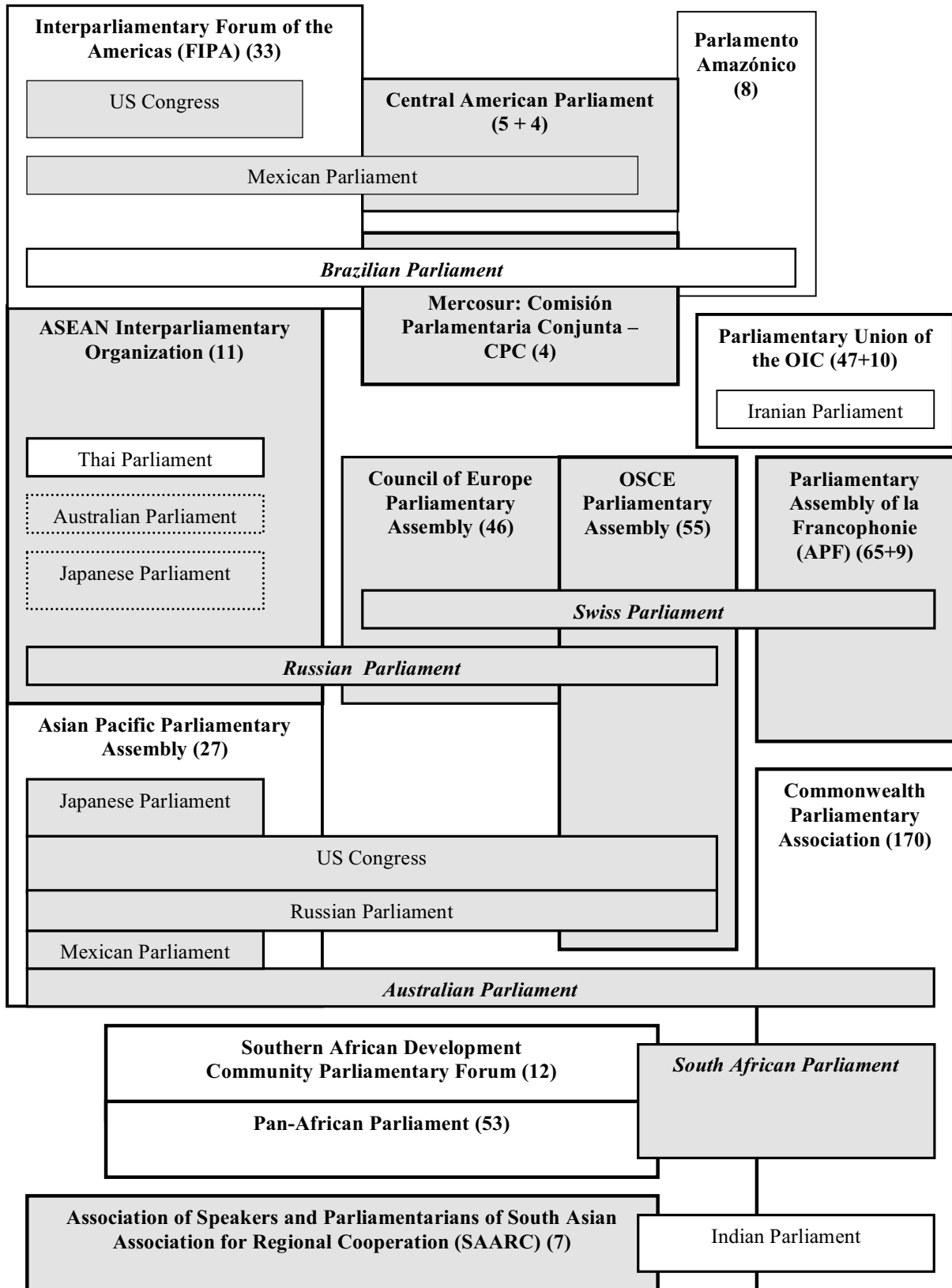
The path towards the greater institutionalisation of multilateral activity is not without its dangers though. Certainly, history suggests that if new organisations can assert themselves as robust and stable political opportunity structures, even NGOs founded in the protest mould are prepared to be co-opted into scrutiny and policy-making processes. Nevertheless, a *rapprochement* with citizens does not automatically follow. Efforts to drive multilateral interparliamentary activity must also be wary of the criticism already directed at both sectoral and regional interparliamentary bodies concerning their tendency to overlap and compete with one another.²³ Moreover, in fitting new bodies to the existent ITOs, the risk is that interparliamentary activity, no matter how formal or robust, would remain essentially reactive.

Before embarking on further institutionalisation of interparliamentary cooperation, **it is imperative that national parliamentarians are aware of their parliament's existing bi- and multilateral interparliamentary cooperation.** This might sound trivial, however, the reality in some parliaments is still one of very low awareness of all the possible levels of parliamentary participation in international trade issues. Thus, measures to increase this knowledge with national parliamentarians should be discussed in interparliamentary fora like the WTO parliamentary conferences. Remaining with the example of the WTO parliamentary conference, measures could include the commitment of parliaments to deliberate in committees on the agenda of the conference or to hold a plenary debate on the parliamentary WTO dimension before the conference, to invite civil society actors to give their views in hearings about the agenda, to brief parliamentary delegates to the WTO ministerial conference etc.

Unless national parliaments turn into efficient multi-level players, they remain structurally handicapped in their efforts to become competitive. Both factors - the Parliament-government logics and the WTO's own dynamics - create an antagonistic environment for national parliaments and reinforce a significant tension between the aim to participate in WTO/ITO policy-making and the realities of the WTO's multi-level and multi-actor nature.

**Interparliamentary Networks of the 11 parliaments under scrutiny
(Numbers in brackets: Members + Observers)**

**Established
European
Parliament
contacts**



2. Perspectives for the European Parliament

The economic rise of a group of new key actors in the international system (China, India, Brazil) might shift the distribution of power. As a result, the respective governments of these countries and – to a lower, but significant extent – their parliaments as well as the regional, inter-parliamentary assemblies have started to improve their position in the WTO regime. Yet it is precisely thanks to the efforts of these parliaments that it is possible to ascertain that **there are opportunities for the European Parliament, when considered as a parliamentary, rather than as an EU, actor. Moreover, unless national parliaments turn into efficient multi-level players, they remain structurally handicapped in their efforts to become competitive.** Both factors - the Parliament-government logics and the WTO's own dynamics - create an antagonistic environment for national parliaments and reinforce a significant tension between the aim to participate in WTO/ITO policy-making and the realities of the WTO's multi-level and multi-actor nature. It is in this context that the European Parliament has an important role to play.

It appears, then, that the European Parliament should continue to focus upon its role as a facilitator of parliamentary influence over international trade policy - in which position it is a leading player. Even before embarking on possible efforts towards the further institutionalisation of interparliamentary activity, the European Parliament's dealings with other parliaments should therefore continue to be marked by the following traits:

1. spreads an understanding of trade as a global issue, rather than as one of pertinence only to narrower national interests.
2. raises awareness of existing bi- and multilateral interparliamentary activity within its own institution as well as within the national parliaments in and outside the EU.
3. optimises existing structures for the sharing of resources and of information at both the political and the administrative levels of parliamentary activity.
4. promotes best practice amongst national parliaments in the ITO context (see 1.1 above), whilst maintaining sensitivity for different national parliamentary traditions and structures.
5. promotes the establishment of a forum for trade-related NGOs within the WTO parliamentary conference to profit from the information resources of civil society actors and enhance visibility of international trade issues.

III. Country studies

1. The US Congress and Trade Policy

Jens van Scherpenberg, Katrin Jordan

The United States was one of the nine founding members of the GATT on January 1, 1948. Initially, the GATT was only meant as a temporary agreement, because the US Congress had opposed the establishment of an International Trade Organisation, which was supposed to complement two other international economic organisations: the International Monetary Fund and the World Bank. Congress had approved US membership of these two organisations, but never voted on the ITO. This anecdote shows that the US Congress has been an active player in trade policy for a long time.

1.1. The constitutional role of the US Congress in trade policy

The unique construction of the United States as a federal state and a presidential democracy with an intricate system of „checks and balances“ between the major branches of power gives the legislative body, the US Congress, a strong constitutional role in foreign policy, and an even stronger one in trade policy.

The United States Congress consists of two Houses: the House of Representatives and the Senate. According to Article 1, Section 2 of the US Constitution, the Members of the House of Representatives serve for two-year terms. The number of members of the House of Representatives is restricted to 435.²⁴ Members are elected directly in voting districts of roughly equal population size. Each State, thus, is represented in the House in a manner proportional to its population. The House elects its chairperson, the Speaker, by majority vote. The current Speaker is Dennis Hastert. According to Article 1, Section 3 of the US Constitution, the Senate is the parliamentary chamber representing the States that constitute the Union. It is composed of two Senators from each State (currently 100 senators). The senators are voted in by direct popular elections for a six-year term. Every two years, a third of the Senate seats are due for election.²⁵ The Senate is presided over by the Vice President who, in case of a split vote among Senators, may cast the decisive 101st vote.

In **foreign policy**, the constitution attributes to the President the power to „make treaties“ (Art. 2, Section 2) and to negotiate with foreign countries in general. **Every treaty signed by the President has to be submitted to the Senate for approval, requiring a majority of two thirds of its members.**

Trade policy, however, is governed by different constitutional principles. In Article 1, Section 8, the Constitution maintains the **power of Congress „to regulate commerce with foreign nations“** and to „lay [...] duties, imposts and excises“, along with its power of taxation and budgetary appropriation. This reflects the fiscal origins of trade policy. Unlike treaties with other nations, trade agreements, therefore, fall into the category of so-called executive agreements. For executive agreements to become national law, they have to be approved, like any budgetary or tax legislation, by a simple majority vote in both Chambers of Congress.

1.2. Parliamentary procedure

To the extent that trade policy evolved from the unilateral setting of tariffs and other regulations governing trade to international agreements, the normal procedure in Congress - which may add any number of amendments to bills submitted for legislation - became increasingly unwieldy. If they were to make binding concessions of their own, other countries had to be given certainty, that an agreement made with the US executive could not be re-opened and changed in the ratification process. Starting in 1973²⁶, Congress therefore, voted to grant the President, within certain time limits, the authority to negotiate trade agreements with foreign nations, renouncing its power to amend those agreements when submitted by the President. In short, **Congress can only approve or reject trade agreements**

as submitted. This procedure had originally been called „fast track authority”. The current administration of George W. Bush has renamed it „Trade Promotion Authority” (TPA).

No administration, however, can take congressional approval of fast track authority for granted. In the 1990s the then-President Bill Clinton failed twice to win approval for renewing fast track trade authority after it had expired on April 16, 1994 just one day after the signing of the Marrakesh Agreements concluding the Uruguay Round and establishing the WTO. To establish a fall-back position with regard to what it considered a potential infringement on US sovereignty, US membership in the WTO, Congress reserved itself a special power: every five years, upon request of any one of its members, Congress will have to decide whether United States membership in the WTO is still in the national interest. Approval can (only) be withdrawn by a joint congressional resolution.²⁷

To enable the US administration to negotiate in the current Doha Development Round, Congress granted TPA to the executive from July 1, 2003 to July 1, 2005 as part of the Trade Act of 2002. It was agreed that a further two year extension of TPA would be automatically granted unless either Chamber of Congress objected before July 1, 2005. The extension has been granted. The exact wording in the relevant Trade Act of 2002 is somewhat contradictory regarding the specific date when TPA expires, referring to June 1, 2007 in one paragraph and to July 2007 in another. It can be concluded, though, that the current TPA will expire on June 30, 2007. Thus, to be ratified in Congress under TPA fast track procedure, any trade agreement will have to be signed by the president *before* July 1, 2007.

Granting TPA does not mean, though, that Congress does not take an active part in the negotiation process for trade agreements. On the contrary, the executive must consult with Congress before, during and after trade negotiations:

The President has to inform Congress of his intention to enter into negotiations at least 90 days before actually entering. Throughout the negotiations, the President must consult with the Ways and Means, and Agriculture Committees, and with the Congressional Oversight Group. The Congressional Oversight Group was established with the passage of the Trade Act of 2002 as a bipartisan, permanent institution. The Group consists of Members from a wide range of Committees such as the Chairman and Ranking Member of the House Ways and Means, alongside three additional Committee Members and the Chairman and Ranking Member of each Committee with jurisdiction over any part of the trade negotiation. At the end of the negotiation process, the President is required to notify Congress formally of the upcoming signing of a trade agreement. After the President submits an implementing bill to Congress, Congress is given 90 days to take action on the trade agreement with a „yes or no” vote. Floor debate is limited to 20 hours in each Chamber.

With the Trade Act 2002, the negotiation procedure between the executive and the legislature has become more formally institutionalised. However, Congress is not necessarily directly involved in every step of the negotiations. Congress, rather, gives the executive a guideline for negotiating trade agreements to stress what kind of an agreement would be acceptable.

Congress included an escape-clause in the Trade Policy Act of 2002 according to which TPA would be withdrawn if both Houses decide, within 60 days of each other, that the Administration has failed to consult with Congress on relevant matters.

In the executive branch, trade negotiations are carried out by the United States Trade Representative (USTR). The current USTR is Robert Portman. The office of the USTR was established in 1963 (from 1963 until 1979 it was called „Office of the Special Trade Representative (STR). The USTR is responsible for trade policy formulation and negotiations. The USTR works closely with Congress. It submits an annual report on foreign barriers to trade to Congress under the Omnibus Trade and Competitiveness Act of 1988. The Department of Commerce (DOC) is the second agency that deals primarily with trade, both domestic and foreign. The DOC handles the operational side of trade policy: for example, it assists US States, communities, and companies in international trade. The current Secretary of Commerce is Carlos Gutierrez.

1.3. Congressional Committees

Congressional trade legislation is prepared in a number of committees and subcommittees of the Senate and the House of Representatives.

The most important trade-related standing committees are:

HOUSE OF REPRESENTATIVES	SENATE
Committee on Ways and Means Subcommittee on Trade: E. Clay Shaw Jr. (R-FL), Chairman; Benjamin L. Cardin (D-MD), Ranking Minority Member	Finance Committee Subcommittee on International Trade: Craig Thomas (R-WY), Chairman; Jeff Bingaman (D-NM), Ranking Minority Member
Committee on Agriculture Subcommittee on Specialty Crops and Foreign Agriculture Programs: William Jenkins (R-TN), Chairman; Mike McIntyre (D-NC), Ranking Minority Member	Committee on Agriculture, Nutrition, and Forestry Subcommittee on Marketing, Inspection, and Product Promotion: James M. Talent (R-Mo.), Chair; Max Baucus (D.Mont.), Ranking Minority Member
Committee on International Relations: Henry J. Hyde (R-Ill), Chairman; Tom Lantos (D-Calif), Ranking Minority Member	Committee on Foreign Relations Subcommittee on International Economic Policy, Export and Trade Promotion: Chuck Hagel (R-NE), Chairman; Paul S. Sarbanes (D-MD), Ranking Minority Member
Committee on Financial Services Subcommittee on Domestic and International Monetary Policy, Trade and Technology: Deborah Pryce (R-OH), Chairman	Budget Committee: Judd Gregg (R-NH), Chairman; Kent Conrad (D-ND), Ranking Minority Member
Committee on the Budget: Jim Nussle (R-Iowa), Chairman; John Spratt (D-SC), Ranking Minority Member	

The process of assigning Members of the House to certain committees is organized in a three-step-process: after the total number of a committee is decided on by the party leaders (hereby the ratio between the two parties in the committee resembles the ratio between the majority and minority party in the full House), the recommendations for assignment are decided on in a Committee on Committees, housed in each party. Hereby members can express their preferences for certain committees.

The Committee on Committee prepares, in a second step, assignment slates for each standing committee, which are submitted to the Full Party Conference for approval. The Full Party Conference may disapprove recommended assignments and nominate other members instead. Thirdly, all committee assignments have to be approved by the whole House.

The assignment process in the Senate is somewhat similar to the procedures in the House. New members of the Senate express their preferences for certain committees. The party Conferences establish a Committee on Committees, where the committee assignments are decided on. The assignments are granted according to a priority system that gives first choice to „old“ members of the Senate, then to former members of the House of Representatives, then to former state governors and lastly to all other new members.

Within each committee, the chairman is voted by secret ballot and is a member of the majority party. The traditional rule of seniority no longer applies in determining the chairman of a committee.

1.4. Congressional working methods

Congress is an active player in foreign policy and international trade policy through the **monitoring of the activities of the Administration.**

This is mostly done through **committee hearings and investigations**, which may be on any topic under a committee’s jurisdiction. Congressional committee **hearings are generally public.**

Civil society and experts from business groups and other organisations are often invited to give written and spoken testimony in congressional hearings. The influence of interest groups on American politics and Congress in general, is an intensely debated issue. **Interest groups can serve as agenda-setters, can mobilise support or pressure against certain legislative action, can give expertise in hearings and may also monitor the implementation process.**

As independent political entrepreneurs, Senators and Congressmen rely only to a small extent on the campaign support offered by their party. Accordingly, there is little obligation for them to vote according to party lines. The more important source of support is the influence of special interest groups among their constituencies. Since trade policy usually stimulates a lot of intervention by special interest groups, this can make it harder for the Government to garner the necessary parliamentary support during its negotiating process.

Normally, bills - which are the most important form of legislative action - or amendments to bills can be introduced by any member of Congress. A bill is then referred to the appropriate standing committee, where it is deliberated. During the course of deliberation the committee usually refers the bill to one of its subcommittees, which may hold hearings, listen to expert testimony and amend the proposed legislation before referring it to the full committee for its consideration. The full committee may accept the recommendation of the subcommittee or hold its own hearings and prepare its own amendment. In practice, a large majority of all introduced bills simply die in committees, because the committee decides not to deal with the bill.

Trade-Promotion-Authority rules provide a safeguard against the neglect of introduced trade bills. Congress only has a certain time-frame to decide on a bill implementing a trade agreement, normally 90 days after submission of a ratification bill.

Any active legislation can be found via the THOMAS legislative information system. The written statements of witnesses and *verbatim* hearing transcripts can be obtained by the public. The Congressional Research Service provides in-depth reports, which are also open to the public.

The US Congress is not a member of the Inter-Parliamentary Union (143 members) and did not participate in either the Cancun Session of the Parliamentary Conference on WTO, September 9th and 12th, 2003 nor the Brussels Session of the Parliamentary Conference on the WTO, November 24th-26th, 2004.

2. Mexico

Günther Maihold, Ursula Stiegler

2.1. The Mexican Parliament

The Parliament of the Mexican Federal Republic (*Congreso General de los Estados Unidos Mexicanos*) consists of two chambers: the Senate (*Senado*) and the House of Representatives (*Camara de Diputados*). (Due to the importance of the work realised in the committees, the Mexican Parliament can be classified as a „working parliament“.) The Chamber especially in charge of trade-related issues is the Senate.²⁸ The Mexican Constitution indicates the **Senate's right to examine the foreign policy conducted by the President of the Republic** (MC Art. 76,I) and the *Ley Orgánica del Congreso General de los Estados Unidos Mexicanos* mentions a **special committee for trade only for the Senate** (LOCG Art. 90) but not for the House of Representatives.

At present, the most important committees within the Senate regarding trade issues and the WTO are the *Comisión de Comercio y Fomento Industrial* and the *Comisión de Relaciones Exteriores*.²⁹ There is no special committee working on issues related to the WTO. Nevertheless before the WTO-meeting in the Mexican Cancun in 2003, the creation of such a committee was proposed by one of the Senators.³⁰ Yet, the proposal was not approved and the competence in this area referred to an existing special committee which had been created on the occasion of the International Conference on

Financing for Development in Monterrey.³¹ In November 2005, another proposition for the creation of a special committee concerning WTO-issues was introduced into the Senate, with the aim of analysing the possible impacts of the Doha-round for the Mexican agrarian sector.³² Up to now there has been no decision concerning that proposal.

2.2. Parliament's mandate and parliamentary procedures with regard to ITO politics

In Mexico the current legislation does not oblige the executive branch to discuss the country's position regarding the WTO negotiations with the Parliament nor to let it participate in its respective decisions.³³ Nevertheless, at present, an initiative is being considered to increase the Senate's involvement in international negotiations.³⁴

There is **no specific regulation about the Parliament's right to consider the outcomes of trade negotiations**. However, in general, at the beginning of a new parliament's regular session period, i.e., once a year, the President reports about the general state of the public administration of the country (MC Art. 69), which includes foreign and international trade policies, and the Ministers give account about the state of their respective branch (MC Art. 93). Moreover, **both Chambers have the right to make use of so called *comparecencias* (hearings) and can thereby gain information about the outcomes of trade negotiations**. In those cases where the results of the negotiations are supposed to be transformed into national law, the law drafts are to be discussed in both Chambers – except when the competence in the respective area is restricted only to one of both (MC Art. 72). The respective committees have predominantly the function of advisory bodies in this regard (MC Art. 73, III).³⁵

To exercise their function of control, the Chambers of the Mexican Parliament can make use of *comparecencias*: the Chambers and respectively the committees call upon the Ministers and other public functionaries for inquiries whenever a law or an aspect concerning their respective branches or activities is discussed (MC Art 93; LOCG Art.97.1, 98.1).

The faculty of conducting the foreign policy and concluding international treaties lies in the sphere of competence of the Mexican President (MC Art. 89,X). Yet, **the international treaties and diplomatic conventions concluded by the executive have to be approved by the Senate** (MC Art.76,I). This implies that the Senate has to examine the content of the treaty or the convention for its approval, with the aim of determining that there is no contradiction to the Mexican Constitution. Where an international treaty concluded by the Mexican State is deemed contradictory to the Constitution, at least one third of the Members of the Senate can present a complaint of unconstitutionality against it (MC Art. 105,II,b).

As mentioned above, the Mexican President and the respective Ministers are obliged to report to the Congress once a year about their governmental actions (MC Art. 69; 93); this includes foreign affairs and international trade.³⁶ It is the Senate's right and duty to analyse the foreign policy of the Federal Government, on the basis of the annual reports of the President and the respective Ministers, which are laid before Congress (MC Art. 76,I). Legislative practice assigns the Committees an important participatory role in the analysis of the government's annual report.³⁷ Moreover each Chamber can ask the respective functionaries of the federal administration to appear in the Chamber and provide the necessary information about issues within their area of operations (MC Art. 93.).

Both Chambers of the Mexican Congress – alongside the President and the Parliaments of the federal States – have the right to initiate laws. The initiatives of the latter first pass to the Parliament's committees, the Deputies' or Senators' proposals follow directly the regulated procedures for the debates (MC Art. 71).³⁸ The Constitution mentions explicitly the **right of the Congress to legislate – *inter alia* – on matters of trade within the Republic, to establish taxes on foreign trade** (MC Art. 73, X, XXIX) **and to fix tariffs on imports and exports** (MC Art.131). Since the **right to approve the federal budget corresponds to the House of Representatives** (MC Art. 74, IV) and since there are no further specifications, presumably the above-mentioned rights are exclusive competences of the House of Representatives. According to MC Art. 133 the Congress can authorise the government to realise those regulations in case of urgency or for other reasons, which have been realised by the *Ley*

de Comercio Exterior (LCE Art. 40,I), which explicitly regularises the executive's competences in trade-related matters. (The WTO is not however mentioned in that law.)

Both the Chamber of Deputies and the Senate have internet pages³⁹ that provide information about the Parliament's work in trade matters. Among other things, they make public the Chambers' and Committees' sessions in stenographic version, as well as releasing other public documents (see 2.3 below). The Parliament's activities are also transmitted by its own television channel, the *Canal del Congreso* (LOCG Art. 131). Moreover the Congress has a system of libraries, whose archives are open to the public (LOCG Art. 134).

2.3. Parliamentary working methods

The Senate's agenda is established by the *Mesa Directiva*, the Chamber's presiding organ consisting of 8 elected Senators (LOCG Art. 62), which for this purpose takes into account the proposals of the Senators and the *Junta de Coordinación Política* (LOCG Art. 66,1b). The latter organ is integrated by a group of Senators according to the composition of the Chamber functions as an arbiter, with the aim of facilitating agreements between the different political parties represented in the Senate (LOCG Art. 80,1; 81,1). It is, among other things, in charge of the elaboration of the legislative programme of each session period and of items of the agenda (LOCG Art. 82, 1d).

Committee meetings can be held publicly if their members decide to proceed that way. The committees can also hold **sessions of information and audience to which are invited representatives of interest groups, consultants, experts or persons** that are considered helpful for the issue dealt with (LOCG Art. 93,1). Yet some sessions are to be held secretly, including those dealing with foreign affairs (RICG Art. 33, IV). The **sessions of the *Comisión de Comercio y Fomento Industrial* are however public and also transmitted by the Parliament's TV channel.**⁴⁰

There are, in particular, two types of documents published by the Senate. Its official organ called *Diario de los Debates* contains among other things date and place, a summary and a stenographic report of the session (LOCG Art. 133,1). (Secret Sessions are not published (LOCG Art. 133,2)). In addition, there is the so-called *Gaceta Parlamentaria de la Cámara de Senadores*, which publishes law drafts or proposals with an explanation of the respective author's reasons for proposing them. These reasons are to be discussed in the Plenum on the day of publication. (The approved laws are published in the *Diario Oficial de la Federación*, which is the organ of the executive branch.)⁴¹

2.4. Composition and appointment of members of parliamentary committees

The Senate is composed of 128 Senators, from which two are elected in each federal State and in the *Distrito Federal* according to the principle of relative majority vote, and one is assigned to the first minority. The 32 other Senators are elected according to the principle of proportional representation in one national plurinominal constituency. The election of all Senators takes place every six years (MC Art. 56). Senators and Representatives cannot be re-elected for the immediately following period (MC Art. 59). The composition of the Committees, that generally count up to 15 members, is proposed by the *Junta de Coordinación Política* according to the composition of the Chamber (LOCG Art. 104, 1-3). The Committees are elected in the first session of the session period (RICG Art. 65).

2.5. Interaction with other parliamentary bodies and external bodies, including civil society

The Mexican Senate's Committees also attend to issues that are presented by the citizens through their organisations. In that respect, they realise a number of conferences, seminars and meetings.⁴² The committee *Comercio y Fomento Industrial* in particular also realises meetings with the representatives of civil society.⁴³ Moreover it cooperates with other committees within the Senate, for instance with the *Comisión de Relaciones Exteriores*.⁴⁴ There is also a Senate's committee called *Comisión de Relaciones Exteriores - Organizaciones No Gubernamentales Internacionales* which explicitly aims at attending to the issues thrown up by national and international civil society organisations.⁴⁵

3. The Parliament of Australia

Madelaine Chiam

Australia is a constitutional monarchy, a parliamentary democracy and a federation of six States and two territories. The Federal Parliament consists of the Queen, represented by the Governor-General, and two Houses: the Senate (the upper house) and the House of Representatives (the lower house). Although the formal head of state, the Queen (through the Governor-General) has a symbolic role only. The day-to-day functions of the federal government are carried out by the executive branch, through the House of Representatives and the Senate. The federal government is responsible for maintenance of Australia's international relations.

3.1. Types of parliamentary body with competences in the area of trade

Neither the House of Representatives nor the Senate has direct competency in the area of international trade, unless legislation is required to implement such obligations domestically. In this case, the competency exists not because of the subject matter, but because of the form – legislation – required to implement international obligations under Australia's primarily dualist approach to international law. Where implementing legislation is required, normal parliamentary debate around the proposed legislation occurs. Where specific legislation is not in issue, Members of Parliament can use traditional parliamentary activities to raise international trade law issues, such as asking questions without notice.

There are a number of parliamentary **committees that are empowered to inquire into matters relating to international trade**, either as specialist committees or as committees with a broad mandate that can include trade. Parliamentary committees can consist entirely of Members of the House of Representatives (House committees), entirely of Senators (Senate committees) or can be a joint committee of Members of both the House and the Senate. Committees are either standing committees (appointed for the life of a Parliament and normally renewed in subsequent Parliaments) or they are select committees (*ad hoc* committees, appointed as need arises to deal with a particular issue).

The Australian Parliament currently maintains over 40 standing committees, composed by the Senate, the House or jointly. The committees that have inquired into international trade matters are listed below. This list is not exclusive however and other committees, that have not yet considered an international trade issue, could nonetheless have international trade matters referred to them where appropriate.

3.1.1. Senate Foreign Affairs, Defence and Trade Committee

A legislative and general purpose standing committee on foreign affairs, defence and trade established under Senate Standing Orders. The Foreign Affairs, Defence and Trade portfolio coverage includes defence, foreign affairs and trade and veterans' affairs. The Committee consists of 2 sub-committees:

- A References Committee, which is empowered to inquire into and report on matters referred to it by the Senate, other than matters referred to the Legislation Committee. This generally includes inquiries into broad questions of Australian law and policy.
- A Legislation Committee, which is empowered to inquire into and report upon estimates of expenditure, any bills or draft bills referred to it, annual reports and the performance of government departments and agencies allocated to it.

3.1.2. House Standing Committee on Agriculture, Fisheries and Forestry

The Committee is a general purpose investigatory committee established by the House of Representatives. The role of the Committee is to carry out inquiries into matters relating to primary industries, including agriculture, fisheries and forestry, referred to it by the House of Representatives

or a Minister of the federal government. The Committee can also inquire into matters raised in annual reports of federal government departments or in reports by the Commonwealth Auditor-General.

3.1.3. Joint Standing Committee on Foreign Affairs, Defence and Trade

The Committee is established by a resolution of the House of Representatives and the Senate. The role of the Committee is to consider and report on matters relating to foreign affairs, defence, trade, and human rights that are referred to it by either Houses of Parliament, the Minister for Foreign Affairs, the Minister for Defence, or the Minister for Trade. The Committee may also inquire into matters raised in annual reports of relevant federal government departments or in reports of the Commonwealth Auditor-General.

On 29 August 2001, the Committee resolved to undertake continuous and cumulative parliamentary scrutiny of the World Trade Organisation. This scrutiny took the form of an annual one-day public hearing on the WTO with specific reference to its progress towards trade liberalisation and the implications of its activities for Australia. Public hearings were held on Friday 23 August 2002 and Monday 24 November 2003. **The Committee's mandate lapsed on 31 August 2004, with the dissolution of the 40th Australian Parliament, and it has not been renewed.**

3.1.4. Joint Standing Committee on Treaties

The Committee is established by a resolution of the House of Representatives and the Senate. It is empowered to inquire into and report on 'matters arising from treaties and related National Interest Analysis [a short commentary on the treaty prepared by the relevant government department] and proposed treaty actions presented or deemed to be presented to the Parliament.'

The Committee retains primary responsibility for scrutiny of international treaties to which Australia is considering becoming a party or of other treaty action, such as amendment and denunciation. This includes all international trade treaty action.

3.2. Parliament's mandate and parliamentary procedures

The federal executive has the primary role in Australia's interaction with the international system. Under section 61 of the Australian Constitution, the executive has exclusive power to assume international obligations on behalf of Australia. The executive maintains its power to assume international obligations through mechanisms such as control over the drafting and negotiation of treaties. The federal Parliament has no legal or constitutional role in relation to international affairs. However, since 1996, Parliament has been empowered to scrutinise treaties to which Australia intends to become party, through the Joint Standing Committee on Treaties. This scrutiny capacity does not place any formal limits on the executive's ability to decide whether or not to ratify a treaty.

The role of the various parliamentary committees with a mandate over international trade issues can be briefly described as follows:

- Committees have an advisory role only
- Committees are not consulted by the executive before the commencement of bilateral or multilateral trade negotiations and have no direct input into negotiating mandates or into national trade policy guidelines
- Committees can conduct inquiries into proposed trade treaties before or during the negotiation of those treaties (see for example *Voting on Trade – Inquiry into the General Agreement on Trade in Services and an Australia-US Free Trade Agreement* (Senate Foreign Affairs, Defence and Trade Committee, 27 November 2003)). However, such inquiries are not required and serve an advisory purpose only.
- Where implementing legislation is required, normal parliamentary debate around the proposed legislation occurs. Where specific legislation is not in issue, Members of Parliament can use

traditional parliamentary activities to raise international trade law issues, such as asking questions without notice.

- Treaties are generally referred to the Joint Standing Committee on Treaties (JSCOT) for scrutiny after signature and before ratification. JSCOT's role therefore is normally limited to review of the treaty terms already agreed by the parties.

3.3. Parliamentary working methods

The traditional parliamentary methods for reviewing the government's implementation of law and policy, such as oral and written questions and plenary debates, are available for discussion of international trade law issues.

For committees with a mandate that includes trade, agendas can be set in a number of ways. Committees can inquire into matters referred to them by the House or the Senate as relevant, by a relevant Minister or, in some cases, committees may undertake an inquiry of their own accord.

The work of parliamentary committees includes taking submissions (from government and from the public), hearing witnesses, considering evidence, formulating conclusions and making recommendations. Committees possess powers delegated to them by either the House or the Senate, respectively. While these powers include the ability to summon witnesses and documents, committees usually invite (rather than compel) the participation of persons or organisations. It is usual practice for committees to call for public submissions and to hold public inquiries. Committees can meet in private or in public and may travel around Australia to conduct hearings. Proceedings of a committee are considered official proceedings of Parliament, in which the relevant duties and privileges apply. A daily record (Hansard) is produced of the public proceedings of a committee. The practice of most committees is also to make public all submissions made to it on a particular inquiry, unless otherwise requested by a person or organisation. The proceedings of Parliament, including the proceedings of most committee inquiries, are broadcast variously on television and on the internet.

Parliamentary committees are usually supported by a small secretariat and all Members of Parliament can call on the considerable resources of the Parliamentary Library.

The **committees with an international trade mandate have issued various reports since the inception of the WTO**. These reports generally include a summary of commentary on international trade policy and law, from the submissions of the government and the public, as well as any recommendations of the committee regarding government action. Reports can be unanimous or can include minority or dissenting reports. Reports have included reform proposals, see e.g. *Voting on Trade – Inquiry into the General Agreement on Trade in Services and an Australia-US Free Trade Agreement* (Senate Foreign Affairs, Defence and Trade Committee, 27 November 2003), which recommended changes to the way the executive branch negotiates international trade agreements. A select list of relevant committee reports is at Appendix A.

The Australian government's move towards concluding bilateral trading agreements has meant that many committees have also considered issues relating to Australia's bilateral trading relationships. The Joint Standing Committee on Foreign Affairs, Defence and Trade has issued a number of such reports e.g. with India and Central Europe. The Joint Standing Committee on Treaties has issued reports in relation to each of Australia's bilateral trade treaties, including the Singapore-Australia Free Trade Agreement and the Australia-United States Free Trade Agreement. These are also listed in Appendix A.

3.4. Composition and appointment of members of the parliamentary committees

Parliamentary committee members are appointed. The composition of committees is set down in the Standing Orders of either the House or the Senate. Committees always include members nominated by the Government and the Opposition and sometimes include members from minor or independent

parties. The composition of the parliamentary committees that have a mandate over, or have considered, international trade issues is as follows:

Committee	Composition
Senate Foreign Affairs, Defence and Trade References Committee	Six senators: two government, three opposition and one minority groups/independent senators.
House Standing Committee on Agriculture, Fisheries and Forestry	Ten members: six government and four non-government.
Joint Standing Committee on Foreign Affairs, Defence and Trade	32 members as follows: 12 government Members of the House of Representatives / Eight opposition or independent Members of the House of Representatives / Five government Senators / Five opposition / Two Senators from any minority group or independents.
Joint Standing Committee on Treaties	16 members: nine from the House of Representatives and seven from the Senate. Nine members are from the government, six from the Opposition and one from the Australian Democrats.

3.5. Interaction with other parliamentary bodies and civil society

Committees may interact with each other, for example House and Senate committees with similar mandates may confer with each other. There have been occasions where two committees have conducted inquiries into the same issue, for example the Australia-US Free Trade Agreement was subject to inquiries by the Joint Standing Committee on Treaties and by a Senate Select Committee on the Free Trade Agreement between Australia and the United States of America.

Most of the interaction of committees with external bodies arises from the public focus of the committees' work. The committee process acts as a forum through which individual citizens and public interest groups can make their views known to the government and to the Parliament, and through which different views are placed on the public record. Each committee has a website, on which past and current reports can be found, along with general information about the committee and its ongoing inquiries. The website of the Parliament of Australia also includes information on how the public can contribute to committee work.

4. The Russian Parliament

Eberhard Schneider

The Russian Parliament is a two chamber parliament consisting of the lower house – the State *Duma* – and the upper house – the Council of the Federation.⁴⁶ Each of the 89 subjects of the Federation delegates two representatives to the Council of the Federation: one for the head of the regional executive (the president of the republic or the governor) and one for the chairman of the parliament of the respective subject of the Federation.⁴⁷

In the State Duma, trade policy is the responsibility of the Committee for Economy, Enterprise and Tourism and, in particular, of the Subcommittee for Foreign Trade and International Economic Cooperation. In the Council of the Federation, the Committee for Economy, Enterprise and Property is in charge of trade policy.

4.1. Parliaments' mandate, and parliamentary procedures

The principal guidelines of domestic and foreign policy are decided on by the President, not by the Government or Parliament. The Government is responsible to the President, not to the Parliament, and therefore does not present its programme to the State Duma. The primary task of the Parliament is to legislate, whereby both Chambers as well as their members have the right to present legal drafts.

Beyond this, the **Parliament has only limited scope for influence**. Among the ways to exert influence are **hearings**, which are organised and held by the Council of the State Duma, or by the Committees and Commissions of the Parliament. The Council of the State Duma is comprised of the Speaker of the State Duma and his deputies. As all major parliamentary groups provide one deputy speaker, they are all represented in the Council of the State Duma. Eight out of eleven members of the Council of the State Duma belong to the „party of power“ „United Russia“ (UR), so they can outvote the three members from other parties. Usually the Press is admitted to the hearings to which experts can also be invited. On the request of the Council of the State Duma and after recommendation of the respective committee, the hearing can be held behind closed doors. At the end of the hearing a majority of the participating MPs can decide on a recommendation on the subject discussed. Minutes and shorthand records of the hearing are taken. The recommendation of a public hearing is published in the electronic media of the State Duma.⁴⁸

Other possible spheres of activity include the organisation of **„round tables“, seminars and conferences which are ordered by the speaker of the State Duma, the operative committee of the State Duma or – in exceptional cases – the Council of the State Duma**.

The State Duma can, on its own initiative, take up international issues and take decisions and give statements on them.

4.2. Parliamentary working methods

The agenda of parliamentary sittings is set up by the Council of the State Duma (see above) which also drafts the working programme for the Parliament and determines the monthly schedule for the issues to be discussed.

A bill introduced to the State Duma is registered by the parliamentary administration for documentation and information. After this, the bill is forwarded by the speaker of the State Duma to the relevant committee which checks its compliance with the constitution and with the rules of the parliament. If this is the case, the bill is forwarded to the Council of the State Duma. The Council instructs a committee in charge to check the content of the bill and to give a recommendation to the Parliament, which as a rule will follow this recommendation to approve or change or reject the draft bill. If a bill is rejected, it is returned to the committee in charge, which elaborates a revised version with the approval of the initiator. Apart from the Parliament this can be the President, the Government, the regional Parliaments and the Supreme Courts. The Council of the State Duma is obliged to put the first reading on the agenda within two weeks. After the first reading, the State Duma either immediately passes and enacts the bill as law, or it sets a term for the second reading, or it rejects the bill. Changes to the bill are made in the period between the first and the second reading. If the bill is passed on the second reading, a third reading is held in which no further changes and no new discussions are permitted. The bill must then be forwarded to the Council of the Federation within five days. None of these processes are public.

The plenary sittings of the State Duma are transmitted live by the State Duma television, but only inside the parliament building. The State Duma publishes the „Stenographer’s Bulletin“ which gives an account of the debates and the results of voting. In the initial period of the State Duma there were even tables which showed the voting behaviour of each individual deputy. In addition, the State Duma is the publisher of the „Informational Analytical Bulletin“, the „Analytical News“, the „Analytical Notes and Review“ and the „Materials for the MPs’ Work with the Voters“, and is the editor of the „Parliamentary News“. Moreover, correspondents who are reporting on the work of the Parliament are accredited to the State Duma.⁴⁹

4.3. Composition and appointment of members of the parliamentary committees

The State Duma consists of 450 deputies, half of whom are elected by proportional vote on party lists and the other half by majority vote in their constituencies. The results of both parts of the vote are simply added together. The State Duma of the current session (December 2003 to December 2007) is

composed of the following groups: „United Russia“ (UR) 67.11% (302 members), „Communist Party of the Russian Federation“ (CPRF) 10.4% (47), „Liberal Democratic Party of Russia (LDPR, in actual fact nationalist, liberal only in name), 7,56% (34), „Homeland“ (national and socialist, but not national-socialist) 7.11% (32), „Bloc Homeland“ (nationalist break-away of „Homeland“) 2.44% (11) and 4% (18) independent deputies.

120 members were elected into the State Duma on 7th December 2003 on the list of „United Russia“ and 104 more directly in constituencies where they had balloted on the UR ticket. After the election, UR managed to convince, by means of persuasion, promises, pressure and money, 78 independent MPs (17.3% of the overall number) to join their parliamentary group. This gained the party a two-thirds majority in the State Duma.⁵⁰

The composition of the Committees – as well as the founding of the parties UR and „Homeland“ – was devised by the presidential administration.

The Committee for Economy, Enterprise and Tourism has 20 members, 15 of whom are members of UR, including the Chairman and seven of the Deputy Chairmen. The CPRF and LDPR are represented by two members each, including one Deputy Chairman for each of them. „Homeland“ was granted only one member on the Committee. The Chairman of the Committee is Valeri Draganov, born 1951, a graduated economist who from 1998 to 1999 served as Chairman of the State Customs Committee. In 2000 he was elected into the board of directors of the „Russian Union of Industrialists and Entrepreneurs“ where he elaborated the Russian position for the WTO working group in 2001. The legislative activity of the Committee includes the adjustment of Russian legislation to the requirements of WTO membership.⁵¹

The Subcommittee for Foreign Trade and International Economic Cooperation has three members, all of whom are members of UR. The post of Chairman is vacant.

4.4. Interaction with other parliamentary bodies and external bodies

All federal legislative acts which have passed the State Duma must be presented to the Council of the Federation. To keep the process in motion, the bill is forwarded to the Council of the Federation just five days after the first reading. This permits the Council to familiarise itself with it.

A legal act is regarded as having passed if the Council of the Federation approves it within 14 days or if it does not deal with it during this period. If an act is rejected by the Council of the Federation, both Chambers of Parliament can set up an arbitration committee to overcome the dissent. After this, the bill has again to be dealt with in the State Duma which, however, can outvote the negative conclusion of the Council of the Federation. Then the bill is forwarded to the President for signing. If the President exercises his veto, the State Duma can outvote this by a two-third majority.⁵²

The President and the Government each delegate one representative to the State Duma. This representative, on the one hand, observes the work of the Parliament and, on the other hand, acts as an advocate of the President's or the Government's position in the Parliament. Moreover, the presidential representative Aleksandr Kosopkin has to ensure that the President is able to comply with his constitutional duties with regard to the lower house of the Parliament. To make this easier, a bill, having passed the first reading, is forwarded to the Administration for State and Law of the presidential administration which elaborates a comprehensive expertise including remarks and suggestions. This is of particular interest for the MPs, because they can see from this expertise whether the President has principal objections to the bill or whether there are chances to have it signed by the President and enacted.

The person in the presidential administration in charge of supervision and control of the overall parliamentary work is the deputy head Vladimir Surkov, born 1964. In the weekly „time of the Government“, the Government has to account to the Parliament.

The citizens have the right to submit petitions to the State Duma. For example, in the period from 21st September to 17th October 9,400 petitions were dealt with. In addition, the State Duma appoints a commissioner for human rights.

The State Duma delegates individual members to the Inter-parliamentary Assembly and to the parliamentary assemblies of the CIS, the Council of Europe, the orthodox countries, the Organisation of the Black Sea Economic Cooperation, the Arctic Region, the Northern Dimension and the Council of the Baltic Sea States. In addition, the State Duma has set up parliamentary groups for cooperation with Ukraine, the CIS states, the Baltic countries, the states of Europe, North America, Latin America, Middle East and also with the states of North Africa, tropical and southern Africa, the Asian countries and UNESCO.

5. The Parliament of South Africa

Stefan Mair, Kerstin Petretto

South Africa is a constitutional democracy in which the **Parliament has a relatively strong role**. The legislative power is vested in a bicameral Parliament, comprising a National Assembly (NA) and a National Council of Provinces (NCOP/former Senate). The President, the Head of the State and Head of Government, is elected by the NA from amongst its members, so that South African democracy can be characterised as a parliamentary system.

The Committees of the Parliament can be divided into four categories:

1. 5 Joint Committees (NA and NCOP): Budget Committee, Constitutional Review Committee, Joint Monitoring Committee on Improvement of Quality of Life and Status of Children, Youth and Disabled Persons, Joint Monitoring Committee on Improvement of Quality of Life and Status of Women, Standing Committee on Defence;
2. 10 Select Committees (NCOP): Economic and Foreign Affairs, Finance, Education and Recreation Labour and Public Enterprises, Land and Environmental Affairs, Local Government and Administration, Members and Provincial Legislative Proposals, Public Services, Security and Constitutional Affairs, Social Services;
3. 3 Standing Committees (NA): Committee on Intelligence, Committee on Private Members, Legislative Proposals and Special Petitions, Committee on Public Accounts;
4. 27 Portfolio Committees (NA) assigned to the portfolios of government affairs. The Portfolio Committee on Foreign Affairs is divided into 2 Subcommittees, one on the African Union and one on International Affairs.

In addition, ***ad hoc* committees** may be established in both Houses separately as well as jointly. Directly relevant for the area of international trade are therefore the **Economic and Foreign Affairs Select Committee of the NCOP as well as the Trade and Industry and the Foreign Affairs Portfolio Committee of the NA**.

Both Houses have established a separate Rules Committee which is responsible for the management, administration and functioning of the respective House. Each has established a subcommittee for international relations which is supposed to make recommendations to the Rules Committee on the development, formulation and adoption of policy regarding Parliament's international relations, including relations with other parliaments and international organisations as well as the membership of international parliamentary organisations.

The area of trade is generally subject to concurrent national and provisional legislative competence (Constitution, Schedule 4). **Parliament's** constitutional role is to ratify international agreements (section 231 of the Constitution). However, while it **can refuse to ratify an agreement, it is not empowered to amend international agreements**. So far, the South African Parliament has not refused ratification of any agreement. The **Parliament does not seem to play a crucial and proactive**

role in the formulation of negotiating positions or national policy guidelines in advance of WTO negotiations. This reflects the ambivalence of the Parliament's part in South African politics. On the one hand, it enjoys substantial constitutional and legislative power; on the other hand its possibilities to enjoy its functions are limited by four factors: a strong executive president; a system of strict proportional representation (directly effective in the NA, indirectly in the NCOP) which supports the enforcement of party discipline; by a strong two-thirds majority of the ruling party in both Houses; and by firm efforts in the ruling party to streamline its policies and suppress dissenting opinions.

5.1. Parliament's mandate, and parliamentary procedures

The South African **Parliament does not approve national policy guidelines in advance of WTO and other major trade negotiations.** However, when a government department submits a white paper (a statement of its policy programme), this will be debated in Parliament. The various political parties are each given time to make speeches, and time is allowed for debating the points which have been raised. **The Parliament and its committees can initiate considerations of outcomes of negotiations by interpellation debates as well as so-called snap debates on urgent issues of national importance. Committees can summon and question Cabinet members. Both Houses and their Committees are allowed to invite experts for special hearings.**

An international agreement binds the Republic only after it has been approved by resolution in both the NA and the NCOP (section 231.2 of the Constitution) unless it is an agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, entered into by the national executive (section 231.3 of the constitution). Agreements of the latter type must, however, be tabled in the NA and the NCOP within a reasonable time. The Parliament can supervise the compliance of national policies with international commitments in the domain of international trade by using its right to question Cabinet ministers and to hold the President and the executive accountable (section 92 of the constitution).

Every year the Minister of Finance presents the Budget to the Parliament. The Budget Committee is directly involved in preparing the Budget. Parliament debates the Budget and votes on it. The NCOP must be involved in the final decision over how money is divided between national, provincial and local levels of government. Parliament does not only have to approve but can also initiate legislation. Bills go through several readings. The committees play a central role in the legislative process. They recommend the approval or disapproval of a bill or propose modifications.

Cabinet members must provide Parliament with full and regular reports concerning matters under their control (section 92 of the Constitution). When the Assembly's approval is to be sought for an international agreement in terms of section 231(2) of the Constitution, a copy of the agreement must be submitted to the Speaker together with an explanatory memorandum. The explanatory memorandum must (a) briefly set out the history, objectives and implications of the agreement; (b) include a legal opinion by a State law adviser as to whether the agreement is consistent with the domestic law of the Republic - including the Constitution -, with the international obligations of the Republic and with international law in general; (c) state whether the agreement contains any self-executing provision that will become law in the Republic in terms of section 231(4) of the Constitution upon the approval of the agreement by Parliament; (d) give an account of the projected financial and other costs of the agreement for the state; and (e) contain all other information needed by the Assembly in order to take an informed decision (section 306 of the constitution). An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, and which must be tabled in the Assembly in terms of section 231(3) of the Constitution, must be referred by the Speaker for information to (a) the relevant portfolio committee; or (b) by resolution of the Assembly to any other Assembly committee (section 308 of the constitution).

For the purpose of linking parliamentary work with the governmental departments, each of the Departments of Foreign Affairs, Trade and Industry and Finance employs a parliamentary officer. A

resource centre and a library, specifically dedicated to the use by parliamentarians, have been established by the Department of Trade and Industry.⁵³

5.2. Working methods

Immunity and freedom of speech are guaranteed for all members of Parliament by the Constitution (sections 58 and 71 of the Constitution). Both Houses and their Committees establish their own agendas. At the first session of a new term, the NA elects a speaker and deputy speaker from among its members, the NCOP- a chairperson and a co-chairperson. The Chief Justice must preside over the election in both Houses. The Constitution states explicitly, that parliament must „facilitate public involvement in the legislative and other processes of parliament and its committees” and „conduct its business in an open manner” (Constitution: section 59/concerning NA, section 72 /concerning NCOP). Thus, meetings of both Houses are conducted in public. In addition, there are Extended Public Committees which consist of the members of the portfolio committee under which a bill or provision falls, and all other members of the NA who attend the proceedings of the extended public committee. Members of the public may also participate in the proceedings of NCOP committees.

A research unit provides the Parliament and its committees with objective and quality research, information and analysis. An International Relations Section provides administrative support and foreign policy advice for international participation by Members and Presiding Officers in furtherance of the international relations development programme of Parliament. Furthermore, Parliamentary training and information-sharing sessions are regularly offered to South African parliamentarians. Close collaboration can be noted between the Parliament and certain research and academic institutes (for example: the Africa Institute, the South African Institute of International Affairs, the Institute for Global Dialogue, Trade Law Centre for South Africa, the Trade and Industrial Policy Strategies).⁵⁴

The Parliament publishes Hansards (both Houses jointly as well as separately), announcements, tablings and committee reports (jointly by NA and NCOP), meeting-schedules of committees of both Houses, internal question papers (questions posed to Cabinet members for written reply), question papers (questions posed to Cabinet members for oral reply), order papers and minutes of proceedings.

5.3. Composition and appointment of members of the parliamentary committee

The currently 400-strong NA is elected by proportional representation to serve a five year term; the NCP is composed of 90 indirectly elected representatives of the nine provinces (10 members elected by each of the nine provincial legislatures for five-year terms). General elections are conducted by universal suffrage. Currently, the ANC holds 293 seats in the NA, the opposition parties 107. Among the permanent members in the NCOP, the ANC holds 36 seats, opposition parties 18.

For the NA committees, parties are entitled to be represented in substantially the same proportion as the proportion in which they are represented in the Assembly except the RoP prescribe the composition of the committee or the number of members in the committee does not allow for all parties to be represented. Parties appoint the members of a committee. A committee must elect one of its members as the chairperson who presides over the meetings and may act on behalf of and in the best interest of the committee when it is not practical to arrange a committee meeting. The committees relevant for international trade are composed as follows:

- Trade and Industry (17 members): 12 ANC, 5 opposition parties, Chairperson: ANC
- Finance Committee (12 members): 8 ANC, 5 opposition parties, Chairperson: ANC
- Foreign Affairs / Subcommittee on International Affairs (16 members): 9 ANC, 7 opposition parties, Chairperson: ANC
- Rules Committee (31 members): 17 ANC, 14 opposition parties, Chairperson: ANC

For the NCOP Committees, the Rules Committee must determine the number of members. Provinces are generally entitled to be equally represented in Committees; members are appointed by the Province’s delegation head. Each party represented in the Council is entitled to proportional

representation or, if proportional representation is not possible on account of the party's size, to one representative on the committee.

➤ Economic and Foreign Affairs (11 members): 8 ANC, 3 opposition parties, Chairperson: ANC

The composition of the Joint Committees differs according to the resolution establishing the respective committee. It must either specify the names of the committee members or the number of committee members from each House. In case of the Joint Budget Committee, the composition reads as follows:

➤ Joint Budget Committee (24 members; NA: 15; NCOP: 9): 21 ANC, 3 opposition parties, 3 Chairpersons: ANC

5.4. Interaction with other bodies

The most important formal body for interaction and consultation with the civil society in the field of economics is the **National Economic Development and Labour Council (NEDLAC)**. It was established in 1995 based on an Act of Parliament and encompasses civil society, labour as well as private sector representatives. It is supposed to build national consensus on key economic policy issues and to review relevant legislation emanating from the executive. According to the NEDLAC Act of 1994, the Council shall: (a) strive to promote the goals of economic growth, increased participation in economic decision-making and social equity (b) seek to reach consensus and conclude agreements on matters pertaining to social and economic policy (c) consider all proposed labour legislation before it is introduced into Parliament (d) consider all significant changes to social and economic policy before it is implemented or, in the case of legislation, before it is introduced into Parliament (e) encourage and promote the formulation of coordinated policy on social and economic matters. It is an agreement-making body of equal partners and not an advisory body; and it requires mandated representatives and serves as an instrument for continued „accord-making“.

Ahead of each WTO ministerial round of WTO negotiations, the Government of South Africa prepares its approach to the meetings. As part of the preparations, it usually convenes a National Consultative Conference, so that interested parties can participate in informing the development of South Africa's approach to the WTO conference.

Another, more informal forum for interaction between Parliament and the civil society are the so-called study groups of the ruling ANC party. The efforts of the leadership of the ruling party to streamline its policies result in a substantial reluctance on the part of its MPs to engage themselves in frank and controversial discussions within the parliamentary committees. The study groups prepare the positions of the ANC-members of a committee. Experts and representatives of civil society are frequently invited to participate in meetings of the study groups.

The South African Parliament is member of the Inter-Parliamentary Union and the Commonwealth Parliamentary Association (CPA). It sends representatives to the Pan-African Parliament, the SADC Parliamentary Forum as well as the ACP-EU Joint Parliamentary Assembly.

The Work of the South African parliament is supported by the European Union Parliamentary Support Programme (EUPSP)

6. Iran's Islamic Consultative Assembly and its relative power in trade policy

Johannes Reissner, Nina Zolanwar

In the political system of the Islamic Republic of Iran, the Parliament - the **Islamic Consultative Assembly (*Majlis-e shura-ye islami*)** - is the main legislative body. Its legislative power is restricted by the Supreme Leader of the Revolution and by the supervision function and veto powers of the Guardians Council and the Expediency Council. The 292 members of the Islamic Consultative Assembly - five seats are granted to the religious minorities⁵⁵ - are elected every four years by a direct and secret ballot. Before an Iranian man or woman can run for election, however,

each individual candidate for Parliament is vetted by the Council of Guardians⁵⁶. Its basic function according to Art.91 of the Iranian Constitution is to examine the compatibility of legislation passed by the Majlis with both Islam and the Iranian constitution.⁵⁷ The Council of Guardians, which is not elected by the people, has an important veto and controlling function in the political system of the Islamic Republic of Iran. Despite the powers of the Supreme Leader, the Guardians Council and the Expediency Council⁵⁸ to overrule the legislation of the Parliament, it is worth mentioning that it is equipped with many important rights and duties. **Many rights and duties (see further under 2.) of the Parliament have their roots in Iran's constitutional movement of 1905-07 and survived the Islamic Revolution of 1979.** For example, the Iranian Parliament is indissoluble according to a generally held interpretation of Article 63 of the Constitution, a fact that has its roots in the experiences of the Majlis under the monarchy. The Iranian Parliament is also entitled to confirm or reject each minister appointed by the President. The most recent case of rejecting for the third time President Ahmadinejad's nominee for the oil ministry in his new Cabinet confirms once again that the Parliament of the Islamic Republic of Iran knows how to use its rights effectively despite the restrictions imposed on it by the other power circles and institutions. Last but not least, it also has the right to dismiss the President by a two-thirds majority.

6.1. Quorum, composition and structure of Parliament

In the Iranian constitution Articles 62 – 70 list rules for the quorum, term, oath and transparency of the parliamentary procedures. Usually a quorum is considered legally valid when two-thirds of the members of Parliament are present. The Speaker of the Parliament and the Presiding Board of the Majlis are elected by the members of Parliament at the beginning of each four-year term. The parliamentary Speaker usually belongs to the majority faction of the Parliament, today, for the first time in the history of the Islamic Republic of Iran, this position is held by a non-cleric. The Presiding Board of the Parliament consists of two deputy speakers (from other parliamentary parties), three assistants and six secretaries. All of them are members of different factions. Despite the principle that the absolute sovereignty of the Islamic Republic of Iran belongs to God (Art.56), the parliamentarians are elected representatives of the people (Art.58), and they are responsible to the entire nation (Art.84). This is underscored by Art. 90, which stipulates that all complaints from citizens about the performance of the Majlis or the executive must be investigated and given a satisfactory reply. A standing commission, the so-called Commission Art. 90, fulfils this task.

To be a member of Parliament is a full-time job; all parliamentarians receive parliamentary pay. The amount of the monthly parliamentary pay is public and all supplementary pay is made transparent for the people. In recent times the payment of the parliamentarians has become a subject of hot debate in the country's newspapers due to their poor performance – also an indication that the public takes note of representatives' activities.

All deliberations of the Parliament „...must be open and full minutes of them made available to the public by the radio and the official gazette“ (Art. 69). In addition, all proposed bills and amendments are published on the website of the Majlis.

The Majlis composes committees to examine different topics and fixes the terms of their office. Currently there are 14 regular parliamentary Commissions, and each parliamentarian is obliged to work in one of them. The Commissions consist of qualified members of each parliamentary faction according to their proportional representation in parliament.

6.2. Parliament's mandate, and parliamentary procedures

The rights and duties of the Iranian Parliament and its relationship to the Council of Guardians and the executive power (ministers and President) are described in Articles 71-99 of the constitution. Parliament's approval is required in case of international treaties, agreements and contracts, declaration of a state of emergency and granting economically important concessions for foreigners. Parliament's approval is also required for taking or giving governmental loans - domestic as well as foreign - and for the state budget. The Majlis has the right to make amendments to treaties or

governmental bills, but its rights in drafting legislation and establishing laws is limited due to the fact that, without the Council of Guardians, the Majlis has no legal weight (Art. 93). Despite the restrictions regarding its legislative power, the Iranian **Parliament uses its rights and duties to investigate and inquire into all matters regarding the country (Art. 76-83). Every minister and other executive officials can be questioned directly regarding their departments.**

The rules of these investigations, as laid down in the Constitution, give the Parliament a strong position, as only ten parliamentarians are needed to interpellate a minister. If the parliamentarians are not satisfied with the answers of the minister they can declare a vote of no confidence and the minister is to be dismissed (Art.89). **Impeachment of ministers has increased remarkably in recent years.** For example, the 6th Majlis (2000-2004) made seven censure motions on ministers, investigated 16 cases and asked the ministers 1,000 questions in parallel with the presentation of annual reports on the performance of ministries by specialised commissions.⁵⁹

6.3. Relative Power in Trade Policy and Economic Affairs

As mentioned above, the **Government needs the Parliament's approval for international treaties and contracts and also for the policy guidelines regarding trade and economic affairs.** A distinction must be made between the general agenda of Iran's trade and economic policy, and individual cases that illustrate the sometimes striking influence of the Majlis. General trade and economic policy is outlined in two governmental planning instruments: the *20-year Perspective Plan* (up to 2025/26) - a plan that outlines the development goals of the country in a more general way - and the *Five-Year- Economic, Social and Cultural Development Plan*. The latter is a compendium of some hundred pages containing articles regarding privatisation of state-owned industries, diversification of export products, interaction with the global economy, foreign investment. The 5-year plans are conducted in the ministry-like *Management and Planning Organisation*. The Parliament has to approve these plans and can make amendments which have to be approved by the Guardians Council and, if necessary, the Expediency Council. For example, before the current *Fourth (Five Year) Economic, Social and Cultural Development Plan* of the pro-reform government was finally approved by the seventh parliament (with a conservative majority) in August 2004 it pushed through the cessation of privatisation, one of the main topics of the current development plan – of course with the backing of the Guardians Council.

Also in summer 2004, the case of a Turkish company running the new Teheran Imam Khomeini International Airport (IKIA) led to a new bill calling for validation of contracts with foreign companies by the Parliament regarding foreign investments. At the same time, the Majlis passed an urgent bill that Iranian companies have to hold not less than 51 % as shareholders. The background of this bill was a Turkish mobile phone operator who had gained an original share of 70 % for setting up and running Iran's mobile phone network.

6.4. Parliamentary working methods

There are three different kinds of working units in which Members of the Parliament are involved:

As mentioned above, the Iranian Parliament currently has 14 Commissions working on different policy fields. The oversight duties of the Iranian Majlis are carried out by the responsible Commission and its experts. They are authorized to adopt or reject regulations, resolutions and by-laws, within the limits of its legislative power as set out above.⁶⁰ Each Commission itself has a presidency that consists of a chairman, two vice chairmen, one speaker and two secretaries and members/representatives without special functions in the Commission. The members of the Commission usually have an educational or professional background that qualifies them to scrutinise the bills and plans of the relevant policy field. For example, the members of the Economic Commission of the Iranian Parliament have work experience as managers, businessmen, engineers or academics. After the consolidation of a commission, the names of the members are published on the official website; also the latest news of the Commission is made public there.

Another kind of working unit results from cooperation with executive officials. For example, the current fourth development plan fixes the establishment of the *High Council of the Non-Oil Export Development* under the chairmanship of the President or Vice-President with membership of experts from some ministries and „three members of the *Majlis representing the different Commissions of the 'Commerce and Distribution Affairs', 'Plan and Budget Affairs', Economic Affairs and Finance, and Cooperative'*.⁶¹ The duty of the parliamentarians in the meetings of this High Council consists of observing the meetings and reporting from the meetings to the *Majlis Commissions*.

A particular type of joint committee between parliamentarians and executive officials are the *ad hoc* committees established for the investigation of special cases. For example, a recently established *ad hoc* committee formed from / together with the President's administration is examining the background of the tumbling indices on the Tehran Stock Exchange (TSE) after the election of the current President Mahmoud Ahmadinejad. This *ad hoc* committee consists of five members from the *Majlis Economic Commission*, five experts from the Ministry of Economic Affairs and Finance, and two other lawmakers.⁶²

Considering the agenda of these different *Majlis Commissions*, such as overseeing the performance of the Government, gathering information on how the country is administered and reporting their conclusions, the Iranian Parliament is an active „working parliament” that also shows increasing self-sufficiency. Members of Parliament are present in public and often quoted in the national press as experts on various policy fields.

6.5. Interaction with other bodies, including civil society

The Iranian Parliament has until now worked dynamically in various policy fields, and it is no exaggeration to say that Iran has its own constitutional and parliamentary tradition, something that can hardly be found in other countries of the region. It is therefore also important to mention that Iran's Parliament shows a high degree of activity in cooperation with other parliamentary bodies of Muslim and non-Muslim countries. Iran is an active member in the International Parliamentary Union, the Asian Inter-Parliamentary Union, and it has close contacts with other parliamentary bodies of the region. For example, Iran played an active role in the creation of the Parliamentary Union of the OIC (Organization of the Islamic Conference), whose Secretariat is located in Tehran.⁶³

The 6th *Majlis* (2000-2004) welcomed contacts with the European Union as well and received and hosted the first delegation of the EU foreign policy Commission.

At home, parliamentarians are bound to stay permanently in contact with their constituencies through their representative's offices. Successful interaction with voters and local pressure groups is highly important for their political standing.

7. The Thai parliament and International Trade Organisations

Felix Heiduk

The Kingdom of Thailand has been a WTO member since January 1995, and has made steady progress in recent years towards trade liberalisation, as well as restructuring its public sector and strengthening its financial system. Thailand's position during international trade negotiations within the WTO is that of an agent of the „weak”, less-developed countries pressing for fair-trade mechanisms between the North and South hemispheres. „Under the WTO dispute settlement mechanism, it has been a party to six disputes, one as respondent and five as complainant. It participates in the WTO Working Groups on Trade and Investment, Transparency in Government Procurement, and Trade and Competition Policy”.⁶⁴ At the same time Thailand has signed or is currently attempting to sign bilateral free trade agreements with leading international economic powers (i.e. China, Japan, USA, Australia). Thailand also advocates a network of bilateral preferential trading arrangements, particularly within the Asian/South Pacific region, including the establishment of an ASEAN (Association of Southeast Asian Nations)-China Free Trade Area within ten years, the

formation of an East Asia Free Trade Area between ASEAN members, China, Japan, and Korea (ASEAN plus Three), and an ASEAN-Japan Economic Partnership. Therefore the emerging picture of Thailand's trade policy is of a two-legged approach. Whereas the WTO-leg so far seems to be relatively weak, bilateral and collective-ASEAN deals seem to be progressing.

7.1. Type of parliamentary body with competences in the area of trade

Political decision-making concerning trade policies is, not unlike most other Southeast Asian countries, pretty much centralised in the hands of the Government and its bureaucratic agencies. The Government can negotiate and put trade agreements into effect by executive decree, i.e. without parliamentary approval or the obligation to hold public hearings.⁶⁵ In addition to that it needs to be said, that on 6th February 2005, Prime Minister Thaksin Shinawatra's *Thai Rak Thai* (TRT) party won 377 of 500 seats in the lower house of Parliament. Thus parliamentary opposition remains under 25% of all seats, which largely affects any parliamentary control towards government approved policies. So even if parliamentary approval was needed for negotiating trade agreements, it would in reality have little impact on their outcome. In fact, an influential parliamentary body with competences in the area of trade is largely absent due to structural shortcomings.

7.2. Mandate and Procedures: The Thai Parliament's interaction with the executive branch

Pressure on the Thaksin Government has been strong from the Opposition as well as from members of the Senate. This pressure has centred on the call for joint parliamentary sessions to consider and discuss the often far-reaching implications of the Government's trade policies. Thus, throughout the first four-year term of the Thaksin Government (2001-2004), the Government never allowed debate in Parliament on free trade and privatisation. Free Trade Agreements and their possible outcomes for the Thai national economy were for the first time discussed in Parliament during the general debate on the Government's policy statement to Parliament in March 2005. However, the free trade policies of the Government were thereby only discussed in a broad way amongst other „hot topics” like the deepening violence in the South of Thailand or the privatisation of state enterprises.⁶⁶ Whereas there have been joint parliamentary sessions of the lower and upper house over the deepening violence in the South, negotiation and ratification of agreements on trade policies are pushed through by the Government with as little public debate as possible.

7.3. Parliamentary working methods

The agendas of free-trade policies are not established through negotiation with the Parliament, nor does Parliament or public have full access to the information needed to bring any sort of input into the Government's trade policies. Critics have stated that the limited available public information on free trade agreements is provided mainly by the Government and a group of large-scale industrialists and therefore biased.⁶⁷ Furthermore, analytical input from independent experts (i.e. academics, NGOs) in the form of reports, briefing papers etc. is lacking. In general, critics describe the policies of the Thaksin Government as a „negotiating first and listening later” approach, marginalising the possible input of the Parliament as well as civil society groups and the public.⁶⁸ As there is no need for the Thai Government to get the approval of Parliament for trade negotiations, details of the agreements and negotiations are not released to the public.

As stated above, Mr Thaksin obviously believes in a CEO-style approach concerning trade policies; or, as prominent Thai economist Dr. Virabongsa Ramangkura, on behalf of the Government's drive to forge a free trade agreement with the US, put it: „If we wait for research findings to be released before acting we may never achieve anything”.⁶⁹ The Opposition criticises the 'elitism' of trade agreements, which, unlike in countries like the US or Japan,⁷⁰ do not have to be endorsed by the Parliament.

7.4. Composition and election of members of the parliamentary committee

Due to the lack of parliamentary influence, WTO-policies are led, like other trade policies, by the Thai Ministry of Commerce (MOC) through its Department of Trade Negotiations, which co-ordinates

WTO-related policies with other ministries and regulatory agencies. It also deals directly with Thailand's mission to the WTO in Geneva. The Department of Trade Negotiations staff consists of 14 officers, of which nearly all come out of the MOC. On specific issues it interacts with certain relevant ministerial offices and departments of ministries and agencies. It also co-operates intensively with the Ministry of Foreign Affairs (MFA) as well. According to Mr Thaksin's viewpoint of trade policies as a key-part of Thailand's foreign policy, the MFA provided the chief negotiators for the key bilateral negotiations with the USA and Japan.⁷¹ Furthermore Prime Minister Thaksin appointed three new Thailand Trade representatives when he came into office in 2001. These three political appointees are involved in the promotion of trade policies. Their appointment shows some Thai characteristics of trade policy in general: a top-down approach in decision-making about trade policies and implementation, which occurs as soon as possible.

7.5. Interaction with other parliamentary and external bodies

As stated above, there is no relevant input or parliamentary influence on Thai trade policies, as there is little interaction or consultation between the Parliament and external organisations or institutions like NGOs or academics. By contrast, the Government does consult with business. The main Thai business associations are well-informed and plugged into trade policy decision-making.⁷² Whereas rich bankers and other lobbyists of the private business sector lobby the government effectively on behalf of their interests, no-one seems to be lobbying on behalf of large sections of the population like farmers and workers.⁷³ The formation of the Joint Standing Committee on Commerce, Industry and Banking (JSCCIB) is indicative of the increasingly close relationship between the business elite and the Thaksin Government. The JSCCIB brings together government agencies and private-sector bodies such as the Thai Chamber of Commerce or the Thai Bankers Association. The Committee, serving as a direct link to balance private-sector and government interests, formed a WTO Committee in 1999 to increase business input into Thai positions in multilateral trade negotiations. In the context of governmental relations in trade policy, there is no equivalent to the JSCIBB outside the private sector.

7.6. Conclusion

Due to the lack of input from independent analysts, NGOs and the public in general, Free Trade Agreements „have been rushed, driven by fuzzy foreign-policy goals, and had very little sense of economic strategy. Careful preparation has been conspicuously lacking”.⁷⁴ Ministers and officials have gone into negotiations ill-prepared, lacking relevant information and therefore in clear disadvantage compared with their trade-partners. As a consequence, too many negotiations have been launched and have, in the context of a „more than just fast-track” approach, proceeded too fast. All in all, high-level policy direction given to negotiators has been found wanting, as has consultation with Parliament, NGOs and the wider public,⁷⁵ leading to a vast public rejection of free trade policies among civil society actors. Facing „growing public discontent with the consequences of globalization and particularly with trade policies”⁷⁶, the Government needs to change its attitude in order to increase transparency and start a broad dialogue. This in turn would allow a broad variety of ideas and suggestions to be transmitted to the negotiators. For the time being, private business-entrepreneurs have a larger impact on the outcome of free trade negotiations and agreements, than the members of the Parliament, as representatives of the Thai people.

8. The Swiss Parliament in WTO Negotiations

Daniela Kietz

According to the rights conferred on it by the Constitution, the Swiss **Parliament is *de jure* a strong Parliament in domestic and foreign policy**. However, its powers are constrained by a number of very specific characteristics of the Swiss political system: the comparatively high degree of decision-making autonomy accorded to the subnational levels by the federal structure; the strong traditions of direct democracy and corporatism and the collegial executive. All these structures are an expression of

what Lijphart dubbed „consensus democracy” and Lehmruch, „consociational democracy”; together they constitute a political system in which power is shared between various levels and institutions.

Swiss foreign policy had traditionally been a prerogative of the executive, as in most other countries. However, since the late 1980's the Parliament, the Cantons and interest groups have taken an increased interest in foreign policy. This is above all due to the increased blurring of foreign and domestic policy. This **„domestication” of foreign policy has boosted Parliament's role in this field:** foreign policy increasingly impacts on highly sensitive domestic policies which in turn leads to a high degree of mobilisation amongst domestic political actors. In the case of Switzerland, this trend has been accelerated by the country's ever-tightening economic and social relations with the European Union. In order to legitimise the decisions taken in international fora such as the WTO, the interests of these actors need to be co-opted into the negotiation process, just as in domestic policy-making. Thus, we observe institutional adaptation processes in the field of foreign policy-making on the part of the Swiss Government, administration, civil society as well as Parliament towards mechanisms of increased consultation and participation.⁷⁷ One result of this trend is that the division of powers between Government and Parliament in the area of foreign policy was adjusted for a first time in **1991/92. Parliament was given the right to be consulted by Government on mandates for the negotiation with international organisations before the Government takes any decisions.** This arrangement applies, for example, to the WTO negotiations. The total **revision of the Constitution in 1999 further extended Parliament's role in foreign policy-making.** The Parliament and the Government formally share the competence over foreign policy-making. The Federal Law on Parliament (FLP) further details the new rights set out in the amended Constitution.

8.1. Type of parliamentary body, its composition and appointment

The Swiss federal Parliament is bicameral with one Chamber representing the people – the Lower House (LH) – and the other representing the Swiss Cantons – the Upper House (UH). The Chambers are equal, since every law has to gain a majority in both Chambers to be passed. The 200 LH MPs are elected *via* a form of proportional electoral system leading to a very fragmented party system. At the moment there are 14 parties represented in the Chamber, 5 of which have only one MP. The UH consists of 46 MPs elected in the 26 cantons via a majoritarian system. Both Chambers dispose of foreign affairs committees (FACs) that are responsible for dealing with WTO issues. The weighting of parties in the FACs is proportional to the size of parties in the plenary. Like all Lower House committees, the LH FAC has 25 members, the UH FAC has 13. Committee sittings in general are not public; the public is afterwards informed about the results of deliberations. On the request of the majority of the committee, hearings can be held in public; this has however not been the case so far.

8.1.1. Parliament's mandate, procedures and interaction with the executive

One of the major changes arising from the new FLP was the overall **strengthening of the Committees' role in Parliament and of their information and consultation rights vis-à-vis the Government.** Based on these formal rights, the Swiss Parliament, in an international comparison, disposes of a strong committee system. It clearly falls into Weber's category of a 'working Parliament'. However, when considering these formal rights it should be kept in mind that the Parliament has a number of **structural deficits that limit the *de facto* participation capabilities of Parliament.** MPs, for example are not fulltime politicians. They usually have another occupation: parliamentary sessions only take place four times a year for three weeks, which amounts to about 50 to 70 per cent of the workload of a fulltime Parliament. They have no assistants; the Committees themselves have only a small number of staff.

8.1.2. Constitution and Federal Law on Parliament

As in most Parliaments, the executive has to *submit international treaties to the Parliament for approval.*⁷⁸ It goes without saying that this right is limited since treaties cannot be amended but only approved as a whole. Furthermore, **international treaties or laws based on them are subject**

to a facultative referendum if requested by 50,000 people or eight Cantons within the 100 days following official publication. Thus, **WTO agreements such as GATS, which are legally considered international treaties, could be subject to such referendums** (Art. 141). This has so far not been the case. Even the agreement on joining the WTO was not subject to a referendum although it could be argued that the WTO is an international institution and according to the Swiss Constitution membership in it would actually make a referendum obligatory.

Arguably most important in the WTO context is that, according to Article 166 of the Constitution, *the Parliament shall participate in the shaping of foreign policy* and supervise foreign relations.

How precisely Parliament approves treaties and shapes foreign policy is elaborated by the FLP in Art. 24 (concerning Parliament as a whole) and in Art. 152 (on Committees alone). Together these articles form the heart of parliamentary participation rights in foreign affairs. According to Art. 24, the Parliament monitors international developments and on this basis it participates in decision-making on principles of foreign policy and on the basic orientation of Swiss foreign policy, as well as on important planning/ strategic decisions.

To ensure that the Parliament receives the necessary information, Art. 152 specifies that the FACs are regularly, early on and comprehensively informed by Government on important foreign political developments, they are in regular contact and exchange of opinions with the Government. Regarding negotiation mandates which are of utmost importance for WTO issues, they are:

- ***consulted by Government*** on fundamental plans/projects as well as on ***guidelines on the mandate for important international negotiations before it fixes the mandate*** or amends it,
- ***informed by Government*** about the state of affairs of the implementation of such projects and the ***progress of negotiations***. In urgent matters the Government consults the Committee Chairs who, in turn, inform Committees. Both FACs as well as any other committee can demand of the Government to be informed and consulted at any time.

Apart from these particular participation rights in foreign affairs, the FACs can also make use of the general committee rights (Art. 44/45 and 150/51 FLP) such as the right to:

- participate in the legal planning and establishment of the overall direction/objectives of Swiss politics in their fields, draw up own initiative reports,
- submit Parliamentary Initiatives and decide on whether they will lead to the adoption of laws,
- commission the Government or external advisors to draw up laws, monitoring reports etc.

For the above purposes they can:

- use parliamentary instruments including interpellations⁷⁹, questions, motions, postulates⁸⁰,
- set up subcommittees, summon Government and administration officials, external experts etc before the Committee for hearings
- demand access to any Government document.

Applying, for example, the Committee's above-mentioned right to participate actively in the legislative planning of all areas related to the field of foreign policy (Art. 28) would mean that:

- the annual foreign trade report and the foreign policy report is no longer merely acknowledged but voted upon in the form of a parliamentary decision
- Parliament, through its committees, can commission the Government to initiate strategic planning or change the focus of a strategy,
- Parliament itself can take decisions on foreign policy principles and strategies.

8.2. Parliamentary working methods: how parliament exercises its rights

The LH FAC established the following Subcommittees in the last legislative period which are of interest in the WTO context: Participation of Parliament in Foreign Policy” (with UH FAC, 8 members), Parliamentary Foreign Political Activities (7 members), Foreign Trade Policy, International Finance Architecture, Development Policy, Sustainable Development (WTO, BWI) (8 members); the latter Subcommittee only met once, since the resources for its continuation were not approved. It considered developments with two parliamentary initiatives and three Canton initiatives, of which one directly dealt with a WTO issue, but was not approved.

Within the framework of the regular monitoring of social and political developments it organised a number of hearings mostly on EU issues with Government officials, foreign politicians and experts; however such hearings could potentially be used in the WTO context as well. The FACs are regularly informed by the Foreign Ministry and the Ministry for Economics on relevant foreign policy developments. Usually this is conducted by the Ministers in person. To deliberate on important issues, the two FACs hold common sessions and they draw up common reports if necessary.

Most important in the WTO context were the consultations of the FACs by the Government on the negotiation mandates for the WTO conferences at Doha and Cancun. However, some MPs are still not satisfied with the Government’s *de facto* information policy. Especially in the framework of the negotiations on the liberalisation of trade in services (GATS) and liberalisation in the area of agriculture, the Government came under criticism from both Chambers. A large number of interpellations and motions demanded a more comprehensive and regular exchange of information, and consultation of the Parliament; they explicitly made the link to the Swiss position’s perceived lack of democratic legitimacy. Many MPs felt that the Government did not fulfil its obligations under the Constitution and the FLP and thus prevented the Parliament from effective participation in the negotiations. The Government is accused of trying to keep its position secret in order to prevent domestic resistance. Most recently an MP even submitted a parliamentary initiative arguing for an obligatory referendum on the GATS negotiations since the current negotiations would lead to the establishment of a supranational organisation. However, MPs are divided on the subject, with some accepting the fact that the step-by-step multinational WTO negotiations are much more difficult to communicate than bilateral negotiations with the EU in which Government did a much more satisfying job in informing both Parliament and civil society. Others do see problems in the information policy but do not go as far as to say that Parliament is being completely disregarded. The Government, by contrast, insists on having fulfilled its obligations by, for example, having conducted in the framework of the DOHA round extensive consultations with the Cantons and civil society, based on concrete proposals which were also discussed in the two FACs. It had established a so-called contact group to bring together NGOs and the administration on WTO issues managed by the state secretariat for economy, which also organised public discussions on the negotiations. All this took place before the Government finally agreed on its proposal for the negotiations leading up to the Cancun Conference.

Use of parliamentary instruments linked to WTO issues

Year	Total	Interpellation	Postulate	Motion	Questions	Canton/Parliamentary Initiative
2005 (1.12.)	11	7	2	2	1	1
2004	16	13	1		2	
2003	5	4	1			
2002	8	4		2	2	
2001	4	2		2		
2000	4	2	2			
1999	8	3	2	1	1	1

1998	3	2	1			
1997	1				1	
1996	1	1				
1995	0					
1994	1				1	

The use of parliamentary instruments dealing with WTO/GATT issues has increased significantly since the founding of the WTO. This is due firstly to a general increase in the use of scrutiny instruments by the Swiss Parliament.⁸¹ The strong increase since 2000 is however likely to be linked to the sensitive WTO issue of the dismantling of subsidies in the field of agriculture, and the liberalisation of services in the framework of GATS, which has been subject to a significant number of these initiatives. Another grounds for their use could derive from the increased sensibility generally exhibited by parliaments when their own role in international politics is involved. This would be in line with the increasing parliamentary activity on the international level (International Parliamentary Union etc.) For example, one parliamentary initiative sought to bring about increased participation rights of the Parliament in WTO issues. Other recurring topics in this context were the democratic legitimisation of the negotiation mandate, and the information obligations of government. In other words, these initiatives did not deal with WTO content but with participation procedures themselves. Another interesting feature of parliamentary initiatives with WTO content is that they are often used to bring forth classic parliamentary topics such as the concern about the protection of, and support for, social and human rights, environmental issues and the situation of developing countries. In this sense the concerns of the Parliament are quite close to those of NGOs.

8.3. Interaction with other bodies, as well as civil society

Article 54 states clearly that foreign affairs are a federal matter. Nevertheless it also underlines that the confederation shall take into consideration and protect the interests of the **Cantons**. According to Article 55 the Cantons shall participate in the preparation of foreign policy decisions, which concern their powers or their essential interests. In this regard the confederation shall inform and consult them fully and in a timely manner. The position of the Cantons has particular weight when their powers are concerned. Thus, in WTO negotiations the Cantons are regularly consulted before the mandate is fixed. In the WTO context, Cantons have also used the instrument of „Canton Initiatives“ which are used to prompt Parliament to draw up a draft legal act. **The Canton Wallis has, for example, requested the Parliament to complement the WTO agreements with a clause on the environment and a social clause, something which was not however approved by both Chambers.**

Trade union, and industrial and employers' confederations historically have enjoyed strong standing in Swiss society; Switzerland has a strong corporatist tradition. In domestic policy industrial and trade associations participate in a so-called pre-parliamentary procedure in their fields. At a first stage a pre-draft of a legal act is drawn up with the input of so-called Expert Commissions. These bring together members of the scientific community, concerned industrial organisations, NGOs etc, but also Cantons. Those Commissions are the main forum for establishing a compromise on the basic lines of the draft legal act. By co-opting possible opponents, they play a large role in preventing later referendums. The omnipresent „threat“ of a referendum gives interest groups a large bargaining potential. At a second stage, the draft is submitted to interested organisations, the Cantons and political parties for opinions/statements. Based on these opinions the Government decides whether to go ahead with the (possibly amended) draft or not. These traditional procedures of interest mediation are too lengthy to be applied in the context of mandates for international negotiations. Therefore new consultation mechanisms such as hearings and informal consultations were introduced to achieve a quicker reconciliation of interests. For example NGOs are consulted through WTO „contact groups“ of the state secretariat for economy, which also publishes the Swiss negotiation offers to the WTO.

Also the Cantons, simultaneously with the parliamentary Chambers, are handed out proposals for an offer for discussion.

This overview shows that the formal powers of the Parliament in foreign affairs (including WTO issues) have increased over the last two decades towards an active participation in crucial issues such as WTO negotiation mandates. **De facto, the WTO issues have become crucial recently, with the increasing integration in the field of agriculture and services.** This coincided with the trend to render WTO negotiations more transparent, increase the participation of parliamentary and civil society actors, and with an increasing international engagement of parliaments in general. The Swiss Parliament has only begun fully to explore the rights it is assigned by the Constitution in foreign affairs; the institutions still seem to be in a process of recalibration as the growing number of recent parliamentary initiatives in the field of e.g. WTO and IMF issues indicates.

9. The Parliament of India

Christian Wagner

After its economic liberalisation in 1991, India became a founding member of the WTO in 1995. This was a remarkable shift for a country which had promoted economic development through protectionist policies since 1947. India's entry into the WTO underlined the commitment of the Government to pursue a policy of world market integration and export promotion. This commitment is strengthened by the consensus of the main parties on foreign policy issues. Since the 1990s all three main party blocs (Congress and allies, BJP and allies, Left Front and allies) have been in power in various constellations. Despite their different domestic constituencies all governments have pursued the course of WTO compliance.

9.1. The character of the Parliament

The Indian Parliament consists of two Chambers: the Lower House (*Lok Sabha*) and the Upper House (*Rajya Sabha*). In 2005 there were 19 parliamentary committees and 24 departmentally related standing committees. At present at least two committees related to trade questions can be identified: first the Standing Committee on External Affairs at the Lower House, second the Committee on Commerce, which is presently under the Rajya Sabha. The Committee of External Affairs consists of 31 members (20 from the Lower House, nine from the Upper House, two seats vacant). The Committee on Commerce consists also of 31 members (21 from the Lower House, nine from the Upper House, one seat vacant). The Parliament has the right to appoint *ad hoc* committees (select or joint committees) to consider particular bills.

9.2. Parliament's mandate and parliamentary procedures

Constitutionally, the **Parliament also has the right to make laws with respect to various aspects of foreign policy including treaties and agreements with foreign countries, war and peace, participation in international conferences, United Nations.** Because of specific circumstances like the dominant role of Prime Minister Nehru in foreign policy matters and the initial dominance of the Congress Party between 1947 and 1977, foreign policy today is regarded to be the realm of the executive. The Parliament has various means to control the Government's foreign policy such as question hours and no confidence motions. Moreover, resolutions may be passed by the Parliament on international matters to reiterate or reorient the country's foreign policy.

Despite its constitutional role there is a lot of evidence that the **Parliament shows less interest both in foreign policy decision-making and in controlling the Government's international behaviour.**⁸² The Parliament has not yet passed any laws that „regulate the manner in which the Executive shall sign or ratify international treaties and covenants.”⁸³ There is a widespread understanding that the politicising of international treaties in parliamentary debates would have been harmful to the country's national interests. The tradition that foreign policy rests with the executive

has led to the fact that „there is a great deal of secrecy surrounding international negotiations and members of most political parties admit that they learn of international treaties after the fact.”⁸⁴

With the signature of international treaties the Government creates a *fait accompli* which the Parliament cannot deny. Treaties and international agreements become legally binding on the state but are not part of domestic law unless passed by an Act of Parliament. This procedure implies political crisis if the Parliament becomes aware of the negative consequences of the treaties. It is generally agreed therefore that the role of the Indian Parliament in policy-making has „mostly been *ex-post facto*, that is, a post-performance review of the policies of the government and their execution.”⁸⁵ This seems even more the case in foreign policy issues. The draft agreement on TRIPS was discussed by the Standing Committee in Parliament, and the negative repercussions of the agreement were clearly assessed. The Government nevertheless decided to sign the agreement without approaching the Parliament again. India’s entry into the WTO also had far-reaching consequences for India’s federal structure, because agriculture is a matter left to the states constitutionally. The limited role of Parliament is also obvious in the fact that it has no official influence on the appointment of diplomats and other government representatives dealing with foreign affairs like the national security advisor.

9.3. Parliamentary working methods

Legislation in the Indian Parliament involves three stages. After the second reading, the proposed bill may be referred to a select or joint committee for further consideration.⁸⁶ The proceedings in the Committees are „less formal and the procedure is more flexible”.⁸⁷ The Committee drafts a report on the basis of the minutes of the sessions of the Committee. The reports are published and are also available on the respective homepages of the Committees.⁸⁸

The most important official link between Parliament and the executive is the Committee on External Affairs of the Lok Sabha. The proceedings of the Committee are normally held *in camera*. In their consultations, the Committee may ensure public participation by inviting written memoranda and reports from individual experts or institutions whose interests may be affected by the measures under consideration. Moreover, the Committee may invite experts for hearing or may undertake inspection visits to areas which may be affected by the new laws.⁸⁹

9.4. Composition and appointment of parliamentary bodies

The departmentally related standing committees consist of 31 members of which 21 are elected from the Lok Sabha and 10 from the Rajya Sabha. There are different regulations for the appointment of committee members. Those of the parliamentary committees are appointed or elected by the House on a motion, or nominated by the Speaker or Chairman.⁹⁰ Members of select or joint committees are appointed on a motion that is adopted by the House. There is a convention that the different parties and groups should be represented in the committees in proportion to their respective shares in both Houses. The members of the committee appoint the chairman.

9.5. Interaction with other parliamentary bodies and external bodies

The government of the United Progressive Alliance (UPA) has created various new semi-formal structures since its inauguration in 2004. They consist of various ministerial groups, commissions, task forces, committees, missions and high-level groups. The kind of interaction with existing parliamentary committees is not yet clear. The most important ones seem to be the 40 Groups of Ministers (GoM) which have been established for various topics. The GoMs dealing with the new patents law and investment procedures will have an impact on future trade policies.⁹¹

The limited role of the Parliament in foreign policy became again obvious during the passage of the new patent law in 2005. In December 2004, a presidential ordinance was issued to bring India into mandatory compliance with the TRIPS regulations starting January 2005. The presidential ordinance gave the Government a period of six months to seek the approval of the Parliament. This was reached in March 2005 when the third amendment to the Patent Act.

9.6. Conclusion

The process of economic liberalisation since 1991 has intensified India's interdependencies with the international system in an unprecedented manner. **The new policy of export promotion has strengthened the role of interest groups like the Federation of Indian Chambers of Commerce and Industries (FICCI) or the Confederation of Indian Industries (CII) in policy formulation.**⁹²

The Parliament also underwent a fundamental social change. The decline of the major parties and the emergence of small regional parties have increased the presence of dominant classes and castes from the rural areas. In contrast to these developments, the role of the Parliament in foreign policy issues remains limited. The Parliament's less effective role in international matters has to be attributed to „self-abdication and not because of uncontrollable exogenous factors.“⁹³ The National Commission to Review the Working of the Constitution that was set up in 2000 has already addressed these issues.⁹⁴ It will be one of the major challenges for the Parliament to introduce adequate parliamentary procedures on treaty-making power that ensure a closer linkage with foreign policy decision-making on the one hand and a better accountability of the Government's foreign policy on the other hand.

10. The case of Brazil

Ricardo Migueis

Trade policy-making in Brazil is as complex as it is dynamic, and it is also highly sensitive to timing and politics. The current procedure concerning trade negotiations dates back to the first of Fernando Henrique Cardoso's (FHC) governments and its emergence was promoted by the creation of interministerial commissions to negotiate for the Common Market of the South (Mercosul); on the other hand it coincided with the launch of the Free Trade Area of the Americas (FTAA) negotiations and the implementation of the agreements of the newly-founded World Trade Organisation (WTO). Trade negotiation decision-making evolved from a less structured, more sectoral and more informal process to the one that is still sectoral and informal but much broader in its participation, involving for the first time some civil society stakeholders. Nevertheless, decision-making concerning trade is highly centralised in the executive branch of the Brazilian government and is very foreign policy driven.

There is **no tradition or routine practice of parliamentary engagement in scrutinising and influencing trade policy**. Both Houses of Congress are called upon to **approve final proposals emerging from negotiation processes**. In parallel, the Congress has very rarely manifested interest in trade policy-making, even though trade has been growing in importance and scope since the 1990s, engaging more government ministries and agencies than ever before.

The trade regime currently in place continues to undergo important adjustments and mirrors the fact that democracy - alongside liberalisation and the corresponding institutional change - are relatively new phenomena in the country. Nevertheless, this new paradigm for Brazilian society has boosted the enthusiasm of some civil society groups to participate in the trade policy-making process. This has led the Government to organise its dialogue with the private sector and other stakeholders; however, the process continues to be transparent only for those that are closest to the position-building process, promoting informality and unpredictability.

In this way, it is widely acknowledged that scrutiny and influence over the trade policy negotiations in Brazil are very rarely developed through parliamentary bodies; moreover, the representation of all the various business sectors and civil society groups is not part of a formally institutionalised process.

10.1. Type of parliamentary body

The framework for the development of current Brazilian foreign policy and, thus, also trade policy, is the 1988 Constitution. It rules that only the President of the Republic and official diplomats have the competence to conduct relations with other States (Art. 84, VII). In what specifically concerns international treaties, it is the competence of the President of the Republic to negotiate them (Art. 84,

VIII). Amongst some of the most relevant obligations of the legislative power in matters concerning foreign policy, is the ratification of international agreements concluded by the executive power (Art. 52, IV).

The parliamentary bodies with formal competences in the area of trade are the upper house (Federal Senate) and the lower house (Chamber of Deputies). A permanent committee has been created to deal with some matters related to international trade, but within the wider scope of external affairs and national defence, confirming the foreign policy driven character of trade negotiations. We are referring to the Commission on External Relations and National Defence (CREDN). Within CREDN's competences are overseeing economic, commercial and diplomatic relations as well as relations with multilateral and regional entities, however, CREDN's routine practice is very much focused on national defence issues.

To deal with issues specific to the **Common Market of the South (Mercosul), a joint parliamentary Commission was created composed of parliamentarians of all the four full members of the regional group.** The competences and obligations of the Joint Permanent Commission of the Mercosul are broad, ranging from fomenting economic, political, social and cultural integration, promoting parliamentary integration of the Mercosulian countries or accompanying the implementation and evolution of Mercosul's agreements. Brazilian participation and action in this Commission has been essentially reactive, as the project of a Common Market of the South has been developed by the highest-ranking officials in the executive branch of government.

10.2. Parliament mandate, and parliamentary procedures

The Federal Senate and the Chamber of Deputies hold the competence of ratifying international agreements concluded by the executive power⁹⁵. However, members of both houses of Congress remain very detached from international trade affairs. Even though international affairs in general, and international trade issues specifically, have gained salience along the process of commercial liberalisation, this salience is still very low when compared to other issues of the domestic agenda. Members of both houses of the National Congress (Federal Senate – upper house; Chamber of Deputies – lower house) have shown little interest in issues related to international trade, thus, **they have essentially served the purpose of ratification of multilateral, regional or bilateral agreements that have been negotiated and developed through a body controlled by the executive power, the Chamber of External Trade (CAMEX).**

10.2.1. Chamber of Deputies

The responsibility of scrutinising foreign policy is not concentrated in one single department or commission of the Chamber of Deputies (Internal Regulation of the Chamber of Deputies, Subsection 3, Art. 32). Apart from the above-mentioned CREDN, there is another specialised body formally responsible for following issues related to international economic relations, foreign commerce, import and export policies, commercial agreements and tariffs, the Commission for Economic Development, Industry and Commerce (CDIC). However, the role played by this Commission is very low profile in what concerns foreign commercial policy and it concentrates on the domestic economic agenda⁹⁶.

10.2.2. Federal Senate

The Senate's interest and involvement in the trade policy-making process has been very low and reactive instead of pro-active, particularly in what concerns international trade. However, participation and representation of the Senate in an international event is possible if a Senator requests it. In this way, the request must be sent to the Senate's President, and then approved by the plenary.

10.3. Interaction with the executive branch

Trade negotiations and decision-making are concentrated in the executive branch, namely in the Chamber of External Trade (CAMEX). This body gathers together the strongest Ministers in the

Brazilian government. CAMEX also has an Executive Management Committee, which, in fact, is no more than a technical team whose decisions are suggestions for the final decision-making by the ministers composing CAMEX. It should be emphasised that the **Ministers currently composing this Chamber are very active, effectively decide upon the issues at stake and maintain a strong personal relation with the President of the Republic.** In this way, trade policy's strategic orientation is developed within CAMEX. **Scrutiny of a trade negotiation process by Congress rarely goes as far as a public hearing but this is usually done through the Commission on External Relations and National Defence (CREDN).**

The availability of information about ongoing international trade negotiations is one of the limitations to control, scrutiny and participation of members of Congress. There is no habit or obligation of the executive to forward documentation concerning future policy-making, like draft proposals, for parliamentary scrutiny. In fact, what is considered as the main information instrument to map ongoing multilateral trade negotiations (including those in the WTO) is produced outside Brazil, by the Permanent Brazilian Representation in Geneva, and is called *Carta de Genebra* (Letter from Geneva).

In this way, interaction between the Congress and the executive power in matters related to trade negotiations and policy decision-making is still very limited.

10.4. Parliamentary working methods

Amongst other competences and possibilities, Senate; can promote public hearings; call ministries and other employees from the executive branch to give information on its activities; ask for speeches from authorities and citizens; and follow, scrutinise and control governmental policies related to its legal competences (Internal Regulation of the Senate, Art. 90, X).

The Chamber of Deputies, especially the Commissions, have the same competences as the Senate, although it is worth mentioning that the Chamber seems to have more channels open to the participation of civil society than the Senate, as the former can produce and organise pedagogic and informative campaigns, through conferences, exhibitions, speeches and seminars. Despite all these possibilities, external trade policy is an issue rarely dealt with within the Senate and the Chamber, both having always been reactive towards the executive branch's decisions, meaning that neither House plays a significant role in scrutinising trade negotiations and trade policy. Furthermore, **even though formal channels are open, one cannot find a register of significant efforts by both Houses to articulate with civil society.**

10.5. Composition and appointment of relevant parliamentary bodies

The total number of deputies in the Lower House of Congress (Chamber of Deputies) must be established by complementary law, in proportion to the population. The necessary adjustments and calculations must be made in the year before the electoral exercise, in a way that guarantees that none of the federative units has less than eight, or more than seventy, deputies (Art. 45). Complementary Law n° 78 (30th September, 1993), establishes that the number of deputies cannot go above 513. The Brazilian Institute of Geography and Statistics is responsible for providing the statistical data needed for the calculations. Elections for the Chamber of Deputies are held every four years.

The Upper House of Congress, the Federal Senate is composed of 81 senators. Three senators are elected per state, including the Federal District. Senators are elected according to the principle of majority voting, with a mandate of eight years. The representation of each state and of the Federal District is renewed every four years, alternating, by a third and two thirds of the Senate. Each elected senator has two substitutes (Art. 46). In the 2006 October elections, voters will elect the 513 members of the Chamber of Deputies and one third of the Senate.

All the above-mentioned Commissions, the CREDN, CDIC and the Joint Permanent Commission of the Mercosul, are composed by members of all parties in the Chamber of Deputies, with a mandate of one legislature (four years), each member being appointed by the respective party leader. The number of members appointed is proportional to each party's representation in the Chamber.

The composition of the Chamber of External Trade is also particularly important, due to its central role in trade negotiations and decision-making processes: Minister of Development, Industry and External Commerce (President of CAMEX), Minister of the Presidency of the Republic and Head of Staff, Minister of Finance, Minister of External Affairs, Minister of Agriculture, Minister of Economy.

10.6. Interaction with other parliamentary bodies and external bodies

There is an **established procedure for consultation with civil society on trade policy issues, however, this procedure is organised by the executive and not by the legislative branch.** It is based on a structure that dates back to the mid-1990s, when the Ministry of External Relations created the National FTAA Secretariat (SENALCA) with the attribution of bringing together representatives from other ministries as well as *guests* from civil society. A similar construct was put in place for the Mercosul – European Union negotiations – SENEUROPA and for WTO related matters – the Interministerial Working Group on International Services and Goods Trade (GICI). Mercosul has its own formal consultative process, undertaken by its Economic and Social Consultative Forum. The agenda for consultations to the negotiation process is entirely set by government representatives, in particular, by coordinators of the Ministry of External Relations and it is largely determined by the priorities of the negotiations, as defined by the Ministry itself. Strategic matters are usually fully absent from the consultations and these meetings have been perceived as legitimising fora.

Other relevant and representative civil society external bodies are very sector-specific and sometimes even activity- or geography-specific within one sector. One of the better-organised sectors and one that managed to influence the government's standpoint in trade negotiations, is the agricultural sector. It has organised itself beyond the various umbrella and sectoral organisations that already represented it, having sponsored the creation of a research institute fully devoted to international trade negotiations. Due to the lack of a formally institutionalised and transparent consultation process, „forum-shopping” or „ministry” or „agency-shopping” are the most frequently used strategies. Civil society interest groups usually relate directly with the agencies or members of government that concern their sector or business the most.

11. Japan

Hanns Günther Hilpert

When GATT was founded in 1947, Japan was still under American occupation and thus was not an original signatory to the founding treaty. But in August 1955, three years after Japan's sovereignty was restored, it joined the Agreement in full. Since then Japan has become an increasingly active and influential member country. In the 1980s and 1990s Japan, together with the US, EU and Canada, was part of the so-called Quadilateral Group (Quad), which was set up for the purpose of trying to develop a consensus for current multilateral trade negotiations.

11.1. The Japanese Parliament (Diet) and Trade Policy

The Japanese democracy can be characterised as a parliamentary cabinet system. Whereas the Japanese Constitution defines the Emperor as the symbol of the state and of the unity of the people (Article 1 of the Constitution of Japan), the Diet is the highest organ of State power, and the sole law-making organ of the State (Article 41). The Diet passes laws, acts on the budget, ratifies treaties and designates the Prime Minister. The Cabinet depends on the confidence of the Diet, to which it is collectively responsible.

Trade policy negotiations are dealt with by the Ministry of Economy, Trade and Industry (METI) and the final trade agreements (both multilateral and bilateral) are concluded by the cabinet. However, the Cabinet has to obtain the prior or subsequent approval of the Diet (Article 73).

The Japanese Parliament is bicameral, consisting of the Lower House (House of Representatives, *shugiin*) and the Upper House (House of Councillors, *sangiin*) (Article 42). The Lower House has a total of 480 members, of which 300 are elected by single-seat constituencies and the other 180 are elected through voting for political parties in 11 regional blocks. The term of office is four years, but it may be terminated beforehand, if the Prime Minister dissolves the house. The Upper House has a total of 242 members, which are either elected from a nationwide list by proportional representation or from one of the 47 prefectural districts. The term of office is six years. Elections of half the members take place every three years.

11.2 Parliamentary Mandate and Parliamentary Procedure

Although political decision-making concerning trade policies is largely organized by the executive (i.e. the Cabinet, the METI and its various agencies and bodies) the **ratification of international trade agreements is the prerogative of the Diet**. The Trade Policy Bureau of METI (or until 2001 its predecessor MITI / Ministry of Trade and Industry) holds primary responsibility for formulating and implementing international trade policy, although it has always done so by seeking a consensus among interested parties, in particular the Ministry of Foreign Affairs (MFA), the Ministry of Finance (MoF) and the Ministry of Agriculture, Forestry and Fisheries (MAFF).

While the Diet is authorised to refuse to ratify agreements, it is not empowered to amend them. Furthermore the Diet does not approve national policy guidelines in advance of multilateral (GATT and WTO) or bilateral (Singapore, Mexico, ASEAN) trade negotiations.

Both Chambers of the Diet have to approve the trade agreement as they have entirely equal rights in all legislative matters. However, the Lower House takes precedence over the Upper House. Therefore first the trade agreement has to be ratified by the Lower House. For approval a majority of those Lower House members actually present is necessary. Having passed (the Lower House), the trade agreement is submitted to the Upper House. Here again a majority of the actual present members is the necessary condition for approval. Both in the Lower House and in the Upper House the presence of at least one third of all members is required for a piece of legislation to be valid (Article 56).

Once the trade legislation has passed both the Lower House and the Upper House, the agreement is ratified. If the Upper House refuses the ratification of the trade agreement or fails to take final action within 60 days of receipt, the matter is sent back to the Lower House. If the Lower House passes the trade agreement a second time by a majority of two-thirds or more of the present members, the agreement becomes ratified (Article 59).

It is open to each of the two Houses, if they disagree, to call for the convening of a **conference committee of both houses**. A conference committee of both Houses is composed of 20 members, each house electing half of them. The conference committee quorum is two-thirds of the members from each house, and there must be a majority of two-thirds of the members present for the matter to be approved. Two chairmen - one from each House, and each elected by the committee members from his or her own House - preside over the meetings alternately, lots being drawn to decide who presides first. If no agreement can be reached, the Chairman of the Conference Committee of each house reports this fact to his or her House.

After ratification the trade agreement is presented to the imperial throne through the Cabinet. The Emperor shall promulgate the new trade agreement (Article 7).

11.3 Parliamentary Working Methods and the Role of the Committees

Parliamentary working methods and the role of the Diet Committees are stipulated in the rules of the Lower House and the rules of the Upper House. When a trade policy bill is introduced in the Lower House, the Speaker refers it to the relevant standing Committee(s). The same procedure is taken in the Upper House. Upon the completion of the committee examination, a report is made to the speaker of the Lower House or to the President of the Upper House. Upon presentation of the committee report, the Speaker or the President puts the bill on the order of the day of the plenary

sittings. Basically the decision of a committee does not bind the plenary meeting of the both Houses. However, the decisions reached at plenary sessions are usually the same as those reached in committee, since membership is constituted in proportion to the numerical strength of the political parties and groups in the House.

For trade policy matters the responsible Committees are the Committee on Economy, Trade and Industry of the Lower House and the Committee on Economy and Industry of the Upper House respectively. These committees correspond to the responsible government ministry (METI), but are not entirely identical with its specific sphere of responsibility. Since the ratification of a WTO treaty relates to the spheres of work of other committees as well, they will become active, too. The Committees corresponding to the Ministry of Foreign Affairs, to the Ministry of Agriculture, Forestry and Fisheries and to the Ministry of Finance are amongst those concerned.

The trade policy related Committees of both Houses investigate thoroughly the submitted negotiation treaty. The establishment of sub-committees is common practice, if detailed examination is considered necessary. In order to open a committee meeting, at least half its members must be present. Committee meetings are, as a rule, closed to the public. However, members of the press, radio and TV, and other media may be admitted to meetings at the discretion of the Chairman. Furthermore, if the matter is of public interest - and the deliberation on WTO trade legislation is deemed to be of general interest for the Japanese public - the **Committee can hold public hearings** in order to hear the opinions of interested parties or people of learning and experience. A committee may, if deemed necessary for an effective examination or investigation, summon a witness to appear before it to give evidence.

A committee may demand the presence of the Prime Minister, other Ministers of State or of other representatives of the Cabinet, so that they can explain certain specific matters. On the other hand, these bodies may, with prior notice given to the Chairman, attend meetings of a committee and address them.

The Committee Chairman arranges the proceedings of the Committee, maintains order, and represents the Committee. Among other matters, the Chairman has the right to call committee meetings, precipitate a decision by initiating a vote, report to the House regarding the matters examined by the Committee, and offer opinions at other committee meetings. A Committee may choose several directors from among its members. At the committee stage of policy-making, a committee may confer with other committees and hold joint examination meetings with them. Such meetings are simply and solely to conduct examinations.

11.4 Composition and election

Members of standing committees are appointed by each House at the beginning of a session and hold their membership until their term of office as members of the respective House ends. The places on each committee are allocated to political parties or groups in proportion to their numerical strength in the House, and the Presiding Officer nominates them on the recommendation of parties or groups. Each house ostensibly nominates the chairmen of the standing committees, but in practice the selection is entrusted to the speaker (of the Lower House) or the president (of the Upper House). In both Houses, chairmanships are distributed among the parties in accordance with their numerical strength. A Professional Adviser or „*semmon-in*“ is allocated to each standing committee to assist committee members, together with researchers as his/her subordinates, in investigating matters under the jurisdiction of the Committee (Chapter V. Committees and Their Membership, Diet Law).

11.5 Patterned Pluralism: The practice of Japanese policy-making

In general, the formal legislative approval in the Diet, in most cases even the introduction of legislation to the Diet, is preceded by a fairly institutionalised policy-making process, of which the procedure and the form is not codified in Japan's constitution and laws. **In practise the central roles are played by the ministries concerned and Japan's almost uninterrupted dominant**

government party, the Liberal Democratic Party (LDP). Their prominent role is to find acceptable policy solutions among competing interests. Over almost 50 years of LDP rule, the party has ended in delegating its policy-making authority to loyal bureaucrats in the Ministries on the one hand and to policy specialists within their own ranks on the other hand. Furthermore, interest groups have generally no choice but to tie up closely with their specific ministry and with the dominant LDP, lacking any incentive to maintain their distance as long as the LDP was almost continuously the only political party that won power in Japan's post war era.

For creating a workable consensus in political practice, two special institutions are of outstanding importance.⁹⁷ First, **ministries establish so-called Deliberation Councils („shingai“),** in which **ministry officials, members of parliaments, academics and representatives of interest groups participate** in a coordinated manner. The Deliberation Councils have the task of discussing thoroughly the underlying issues, to try to reach a consensus and to give recommendations for legislation. Second, **LDP Diet members, who share a political interest and usually some political constituency incentive in a particular area of public policy, organise themselves around a policy area related to a specific ministry, a diet standing committee and the related section of the LDP Policy Affairs Research Council („seimu chosakai“).** These LDP parliamentary groups („zoku“ = **tribes**) function as horizontally organised pressure groups working for the interests of their constituent groups both in the legislative and the executive arena. This LDP-dominated policy-making system of Japan combined with the particular political institutions is conventionally described as **patterned pluralism.** In this system a wide variety of interests, represented through their ties to the LDP and the concerned ministry may assume influence. Although the Koizumi regency has initiated some institutional reform change, this pattern prevails. The opposition parties may only assume influence in the rare cases, when the Ministries concerned and the related **LDP zoku** do not reach a consensus solution.

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Annex II - Select List of International Trade-Related Reports issued by Australian Parliamentary Committees

Multilateral Trade Issues

The (not quite) White Paper: Australia's foreign affairs and trade policy – Advancing the National Interest (Senate Foreign Affairs, Defence and Trade Committee, 4 December 2003)

Voting on Trade – Inquiry into the General Agreement on Trade in Services and an Australia-US Free Trade Agreement (Senate Foreign Affairs, Defence and Trade Committee, 27 November 2003)

Adjusting to Agricultural Trade Reform: Australia no longer down under (House Standing Committee on Agriculture, Fisheries and Forestry, 22 June 1998)

Australia's engagement with the World Trade Organisation - A Report on the proceedings of the 2003 annual public hearing (Joint Standing Committee on Foreign Affairs, Defence and Trade, Report 121, 2 July 2004)

Who's Afraid of the WTO? Australia and the World Trade Organisation (Joint Standing Committee on Treaties, 24 September 2001)

Fifth Protocol to the General Agreement on Trade in Services (Joint Standing Committee on Treaties, Report 19, March 1999).

Fourth Protocol to the General Agreement on Trade in Services (Joint Standing Committee on Treaties, Report 10, October 1997).

Second and Third Protocols to the General Agreement on Trade in Services (Joint Standing Committee on Treaties, Report 1, September 1996).

Bilateral Trade Issues

Final Report on the Free Trade Agreement between Australia and the United States of America (*Senate Select Committee on the Free Trade Agreement between Australia and the United States of America, 5 August 2004*).

Australia – Thailand Free Trade Agreement (Joint Standing Committee on Treaties, Report 63, 14 December 2004).

Australia – United States Free Trade Agreement (Joint Standing Committee on Treaties, Report 61, 23 June 2004).

Singapore – Australia Free Trade Agreement (Joint Standing Committee on Treaties, Report 52, 26 June 2003).

Expanding Australia's Trade and Investment Relationship with the Gulf States (Joint Standing Committee on Foreign Affairs, Defence and Trade, Report 123, 7 March 2005).

Expanding Australia's Trade and Investment Relationship with the Countries of Central Europe (Joint Standing Committee on Foreign Affairs, Defence and Trade, Report 110, 15 September 2003).

Australia's Trade Relationship with India (Joint Standing Committee on Foreign Affairs, Defence and Trade, 29 June 1998)

Annex III - Abbreviations

ACP	Africa Caribbean Pacific
AIPO	ASEAN Inter-parliamentary Organisation
ANC	African National Congress (South Africa)
APEC	Asia Pacific Economic Cooperation
APPF	Asia Pacific Parliamentary Forum
ASEAN	Association of Southeast Asian Nations
BJP	Bharatiya Janata Party (India)
BWI	Bretton Woods Institutions
CAMEX	Chamber of External Trade (Brazil)
CDIC	Commission for Economic Development, Industry and Commerce (Brazil)
CEO	Chief Executive Officer
CII	Confederation of Indian Industries (India)
CIS	Commonwealth of Independent States (Russia chapter)
COE	Council of Europe
CPA	Commonwealth Parliamentary Association
CPC	Comision Parlamentaria Conjunta (Mercosur)
CPRF	Communist Party of the Russian Federation (Russia)
CREDN	Commission on External Relations and National Defence (Brazil)
D-MD	Democrat, Maryland (US)
D-Mont	Democrat, Montana (US)
D-NC	Democrat, North Carolina (US)
D-ND	Democrat, North Dakota (US)
D-NM	Democrat, New Mexico (US)
D-SC	Democrat, South Carolina (US)
DOC	Department of Commerce
DSB	Dispute Settlement Body
EU	European Union
EUPSP	European Union Parliamentary Support Programme
FAC	Foreign Affairs Committee (Switzerland)
FHC	Fernando Henrique Cardoso (Brazil)
FICCI	Federation of Indian Chambers of Commerce and Industries (India)
FIPA	Parliamentary Forum of the Americas
FLP	Federal Law on Parliament (Switzerland)
FTAA	Free Trade Area of the Americas (Brazil)
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade

GICI	Interministerial Working Group on International Services and Goods Trade (Brazil)
GoM	Groups of Ministers (India)
IKIA	Imam Khomeini International Airport (Iran)
IPU	Interparliamentary Union
ITO	International Trade Organisation
JSCCIB	Joint Standing Committee on Commerce, Industry and Banking (Thailand)
JSCOT	Joint Standing Committee on Treaties (Australia)
LCE	<i>Ley de Comercio Exterior</i>
LDC	Least Developed Countries
LDP	Liberal Democratic Party (Japan)
LH	Lower House (Switzerland)
LDPR	Liberal Democratic Party of Russia (Russia)
LOCG	<i>Ley Orgánica del Congreso General de los Estados Unidos Mexicanos</i> (Mexico)
MC	<i>Constitución Política de los Estados Unidos Mexicanos</i> , Mexican Constitution (Mexico)
MAFF	Ministry of Agriculture, Forestry and Fisheries (Japan)
Mercosul	Common Market of the South
MOC	Ministry of Commerce (Thailand)
METI	Ministry of Economy, Trade and Industry (Japan)
MFA	Ministry of Foreign Affairs (Japan / Thailand)
MoF	Ministry of Finance (Japan)
MP	Member of Parliament
NA	National Assembly (South Africa)
NCOP	National Council of Provinces (South Africa)
NEDLAC	National Economic Development and Labour Council (South Africa)
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OIC	Organization of the Islamic Conference
OSCE	Organization for Security and Co-operation in Europe
R-FL	Republican, Florida (US)
R-III	Republican, Illinois (US)
R-Mo	Republican, Missouri (US)
R-NE	Republican, Nebraska (US)
R-NH	Republican, New Hampshire (US)
R-OH	Republican, Ohio (US)
R-TN	Republican, Tennessee (US)
R-WY	Republican, Wyoming (US)
RICG	<i>Reglamento para el gobierno interior del congreso general de los Estados Unidos Mexicanos</i> (Mexico)

RoP	Rules of Procedure
SAARC	South Asian Association for Regional Cooperation
SADC	Southern African Development Community
SENALCA	National FTAA Secretariat (Brazil)
SENEUROPA	National Secretariat for negotiations with the EU (Brazil)
STR	Office of the Special Trade Representative (US)
TPA	Trade Promotion Authority (US)
TRIPS	Trade Related aspects of Intellectual Property Rights
TRT	<i>Thai Rak Thai</i> (Thailand)
TSE	Tehran Stock Exchange (Iran)
UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Educational, Scientific and Cultural Organisation
USTR	United States Trade Representative (US)
UH	Upper House (Switzerland)
UPA	United Progressive Alliance (India)
UR	United Russia (Russia)
US	United States
WTO	World Trade Organisation

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Annex V - Endnotes

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- 25 Congressional elections take place every two years on the first Tuesday in November (Election Day).
- 26 A somewhat similar concept, had already been in use since the Reciprocal Trade Agreements Act of 1934, when Congress first delegated authority to the President to negotiate tariff agreements for specific time periods.
- 27 The second such request since the WTO was established was submitted to (and struck down) by the House of Representatives on June 9, 2005 by a vote of 86 - 338.
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- 36 So does, for instance, the fifth report of the current government of President Vicente Fox, <http://quinto.informe.presidencia.gob.mx/>, (accessed 28.11.2005).
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- 38 All the laws or decree drafts, concerning which the decision does not lie in only one of the chambers, will be discussed subsequently in both of them (MC Art. 72).
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- 54 Ibid p.18.
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- 80 Motions and postulates are instruments to prompt the government to draw up draft laws or check whether a law is necessary.
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- 95 Institutional structure of the process of approval of international agreements/treaties:
- Presidential message is sent for the consideration of the Chamber of Deputies;
 - The approval has to be initially made by the CREDN. Then it is sent to the plenary of the Chamber of Deputies;
 - After approval in the Chamber, it is sent to the Federal Senate, which has to approve it in the CREDN and in Senate's plenary;
 - The President of National Congress issues a Legislative Decree;
 - The President of the Republic can ratify and it becomes national legislation.
- 96 It is pertinent here to note that the distance between domestic and external affairs in the current political context in Brazil emerged during the mid-nineties, based on two radically different notions of the right development strategy for the country. The basic premise of the divergence in outlook was that those who were in favour of the stabilisation of the economy were somehow against "development" while those who were in favour of development were somehow against a stable economy. The debate centred on the level of exchange and interest rates as well as the trade-off between further liberalisation and interventionist industrial policies. The interplay between instruments and policies over time does much to explain the evolution of trade-policy-making in Brazil (*in* Trade Policy-Making in Brazil, FIESP, internal document).
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