What is the ‘regular work’? Constructing and contesting everyday committee practices in the World Trade Organization

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ABSTRACT
This article explores how practice theory can contribute towards a better understanding of the regular multilateral diplomacy that sustains the World Trade Organization (WTO). Based on interviews, participant observation and a systematic review of WTO documents, it demonstrates how state representatives define and contest the ways in which the many specialized WTO committees conduct their day-to-day operations. First, I show how informal practices that developed organically out of the continued interactions give structure to the committee work. By providing baselines for mutually intelligible interaction, these practices have enabled the delegations to elaborate on the existing multilateral trade agreements and resolve disagreements before they escalate. Second, the article explains why these same committee practices have been – and remain – contested between the members. Precisely because they define feasible paths of action and normalize certain actions in the eyes of the membership, the representatives creatively try to change or retain certain practices in their everyday exchanges. Overall, the article argues that a full explanation of the performance and significance of the WTO is impossible without understanding the practices that guide its regular work, and why these practices remain contested between an increasing number of active WTO members.

KEYWORDS
World Trade Organization; regulatory governance; practice theory; multilateral diplomacy; committees; global governance

Introduction
This article explores how practice theory can contribute towards a better understanding of the regular multilateral diplomacy that sustains the World Trade Organization (WTO). With tensions over international trade on the rise, it has become ever more important to examine how the WTO members interact on a day-to-day basis to exchange information, discuss implementation challenges, and defuse disagreements before they escalate into formal disputes or trade wars. Practitioners modestly refer to
these interrelated activities as the ‘regular work’, claiming that ‘without this work […]’, world trade flows could seize up, with dramatically adverse consequences’ (Wolff, 2017). But just as the WTO’s negotiation and dispute settlement organs, the regular committee work has come under increasing strain over recent years. As my analysis shows, the WTO members advance conflicting narratives on the regular work and on why it sometimes fails to generate genuine dialogue or collaborative solutions. Interestingly, these narratives are about much more than assigning or deflecting blame. Rather, they reflect a broader effort to rationalize and shape the ways in which the many specialized WTO committees conduct their business. Taking a closer look at accusations that delegations are ‘bending the rules to fit them’,¹ the article reveals the ongoing contestation of, and gradual changes in, the ‘routines’, ‘working practices’, and ‘particular mindset’² that define the regular work. Among other things, I find that the delegates increasingly worry that their exchanges are ‘becoming [more] political’, leaving experienced practitioners – especially in the context of the intensifying debate on WTO reform – wonder how specific practices and the ‘constructive sense of ownership’ of certain committees can be preserved.³

A practice-oriented research approach is well-suited to make sense of the complex regular exchanges within the WTO (and other international organizations) because it shifts attention to the ‘metastable’⁴ nature of this work. With this, I refer to the parallel occurrence of two processes that define these continuous interactions: First, the various ways in which the representatives of the members perform the regular work are only vaguely specified in the multilateral trade agreements. What the WTO committees should (not) do on a regular basis – and, even more importantly, how the delegates should go about it – emerged organically out of the repeated interactions within the individual committees. Asked how some of their shared practices developed, one practitioner explains: ‘just step by step, over time, […] the practice came, then the decisions came that partly formalized it, the practice evolved, and you have another decision, a bit like that’.⁵ Consequently, my analysis traces the development and use of certain committee practices, showing how they create baselines for interaction and enable the delegates to engage with each other in meaningful and recognizable ways. Second, precisely because these practices constitute feasible paths of action, they remain contested and subject to continuous negotiation between the practitioners. Practices are thus, to some extent, functional, but they cannot be considered neutral. They direct actors to do certain things in certain ways, and reflect certain relations of power. As I show, most delegations are acutely aware of these structuring effects of the committee practices. They creatively try to change or retain certain ways of doing things because these practices afford them an advantage in the committee work. Overall, I argue that practices give structure to the continuous interactions within the WTO committees, but simultaneously remain open to contestation and negotiation between the practitioners, which can lead to changes in the established practices. A full explanation of the regular work, its broader significance for the WTO, and its limits is thus impossible without understanding how informal practices guide this work, and how they are contested between an increasing number of active WTO members.

My empirical focus on the WTO committee practices aims to address two research gaps in the literature. First, despite what some ambitiously call a ‘practice turn’ in International Relations (IR) (e.g. Adler-Nissen, 2016; Frost & Lechner, 2016), recent practice-oriented research has predominately studied diplomatic maneuvers in the realm of international security politics. Much of the discussion has revolved around practices in the United Nations Security Council (e.g. Adler-Nissen & Pouliot, 2014;
Gehring & Dörfler, 2019; Pouliot, 2021; Schmitt, 2020) and the North Atlantic Treaty Organization (Adler, 2008; Pouliot, 2008, 2016; Schindler & Wille, 2015). By contrast, the institutions of International Political Economy (IPE) – despite IPE’s traditional recognition of practices as a key analytical category (e.g. Cox, 1997, p. xvi) – and specifically multilateral trade diplomacy remain underrepresented in this practice turn. In addition, recent practice research tends to investigate relatively short episodes (weeks) of political drama, such as the UN Security Council debate on the international intervention in Libya (Adler-Nissen & Pouliot, 2014). On one hand, it is logical that practice theorists ‘zoom in’ on specific performances. Practice research ‘requires deep engagement in the field, observing or working with practitioners as they go about their work’ (Feldman & Orlikowski, 2011, p. 1249). On the other, it means that little attention has been paid to the ways in which practices evolve over longer periods of time as a result of changes in the community of practitioners and the contestation of the practices between these actors.

The second research gap that is addressed is the crude view of the regular committee activities that persists in parts of the WTO literature. During much of the General Agreement on Tariffs and Trade (GATT), the day-to-day diplomatic work featured more prominently in the academic discourse – reflecting the widespread depiction of the GATT as ‘more like a gentlemen’s club than a legal regime’ (Pauwelyn, 2005, p. 13) with ‘a jurisprudence puzzling to lawyers, for it is primarily the work of diplomats’ (Hudec, 1970, p. 615). But following the creation of the WTO in 1995 and the replacement of the ‘diplomatic ethos’ with the ‘rule of lawyers’ (Weiler, 2001), the committees disappeared from the research agenda. Over a decade later, Lang and Scott (2009b) could legitimately claim to have rediscovered ‘the hidden world of WTO governance.’ And although others agreed that the committees represent ‘an understudied site of WTO governance’ (Steinberg, 2009, p. 1063) and that there is a ‘puzzling […] lack of research into the functioning of WTO Committees’ (Elsig, 2013, p. 7), progress in filling this gap has been slow. As I show below, only very recently has the academic interest in the committee work been revitalized, with important gaps remaining.

This paper reflects the results of extensive fieldwork at the WTO, including the observation of committee meetings in Geneva and interviews with over 50 former and current practitioners. Information about cited interviews is provided in Table 1. It is based on quantitative and qualitative textual analysis of the committee minutes and related documents, which yield insights into changing participation patterns and the evolution of the committee practices since 1995. Section 2 introduces my research approach and describes how practice theory can help explain the dynamics and significance of the WTO committee work. Section 3 provides empirical evidence on the committee practices focusing on two core parts of the ‘regular work’, the peer review of trade measures and the elaboration of the WTO rulebook. In the conclusion, I re-emphasize how a practice lens can improve our contemporary understanding of the seemingly mundane diplomatic and regulatory exchanges within the WTO and other international institutions.

A study of practice, not static institutional form

This section presents my practice-oriented research approach and explains its contribution to the WTO literature and the IR discourse more generally. Importantly,
my objective is not merely to provide a socially thick description of the WTO committee work. Instead, I examine how practices constitute and guide the interactions within the committees, why certain practices have been contested between the WTO members that recognize their structuring effects, and how the committee practices developed over time as a result of ongoing contestation. The first part of this section introduces practice theory and what I perceive as its three principal contributions. The second part discusses the benefits of a practice lens for the analysis of the regular work.

The contribution of everyday practice(s)

Why should researchers bother to excavate and laboriously reconstruct everyday practice(s) when other and simpler analytical units are readily available? Large parts of IR theory have traditionally been wary of micro-level explanations, claiming that analyzing the day-to-day amounts to a theoretical distraction or waste of time and energy. This conventional wisdom has made it difficult for practice theories to gain ground in the IR discourse. But it amounts to a misunderstanding to assume that practice research simply attempts to chronicle the exploits of diplomats or other practitioners. Rather, practice theories have a much more ambitious, if subtle, aim. They attempt to overcome a number of entrenched metatheoretical dichotomies, including between agency and structure, and between stability and change. In simpler terms, practice research pays attention to what is usually considered the lower levels of analysis to show how world politics is made and continuously remade in and through the performance of certain practices. In this sense, this article is a study of international ‘ordering’ as it emerges out of the WTO’s ‘administrative hinterland’ (Lang & Scott, 2009b, p. 576), where intricate committee practices simultaneously embody and generate macrophenomena like power, order and governance.

| Interview Number | Interviewee Background                                      |
|------------------|------------------------------------------------------------|
| 01               | Diplomat, Developing Member                                |
| 02               | Diplomat, Developing Member                                |
| 03               | Diplomat, Developing Member                                |
| 04               | WTO Secretariat staff                                      |
| 05               | WTO Secretariat staff                                      |
| 06               | WTO Secretariat staff                                      |
| 07               | Diplomat, Developed Member                                 |
| 08               | Diplomat, Developed Member                                 |
| 09               | Diplomat, Developed Member                                 |
| 10               | WTO Secretariat staff                                      |
| 11               | Diplomat, Developed Member                                 |
| 12               | WTO Secretariat staff                                      |
| 13               | Former Diplomat, Developing Member, and WTO Secretariat staff |
| 14               | Former Diplomat, Developing Member, and WTO Secretariat staff |
| 15               | Former GATT/WTO Secretariat staff                          |
| 16               | Former Diplomat, Developed Member                          |
| 17               | Former GATT/WTO Secretariat staff                          |
| 18               | Diplomat, Developing Member                                |
| 19               | Diplomat, Developing Member                                |
| 20               | Former Diplomat, Developing Member, and WTO Secretariat staff |
| 21               | WTO Secretariat staff                                      |
| 22               | WTO Secretariat staff                                      |
While the notion of practices is certainly not new to IR, practice theory can make three contributions: First, the main theoretical purpose of practice theory – and especially the strand rooted in Bourdieusian praxeology (Bourdieu, 1977) – has been to resolve the tension between structure and agency in the performance of practice. Conceptually, the analytical unit of practice serves as the connecting tissue that mediates between structure and agency, which are seen as mutually constitutive – a position which links up with constructivism (Adler, 2012). Simply put, practice theory challenges the view that there are two separate and usually incongruous stories to tell – one of the (exceptional) agents whose actions create and transform social structures, the other of the structures which enable or constrain action (cf. Doty, 1997; Hollis & Smith, 1990). Instead, the premise of practice theory is that social phenomena cannot be explained without paying attention to the actual doings that give them shape. The world is seen as socially ‘emergent’ in the sense that everyday practices are a generative force in and of themselves because they create ‘baselines’ for mutually intelligible interaction (Pouliot, 2016, p. 11). This structuring or even ‘self-organizing’ (Adler, 2019, pp. 104–105) effect is endogenous to the local order and as such lost to accounts focusing on exogenous factors. Following from this idea of emergence, ‘empirical granularity is not a methodological caprice but an analytical necessity’ (Pouliot, 2016, pp. 10, 50).

In the case of the WTO, this means moving away from treating it primarily as a ‘formal’ institution centered on written (legal) rules and strategic events (Ministerial summits, Appellate Body reports, etc.) and towards a process of continuous enactment and emergence of structure. Putting emphasis on the generative force of practice challenges the mainstream IR approach that explains international affairs primarily in light of the uneven distribution of state capabilities. Much of the WTO literature advances this mainly structural story, arguing that ‘relative market size offers the best first approximation of bargaining power’ (e.g. Barton et al., 2006, p. 10; Steinberg, 2002, p. 347). And while there is no doubt that state capacities matter, practice theory argues that these structural forces operate in and through practice, not analytically prior to it. A small part of the WTO literature has, in fact, already cautioned against reading too much into state’s material resources. Eagleton-Pierce, for example, highlights the diplomatic process, observing how ‘the most privileged WTO members draw upon a repertoire of methods in order to control other actors. For outsiders, however, these forms of power are not always directly observable. Some of these techniques may be viewed as “underhand”, “silent”, or “gestural”’ (Eagleton-Pierce, 2012, p. 2). My practice perspective deepens and extends these insights to the regular committee work, providing evidence that these everyday interactions are not epiphenomenal but play a central role in the continuous struggle about the construction of legitimate visions of the multilateral trade order.

However, this does not mean that practice theory simply takes the (diplomatic) process as an intermediate variable. Instead, practice theory adopts a processual perspective, which I see as its second contribution. This entails a rejection of the drive to rationalize observations as the product of pre-existing social facts in favor of an explanation of the ways in which social structures are continually made and remade through the enactment of certain practices – which also emphasizes the potential for alternative arrangements as practices evolve (Bueger & Gadinger, 2018, p. 20). The objective is to counter the ‘process-reduction fallacy’ in social
sciences, by which scholars tend to mistake dynamic flows for static conditions (Pouliot, 2016, p. 13). This resonates with recent work that criticizes existing accounts of global (economic) governance for their conceptual ‘bias towards order’ and claims that observers are ‘prone to overestimate the structuring power or regime logics rather than to see regimes as ongoing social products of human minds interacting and people struggling’ (Kennedy, 2016, pp. 78–83). From a practice perspective, social orders can never be entirely settled and remain ‘in a metastable state’ (Adler, 2019). Perceptions of stability and change are determined by the continuous struggle over the interpretation and enactment of structures, requiring the ongoing mobilization of resources by those who benefit from existing arrangements (as well as those who want to change them) to resolve institutional ambiguities in their favor.

Third, practice theories, to some extent, rethink how power works. Generally, a practice lens moves away from treating power as an exogenous and determinant variable in favor of a relational and processual understanding of power (Bigo, 2011). However, particularly in the IR discourse, practice-oriented research has been more flexible in adopting the relational view. Accounts usually acknowledge the unequal power resources of states and explore how – through what local practices – these pre-existing factors translate into power dynamics at the negotiation table (e.g. Adler-Nissen & Pouliot, 2014). Practice theories’ contribution then lies in showing how power may be generated locally within the diplomatic process itself, which returns to the idea of the generative force of practice. Put differently, practice research claims that power can emerge endogenously from the social interactions because practices normalize and legitimize particular ways of doing things, and practitioners attempt to master the ‘competent’ performance of these practices (Adler & Pouliot, 2011). This gets even more interesting with the continuation of the thought: as agents recognize how power emerges from practices, they will struggle over the authority to shape, spread and retain certain practices over others. Consequently, there is the important question why practices emerge and evolve over time as a result of negotiation and contestation between practitioners, and how actors maneuver within the established ‘web of practices’ (Pouliot, 2020) to affect their change. Overall, I argue that a practice lens can make an important contribution to the IR discourse because it reveals how – even though practices are not the result of the actions of any individual actor – practitioners consistently try to shape their repertoire of shared practical understandings, seeking greater authority over these accepted ways of doing things within specific institutional settings.

**Taking the ‘regular work’ seriously**

In terms of the empirical material under study, the article investigates the day-to-day diplomatic and regulatory activities within specific committees of the WTO. This so-called ‘regular work’ is neither aimed at negotiating new trade agreements, which is attempted in dedicated negotiation formats, nor at adjudicating formal disputes, which is the remit of the WTO’s Dispute Settlement Mechanism. Rather, the committees are broadly tasked with administering the existing multilateral trade agreements. This entails a wide range of interrelated activities that are rarely specified in the agreements. With the WTO shaping ‘regulatory governance in more
countries to a greater extent than any other international organization’ (Shaffer, 2015, p. 1), it is surprising that the multidisciplinary WTO scholarship for a long time paid little attention to the regular work. Focused on the rare ‘poetry’, the headline-grabbing negotiation rounds and disputes, they ignored the seemingly mundane everyday ‘plumbing’ in the form of monitoring, implementation and rule elaboration.

Only very recently have the committees – the ‘workhorses of the system’ (Mavroidis & Wijkström, 2013, p. 230) – attracted academic attention. Heeding the warning that formal disputes represent only ‘the tip of the iceberg’ (Horn & Mavroidis, 2007, pp. 203–205), legal scholars started to investigate how disagreements are resolved in the committees before they escalate (Holzer, 2019; Horn et al., 2013; Manak, 2019). Others explored how the committee debates enable the members to interpret and elaborate on existing trade law. They found evidence that some WTO committees can clarify ‘fuzzy’ core obligations (Karttunen, 2020, p. 226), ‘determine the legitimacy of international standards’ (Delimatsis, 2018), and generate non-binding decisions that may subsequently be ‘hardened’ in bilateral and regional trade agreements (McDaniels et al., 2018). This partly echoes constructivist-inspired (legal) research, which perceives the trade regime as ‘an evolving entity based on sedimented discourses’ (Cho, 2012, p. 327), and argues that the actual meaning of trade law depends on a variety of interpretive habits and informal understandings within a broader trade community (Cho, 2018; Lang & Scott, 2009b).

Although this literature is starting to fill the empirical gaps about everyday multilateral trade governance, it remains largely oblivious to broader theoretical questions. In particular, few of the recent accounts actually consider, as Lang and Scott originally put it, that ‘the politics of international trade is found just as much in everyday routines of global economic governance as it is in its eye-catching moments’ (2009a, p. 1074). Instead, the current literature replicates the limitations of the old functionalist scholarship, which has long attracted accusations of reducing international organizations and their procedures to technical accomplishments, ‘slighting their political character and the political work they do’ (Barnett & Finnemore, 2005, p. 161). What is now necessary is to incorporate these descriptive and exploratory studies of the committee functions and processes into the broader IR and IPE discourse. I choose to accomplish this by asking how the committee practices have been shaped by and reflect the interests of certain members, and how they remain contested between them. This perspective extends academic thinking beyond the formal institutional features and sheds light on more informal – and, as such, more contestable – understandings that govern how multilateral diplomacy is conducted.

The WTO committees present an ideal case to theorize and explore the emergence and contestation of everyday practices. Their legal mandates and rules of procedure remain superficial and indicate only in the broadest terms what the committees are supposed to do. This possibly reveals the members’ relaxed attitude about international bodies over which they retain direct control through their representatives and consensual voting. However, given the sophisticated and highly technical nature of the committee work, in which the delegates necessarily enjoy some discretion, the vagueness of the mandates is somewhat surprising. As the literature has recognized, many WTO bodies essentially represent ‘creatures of [their]
own making’ (Lang & Scott, 2009b, p. 591) and exhibit a considerable degree of flexibility and authority over their respective agreement or issue area. For the delegates, this uncertainty creates possibilities to experiment with and contest their practices. For example, the Committee on Technical Barriers to Trade (TBT Committee) is formally established in Article 13.1 TBT Agreement with the ‘purpose of affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives’. Its functions are not further specified, apart from requirements to generate annual reports and conduct broader triennial reviews. The result is described in one of the few accounts on the committee:

It has, basically, been up to delegations to decide how to pursue the work in the most efficient way. This has been done in a step-by-step fashion, quietly, far from the spotlight, by experts who – at least to some extent – have been untroubled by the larger political drama of missed deadlines and ministerial meetings. Indeed, ambassadors only attend exceptionally the Committee meetings; a younger crowd, often chaired by the second-level diplomatic core in the trade missions of Geneva, participates in the day-to-day operations of the Committee. (Mavroidis & Wijkström, 2013, p. 208).

The committees’ freedom to determine their activities has direct implications for the research approach and methodology that is necessary to analyze their conduct and significance for the global trading order: it needs to be a study in institutional practice, rather than a study in static institutional form (Lang & Scott, 2009b, p. 591). Instead of considering the fixed mandates or rules of procedure, which the delegates themselves admit to never look at,6 we have to examine the day-to-day interactions between committee participants and their evolving practice(s). Approaching multilateral trade diplomacy as a set of temporally and functionally diversified practices ties the WTO’s significance for global trade to the everyday performance of specific activities that constitute, affirm or change beliefs about what trade (politics) is or should be. This makes the everyday performance of international politics no longer a mere epiphenomenon of deeper structural forces, but a generative force in and of itself (Adler-Nissen & Pouliot, 2014, p. 891).

However, if the committee practices emerge(d) organically out of the interactions of the delegates, this makes active participation in the committees critical for shaping these established ways of doing things. The delegations of many developing members still struggle to participate in – or sometimes even attend – many committee sessions. Interviews with developing country representatives and my quantitative assessment of the committee minutes over the last decades reveal a persistent asymmetry in committee participation. The membership of the WTO grew from 128 members in 1995 to 164 in 2020. But more than half of the 23 WTO bodies in my dataset saw less than one third of the membership participate actively in most years since 1995.7 Even in the Committee on Trade and Development participation by developing members was quite low; the detailed committee minutes mention on average 67 members per year in this committee, which includes most of the WTO’s developed members. In comparison, the SPS and TBT Committees, which are the focus of my empirical analysis below, attracted broader participation over time. This partly reflects their focus on regulatory issues, which have become increasingly more important in the WTO. While the minutes of the SPS Committee mention only 18 members in 1995, this number grew to 103 in 2017. Mentions of individual members rose from 18 to 90 in the TBT Committee over
the same time period. The SPS and TBT Committees are thus positive examples in terms of participation and perhaps best illustrate how committee practices have been contested and developed as the community of practitioners broadened. To put this in perspective, Figure 1 summarizes my findings for the General Council (GC), the WTO’s main decision-making body, the Committee on Trade and Development (CTD), and the SPS and TBT Committees.

**Practice evolution and contestation in the WTO committees**

My empirical analysis focuses on the practices of the SPS and TBT Committees, which offer particularly interesting case study material. Like most WTO committees, the two bodies are each tasked with the implementation of a particular multilateral trade agreement – the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement) and the Agreement on Technical Barriers to Trade (the TBT Agreement), respectively. Both agreements address politically sensitive non-tariff measures. The TBT Agreement stipulates how mandatory technical regulations, voluntary standards and conformity assessment procedures for all types of goods should be prepared, adopted and applied by the WTO members. The approach of the SPS Agreement is similar, but it covers all laws, regulations and procedures applied to protect human, animal or plant life or health from risks arising from diseases, contaminants, toxins, etc. – which makes it highly relevant for ensuring food safety. Because of these broad and important agendas, the SPS and TBT Committees experienced comparatively high levels of participation over the last two decades.

While the SPS and TBT Committees also perform other duties, seasoned practitioners identify two main tracks of committee work: (i) the peer review of trade
measures and (ii) the development of guidance on how the WTO agreements should be understood and implemented (Wijkström, 2015, p. 2). Relying on this distinction between what is known as the ‘specific work’ (because it deals with ‘specific’ measures) and the ‘normative work’, I explore the committee practices that guide the regular interactions between delegations. The first part of my analysis explores how mechanisms for peer review and the resolution of trade concerns evolved within the committees and why the members advance conflicting narratives about these practices. The second part discusses how the committees shape the meaning of the multilateral trade agreements and create new understandings with ambiguous legal status. Combined, the cases reveal the significance of the regular work for the multilateral trade system but also show how the committee practices have been contested between the members.

Conflicts about conflict resolution

Maintaining the complex system of multilateral trade rules requires a continuous exchange between the members to ensure compliance and address disagreements. The WTO committees offer the principal fora for this dialogue and have developed a set of practices that constitute what is known among practitioners as ‘Specific Trade Concerns’ (STCs) or just as ‘trade concerns’. In the regular meetings, these practices facilitate the decentralized peer review of trade measures. They allow delegates to request further information on other members’ domestic measures (with an actual or potential effect on trade), and to discuss differences of view ‘not in a formal, legal sense but in a practical, pre-emptive one’ (Wijkström, 2015, p. 4). As a member-driven institution, the WTO depends on this decentralized peer review between the members. The delegations themselves observe that ‘[a]ddressing concerns over trade measures of other Members [is] the daily bread of most regular WTO Councils and Committees’ (WTO, 2019b, para. 7.4). Because trade concerns can prevent the escalation of disagreements into formal disputes, some practitioners even describe the activity as ‘dispute avoidance/prevention’.8 Compared to other WTO bodies, the SPS and TBT Committees have been very active in this regard and developed particularly sophisticated practices.

A practice lens reveals how these patterned ways of doing things emerged organically out of the committee exchange and how the practices remain contested between the delegations. This is analytically important for two reasons. First, the relationship between this core committee activity and the formal institutional rules is surprisingly tenuous. The WTO agreements do ‘not envisage a procedure for STCs’ (Karttunen & McDaniel, 2016, p. 766), and neither is this practice specified in the committees’ mandates or rules of procedure. It is thus interesting to ask why the practices developed in this particular way, although they could have emerged differently. Second, the representatives of the members advance diverging explanations on why STCs are an effective trade policy tool and on why they sometimes fail to resolve disagreements. These narratives do not only exist to justify actions and blame failures on the other side. Instead, they serve to contest (or retain) certain practices. The contestation of the committee practice is particularly evident in the contemporary debate on WTO reform. Various members have highlighted problems with the resolution of trade concerns and advanced ideas to improve the way in which trade concerns are handled in the committees. These proposals show
that the members disagree about the benefits and drawbacks of the current practices and their significance for multilateral trade governance more generally.

Before delving into the conflicting narratives, it makes sense to briefly illustrate what happens in the committees on a regular basis: Raising a STC essentially means that a delegation takes the floor to comment or request clarifications on the domestic actions of another member. The delegate might also call for specific adjustments to the measure, or request a postponement of its entry into force. This alerts other members to the policy change, which might also affect their trade, and can thus lead to discussion in the committee or between interested parties. These days, the committees consider and revisit a large number of these concerns under a permanent agenda item at each session. For example, at the TBT Committee meeting in November 2019, members discussed a total of 62 trade concerns, 12 of which were raised for the first time (WTO, 2019c). Because many STCs involve statements by multiple members, moving through this list takes up the majority of the committees’ time. But unlike the WTO’s Dispute Settlement Mechanism, the committees do not have the authority to settle these disagreements; they merely provide a platform for problem-oriented discussion. Moreover, how a member targeted by a concern should respond is not formally specified. Instead, what makes a ‘legitimate’ trade concern and what counts as ‘constructive’ behavior in response to a concern is determined by implicit expectations that have emerged over time between the delegations. These tacit understandings obviously (and intentionally) leave room for maneuver and remain subject to diplomatic struggle over narratives of compliance with the WTO rules and the committee practices.

The committee practices have become more formal over time but still retain much of their informal character. For example, it took the WTO TBT Committee until 2009 to establish official (but ultimately voluntary) guidelines on the handling of trade concerns that attempt ‘to streamline the organization of the Committee’s discussion’ (WTO, 2009, paras. 64-69). Before, the broad transparency provisions in the TBT Agreement (Arts. 2.9 and 5.6) were seen as sufficient basis for this activity, allowing the committee practices to grow organically out of the regular exchanges. It should thus come as no surprise that the committee practice was initially shaped by those (few) members that dominated the debate early on – starting in the GATT TBT Committee, which was almost exclusively a forum for developed members. This early influence had a lasting effect. The committee practices still, to some extent, ‘mimic what key members were doing anyway domestically, including the instructions to keep good regulatory practices and do public consultations’. For example, my interviewees compared the current committee practices with notice-and-comment rulemaking as practiced by US governmental agencies. This comparison also highlights one key difference between the SPS and TBT Committees and other WTO bodies, which makes the exchange in the former more significant: The SPS and TBT Agreements are not limited to measures that have already entered into force. Instead, they also cover proposed measures, i.e. the drafts of domestic regulations that members have an obligation to notify to the WTO prior to their adoption. The committee exchange thus offers opportunities to influence domestic regulatory processes on behalf of exporting interests and to sensitize trade partners to the external effects of their measures before these enter into force.
Two narratives of the committee practice

However, precisely because committee practices are not formally adopted or directly enforceable, they remain open to contestation. Practitioners advance two main narratives on the committee work. These narratives not only help delegates make sense of their everyday activities, but represent alternative visions about the ways in which the committees should go about their work. The first narrative could be called ‘technocratic’ and highlights the depoliticizing effect of the committee practices. As such, it is mostly advanced by Secretariat officials – whose influence on the practices should not be underestimated – and highly-skilled delegates, who tend to be part of larger delegations with the resources to engage proactively in the committees and the regulatory dialogues surrounding the meetings. The successful resolution of trade concerns is then linked to the ‘remarkably technical’, ‘pragmatic’ and ‘non-political’ nature of these ‘nerd committees’. As one interviewee claimed, the consultations ‘only work when people feel they are part of the same club of geeks’. But precisely because the success is linked to a ‘culture or community of experts’, these practitioners are wary of the way in which the committees have changed over time. The SPS and TBT Committees no longer reflect the informal, closed-door atmosphere of the GATT and early WTO years, when the small groups of attending experts were all familiar with each other. Instead, increasing participation by more members has transformed the committees into large and more formal gatherings that today require the WTO’s largest meeting rooms. Experienced practitioners thus complain that ‘over the years, we got more generalist diplomats rather than experts’, leading to a perceived deterioration and ‘politicization’ of the committee exchange. As one summarizes the sentiment, ‘if we have had a continuation of technical people, we would have been able to do more’.

Alternatively, the second narrative describes the committee practice as much more antagonistic and driven by power politics. Interviewees emphasize how the debate ‘is long on speeches’ but often inconclusive, expressed by a rising number of ‘permanent’ (unresolved) STCs. They claim that resolving concerns ‘always comes down to political willingness’, which is frequently in short supply, and that trade concerns rarely lead to adjustments of domestic policies – especially if concerns are directed at influential members like the EU or the US. This perspective is advanced mainly by delegates of developing members, who remain at a disadvantage in the committees, not least because they lack sufficient resources to cover all aspects of the debate. While ten chairs are allocated to the EU delegation in the TBT meetings (excluding the individual EU members), many members are represented by one or two generalist diplomats. In addition, the coordination between Geneva mission and capital has been a major challenge, constraining the delegations of developing members from engaging ‘proactively or even constructively’. For these practitioners, the politicization of the debate is not necessarily intentional and easily explained: ‘if you leave committees in the hands of Geneva-based diplomats, they lack the required knowledge and issues are fought out tactically, not on substance’. In other words, generalist diplomats might resort to language that to experts sounds superficial and political simply because they do not know what else to say. (However, most interviewees acknowledge that, compared to other WTO bodies, there remains a ‘distinct culture’ due to the ‘capital-based presence’ in the SPS and TBT committees.)
The small academic literature on STCs has relied on parts of either narrative, but so far researchers have been unable to recognize how the two stories fit together and reveal the ongoing contestation of the committee practices. Mapping neatly onto the above narratives, one strand of the literature has emphasized the technical nature of the committees, which would allow a ‘practical, expert-driven approach’ to resolve trade concerns (Horn et al., 2013, p. 730). This argument is expanded in various ways: some authors speculate how debating a trade concern can ‘generate greater empathy between Members and a heightened awareness of the needs and difficulties of other states’ (Lang & Scott, 2009b, pp. 593–594). Another claims that STCs would ‘provide the opportunity to negotiate some changes into the regulation without resolving legal issues’ (Holzer, 2019, p. 12). Opposing this view, however, others maintain that ‘SPS and TBT measures are often used by developed countries to bar imports from developing countries’ (Maonera, 2020, p. 13). Accordingly, the technical nature of the committee discussion would not mean that the ‘low level’ representatives in the committees can resolve these differences; they would ‘lack the authority to make decisions of consequence’ (Steinberg, 2009, p. 1068). As an alternative explanation for the use of trade concerns in the committees, scholars even suggest that members raise concerns ‘not because they are interested in the reaction from the respondent’ but to ‘strategically map out a formal dispute and learn about its scope as well as to identify political allies’ (Manak, 2019, p. 5).

As my practice-oriented approach shows, neither of these accounts tells the full story. Instead, they reveal parts of the picture that do not acknowledge the true versatility of trade concerns and the creative ways in which the delegations employ the committee practices. Karttunen’s (2020) recent account moves in the right direction, showing how trade concerns can act as both ‘substitutes’ and ‘complements’ to formal dispute settlement. However, she does not explain why trade concerns emerged in this particular way or that the committee practice remains contested. The complexity and contestation of the committee practices is easy to miss – especially with conventional research approaches – because there is empirical evidence to support either narrative. For instance, a concern raised by Sri Lanka can illustrate the technocratic narrative in action: in October 2005, Sri Lanka reported to the SPS Committee that it had encountered problems exporting cinnamon, a key agricultural export, to the EU. Tests had revealed that the cinnamon contained traces of sulphur dioxide, but the relevant EU legislation did not establish a safe maximum residue limit for this substance. After Sri Lanka raised the STC, the delegates quickly discovered that there was also no international standard and, therefore, agreed to draw the attention of the relevant international standard-setting body, the Codex Alimentarius Commission, to the matter. The EU supported Sri Lanka’s submission to Codex and the SPS Committee also highlighted this gap to Codex. An international standard was established a few months later and Sri Lanka informed the SPS Committee in October 2006 that its concern had been resolved.21 This reveals an instance of problem-oriented regulatory cooperation that conforms well with the technocratic view.

However, the handling of similar concerns lends support to the second, power-oriented view. Examples include the recurrent and effectively ‘permanent’ STCs raised by numerous members against the EU’s maximum residue levels (MRLs) for various pesticides. Unlike what the concern of Sri Lanka suggests, the EU has been
very reluctant to accommodate any concerns about its strict food safety legislation and, over the last two decades, the SPS and TBT Committees have seen a long list of concerns against the EU. These concerns illustrate the signaling and potentially also shaming function that the practice of STCs can play, especially when members remain unresponsive to bilateral requests for consultation or when responses are not seen as ‘constructive’. Explaining the rationale for developing countries to bring these STCs, a Latin American delegate observed how the formal committee sessions offer a ‘microphone that just amplifies [your] voice’ and generate ‘strength in numbers’. While the concerns might ultimately remain unresolved, they can have another, partly symbolic purpose. Interviewees highlight how STCs at least keep the issue on the agenda – ‘when there’s no willingness to speak outside the room, there’s only the room left’ – and signal continuing disapproval by a (growing) coalition of members. It allows members to publicly ‘vent’ their frustration, which might allow governments to appease domestic interests.

These attempts at peer pressure might easily be dismissed as theatrics – after all, some concerns have been raised many times without resulting in policy changes. However, as the EU’s efforts at limiting these performances reveal, they are not entirely without effect. Especially in the SPS Committee, the concerns against the EU have shaped the general dynamic of the debate. For example, in a recent meeting, the fast-paced discussion was held up when no less than 17 members including the US, Canada, India, Brazil and many Latin American members repeated their concerns about the EU’s approach. For an hour, they explained how the EU rules threatened their exports of rice, maize, sesame, wheat, bananas, grapes and other products. These performances not only make for an uncomfortable experience for the EU delegation but, because this happens at every meeting and across multiple committees, cast doubt on the targeted member’s interpretation of its WTO obligations, highlighting the divergence from the coalition view, and compelling the member to justify itself, which might prevent this interpretation from spreading. Accordingly, the EU has actively tried to discourage the repeated use of trade concerns against it, both by intimidation and by advocating changes to the committee practice. The first can be illustrated with an unusually frank reply in the SPS Committee. Following a long justification of the EU’s policies, an EU representative concluded with the ominous statement that the EU is not only one of the biggest importers, but ‘also the biggest donor of developing aid’. Attending delegates of developing members perceived this as ‘a threat’ – ‘who supports whom, [...]’, is still political, not only about substance. In other words, political calculations and pressure (behind the scenes) can keep even the symbolic display of disagreement in the committee to a minimum – as suggested by the few African countries that support these concerns against the EU compared to the much larger number of Latin American states.

**Contesting the practice**

Reflecting the mixed success of these time-consuming exchanges, the handling of trade concerns has come under scrutiny in the intensifying debate on WTO reform. But the members disagree why it is so difficult to resolve some concerns. And while these disagreements are also partly about assigning or deflecting blame, the reform ideas map closely onto the diverging narratives of the committee.
practice presented above. Some members, like the EU (but also others like Canada, Australia, New Zealand, and China) blame the increasing ‘shallowness’ of the debate. A key problem would be the lack of information provided on the concern prior to the meetings, the (resulting) unpreparedness of many delegations, and frequent delays in receiving answers after the meeting. To address this, the group has proposed to further formalize the committee practice, mainly be introducing clear submission requirements and deadlines for concerns, and new ways to bring the technical expertise back into the process. However, the US and many developing members have stressed that a lack of preparation does not explain why some concerns are raised repeatedly over many committee meetings without ever being resolved. They do not blame insufficient procedure for these permanent concerns. As the US Ambassador to the WTO bluntly observed in response to an EU-driven proposal on cross-cutting procedural rules for trade concerns, ‘What’s needed most is not more process but more political will. This would be the most effective way to resolve these longstanding concerns’ (WTO, 2019b, para. 7.88).

The contemporary debate on the handling of trade concerns illustrates how committee practices are not neutral ‘functional responses’ but the outcome of ongoing contestation between the members. Many developing members have for a long time expressed their frustration about increasing procedural requirements and deadlines for the committee debates. They worry that developed members would use these procedural hurdles as excuses not to engage constructively – as one diplomat from the Global South rhetorically asked: ‘If I have to comply with this list of things to raise an issue, is this really helping dialogue or just giving the other side excuses not to answer?’ With regard to trade concerns, they also highlight other drawbacks of the current reform proposals that would show how their proponents would be ‘bending the rules to fit them’. For example, the EU and its co-sponsors consider the repeated explanation of trade concerns over successive committee sessions and by multiple members at each meeting inefficient – as an EU delegate remarked, ‘If an STC goes on for three or more sessions, all you often [hear] is the same photocopied statement’. The EU proposal encourages members ‘to focus on new developments on the matter since the last time the trade concern was discussed’ (WTO, 2019d, para. 11). But developing members quickly criticized this idea as ‘self-serv[ing]’ because a large number of unresolved concerns are directed at the EU. Intentionally or not, the proposal thus ignores the broader epistemic and symbolic dimension of STCs. From the perspective of affected members, restating a concern is not seen as a waste of the committee’s time but the only thing that can be done short of escalating the concern to a complex and costly formal dispute. The repeated committee performances generate a visible, yet focused confrontation on the interpretation of the WTO rules, and compel the targeted member to keep justifying its approach.

This account shows how key parts of the committee work, after decades of interaction, remain highly contested between the members. While broadly subscribing to the logic of trade concerns, the delegations continue to disagree on the strengths and weaknesses of the established committee practice and attempt to actively shape it in a way that best allows them to pursue and defend their interests. Overall, my practice-oriented research approach thus highlights the need to broaden the research perspective on multilateral diplomacy. In trying to explain why certain disagreements can or cannot be resolved, for example, it is not
sufficient to focus exclusively on the formal institutional rules and interests of the involved members. Instead, we also need to appreciate how feasible paths of action are shaped by the repertoire of shared practical understandings that guide these interactions. The semi-formal STC mechanism epitomizes this structuring effect that circumscribes what is possible within the committees and in the WTO more generally. Not mincing words, the US Ambassador recently accused the EU of ‘seeking to silence concerns through Committee reform’ (WTO, 2019b, para. 7.75-89).

**Controversies over interpretation and rule elaboration**

The committee exchanges also play a key role in clarifying the meaning of ambiguous or open-ended provisions in the multilateral trade agreements. Every committee ‘is working its way through what the actual practical implementation of [its respective] agreement means. […] It’s interpretation’.[32] This set of committee activities ‘has lent dynamism to the treaty texts’ (Wijkström, 2015, p. 3). But to fully appreciate the significance of these interpretive understandings, it is again crucial to understand how they are generated (and revised) in the committees, and how the relevant practices remain contested between the delegations. As I show below, it is helpful to distinguish between a more implicit and more explicit variant of this interpretive activity. On the implicit side, the debate can shape and reinforce practitioners’ background assumptions about how the trade system works, an activity which remains well below the threshold of formally adopting any views in the committee. One practice that facilitates this information exchange between delegates is the organization of workshops and experience-sharing sessions, which in the SPS and TBT committees are known as ‘thematic sessions’. On the more explicit side, the committees can also consensually identify so-called ‘best practices’ for regulatory governance or establish guidelines and recommendations on how specific provisions should be understood and implemented. Importantly, however, the legal status of formal committee decisions remains unclear. Practitioners describe this legal ambiguity as a ‘double edged sword’ which facilitates the normative work in some ways but constrains it in others.[33]

**The creative use of thematic sessions**

Across the WTO committee system, delegations routinely take the floor to inform other members about important domestic developments. This allows the representatives to frame policy changes and responses (for example, to the outbreak of an animal disease) in the best possible light.[34] The slowdown of the Doha Round negotiations and resulting lack of forward-looking discussion has only intensified this activity in the regular committees. In particular, thematic sessions have become more and more popular among the delegates. These events usually take place in the same week as the formal committee session and feature voluntary presentations on the national implementation of particular aspects of the agreements or on domestic solutions to (novel) regulatory challenges. Yet, the reasons for members to engage in this experience sharing diverge and the practice of organizing these sessions remains contested. Developed members generally perceive the workshops as an opportunity to advance their particular vision of regulatory governance and corresponding interpretation of the agreements. They frequently fly in national
experts to explain their regulatory systems, while their own delegates attest that they do not gain much from the ‘primitive’ debate. The exchange is much more interesting for the representatives of developing members, who claim to be ‘learning a lot’ from these presentations.

The literature maintains that the committee discussions can ‘contribute to a process of creating a shared knowledge base from which delegates proceed’ (Lang & Scott, 2009b, p. 581). However, my analysis reveals that this exchange does not simply amount to the ‘socialization’ of developing countries (Adler & Bernstein, 2005, pp. 314–316; Shaffer, 2015, p. 10). Instead, echoing the discussion of trade concerns, the actual practice is more complex. Far from simply adopting the presented views, delegates of developing members have learned to creatively employ these practices to put pressure on developed members. For example, members like China, Paraguay and Kenya have proposed to hold a thematic session in the SPS Committee on maximum residue limits for pesticides. The proposal reflects their ongoing disagreements with, and trade concerns against, the EU on this issue, and it has put the EU delegation in a difficult position. As discussed above, the EU is frequently criticizing the shallowness of the debates, but on this particular issue it has tried to limit discussion as much as the repeated trade concerns allowed. Responding to the proposal, the EU argued that ‘we should keep things in proportion. We don’t need to have a thematic session at every meeting’. The EU representative then went on to complain that some members suffer from ‘MRL exhaustion, MRL fatigue’, so ‘there’s a limit to the pain that we can inflict on ourselves in terms of how MRLs are debated’. Since the EU is the only member speaking out against this thematic session, its many objections are very conspicuous and have been criticized. Interviewees depict the actions of both sides in this exchange as an example for the creative and ‘self-serving’ use of committee practices in order to shape the exchange according to political interests.

**Contesting the legal status of committee decisions**

Since the creation of the WTO, the members have adopted a wide range of committee decisions and recommendations, which interpret or provide guidance on the meaning and application of specific provisions in agreements. In the SPS and TBT Committees, this usually happens as part of the triennial (TBT) or quadrennial (SPS) reviews of the respective agreement. But only rarely were the committees specifically tasked with filling these legal gaps. Rather, they elaborated upon the existing rules to ensure the consistent implementation of the agreements across the membership and responded to new regulatory challenges. The TBT Committee produced additional guidance in the areas of transparency, good regulatory practice, standards for conformity assessment, the development of international standards, technical assistance, and special and differential treatment (WTO, 2019a). For example, by elaborating on the provisions in the TBT Agreement concerning the preparation and application of international standards, the committee has strengthened the WTO’s ability to promote regulatory convergence. The most significant development in this area is the Decision on Principles for the Development of International Standards (the Six Principles). The Six Principles respond to a natural constraint of the TBT Agreement, which contains a strongly-worded obligation to use international standards but simultaneously leaves considerable leeway for each member to choose which international standard it deems ‘relevant’ in any given policy-making situation (Wijkström & McDaniels, 2013, p. 4). The Six
Principles have had a significant effect, providing a reference frame for the committee discussion and trade concerns on the use of international standards, and shaping the organizational structure and decision-making processes of international standard-setting bodies (WTO, 2020b).

Again, existing accounts present this committee activity and its broader significance for multilateral trade governance in different ways. Some claim that the TBT Committee ‘has begun to succeed in significant “rule-making” activity’ (Howse, 2013, p. 1), or even that ‘it is hardly an exaggeration to conceive the [SPS] committee as performing something approaching a legislative function’ (Scott, 2007, p. 49). But others assign the committees a much more limited role. Committee decisions would only be ‘hortatory exhortations of what members “should” do or “seek” to do’ that are unlikely to generate adherence to ambiguous treaty provisions (Steinberg, 2009, p. 1065). Another observer is more pragmatic: ‘[i]f a committee makes a series of decisions in a certain way, actors […] know what the WTO law is without codification in the treaty or an Appellate Body decision’ (Wolfe, 2015, p. 20).

A practice lens helps resolve these contradictory views in the literature by showing how the ‘normative work’ in the committee and its legal significance remains contested between the members. I argue that in order to fully appreciate the role of the committees in interpreting and elaborating on the WTO rules, it is crucial to acknowledge the legal ambiguity that is an inherent part of these committee practices. Accordingly, practitioners describe how the committee exchanges allow them to arrive at shared understandings of an ‘aspirational’, ‘non-prescriptive’ or ‘voluntary’ nature, while insisting that committee decisions retain some normative force because they are adopted consensually by all members (and, therefore, require a lot of coordination work). Interestingly, this tension has never been resolved and the legal status of committee decisions remains unclear even though the WTO Appellate Body in 2012 concluded that the Six Principles constitute a ‘subsequent agreement’ between the parties within the meaning of Article 31(3)(a) of the Vienna Convention on the Law of Treaties. This obliges any interpreter to read this particular committee decision together with the TBT Agreement, thereby confirming its legal status as the members’ shared interpretation of the agreement.

While this decision by the Appellate Body did not seem revolutionary to trade lawyers, it surprised some diplomats in the committees. As one practitioner describes it, the prominent appearance of the Six Principles in the Appellate Body’s report was an ‘unwelcome or potentially frightening’ way in which the disputes intersected with the regular committee work. Counterintuitively, members like China and India did not appreciate the Appellate Body’s attention to the committee decisions, even though these perhaps best expressed members’ evolving understanding of the multilateral rules – in fact, the position contrasts sharply with periodic accusations of judicial overreach that have been levelled against the Appellate Body. Instead, the ruling sparked a debate on the need to add strong legal disclaimers to future committee decisions. The idea was to clarify the voluntary, aspirational nature of committee decisions and thus discourage their use by a panel or the Appellate Body. In the TBT Committee, China and India were driving forces behind this initiative. On the other side, the EU and the US, but also members like Brazil and Mexico, were hesitant to include legal disclaimers. They acknowledged ‘that the Appellate Body went too far’ in its use of the Six Principles (WTO, 2014, para. 2.312). But they were concerned about the value of the committee debate if
disclaimers had to be added to every decision; as the Brazilian delegate put it, delegations needed to ask themselves ‘what room would be left for the work of Committees […] to further the objectives of the Agreements and to facilitate their operation and administration?’ (WTO, 2014, para 2.311)

While some disclaimers were added to committee decisions over the last years, the general disagreement has not been resolved and the interpretive value of committee decisions remains unclear. Practitioners describe this state of affairs and the uncertainty surrounding the normative work as a ‘double edged sword’.43 On the one hand, the benefits of legal ambiguity seem to have outweighed the risks for a long time, enabling the members to reach semi-formal understandings that are far more likely at this technical level than through formal treaty amendments. On the other hand, the intrusion of legal considerations and of a different (legal) ‘epistemic community’ has destabilized this set of committee practices by revealing different beliefs about the normative force of the committees’ interpretive actions. According to interviewees, the Appellate Body decision on the Six Principles and the subsequent debates on disclaimers ‘did, if not paralyze the work of some committees, certainly present a major obstacle to some committees being able to adopt new recommendations and decisions because of this ongoing uncertainty’.44 For example, the practice contestation meant that even simple documents like a list of already existing tools to manage SPS issues required a two-year debate on its legal status and the wording of its disclaimer (WTO, 2020a, p. 3).

Considering how the committee practices remain contested reveals a more nuanced picture of the ‘normative work’. The continuous struggle between the members over the understandings that are reached should caution researchers not to exaggerate the ambition of these activities. The committees have been able to establish interpretations and move beyond some existing obligations but this was mostly achieved through the use of aspirational language. As a delegate describes it, ‘every second line […] contained language such as “may”, “non-prescriptive”, “illustrative”, “for example”’ (WTO, 2014, para. 2.307). However, this does not mean that these committee exchanges do not play a crucial role in developing shared understandings of the objectives and limits of the multilateral agreements. The Six Principles are a good example. Even though the legal status of the committee decision itself remains contested, its value has clearly been recognized by the membership and a wide range of international standard-setting bodies adhere to it. Committee decisions have also been incorporated in a number of bilateral and regional trade agreements, making them directly enforceable between the signatories.45 Finally, interviewees caution that there is ‘no clear line between interpretive and other work’ in the committee, meaning that every discussion ultimately revolves around how the multilateral trade agreements are collectively understood and implemented.46

**Conclusion**

This analysis of everyday international practices contrasts with traditional perspectives on the performance and significance of international institutions and reveals a powerful internal logic of multilateral trade diplomacy. It shows that the seemingly mundane ‘regular work’ represents the ongoing performance of a range of practices that establish baselines for debating, applying, and, at times, adapting the formal rulebook. Despite their continued contestation, these organically developed committee practices have enabled representatives of the WTO members to determine
the actual meaning and significance of the multilateral trade agreements, to relate these provisions to the real world, and to address differences of view. By engaging in forward-looking debates and regulatory exchanges, the committees moved beyond the agreements and generated background knowledge as well as semi-formal understandings and (legally ambiguous) committee decisions. Seeking the attention and input of the broader membership on specific concerns, the delegates also organically developed a process for the resolution of trade frictions in the committees.

My investigation also reveals that the committee practices are themselves shaped by power relations and reflect a particular vision of the multilateral trade system. Precisely because established practices shape feasible paths of action, they have been – and remain – contested between the members. In this sense, a practice-driven research approach shows how the WTO members’ material capabilities do not exhaust the variety of resources that define power relations in the WTO. Instead, power can emerge endogenously from shaping the established ways of doing things. Practices then need to be recognized for their normalizing and legitimizing effect on pre-existing assets – after all, members’ highly unequal diplomatic resources imply that not all delegations can be equally active in the committees. But, as my empirical analysis has shown, this does not mean that developed members were able to simply impose certain practices on the committees. Rather, the delegates of developing members have learned to creatively employ (and thereby adapt) existing practices to legitimize their actions within the committees – the committee practices have thus evolved over time. The recent debate on WTO reform, in particular, illustrates how increased committee participation of developing members has redefined parts of the committee work.

Overall, this article thus shows how practices give structure to the continuous interactions within the WTO but simultaneously remain open to negotiation between an increasing number of active members, leading to gradual changes in the established practices. A full explanation of the regular work, its broader significance for the WTO, and its limits is thus impossible without understanding the practices that guide the everyday work.

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Notes

1. Interviews 01, 02, 03
2. Interviews 04, 05, 06, 07, 08, 09
3. Interviews 04, 05, 10
4. I adopt this term from Adler (2019).
5. Interview 05
6. Interviews 11, 12
7. For information on the quantitative textual analysis please see the online appendix.
8. Interview 13, also WTO and OECD (2019, 54).
9. Interview 06
10. Interviews 05, 06, 07, 08
11. Interview 14
12. Interviews 15, 16
13. Interview 05
14. Interviews 09, 16, 17
15. Interviews 06, 08
16. Interviews 03, 06
17. Interview 02
18. Interviews 02, 18, 19, 20
19. Interviews 02, 36
20. Interviews 03, 08, 18
21. For the full exchange, see the minutes of the SPS Committee at G/SPS/R/39, paras. 52-58; G/SPS/R/40, paras. 106-109; G/SPS/R/42, para. 122; also G/SPS/W/187. The quote is from G/SPS/R/43, para. 38.
22. Interview 02
23. Interview 08
24. Lamp notes a similar dynamic in formal meetings of the DSB (Lamp, 2017).
25. Author’s notes based on participant observation.
26. Interview 02
27. Interviews 06, 09
28. Interview 02
29. Interviews 01, 02, 03
30. Interview 09
31. Interviews 02, 18
32. Interview 10
33. Interview 21
34. Interview 04
35. Interview 11
36. Interviews 01, 02
37. Author’s notes based on participant observation.
38. Interviews 02, 09
39. For example, Article 5.5 SPS Agreement requires members ‘to cooperate in the Committee […] to develop guidelines to further the practical implementation of this provision’.
40. Interviews 11, 21, 22
41. See the Appellate Body report on US—Tuna II, para. 371-2.
42. Interview 22
43. Interview 05
44. Interview 22
45. For example, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership mandates that ‘each Party shall apply’ the Six Principles (Art. 8.5, para. 2).
46. Interview 07, 22

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