

CIVIL SOCIETY'S INTERACTION WITH THE WTO

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1. INTRODUCTION

This paper reviews the state of interaction between civil society organisations with the World Trade Organisation. It first outlines the lack of transparency and participation in the WTO system to set the background to the discussion. The paper then traces the development of NGO involvement in the WTO, from earlier days when there was any hardly any information about the happenings in the GATT system, to recent years when greater awareness led civil society to criticise the WTO for a range of social and environmental ills. An account is then given on the response of the WTO system to the demands of civil society for greater information and transparency. This includes the efforts of the WTO, in the form of greater information flow, organisation of symposia to facilitate NGO-WTO dialogue, limited participation in the WTO Ministerial Conferences, and the establishment of a NGO liaison staff position. The concluding section makes an assessment of the state of WTO-civil society interaction and provides some proposals for greater transparency and participation in the WTO.

2. LACK OF TRANSPARENCY AND PARTICIPATION IN THE WTO SYSTEM

The WTO has been and remains one of the most untransparent of international organisations, and also an agency in which NGOs have little effective participation.

This is despite moves by the WTO Secretariat in recent years to increase the WTO's interaction with NGOs and the recent pronouncements by some WTO Member states about the importance of involving NGOs in the WTO.

The main reason for this lack of transparency is the working methods and the system of decision-making of the WTO system.

In terms of formal arrangements, decisions are made on the basis of "one country, one vote" and by consensus, thus giving the WTO the appearance of an organisation in which decision-making is democratic. Decisions are taken by the General Council (comprising WTO Ambassadors of Member states based in Geneva), or representatives in subsidiary bodies (such as the TRIPS Council or the Agriculture Committee). Major decisions are also made or endorsed by the WTO Ministers meeting at a Ministerial Conference, normally once in two years.

In practice, the GATT (the WTO's predecessor) and WTO have been dominated by a few major industrial countries. Often, these countries negotiate and decide among themselves, and embark on an exercise of winning over (sometimes through intense pressure) a selected number of the more important or influential developing countries, in "informal meetings". Most WTO Members may not be invited to these informal meetings and may not even know that these meetings take place, or what happened there. When agreement is reached among a relatively small grouping, the decisions are rather easy to pass through the Committees or the General Council.

The system of decisions by consensus is also odd in its implementation. On issues where a majority of developing countries, who form the vast majority of overall WTO membership, may agree, it is said that "there is no consensus" should even a few developed countries disagree with the majority, and the issue concerned is practically killed or have no chance of being successfully dealt with. However, should the major powers (especially US, EU, Japan) agree on a particular issue, whilst a sizable number of developing countries disagree with them, and a large number remain silent, the major powers are likely to embark on a process which they call "building a consensus". In reality this means a process (sometimes prolonged) of wearing down the resistance of the outspoken developing countries until only a few or even one or two remain "outside the consensus." It is then relatively easy to pressurise these few remaining countries to also agree, to "join the consensus."

The WTO has many Committees and Councils and there are often many meetings in a single day. Decisions and negotiations go on at these formal meetings. However, a significant part of the important bargaining and negotiation goes on in private, and even in the Committees and Councils.

Countries that are not considered significant are often not invited to the private negotiations. And even in many of the formal meetings (which are scheduled and which every Member is entitled to attend), the developing countries are poorly represented: several do not have a Mission or presence in Geneva; or else the Mission is understaffed and the few officials (who also cover meetings in the United Nations agencies) are unable to be present at the several meetings taking place in the WTO. Even if present, many officials from developing countries are unable to adequately keep up with the often complex issues involved in the negotiations, and thus are unable to effectively make an impact.

Recently, in the selection of the new Director General of WTO, there was a lack of transparency in the entire process. One of the candidates (Mr Supachai of Thailand) was in the lead by a significant margin for much of the period but there was no attempt by the General Council chairman to "form a consensus" around him. The United States campaigned strongly for the other candidate (Mr Moore of New Zealand). When support was mustered so that it was claimed he had one or two more supporters than Mr Supachai, the chairman announced that a consensus should be formed around Mr Moore. Many developing countries among the Supachai supporters (there were also some developed country supporters for him) cried foul, decried the untransparent process and demanded that a vote be taken. The US and other developed countries did not want voting, since this would set a precedence (there has not been a vote taken in the WTO) and damage the "decision by consensus" system. In the end, a compromise was made, with Moore taking a three-year term to be followed by a three-year term for Supachai. The whole process, lasting several months, was most bitter, unsatisfactory and untransparent. In a more transparent exercise, voting at a predetermined date would have resolved the issue.

In 1996, developed countries lobbied very hard to get three topics (investment, competition, government procurement) introduced as new issues for study (and eventual negotiation for agreements) in the WTO. They wanted the Ministerial Conference in Singapore in December 1996 to endorse this. During the preparatory process, a significant number of developing countries vocally objected. Thus there was clearly no consensus. Nevertheless the issues became the main topic at the Ministerial through the devices of the Director General writing a letter to the Chairman of the Ministerial requesting the latter to consider taking up the three issues on which there was no consensus, and the establishment of a small "informal group" of 30 countries to negotiate the final text of the Ministerial Declaration. Who selected the 30 countries, on what basis, and what they were discussing, were not known to the Conference delegates as a whole. Only on the night before the Conference ended were all the delegations summoned, given the final draft that had been thrashed out in secret by the small group, and asked to endorse it without change. Although several of the Ministers protested at the whole untransparent and undemocratic process, the draft was eventually adopted as the Ministerial Declaration unchanged. In it were the decisions to establish three new working groups on investment, competition and government procurement, which had only a few days earlier been objected to by many developing countries.

The above illustrate how lacking in transparency and participation the WTO system is, even for the majority of Members of the WTO.

The situation is so serious that many of the representatives of the Member states are not given adequate information and are not able to participate meaningfully. Further, manipulative devices are used to ensure that the decisions desired by the few Members that dominate the system are achieved, whilst the policies or decisions which many or most developing countries want are ignored or deflected or have little or no chance of success.

The above features of the WTO system are important to keep in mind when the interaction of civil society with WTO is discussed, for the system of decision making in the WTO places constraints and limits to the influence or impact NGOs can have on WTO policies.

3. INFORMATION ABOUT GATT AND THE WTO, AND DEVELOPMENT OF CIVIL SOCIETY INVOLVEMENT IN WTO ISSUES

When even WTO diplomats and Ministers find the WTO untransparent and non-participatory, it is no surprise that the situation is so bad when it comes to civil society's knowledge of and participation in developments and decision-making in the WTO.

Until two or three years ago, there was hardly any public knowledge of the workings of and negotiations in the WTO.

Even today, in most countries, Parliamentarians have been remain in the dark about important negotiations and even Agreements in the WTO, which bind their countries to change their national policies. Often these have very serious economic, social and cultural implications that very deeply affect the present and future of shape of their economies and societies. Even bureaucrats or Ministers that are not in the lead Ministry (usually the Ministry of Trade or Commerce) are largely or wholly unaware of the developments in the WTO. The media, academics, trade unions, farmers' groups, businessmen and NGOs, are usually not consulted and have little or no knowledge of what is happening in the WTO or what is their government's position on the many issues under discussion at the WTO.

Up to a few years ago the situation was even worse. About the only independent source of detailed information on what was happening in the WTO was from the SUNS (South North Development Monitor) Bulletin, edited by Mr Chakravarthi Raghavan, a veteran Indian journalist based in Geneva. The SUNS published almost daily reports of negotiations in the various bodies of the GATT before, during and after the Uruguay Round that took place in 1986 to 1995. Although the negotiations took place behind closed doors, the SUNS was able to piece together what happened through interviews with the WTO diplomats and through obtaining and reporting of the official and unofficial documents and negotiation processes. The SUNS reports and analyses have become the best unofficial record of the negotiating history of the Uruguay Round and of the first years of the WTO.

The SUNS catered mainly to the diplomatic community and to international agencies. But increasingly the NGO community also became subscribers and readers. Many of the articles were also republished in the Third World Economics fortnightly magazine of the Third World Network and distributed quite widely to NGOs, research institutions and diplomats and policy makers of developing countries. When the SUNS started an email edition, several NGOs also subscribed. The book "Recolonisation" authored by Mr Raghavan and published in 1990, gave a detailed account and analysis of the various aspects of the Uruguay Round negotiations, and provided NGOs and the public (as well as policy makers) valuable information on the GATT process.

Besides the SUNS, information was also made available to NGOs by UNCTAD, which in the late 1980s began a series of annual two or three day Dialogue Workshops between UNCTAD officials and NGOs (organised by the NGLS). UNCTAD papers, booklets and documents were also made available to NGOs and the public, and these helped to make information available to the NGOs.

Due mainly to the information base generated by the SUNS and UNCTAD, a few NGOs began to organise meetings, conferences and campaigns on the Uruguay Round. As the implications of the WTO agreements became more widely known, these meetings and campaigns gathered faster pace and momentum from the end of the 1980s to the present.

There are various civil society groups that have become involved in GATT/WTO issues. They include: (a) groups involved in development and poverty issues, in the South as well as the North, concerned about the further marginalisation of developing countries; (b) environment groups concerned about how trade liberalisation and the GATT/WTO system affect the environment; (c) labour unions that sought to use the WTO system to further the cause of labour standards; (d) consumer organisations and other citizen groups that are concerned that the WTO process undermines national sovereignty, and dictates economic and social policies of their countries, having negative effects such as higher drug prices and economic monopolisation by TNCs; (e) radical social movements and people's organisations, especially farmers' organisations in both South and North.

4. CONCERNS AND ACTIVITIES OF NGOs IN RELATION TO THE WTO AND THEIR IMPACT ON THE WTO FROM THE OUTSIDE

The WTO has increasingly felt the influence of civil society not so much as a result of NGO activity within the WTO but rather because of the highly publicised criticisms against the WTO emanating from various public groups and social movements.

During the closing years of the Uruguay Round, Southern and Northern NGOs became increasingly aware and vocal about the adverse effects of the impending agreements. They organised meetings among themselves, including parallel NGO meetings during major official WTO meetings. The NGOs began lobbying their governments and produced pamphlets, booklets and books about the ill effects of GATT and the WTO.

Social movements in some countries also began actions to demonstrate their unhappiness over the draft agreements. In India, farmers and citizen groups held demonstrations, especially regarding the effects of the TRIPS and Agriculture agreements, and copies of the so-called Dunkel Draft (the compilation of the draft Agreements) were burnt. In 1993, in Bangalore, a rally of 500,000 farmers pledged to fight and defy the Uruguay Round agreements. Farmers' groups in France also held large scale protests against the Agriculture Agreement.

Environmental and consumer groups in the West became increasingly critical (and then some became incensed) of the perceived blocking by WTO rules of the viability of some consumer and environmental policies and measures in their countries. In particular, environmental and animal rights groups were outraged when the WTO ruled against the unilateral measure of the US in imposing a ban on tuna imported from some Latin American countries because of the way the catching of the fish potentially harmed dolphins. The panel decision on the "tuna-dolphin" case galvanised a large part of the environmental movement against the WTO, the groups charging that free trade rules were threatening to undermine national environmental policies.

Many citizen groups in Northern and Southern countries took up the issue of how international laws in the WTO were undermining national sovereignty by determining changes to national policies and "locking in" national policies and laws for the foreseeable future. Third World groups as well as development NGOs in the North criticised the WTO agreements as being unequal in results, bringing gains to TNCs but causing firms and farms in developing countries to be threatened by competition from giant foreign firms due to liberalisation. All the groups criticised the WTO for its secrecy, the lack of transparency, the dearth of information coming out of the WTO, and the inability of NGOs to observe the WTO's negotiations or to otherwise participate in its activities.

This wide range of groups and their criticisms have had good media coverage, and many influential newspapers have published articles criticising the WTO and its rules for destroying the environment, for causing Third World poverty, for being the tools of TNCs, and for taking away the sovereignty of countries and the independence of local communities.

This caused increasing alarm some of the major WTO members which feared that the credibility of the WTO system was being challenged by adverse public reaction. This led to counter-measures taken by the Secretariat and some governments to control the adverse public perception of the WTO. (See following Section).

In the last few years there has also been an increasing public reaction against globalisation and the increasing power of TNCs and their behaviour, and the abandonment by the state of its role as defender of the rights or welfare of people. Globalisation is popularly perceived by many groups as causing job losses, destruction of the environment and erosion of social rights, as well as exploitation of Third World people. The WTO is now perceived as one of the main agents of globalisation, in fact replacing the IMF and World Bank as the premier global institution promoting the interests of TNCs and restricting the right and ability of governments to fulfil their national and social responsibilities.

Labour unions, frustrated at the lack of enforcement at the ILO of its conventions and codes on labour standards, and anxious at what they perceived to be the transfer of TNC operations to countries with lower wages and labour standards, have been pushing for the introduction of labour standards in the WTO. The unions perceive that the WTO can give a boost to the implementation of labour standards in developing countries, since the WTO has the enforcement mechanism of trade sanctions, and this can be used to press countries to adhere to the labour standards. When the Singapore Ministerial Conference of December 1996 made a decision that the WTO should not be the venue of the labour standards issue, which rightfully belonged to the ILO, many unions were further frustrated with the WTO and have intensified their campaign to bring labour standards into the WTO.

The unpopularity of the WTO and the fact that the public is putting the blame on the WTO for the ill effects of globalisation, was highlighted by the mass protest actions taken by social movements in Geneva during the WTO's second Ministerial Conference in May 1998. About 10,000 people demonstrated in the streets of Geneva, some cars and shop windows were smashed during a demonstration, and police and soldiers manned the streets, including using barbed wire barricades at the UN building (where many of the WTO functions took place). These demonstrations,

expressing loathing for the WTO and its role in globalisation, had a major psychological effect on the trade diplomats and some Heads of Government who participated in the WTO Conference. The protests spurred some governments (especially the US administration) to launch public relations exercises to win back public opinion.

The increasing influence of the NGOs came not from their participation within the WTO system but from their activities and protests from outside the WTO system: through their impact in the media; through lobbying of government and Parliaments; through street protests. In the United States, a coalition of citizen groups, consumer groups and labour unions successfully lobbied Congress for the non-granting of extension of "fast track" authority to the President, which very much weakens the capacity of the US Administration to negotiate in future.

All this flurry of activity, the street protests in Geneva, the loss of fast track authority in the US, the continuing fury of environmentalists (as they lost another case in the "shrimp-turtle" dispute) -- all these combined to convince the US and the EU that the NGOs have to be won over in order to restore public credibility of the WTO system and to succeed in further liberalisation of markets of the developing countries.

It must be noted that the impact of the NGOs and social movements on the WTO arose from their activities outside the WTO, rather than their participation in the formal structures of the WTO, which remains extremely limited.

5. THE WTO SYSTEM'S RESPONSES TO NGOs

(a) General

Mainly as a response to the increasing criticisms of civil society, and particularly to a series of negative articles in the media, about the environmental and social effects of the WTO, the WTO members (especially the major powers) and Secretariat have come under pressure to improve the image of the WTO. The US administration has especially felt the need to go on a "charm offensive" towards civil society, partly because the strong pressures from labour unions and environment groups contributed to the loss of fast track authority for the US President. The demonstrations in Geneva in May 1998 during the WTO Ministerial Conference also shocked the political leaders of the North and the WTO diplomats.

There is thus at present a concerted effort by the major WTO countries of the North and by the Secretariat to improve relations with civil society organisations, and to improve the organisations' public image. In recent years there have been some initiatives from the side of the Secretariat and some countries (mainly from the North), which include the provision of more documents to the public, the holding of NGO-government dialogue seminars, briefing sessions for NGOs based in Geneva, and limited NGO participation at the WTO Ministerial Conferences. These are examined below.

(b) Documentation

Previously it was very difficult and almost impossible for public groups to obtain WTO documents, including official documents, as they were restricted. It was of course most difficult to obtain the "non-papers" or informal papers that are often the most important negotiating texts that delegations put forward and work on; this difficulty remains today.

Without access to the documents prevented NGOs from knowing what was going on at the WTO, and this of course greatly hindered any work to influence the process. Not only were NGOs kept in the dark, so too were the Parliamentarians and media in almost all countries.

Due to the criticisms about the lack of transparency, the WTO Members in recent years have derestricted several types of documents, which are now available to the public. The WTO Secretariat now places derestricted documents in its website, in a section called the "Document Dissemination Facility." The documents include the Reports of the WTO Secretariat and of various Committees and Working Groups, as well as some of the proposals put forward by countries during negotiations. For example, many of the proposals by WTO Members for the Seattle Ministerial Conference are made available through the website. However, many key documents (especially proposals and negotiating texts) remain restricted. Some are derestricted only after the lapse of a period, and others remain restricted. The "informal" papers and "non-papers" are of course not made public, and many or most of them may not even be on the WTO's official files or records. On the whole, however, there has been improvement in the access of the public to documents. Many NGOs and the public however are still not aware of the materials that are put out and how to access them.

(c) Dialogue Seminars for NGOs with WTO

The WTO Secretariat has also in recent years organised Symposia where NGOs are invited to hold a dialogue with WTO delegations on specific issues. The first such event was a symposium on trade and environment held in 1994, to which several environmental groups from the North and some development and environment groups from the South were invited. The meeting was organised according to sessions, and NGO representatives and, in some cases, academics formed the panels of speakers. Comments from the floor came from both NGOs and delegations. The diplomats were not part of the panels, and their participation was confined to raising questions or making some comments from the floor. The symposium was held in the WTO building. It was perhaps the first time that NGO representatives were invited to a formally organised dialogue event with WTO diplomats in the WTO. The event came about in the wake of massive criticisms by environmental groups against the WTO panel ruling against the unilateral trade action of the US against the imported tuna of a few Latin American countries (the action being taken because the way the tuna was caught hurt or killed dolphins). The criticisms were well publicised in the mainstream media. The symposium was a method used by the WTO secretariat to have the environmental groups better understand the WTO's workings and to dialogue with delegations.

Since then, there have been similarly organised symposia about once yearly. The topic most discussed at such symposia has been trade and environment.

In March 1999, the WTO Secretariat organised two "high-level" symposia for two days each. The first was on Trade and Environment, followed immediately by the second on Trade and Development. The official delegations included senior officials from the capitals (including EC Trade Commissioner Leon Brittan for the environment meeting). Also present were senior officials from UN agencies (such as the director general of UNEP and the executive secretary of the Climate Change Convention in the first symposium, and the secretary general of UNCTAD in the second). The two symposia were chaired by WTO director-general Renato Ruggiero.

The environment symposium had representatives of several environment groups among the speakers (together with governmental officials, officials of international agencies and academics) and it saw a lively debate on various aspects of a range of trade and environment issues.

However there was a vastly different mood at the development symposium did not have an NGO representative in any of the sessions, in which the speakers were mainly from governments, academics and even the International Chamber of Commerce. Several speakers (and even a chairperson) in the development symposium lectured to the developing countries on why they should agree to further liberalisation in a new Round to avoid a situation where the United States would be more aggressively protectionist against their products. The insulting attitude of the chairperson of one of the sessions towards developing countries (especially African countries) evoked anger from the NGOs present, a group of which delivered a joint statement denouncing the Chairperson.

It almost appeared as if the aim of the environment symposium was to win over the environment groups to understand why the WTO was not the demon it has been painted to be, whilst the development symposium was meant to win over the developing country delegations to the need for a new Round.

In any case, the high-level symposia marked another acknowledgement by the WTO Secretariat (and the major Members) that the criticisms of civil society groups had increased since 1994 (when the first symposium was held), and that the image of the WTO as a destroyer or damager of environmental, social and development standards had worsened. It can be expected that more symposia will be organised in future.

(d) NGO Unit in WTO Secretariat

Originally, dealings by the WTO Secretariat with NGOs were carried out by the Trade and Environment Division, mainly because this Division organised the first symposia that brought NGOs into dialogue with the WTO. However, in the preparation for the first WTO Ministerial Conference of December 1996, a staff was appointed in the External Affairs Division specifically to liaise with NGOs. Since then this Division has undertaken the task of general relations between the WTO and the NGOs.

(e) Participation of NGOs in WTO Ministerial Conferences

In the GATT, there was no official recognition of NGOs, nor were there facilities provided for them, at Ministerial Conferences and meetings.

In the WTO, the first Ministerial Conference was held in December 1996 in Singapore.

The WTO General Council decided that a system of accreditation would be set up whereby NGOs could have limited participation in the Conference. The procedure for accreditation was as follows.

Firstly, interested NGOs (the definition of which included non-profit NGOs, trade unions and other social organisations, as well as groups representing businesses, such as chambers of commerce and industry associations) would write in to the Secretariat expressing their interest to participate, and describe how their activities relate to trade and WTO issues. Those NGOs that are deemed to qualify are then sent numbered application forms, which are then filled in with the names and photographs of a few representatives that would like to attend. A list of the NGOs were then prepared for the General Council to approve.

At the Singapore Conference, the accredited NGOs were provided meeting facilities in a hotel less than a half-mile from the official Conference Centre. NGOs that booked meeting rooms organised forums and workshops at the rate of about three workshops simultaneously. However, very few delegations came to the NGO meetings, due to the fact that they were held away from the Conference Centre, and also because the officials had their own programme. There was thus hardly any interaction between NGOs and the governments.

Conference documents were provided at the NGO Centre. The WTO Secretariat also gave a daily briefing at the NGO Centre to NGOs on what was happening at the official Conference. But there was little real news or "meat" in the briefings because the real negotiations were held behind closed doors and the Secretariat official could not provide information on what was happening.

Accredited NGO representatives were also allowed into the official Conference Centre, but only to the formal plenary sessions (during which Ministers presented prepared speeches). They were not allowed in the "informal meeting" where the real negotiations on the text of the Ministerial Declaration took place. (But then, neither were most official delegations including most Ministers allowed into the room where the negotiations of the "informal group" met). Thus NGOs were unable to observe the actual discussions and negotiations. NGOs however were invited to observe the Opening and Closing Sessions, and to attend the official dinners on the night before the Conference ended and on the night after the Conference closed.

At the second Ministerial Conference in Geneva in May 1998, the participation of NGOs was even more limited. The same procedure for accreditation as in 1996 was followed, and meeting rooms and documents were provided for the accredited NGOs at rooms in the UN building. NGOs were also invited to the formal Opening and Closing ceremonies held at the UN building and to a night reception. However most of the meetings of the official delegates were held in a different building (the WTO), which were off limits to the NGOs, and thus there was almost no communication between the NGOs and the delegates. Once again, NGOs had no access to the meetings (formal or informal) of the delegates; they could only observe the ceremonial opening and closing ceremonies.

The Third Ministerial Conference will be held in Seattle in November/December 1999. The same procedures for NGO accreditation will be followed. The accredited NGO will be provided meeting facilities. However, this time it is expected that many thousands of representatives of civil society

will be present in Seattle. Most of them are not interested in gaining access to the "official NGO centre" but will be organising their own meetings and events. It is expected that the main message from civil society will be that the WTO should stop its liberalisation drive and its promotion of corporate interests.

There is news that the US organisers are preparing a "dialogue" session between civil society and the Ministers at part of the official Conference. However, given that there will be thousands of mainly critical civil society representatives converging on Seattle, it is likely that the impact and influence of civil society will not be within the formal processes but outside that process, in the NGOs' own meetings and on the streets.

(f) Attempts at Establishing a WTO-NGO "Contact Group"

At a dialogue session with NGOs at the NGO Centre during the Ministerial Conference in Geneva in May 1998, the WTO Director General Renato Rugiero announced that the Secretariat was in the process of setting up a WTO-NGO "Contact Group." It appeared from his presentation that such a Contact Group would comprise representatives of NGOs and representatives of WTO delegates which could meet regularly, so that NGOs could air their views to the WTO members. The Contact Group would officially be part of the arrangements made by the WTO Secretariat.

Before and during the same Conference period, the International Centre on Trade and Sustainable Development (ICTSD) also floated the idea of a WTO-NGO Contact Group, in which it would play the active role. In this concept, NGO representatives would be selected or appointed to sit on various joint committees comprising NGOs and delegates for individual issues such as agriculture, services, etc.

At dialogue sessions among the NGOs to discuss this idea, held during the Geneva Ministerial Conference, several NGO representatives spoke up strongly against the concept of such a representative system and of the "contact group" concept. The meetings were reminded that when the ICTSD was set up its role was meant to be the facilitation of information and access rights for NGOs, and specifically not meant to be representative of NGOs. Given the diversity of types of NGOs and diversity of views and perspectives among NGOs and other organisations of civil society, it would not be appropriate (and could be detrimental) to have representatives of NGOs sitting on formal committees with the WTO members or staff, especially since the whole process of who was mandated to represent the NGOs in which committee and for which function, was not established.

Since then, the "Contact Group" proposed by Ruggiero has not been established. However it is likely that the WTO secretariat will seek ways in future to more formally institutionalise the links between NGOs and the WTO. NGOs should prepare ideas on whether such institutionalising is useful or not, and what the modalities could be, that can reflect the diversity of NGOs.

(g) Informal Briefing Sessions

The WTO secretariat also holds regular briefing sessions for NGOs, held in Geneva. In recent months, such briefings have focused on the preparations for the Seattle Conference. Some

documents are also handed out at such sessions. The meetings are attended by some NGOs that are based in Geneva.

(h) NGO Amicus Briefs in WTO Panel Hearings

An important development that has raised some controversy is the proposal by some NGOs and now by some Northern governments that NGOs should be allowed to participate in the dispute settlement hearings of the WTO. According to the present WTO rules, the dispute hearings can only be attended by official delegates and submissions are to be made by governments, especially the governments party to the dispute. NGOs are not allowed to be present or to submit documents.

Some environment groups submitted "amicus curae briefs" to the WTO Secretariat in one of the disputes (ie on the shrimp turtle case), and the Secretariat passed on the briefs to the panel of experts hearing the case. When this was made known (by the then WTO Director General), this raised a controversy as some countries felt it was beyond the jurisdiction of the Secretariat to pass briefs by NGOs to members of the panel.

Some Northern delegations are now proposing that NGO representatives be allowed to observe panel hearings, and also to submit amicus briefs at the hearings.

Several Southern delegations are opposed to this, on the ground that panel disputes are disputes between parties to the WTO (which are states) and there is no mandate for NGOs to be present or participate. The delegations also feel that the WTO system is already stacked against developing countries, since they do not have the capacity, human and financial resources to match the mighty negotiating machinery of the North.

They are worried that if NGOs are allowed more participation rights, especially in dispute settlement cases, it would mainly be the Northern NGOs that will take advantage of this, as once again the Northern NGOs are more endowed by Southern NGOs. The Northern NGOs would be added to the might of the Northern governments, and this would cause even greater imbalance against the developing countries, which would have to fight extra battles.

This concern has some merit and should be carefully considered by the NGO community.

6. ASSESSMENT OF PRESENT INTERACTION AND PROPOSALS

From the above account, it seems that the formal interaction between the WTO and civil society has improved in terms of greater release of information, access by some NGOs to symposia organised by the WTO secretariat, and access by accredited NGOs to the Ministerial Conferences.

However this does not detract from the fact that the WTO remains a very untransparent organisation, and one lacking in genuine participation, where most key decisions are taken in "informal" settings, where manipulative methods are used by the major powers to "build" and obtain "consensus".

In recent years the powers of the WTO have increased, as more and more issues come under its jurisdiction (from mainly trade in goods, the issues have expanded to cover agriculture, services, investment measures, intellectual property) and more issues are waiting in the wings to enter the system (including investment policy, competition policy, government procurement, environment, labour standards).

Given the immensely increased mandates and powers of the WTO, the gains made in terms of increased access to documents and participation in "dialogue symposia" and very limited access to observation of ceremonial functions in Ministerial Conferences are very little indeed.

In relative terms, therefore (ie the increased powers of WTO relative to the not very significant improvements in NGO-WTO interaction), the situation can be said to be just the same or even worse than before. It is true that in the past, in the days of GATT, there was little access by NGOs to the system, and this was also partly due to the lack of interest of civil society in the affairs of GATT, which were then confined mainly to the more narrow issues of the conduct of trade at the border.

Today the WTO is the most intrusive international organisation, as its rules and dispute settlement system have extended to issues at the very heart of domestic and national policies, affecting sovereignty, development strategies, economic policies, and social and cultural issues. The issues being negotiated by the diplomats at the WTO in Geneva have critical significance to a wide range of national policies. Yet, there is little public knowledge of what is being discussed, how it is being discussed, what are the international rules that are being proposed, what are the options, and what are the implications if certain proposals are adopted.

In this context, it is important not only that civil society but also Parliamentarians and even diplomats and policy makers (especially of the South but also including of the North) are given more rights to information and participation.

The Third World Network in March 1999 issued a Statement on Transparency, Participation and Legitimacy of the WTO. It made the following concluding observations and proposals:

The non-transparent and non-participatory systems of decision-making among WTO Members is at the heart of the undemocratic nature of the WTO system. This reality is in stark contrast to the image of equal participation by all members through "consensus" that the WTO tries to project.

Unless this inequitable system which is so unfair to developing countries is reformed, it would be an eyewash to claim that the WTO is becoming more transparent simply by having some dialogue sessions with civil society, or Geneva-based NGOs getting briefings from the WTO officials, or making more documents available.

An improvement in transparency and participation would entail at least the following:

(i) The processes of consultations, discussion, negotiations and decision-making in the WTO have to be made truly transparent, open, participatory and democratic.

(ii) Any proposals for changes to the rules, or new agreements, or new commitments on countries should be made known in their draft form to the public at least six months before decisions are taken, so that in each country civil society (including groups representing labour, business, consumers, the environment, health and all other interests) have a full opportunity to study them and influence their parliaments and governments on the stand they should take.

(iii) The discussions and negotiations that are being planned and are taking place at the WTO must be made known, and all Members must be allowed to be present and participate. The practice of small informal groups making decisions on behalf of all Members must be stopped. To take into account the lack of human and financial resources of developing countries, there should not be more than one or at most two meetings place at the same time. The "rationale" usually put forward (for example by the Director General at the Singapore Ministerial) that for the "sake of efficiency" only a few countries can be invited to negotiate is unacceptable. The decisions at the WTO are too important to be "rushed through", and instead should arise out of well considered discussions where every Member (big or small, weak or strong) has opportunities to effectively express its opinions.

(iv) Parliaments and Parliamentarians should be kept constantly informed of proposals and developments at the WTO, and they should have the right to make policy choices regarding proposals arising in the WTO that have an effect on national policies and practices.

(v) Civil society should be given genuine opportunities to know what are the issues being discussed and the status of the discussions in the various committees and on the various issues. Civil society groups and institutions must be given genuine opportunities to express their views and to influence the outcome of policies and decisions. The issues and options being discussed at the WTO and its organs must be presented to the public in all WTO Member countries and subjected to public debate and scrutiny. The views of civil society organisations (including labour unions, farmers' organisations, groups dealing with consumer, environmental, health and social issues, professional organisations, the business community including small businesses, and the media) should be actively sought by the Member states.

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