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An introduction to the labyrinth called WTO

What is WTO? How does it work? Why does it matter?

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What is the WTO?

The World Trade Organisation was created in 1994 as a result of the completion of the Uruguay Round of trade negotiations under the old General Agreement on Tariffs and Trade (GATT). It opened for business on 1st January 1995 and is based in Geneva.

The current Director-General is Supachai Panitchpakdi, who was previously the Deputy Prime Minister of Thailand as well as its Minister of Commerce. The four Deputy Director Generals come from the US, the EU, Brazil and Kenya. At present the membership numbers 146 nations and several more, including Russia, are negotiating to join, China joined in 2001. Every two years or so, the WTO meets in Ministerial session. The next, the 5th, will take place in Cancun, Mexico in September 2003.

What happened before 1995?

The GATT, set up in 1948 as a later addition to the Bretton Woods post-war institutions, was primarily concerned, as is evident from its name, with regulating trade and reducing tariff barriers. It was part of the "Washington Consensus" promoting the neo-liberal doctrine of free-trade, alongside the International Monetary Fund and the World Bank.

The GATT was originally intended as a short-term instrument to be replaced by an International Trade Organisation (ITO) as a new specialised agency of the United Nations. Although a Charter for the ITO was agreed at a UN Conference in Havana in 1948, the US government refused to submit it for Congressional ratification and the ITO was effectively dead. The GATT therefore remained the only multilateral instrument governing international trade from 1948 until the establishment of the WTO in 1994.

The GATT progressed by a series of "trade rounds", devoted to continuing the process of reducing trade barriers and tariffs. The Uruguay Round, launched in 1986, had a negotiating agenda which covered virtually every outstanding trade policy issue including the extension of the trading system into several new areas, notably agriculture (AoA), trade in services (GATS) and intellectual property (TRIPs). It was the biggest trade-negotiating mandate ever agreed. When negotiations were finally concluded in Marrakech in April 1994, they ran to 30,000 pages and consisted of 30 separate agreements and a host of supplementary understandings, declarations and decisions.

Seattle and the failed "Millennium Round"

Despite the fact that several of the Marrakech Agreements were (and still are not) completed (notably the Agreement on Agriculture- AoA, and the negotiations on trade in services- GATS), EU and US trade ministers decided to launch a new "Millennium Round" at the 1999 WTO Ministerial in Seattle. However, by this time the alter-globalisation movement had grown in strength and organisational ability.

The protestors came from very diverse constituencies representing a wide range of interests, from US trade unionists worried about their job security to third world development movements seeking fairer access to markets. Not all of these demands were compatible but their combined forces overcame the tear gas and succeeded in delaying the start of the talks and heavily disrupting the meetings. The Seattle Ministerial was effectively abandoned after three days without any agreement.

Why does the WTO matter?

The GATT was essentially concerned with traditional trade issues such as tariffs and quotas on the international movement of goods. It had only a relatively small secretariat with no institutional foundation to implement these rules, and its enforcement mechanisms were easily bypassed.

The WTO was created as a permanent institution and completely replaces the GATT. Unlike the original concept for an ITO, the WTO is not part of the United Nations and acts autonomously at the behest of its membership. This has serious consequences because it means that the WTO is not subject to the democratic processes, transparency and balance which are supposed to characterise the UN.

In addition to goods, the WTO covers trade in services, agriculture and intellectual property . These sectors go far beyond the scope of classical trade rules and extend into areas which are highly sensitive. For example the services negotiations can have an impact on the control of public utilities and on the rights of national and local governments to regulate on non-trade issues such as labour practices. The TRIPs rules can affect the rights of indigenous peoples and risk turning genetic resources into private patent monopolies.

The agreements are permeated by provisions which provide much more clearly than before that trade values should take precedence over other norms, for example environmental and social standards. Thus, national regulations may not represent disguised barriers to trade, they should be 'the least trade-restrictive' possible and they should be justified on the grounds of necessity. In other words the obligation is on each WTO member to justify its non-trade policy decisions if challenged, against a presumption that the trade rules are paramount.

The Marrakech package included for the first time an effective disciplinary measure the Disputes Settlement Understanding (DSU) which can impose penalties and sanctions on members found to be in breach of WTO rules without any right of appeal outside the WTO. The WTO has ruled, for example, that the EU was wrong to refuse to import beef from the US which has been reared using growth hormones. It also decided that the EU's special terms to protect small Caribbean banana growers were prejudicial to the big US banana companies and had to be repealed.

How does it work?

The WTO is fond of saying that it is a member-driven, rules-based organisation. It is true that the WTO organisation in Geneva does not have the power to act except where it has been authorised to do so by its members. It operates on a one-member, one-vote basis but as it claims to work by consensus, questions are rarely if ever put to the vote. The reality is that it is dominated by the big powers who bring their human and economic resources, and their priorities and pre-occupations to bear. In any typical week in Geneva there will be multiple meetings of councils, committees, working groups, review bodies and study groups. Most WTO members have a modest Ambassadorial and staff presence in Geneva and some of the poorer

members simply cannot afford a permanent delegation. It is therefore extremely difficult for developing countries in particular to contribute to or even keep track of every step in the process. Only a handful of the big players have the resources to do this and inevitably it is the EU and the US who have tended to take the lead, along with other developed nations such as Japan and Canada (known collectively as the "Quad").

In addition to the Quad, there are other, often overlapping, interest groupings. These include the G77, the Cairns Group, the Africa Group, the Least Developed Country bloc, ACP and so on (see glossary for details) In recent years the stronger developing countries have tried to assert themselves, with mixed results. India, Brazil and others are at least prepared to be more outspoken in putting their demands on the table or in opposing issues where their interests may be at risk, but they can often be out-manoeuvred or isolated. China's recent accession will undoubtedly change the balance of power in due course, but at present they are maintaining a fairly neutral role.

The concept of a rules-based organisation is interpreted very selectively. Where provisions of some agreements are looked on unfavourably by the bigger players they are simply side-lined. For example there is a full-scale review clause in the TRIPs agreement which has never been activated because of fears that provisions dealing with the patenting of life-forms will be challenged or removed. The GATS calls for a full assessment on all service sectors to assist the parties but this has never been done because it could undermine the negotiations by demonstrating the downside of service liberalisation.

What is the Doha Agenda?

After the failure of Seattle, the WTO trade ministers met in Doha, the capital of the Gulf State of Qatar, in 2001 for their 4th Ministerial Conference. Access was strictly controlled amid high security following the September 11 attacks on New York and Washington and there was no possibility of a repeat of the demonstrations which disrupted Seattle.

Three Documents were agreed in Doha. The first was an interpretative Declaration on TRIPs and Public Health, to reassure developing countries that the TRIPs Agreement on intellectual property did not prevent them from taking measures to override the patent system for medicines required to deal with public health crises. Although this did not amount to a re-negotiation of TRIPs, it was an important and welcome clarification. However the question of how to deal with imports of non-patented medicines still remains unresolved, despite setting a deadline of end 2002, because of blocking by the US at the request of its major drugs companies. This failure is seen by many as symptomatic of the stranglehold held by the big players.

The second document was the "Doha Development Agenda", agreed after much heavy pressure and bullying tactics from the North and much criticised by the South as having very little to do with development and everything to do with further trade liberalisation. The document consolidated and expanded on earlier Agreements, mandated new negotiations and set a deadline for the conclusion of a new round including final agreement on agricultural subsidies and services liberalisation. It also included very controversial provisions for starting negotiations on a list of new issues, including investment, competition and government procurement, which were resisted right up to the end by some developing countries led by India. The decision on whether or not to go ahead with these will finally be decided in Cancun.

The third document was a large schedule of issues which developing countries had complained were agreed to in Marrakech but which had never been satisfactorily implemented.

What are the key issues for Cancun?

In part the 5th Ministerial will be a stocktaking exercise. The Doha agenda set a completion date for the current cycle of negotiations by the end of 2004. On almost all issues, negotiations are well behind

schedule, and in the case of the Agriculture Agreement, they are virtually deadlocked. Without substantial progress on dismantling the harmful agricultural export support mechanisms of the EU and US, and without resolving the outstanding access to medicines issues, developing countries will be very reluctant to sign up to anything which expands the WTO's mandate.

There are many proposals from civil society and international organisations for reform of the WTO decision-making process and for limitations on the scope of WTO rules. Among these, the following have been developed by the Greens/EFA Group in the European Parliament:

- **Ensure proper scrutiny of the WTO by means of parliamentary or democratic oversight of the negotiations**
- **No expansion of the WTO, refuse negotiations for new treaties on investment, competition, public procurement or customs regulations.**
- **Services negotiations should clarify the rights of national and local governments to regulate free from WTO challenge.**
- **No demands to be imposed on developing countries to liberalise their core public services, especially water collection, treatment and distribution.**
- **Impact assessments already mandated by GATS should be carried out before current round of negotiations can be finalised.**
- **TRIPs Article 27.3b review provisions dealing with patents on life-forms should be implemented as demanded by developing countries.**
- **Independence of Multilateral Environment Agreements (MEAs) must be protected.**
- **Abolish export subsidies and other export support mechanisms which distort the agricultural supply chain.**

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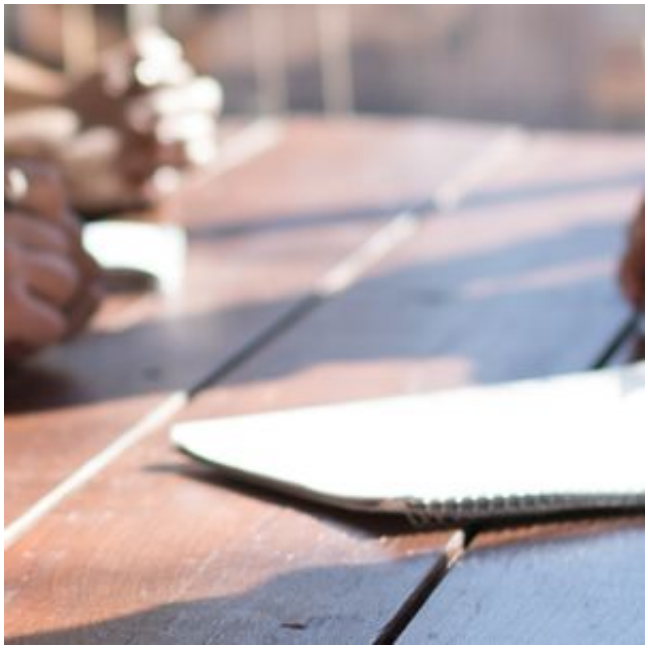

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