Friends of the Earth International

the world trade system

how it works and what's wrong with it | september 2003

Friends of the Earth International

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how it works and what's wrong with it I august 2003

This briefing, one in a series entitled *Sale of the Century*? from Friends of the Earth International, examines the theories, impacts and institutions of world trade and assesses the influence of transnational corporations.

contents

other briefings in this series include:

the world trade system: *winners and losers*
towards sustainable economies: *challenging neoliberal economic globalisation*
trade and people's food sovereignty

friends of the earth international – august 2003

10 reasons why the world trade system harms people and the planet

1. the principles on which the trade system is based are fundamentally flawed:

The trade system pursues growth at all costs, through trade and investment liberalisation, and sees economic growth and increasing consumption as ends in themselves. Key principles of free trade, such as comparative advantage and export-led development, have been discredited. The trade system ignores the fact that increasing consumption is depleting natural capital (the environment) on which the global economy is based. Increased trade also means more transport, leading to a loss of natural habitats and biodiversity and negative impacts on local communities. The trade system pays no heed to equity and distribution and does little to promote development and environmental protection.

2. the trade system is increasing economic instability:

The deregulation of financial markets and the revolution in information and communication technology has stimulated massive growth in short-term capital flows, undermining countries' economies during economic crises and increasing the number of people in poverty. Trade and investment in least developed countries - particularly in Africa - has been concentrated on primary commodities. Because of fluctuating commodity prices in global markets this also leads to increased economic insecurity in these countries.

3. the trade system is increasing inequality between the 'haves' and 'have-nots':

The world trade system has increased the wealth of a narrow band of society. The winners have been both the developed countries and the wealthiest people, whilst poor countries and poor people have been increasingly marginalised. The impact of trade liberalisation has hit subsistence farmers particularly hard. Trade liberalisation does not benefit the majority of the world's population.

4. the trade system does not respect the environment:

Trade and environmental policies have come into conflict at both the national and international levels. Trade policies are almost always given priority and environmental laws are frequently undermined as a result. The powerful influence of trade concerns has also permeated important climate change negotiations and until early 2000 blocked negotiations on a Biosafety Protocol to regulate the use of and trade in genetically modified organisms under the Biodiversity Convention.

5. the trade system is increasing inequality between the 'knows' and 'know-nots':

Knowledge - particularly information, communications and biotechnology - is proving to be one of the key assets of a 'new' economy. This has marginalised the 'know-nots' who have been kept out of the knowledge sector and excluded those unable to share in the knowledge revolution due to difficulties relating to cost, language and literacy. The trade system protects the intellectual property of knowledge-rich companies rather than diffusing knowledge and transferring technology.

6. the trade system is increasing employment insecurity:

Globalisation of the employment market and the mobility of companies and capital has increased instances of firms moving to take advantage of lower wages and weaker labour laws. However, threats to relocate to other countries have also allowed companies to force reductions in labour, environmental and health standards in both rich and poor nations. Mergers, acquisitions and corporate restructuring are also leading to job losses and increasing employment insecurity.

7. the trade system is bad for your health and safety:

Companies are moving or expanding operations in developing counties where work force health and safety regulations are lower. Occupational disease, injury and death have taken a particularly heavy toll in developing countries due to globalisation. Health and safety standards in industrialised countries have been successfully challenged through the WTO. Increased trade is also responsible for increased air pollution.

10 reasons why the world trade system harms people and the planet

8. the trade system pits the weak against the strong:

Small companies are expected to compete in the global economy along with the likes of Microsoft, Monsanto and Mitsubishi even though there is a massive difference in both wealth and economies of scale. The influence of transnational corporations in global trade policy is immense and growing.

9. the trade system has not advanced human development:

Because of conflicts between trade and other policies and because Gross Domestic Product (GDP) calculations regard financial transactions relating to factors such as environmental damage, ill health and crime as positive contributions to the economy, the priority given by most governments to trade, globalisation and the pursuit of growth in GDP is contributing to declining quality of life for many people. For example, over the past 25 years, there has been increasing job insecurity, growing global crime, spread of diseases such as HIV, increasing civil unrest, greater traffic and congestion and higher levels of climate changing gases in the air.

10. the trade system has not relieved poverty:

At the beginning of the new Millennium, more than a quarter of the developing world were still living in poverty and more than 100 million people in the developed world were living below the income poverty line. The trade system is exacerbating this situation, particularly by marginalising the poorest and least influential communities around the world.

10 reasons why the wto harms people and the planet

1. the wto is undemocratic:

In spite of the one-country one-vote structure of the WTO, powerful countries still wield enormous influence, often determining negotiating agenda amongst themselves, and putting pressure on smaller, poorly resourced countries to conform. The concerns of rich communities, rich people and rich companies all appear to be heard more readily by the WTO than those of the poor.

2. the wto is untransparent and unaccountable:

The WTO provides only very limited access for parliamentarians and civil society at large. Dispute settlements and the Appellate Body are conducted in closed sessions, with no public access and very little external input. The WTO is exempt from conventions allowing greater public access to information. In the past, there have been numerous reports of officials being unable to access information about the activities of their *own* trade negotiators.

3. the wto is increasing inequality and food insecurity:

WTO Agreements - such as the Agreement on Agriculture (AOA), the Trade-related aspects of Intellectual Property Rights (TRIPs) and the Sanitary and Phytosanitary Measures Agreements - are increasing global inequality and insecurity (particularly because of their impact on food production and consumption) and favour rich countries and big business.

4. wto rules regard development and social issues as barriers to trade:

For example, the EU's preferential import regime for Caribbean banana farmers - aimed at supporting small scale growers where costs are high because of steep terrain, poor soils and climatic hazards - was deemed incompatible with WTO rules.

5. wto rules regard environmental and health issues as barriers to trade:

WTO rules conflict with many national laws and practices intended to promote sustainability and protect the environment. Most WTO agreements are based on the premise of sound, scientific evidence which severely limits the application of the precautionary principle. WTO rules have already been used to rule in favour of free trade and against various measures, eg hormone-treated beef.

6. wto rules regard labels and certification systems as potential barriers to trade:

The certification and labelling of environmental and socially acceptable goods (such as timber or paper from well-managed sources and fairly traded products) and products that concern consumers (such as GM foods) could be undermined by WTO rules.

7. the wto is eroding cultural diversity:

The WTO TRIPs Agreement allows companies to expropriate knowledge from local peoples in developing countries who, in many cases, have been cultivators, researchers and protectors of plants for thousands of years. The TRIPs Agreement permits (primarily Northern) transnational companies to claim traditional plant varieties or plant uses as 'inventions' that must be respected the world over. Culture could also be further eroded if issues surrounding the entertainment business - for example, films, broadcasting, music and publishing - are included under the General Agreement on Trade in Services.

8. the wto could undermine multilateral environmental agreements:

Multilateral Environment Agreements that have trade components - such as the Kyoto Protocol on climate change and the Biosafety Protocol which regulates trade in genetically modified products - could be challenged under WTO rules.

9. the 'all or nothing' approach of the wto:

Following agreement at the fourth Doha Ministerial negotiations are being treated, as in the last Uruguay Round of negotiations, as a 'single undertaking'. This means that many different sectoral negotiations would be linked together and the results either accepted or rejected in their entirety. This can put smaller countries, many of whom do not have the capacity or the opportunity to participate in the full range of negotiations at a severe disadvantage. Thus, for example, many developing countries who were opposed to the results of the agriculture and TRIPs negotiations in the Uruguay Round were still forced to accept them or risk being isolated in the global economy.

10. influence at the wto can be 'bought':

Subsequent to a $500,000 company donation to the US Democratic Party, the US Government lodged a dispute in the WTO over the EU's banana import regime. Some of the world's largest companies paid hundreds of thousands of dollars in the hope of gaining privileged access to key ministerial and other negotiators at the 1999 WTO Seattle Ministerial Conference through the Seattle Host Organisation. They were able to attend receptions and dinners for heads of states, ministers and delegates with preferential seating depending on their financial contribution.

who said what? – notable quotes about 'free trade'

"Whoever commands the trade of the world, commands the riches of the world, and consequently the world itself ". (Sir Walter Raleigh)

"I think we ought to continue to expand trade…I do not believe that a country with 4.5 percent of the world's people can maintain its standard of living if we don't have more customers." (The President of the United States, June 1999)

"The imbalances in economic growth, if allowed to continue, will produce a world gargantuan in its excesses and grotesque in its human and economic inequalities". (UNDP, 1996)

"The dominant belief in the links between trade liberalisation and faster growth is "a position that has become analytically and empirically untenable". (Rodrik, 2001)

"They have suppressed recognition of the fact that the empirical cornerstone of the whole classical free trade argument, capital immobility, has crumbled into loose gravel". (Daly and Cobb, 1989)

"The absence of a robust positive relationship between open trade policies and economic growth may come as a surprise given the ubiquitous claim that trade liberalization promotes higher growth". (UNDP 2003a)

"The theory that wealth would automatically 'trickle down' from the rich to poor has been proved simply wrong: rather, it now appears that wealth can circulate and expand within geographical and economic class boundaries to the exclusion of those outside". (Jacobs, 1996)

"***Primary product exporters have the highest poverty: with more than 80% of the people in mineral-exporting countries living on less than $1 a day at the end of the 1990s."*** (UNDP, 2003a)

"The big story of the world economy since the early 1980s has been the unleashing of market forces ... The 'invisible hand' now operates globally and with fewer countervailing pressures from governments than for decades ... Since the early 1980s the world economy has been characterised by rising inequality and slow growth". (UNCTAD, 1997)

"Today, for the first time, we are in step with public opinion. There's a national consensus about bad food. People realise we need a different international logic than the economic, social and environmental dumping of modern agriculture. We have to change the WTO so that it respects people's cultural choices, does not destroy the world's peasantry and guarantees fair trade for all". (French Agriculture Minister, The Guardian, 1999)

"So far there is no empirical evidence to suggest that developing countries are necessarily better off in terms of attracting and retaining quality FDI within the confines of multilaterally agreed disciplines in investment ... What is evident … is that the existence of investment rules will do little to tackle the problem of distribution of the potential gains from trade and FDI. Investment tends to concentrate where capital is already present. Thus, imbalances between and within countries - imbalances that have been sharply exacerbated as a result of globalisation and liberalisation - will not be affected by the absence of investment barriers, as some of its proponents have suggested". (Ricupero, 1999)

"The pressures of global competition have led countries and employers to adopt more flexible labour policies, and work arrangements with no long-term commitment between employer and employee are on the rise". (UNDP, 1999)

"In many developing countries trade liberalization has resulted in deteriorating terms of trade…[and] has also increased volatility, threatening the security of livelihoods and incomes". (UNDP, 2003a)

"UNEP has also pointed out that "more than half of the world's population could be living in severely water-stressed areas by 2032 if market forces drive the globe's political, economic and social agenda". (UNEP 2002a)

"The need to search for lower-cost locations which could lead to an expansion in low-wage economies… Falling barriers to international transactions allow TNCs to locate different parts of their production processes across the globe to take advantage of the differences in costs, resources, logistics and markets". (UN, 2002)

introduction

The current drive to liberalise trade promotes inequality, is undemocratic, and degrades the environment, social structures and cultural diversity. Critically, the underlying principles on which the free trade system is based are fundamentally flawed. The present trading system promotes the free movement of goods, services and capital as a goal in itself, rather than ensuring that such international trade promotes sustainable and equitable development. Furthermore, trade rules can and do come into direct conflict with local, national and international measures to protect and promote the environment, health and development issues.

Overall, because trade generally takes priority, World Trade Organisation (WTO) rules work to encourage unsustainable resource use and an inequitable distribution of resources. Trade rules and trade flows have already had severe, negative impacts on a broad range of environmental and social issues of concern to Friends of the Earth International's member groups in, for example, the areas of agriculture, food, services and investment.

The main proponents of trade liberalisation (especially the United States, the European Union, Canada and Japan, known collectively as the 'Quad' countries) continue to drive negotiations forward within the World Trade Organisation, despite the reluctance, lack of capacity and indeed overt opposition of many other, poorer countries and civil society groups around the world.

However, discontent with and opposition to the WTO's drive to liberalise trade at all costs is increasing daily as more and more people experience the negative impacts of trade liberalisation. Change is in the air. In order to promote and encourage such change Friends of the Earth International aims in this publication to explain the basics of trade - what it is and why we do it - along with an explanation of the wide range of negative impacts that the current process of trade liberalisation is having. We also delve into the workings of the WTO itself and look at issues relevant to the 3rd, 4th and 5th WTO Ministerials (the third being the famous Battle in Seattle). Finally, we consider the involvement of key corporate lobby groups whose members have a considerable stake in the outcome of the WTO negotiations.

Other reports in this series include The World Trade System: Winners and Losers, which looks in more detail at numerous sectors and case studies, in order to provide the interested reader with real facts and figures about some of the impacts of trade liberalisation; and Towards Sustainable Economies: Challenging Neoliberal Economic Globalisation, which looks forward to alternative options for organising fair and sustainable economies. Friends of the Earth International believes that a new and sustainable framework for the regulation of trade for the twenty-first century needs to be based on the principles of democracy, equity, reduced consumption, co-operation and caution. In order to achieve such a framework, broad reform of the global economy is a prerequisite.

why do we trade?

what is trade?

Trade affects almost everything we do. Put simply, it is the buying and selling of goods and services. It does not have to involve a monetary transaction. It might, for example, involve a simple exchange of goods or services of mutual value between two people living locally. However, as the volume of goods and services traded internationally increases, we tend to associate the word ‘trade’ more closely with global commerce and long distance transport. Many of us think particularly of shipping, which has been used to move products between nations for thousands of years.

More often than not, it is individuals or companies that trade with each other. However, governments have played a particularly significant role in international trade over the centuries, since they have used either force or taxes (tariffs), subsidies and regulations to control it. Government policies that intervene in the trade system and support domestic industries are known as ‘protectionism’. Policies that deregulate trade and aim for non- intervention are referred to as ‘free’ trade policies or trade liberalisation.

why trade?

“I think we ought to continue to expand trade…I do not believe that a country with 4.5 percent of the world’s people can maintain its standard of living if we don’t have more customers.” The President of the United States, June 1999.

People, communities and nations have traded with each other for centuries in order to fulfil a number of goals. These include:

- **Local scarcity.** Few, if any countries in the world can produce all of the goods and services that their populations need or desire.

- **To increase national influence.** Governments may have many different motives: to increase power, to promote foreign policy, to influence economic and political decision-making in other countries, to foster economic links, or to encourage international security and promote a ‘way of life’.

- **For cultural and social reasons.** Trade may be a way of maintaining or reinforcing social bonds.

- **Economic development.** Trade is most often promoted as a means of increasing economic growth and wealth. Since this strategy is also being promoted by the most influential international financial institutions - the World Bank and International Monetary Fund - it effectively determines the economic policies of many developing and developed countries.

However, in practice, the most important influence on international trade is probably the internal political and economic circumstances of the largest trading blocks, the US and the EU.

Take the US, for example. Economically, the US remained strong throughout much of the 1990s (and indeed into the new millenium) and in a time of global weakness absorbed production surpluses from elsewhere. As a result, however, it is also running a trade gap that reached in excess of $435 billion in 2003. This continues to influence the US’s position on forthcoming negotiations. The US’s absolute priority is to open foreign markets and increase exports. This is also partly the reason why the US was so keen for China to become a member of the WTO (China eventually joined the WTO in December 2001).

why do we trade?

trade flows

goods and services

International trade in products and services (see Tables 1a, 1b and 2) is currently dominated by Western Europe, Asia and North America (particularly, the EU, Japan, Canada and the USA, collectively known as the 'Quads'). Western Europe has a particularly large slice of the trade cake, although the USA is the single most powerful trading country in the world.

By the mid-1990s, world trade amounted to some $5,900 billion annually, about $4,900 billion being merchandise and $1,000 billion being services. By 2001, these figures had increased to $6,000 billion and $1,400 billion respectively (which was in fact a slight reduction on the figures for the year 2000, following the bursting of the global information technology bubble, sluggish demand in Western Europe, and the impacts of September 11th). The vast majority of the value of world merchandise trade (about 75%) is accounted for by manufactured goods, particularly transport machinery and electronic equipment. Minerals and agriculture - the 'staples' of the developing world - together constitute only about 22% of merchandise trade.

International trade is also dominated by major transnational corporations (TNCs), almost exclusively based in the industrialised world, with some 40% of international trade taking place within these companies.

The official WTO list of service 'sectors' is all embracing and they touch nearly every aspect of society, the natural world and the environment. In total the list covers about 160 separate sectors or sub-sectors; the sectors are business, communications, construction and related engineering, distribution, educational, environmental, financial, health and social, travel and tourism, recreational, cultural and sporting, transport, and 'others not specified elsewhere'(WTO, 1991).

table 1a: world trade in goods and services, 2001 (us$bn)

	World	North America	Latin America	Western Europe	CEE	Africa	Middle East	Asia
Merchandise exports	5984	991	347	2485	286	141	237	1497
Merchandise imports	6270	1408	380	2524	267	136	180	1375
Services exports	1460	299	58	679	56	31	33	303
Services imports	1445	229	71	647	59	37	45	355

Source: WTO International Trade Statistics 2002, compiled from tables of trade by geographical region

table 1b: world merchandise and services trade, 1980 – 2002 (us$bn)

	1980	1990	2002
World merchandise exports	2034	3448	6424
World merchandise imports	2075	3551	6685
World commercial services exports	364.3	783.2	1538.4
World commercial services imports	398	814.8	1522.3

Source: WTO International Trade Statistics 2002

investments

In addition to trade in goods and services there are now increasing flows of 'foreign direct investment' or FDI. Basically, this means that instead of or as well as trading, businesses are actually moving to foreign countries and establishing or buying into operations in those countries. This can provide them with a number of benefits, including better access to raw materials, new and easily accessible markets and cheaper operating costs.

FDI is measured in inflows and outflows. In 1980, world FDI flows were $55 billion. By 1990 they reached $202 billion, but by 2000 they skyrocketed to $1,492 billion (although they fell the following year because of the economic circumstances mentioned above).

table 2: world commercial services trade by region, 1990 – 2001, us$bn

	Imports 1990	Exports 1990	Imports 2001	Exports 2001
World	814.8	783.2	1454.7	1464.4
North America	125.4	151.2	234.2	295.0
Latin America	34.7	29.7	71.1	58.1
Western Europe	391.9	415.6	657.2	692.5
CEE	-	-	56.0	53.9
Africa	26.5	18.7	40.1	31.1
Middle East	-	-	45.5	33.4
Asia	178.8	131.5	350.6	300.4

Source: WTO International Trade Statistics 2002

table 3: investment flows - annual fdi inflows –1970 – 2001 us$bn

	1970	1975	1980	1985	1990	1995	2000	2001
World	12.6	26.6	55.0	57.6	202.8	330.5	1,491.9	735.2
Developed Countries	9.5	17.0	46.5	42.7	164.6	203.3	1,227.5	503.1
Developing Countries	3.1	9.6	8.4	14.9	37.6	112.5	237.9	204.8
CEE	-	-	0.03	0.03	0.6	14.7	26.6	27.2

Source: UNCTAD on-line Handbook of Statistics, as of 7 July 2002

what is ‘free trade’ and what is wrong with it?

the history of ‘free trade’

Towards the end of the Second World War, a number of governments gathered at Bretton Woods - a town in the USA - and agreed to set up the International Bank for Reconstruction and Development (the World Bank) and the International Monetary Fund (IMF). The basic idea was to set up an international monetary system, designed to help countries with balance of payments problems and to avoid the sort of protectionist measures and competitive devaluations which had been held largely responsible for the 1930s depression.

A third pillar of the system was the formation of an International Trade Organisation (ITO) designed to liberalise international trade. However, disputes arose between the United States and the United Kingdom as to the form it should take. The ITO eventually emerged in a significantly revised form as the General Agreement on Tariffs and Trade (GATT) in 1947.

The GATT was a simple agreement designed to reduce and bind (not increase) customs tariffs (border taxes). In the four decades that followed, the GATT became the spearhead for international trade liberalisation, through its negotiations to reduce tariffs.

Since the formation of the GATT in 1947 there have been eight ‘rounds’ of trade negotiations. The first six ‘rounds’ concentrated exclusively on tariff reductions. But the seventh ‘Tokyo’ Round (1973-1979) coincided with a changing approach to trade liberalisation.

Since the 1970s, there has been a marked shift towards more open markets. In terms of GATT negotiations, the Tokyo Round saw the first negotiations to reduce non-tariff barriers (NTBs) which are measures put in place by governments, other than tariffs, that can impact on trade. Since NTBs can include environmental and health standards this was, and still is, of great concern to civil society groups. The last Uruguay Round of negotiations (1986-1994) also expanded the scope of the GATT dramatically, bringing in agriculture and services for the first time, and - finally - creating the new and powerful World Trade Organisation. The Uruguay Round was also exceptional in that it covered areas not normally associated with trade. These were termed ‘trade-related’ (and subsequently gave rise to agreements on trade-related intellectual property rights and trade-related investment measures).

Several of the agreements concluded during the Uruguay Round were notable for their exceptional bias towards rich countries and big business - in particular, the Agreement on Agriculture (AOA) and the Trade-related Intellectual Property Rights (TRIPs) Agreement (see below).

Those same countries continue to push for both liberalisation and regulation, according to the needs of their transnationals, in these and other sectors in current negotiations. Most have also consistently ignored the calls of civil society (and indeed some developing countries) for a review of the impacts of the last Uruguay Round of negotiations.

‘free trade’ theory and its flaws

The current economic system is fundamentally flawed. It pursues profit via trade and investment liberalisation at all costs, despite significant weaknesses in its philosophy, rules and operations. In particular, it assumes that trade liberalisation will automatically generate economic growth, even though it is now clear that there is scant evidence for this [UNDP 2003a]. Its focus on constant economic growth leads to ever-increasing (and thus unsustainable) rates of resource use. It pays little heed to the needs of the poor and disenfranchised of the world. It deals only with the monetary economy and fails to address a range of issues related to peoples’ quality of life. How can a system that has so many apparent drawbacks have so many supporters?

One reason seems to be the faith that those supporters have in the theory underpinning free trade. Since the late 18th Century, various economists, businessmen and politicians have argued against intervention in international trade. Protectionism, they say, stifles international trade and is uneconomic, inefficient and leads eventually to job losses. Instead they argue for what they call ‘free trade’ or ‘trade liberalisation’. The theory of free trade was further developed by David Ricardo’s theory of comparative advantage.

what is 'free trade' and what is wrong with it?

the theory of comparative advantage

This theory states that nations should specialise in producing what they are best at, and that they should then trade with other nations (see Box 1). Free trade theory has more or less become gospel amongst many economists, and the WTO calls it "*...arguably the single most powerful insight in economics*" (WTO, undated).

However, the theory is based on the fact that capital is immobile and will be invested domestically. This is patently untrue in today's globalised world of transnational corporations, international money markets and massive financial transactions, where capital moves to wherever products can be produced at the least cost - and does so at the touch of a button. For example, in 2001, total world cross-border investment flows amounted to US$735 billion (which was itself a 50% *de*crease on the previous year's figure of US$1,491 billion as the global economy faltered in the wake of September 11th and the bursting of the information technology speculation 'bubble'). (UNCTAD 2002) Notably, total cross border holdings of equity securities (effectively 'non-direct' foreign investment) topped a *much* larger US$5 trillion in the same year (twice the volume seen just four years earlier). (IMF, 2003)

Thus, it is now the case that some countries will have or can acquire absolute advantage and that others will lose out completely. For example, the currency crisis that hit South East Asia in 1997 saw massive 'capital flight', resulting in, amongst other things, the Malaysian stock market losing 40% of its value (some M$250 billion) in just six months. This can only lead to increasing economic insecurity and the lowering of international standards as companies compete in the global market place.

box 1: the theory of comparative advantage

If country A is better at producing food than country B, and country B better at producing clothes than A, both will be better off specialising in the production of those goods and trading with each other. This is known as 'absolute advantage'. If on the other hand country A is much more superior at food production and slightly more superior at clothes production than Country B, it might be expected that country B will 'lose'. However, comparative advantage theory says that, country A should invest in specialising in producing the good which it is comparatively more superior at making (food). Country B should still specialise in what it does best (clothes) and the countries should trade. It is beneficial for both countries because, the theory argues, it is more economically efficient.

Respected economists and writers Herman Daly and John Cobb have criticised academic economists and free market proponents for failing to re-examine comparative advantage theory saying: "*They have suppressed recognition of the fact that the empirical cornerstone of the whole classical free trade argument, capital immobility, has crumbled into loose gravel*". (Daly and Cobb, 1989)

measuring wealth using gpd

The 'freeing of trade' has been accompanied by global economic growth (albeit unevenly distributed) as measured by Gross Domestic Product (GDP). However, GDP is seriously deficient as a measure of 'social welfare' or 'development' because it reflects peoples' income rather than their real quality of life. GDP counts the cost of health care, pollution clean-up and the renovation of habitats as positive contributions to the nation's wealth. Thus GDP can continue to rise, yet peoples' quality of life can deteriorate. This helps to explain the apparent contradiction of rising GDP in many countries and the sharp increase in criticism being leveled at the WTO.

level playing fields

One of the most oft-quoted phrases in the free trade lexicon is that it provides a 'level playing field' for international trade. This is highly erroneous. Level playing fields are only relevant in competition between equals - there is no point in Doncaster Rovers regularly competing on the same playing field as Manchester United, Barcelona or Vasco da Gama. Yet small scale producers are expected to compete in the global economy along with the likes of Microsoft, Monsanto and

what is 'free trade' and what is wrong with it?

Mitsubishi even though there are massive wealth differences. The free trade focus on 'leveling the playing field' exacerbates these imbalances.

the myth of free trade and economic growth

New economic studies indicate that the prevailing belief that free trade automatically brings about economic growth – and hence human development - is misplaced. To quote the authors of a recent UNDP report: *"The absence of a robust positive relationship between open trade policies and economic growth may come as a surprise given the ubiquitous claim that trade liberalization promotes higher growth."* (UNDP 2003a)

In fact, what seems to happen is that countries tend to decrease trade barriers *after* they experience economic growth (UNDP, 2003a). In other words, today's rich countries have accumulated their wealth behind protective trade barriers, rather than as a result of opening their markets.

Dani Rodrik, a prominent Harvard economist, describes the dominant belief in the links between trade liberalisation and faster growth as *"a position that has become analytically and empirically untenable".* (Rodrik, 2001)

other flaws

Free market theory is also based on the ideal of 'perfect competition' where, amongst other things, there is perfect knowledge about all products and markets, all prices reflect the true costs - economic, social and environmental - of a product and there are no monopolies, oligopolies or cartels. This just does not happen.

'Free trade', both on its own and as part of a wider free market economic paradigm, has become widely accepted the world over. Free market ideology stems very much from a 'western' view of the world which sees individual and/or private power as the most legitimate conception of freedom. A major part of this world-view is a belief that free market capitalism is the only viable socio-economic system and is thus 'right' for everyone. However free market ideology - a belief in competitiveness, market forces and private ownership - is very much rooted in western culture and psychology and is not necessarily applicable across the world.

the impacts of 'free trade'

Trade liberalisation does not, as is often claimed, benefit all. The main winners from trade liberalisation so far have been developed countries (in particular the EU, the USA and Canada), transnational corporations, the already rich and wealthy, those with access to information and the owners of large farms. The main losers include developing countries, the poor, employees, subsistence and small farmers, women, and those without access to information (see *The World Trade System: Winners and Losers*, FoE for further details).

The current trade system, as administered by the WTO, has a wide range of negative social, environmental and developmental impacts. The following give a good indication of the scope and range of the problem.

increasing inequality

Trade liberalisation is associated with increasing inequality both between and within countries. United Nations Development Programme (UNDP) figures show that in 1960, the 20% of the world's population living in the richest countries were thirty times richer than the poorest 20%. By 1997, they were 74 times richer (UNDP, 1999). According to UNDP: "*The imbalances in economic growth, if allowed to continue, will produce a world gargantuan in its excesses and grotesque in its human and economic inequalities*" (UNDP, 1996).

Trade liberalisation directly benefits those already trading and enjoying economies of scale. There appears to be no evidence to support the 'trickle down' theory that this wealth is then passed onto the rest of society. As Michael Jacobs concludes: "*The theory that wealth would automatically 'trickle down' from the rich to poor has been proved simply wrong: rather, it now appears that wealth can circulate and expand within geographical and economic class boundaries to the exclusion of those outside*" (Jacobs, 1996). Shockingly, 1.2 billion people are still obliged to manage on less than one dollar a day (UNDP, 2003b) and 2.8 billion people survive on less than $2 a day (UNDP, 2002).

According to UNCTAD: "*The big story of the world economy since the early 1980s has been the unleashing of market forces ... The* *‘invisible hand’ now operates globally and with fewer countervailing pressures from governments than for decades ... Since the early 1980s the world economy has been characterised by rising inequality and slow growth*” (UNCTAD, 1997).

In fact, in the 1990s, the richest 20% of the world’s population had 95% of all commercial lending, 94% of all research and development, 86% of world gross national product, 82% of world trade, 81% of all domestic investment, 81% of all domestic savings and 68% of all Foreign Direct Investment (FDI). In contrast, the poorest 20% has only 1% of world GDP and 1% of FDI (UNDP, 1999; Kocherry, 1999).

economic and developmental impacts

The trade system has negative economic impacts that often appear to be completely ignored by governments. The United Nations Development Programme (UNDP) provides some of the most authoritative reporting on country economic performance and income. However, this reporting has recently changed making historical comparisons difficult (see Box 2). What these figures do tell us is that during a period of increased world trade (1975 to 1999), income and growth in sub-Saharan African countries and in least developed countries remained stagnant or fell. This is hardly a ringing endorsement in support of world leaders who claim that increased trade is of direct economic benefit to poorest countries and will lift them out of poverty. In fact the authors of an even more recent UNDP report had this to say: *“In many developing countries trade liberalization has resulted in deteriorating terms of trade…[and] has also increased volatility, threatening the security of livelihoods and incomes.”* (UNDP, 2003a).

Overall, the situation of least developed countries (LDCs) in relation to trade is deteriorating. Between 1970 and the mid 1990s, LDCs suffered a cumulative decline of 50% in their terms of trade (which means that the revenue from a given volume of exports can now only purchase half the previous quantity of imports that could have been bought) (UNDP, 1997). The UNDP has recently confirmed the deteriorating trade position of poorer countries. Whilst most of the world’s richest countries improved their terms of trade between 1980 and 1998, 19 of the world’s 25 poorest countries (where data is available) experienced declining terms of trade over the same period. In both Nigeria and Uganda, their terms of trade fell by about 70% (UNDP, 2001).

agriculture:

The increasing emphasis on international as opposed to local and national trade, is having an extremely severe impact in agriculture. Small farmers are being displaced (and at best taken on as small holders in poor conditions, with unfair contracts and without compensation) as land is increasingly turned over to production for export. For example, land under soya production in Brazil has jumped from 200,000 to 12 million hectares in Brazil in the last thirty years and Brazil is now the world’s second major exporter of soy beans and soybean meal. Similarly, Indonesia is deliberately and rapidly increasing land under palm oil production. Already the world’s second major exporter, it plans to increase its palm oil exports from 4.9 million tonnes in 2001 to around 10 million tonnes within five to eight years. Similarly, in the US,

box 2: the contrasting experiences of viet nam and haití (extracted from UNDP, 2003a)

“Consider Viet Nam and Haiti. Since the mid-1980s Viet Nam has taken a gradual approach to economic reform, following a two-track programme. It engages in state trading, maintains import monopolies, retains quantitative restrictions and high tariffs (30-50 per cent) on agricultural and industrial imports and is not a member of the World Trade Organisation (WTO). Yet it has been phenomenally successful, achieving GDP growth of more than 8% per year since the mid-1980s, sharply reducing poverty, expanding trade at double-digit rates and attracting considerable foreign investment. And despite high trade barriers, it has rapidly integrated with the global economy.

Haiti, meanwhile, undertook comprehensive trade liberalization in 1994-95, has slashed import tariffs to a maximum of 15 per cent and has removed all quantitative restrictions (US Department of State, 1999). Yet its economy has gone nowhere, and its social indications are deteriorating. And despite being a WTO member, it has made little progress in integrating with the global economy.”

the average size of a farm tripled between 1935 and 1987, and 300,000 farms disappeared between 1979 and 1998.

The impact of the Uruguay Round illustrates well the cavalier treatment being meted out to many poorer countries. At the end of the last Round, WTO members knew that the least developed countries and net food importing developing countries (NFIDCs) would face problems because of the WTO’s Agreement on Agriculture (because of the prediction of higher food import bills, price instabilities and reduced availability of food aid). The FAO calculated that the food import bill for low-income food deficit countries would be $9.8 billion higher in 2000 compared to 12 years previously (an increase of 55%) and of this increase, $3.6 billion would be as a result of the Uruguay Round (FAO, 1995). More recent studies have confirmed the deteriorating position for NFIDCs; between 1993/4 and 1997/98, the cost of cereal imports increased by 47% (it should be mentioned that the results of these studies depend heavily on when they were conducted because of the wildly fluctuating global cereal prices during the 1990s which reached a low in 1993 ,a high in 1996 but fell thereafter) (FAO, 1998). On the basis of FAO predictions, member governments agreed to compensate affected countries. However, this promise has never been fulfilled.

The WTO’s Agreement on Agriculture (AOA), established during the last Uruguay Round of negotiations, has exacerbated this problem, because it unashamedly pits small farms against larger, more ‘efficient’ agribusinesses in both the North and the South. This has had, and looks set to continue to have, disastrous consequences for existing small-scale agriculture and rural communities (for an extensive analysis of and proposals concerning this issue, see Friends of the Earth’s briefing *Trade and People’s Food Sovereignty* (FoEI, April 2003))

trips, farm-saved seed and technology transfer:

Through the enforcement of the WTO’s TRIPs Agreement, farmers are prevented from saving seeds from the previous year’s crops. According to the UN, roughly 1.4 billion people around the world depend on farm-saved seed for their food security. For example, under WTO-enforced patent law Monsanto has the right to take farmers to court if they collect and use seeds from its patented plant varieties. Monsanto has actively enforced these rights. In 1998, for example, it sent out a letter to 30,000 US farmers, informing them of 425 seed piracy cases already pending and warning them of the significant financial penalties they might face if caught reusing Monsanto’s seeds. (Resurgence, 1988)

Furthermore, Monsanto’s ‘terminator gene’ technology that makes plants sterile could help the company to enforce its patent rights, by physically preventing farmers from growing crops from saved seeds. Although Monsanto previously agreed not to commercialise its terminator technology, it now seems all set to reverse that decision. This could have far-reaching impacts, given that Monsanto’s genetically-engineered seed traits were grown on 56 million ha of land across the globe in 2002. Notably, numerous companies have already patented the technology with Syngenta holding at least eight such patents (ETC, 2003). In addition, companies are developing research and/or patents into traitor technology whereby the traits of GM plants only respond to the application of proprietary chemicals. The promotion of patented varieties, backed by legal action, poses a significant threat to food security in the developing world.

The TRIPs Agreement is also a significant barrier to securing technology transfer for the development of Southern farming or industry. The technology is clearly aimed at those who can afford it and reap the benefits.

international competitiveness:

Furthermore, obsession with ‘international competitiveness’ - the very basis of trade rules - threatens to increase job insecurity and undermine attempts to impose costs on national industries through regulation or taxes. The increasing ease with which companies can relocate production means that they are also able to play countries off against each other, reducing costs and standards everywhere - often without relocating at all.

trade sanctions:

Following successful trade disputes, countries can be authorized, by the WTO Dispute Settlement Body, to levy trade sanctions on imports from a challenged country, if that country does not amend its trade rules. Since these trade sanctions do not have to be levied in the same sector, this allows considerable room for political maneuvering, with politically sensitive sectors often the prime target.

For example, several small companies in the UK - including Beamglow and Arran Aromatics (manufacturing folding cartons and bath products respectively) - were seriously affected by sanctions under the ‘banana wars’ between the EU and the US. Turnover dropped, jobs were lost and the situation caused considerable anxiety and uncertainty amongst employees (sanctions imposed under the banana dispute were lifted during 2001 when the EU changed its preferential treatment for imports from the Caribbean).

In France, also hit by sanctions, farmers responded furiously and demonstrations involved damage to a half-constructed McDonalds restaurant and the imprisonment of several protesters. Moreover, the leader of the French farmers, José Bové, was released after a number of weeks to a chorus of sympathetic comments from French Ministers, including the Prime Minister Lionel Jospin, who was reported to have commented that “*Mr Bové’s cause is just*”. The then Agriculture Minister said: “*Today, for the first time, we are in step with public opinion. There’s a national consensus about bad food. People realise we need a different international logic than the economic, social and environmental dumping of modern agriculture. We have to change the WTO so that it respects people’s cultural choices, does not destroy the world’s peasantry and guarantees fair trade for all*” (Guardian, 1999). In the meantime the sympathetic position of the French Government appears to have waned - José Bové just been released from a further term of imprisonment for his part in direct actions that took place in 1998 and 1999, challenging the planting of genetically modified crops in France.

foreign investment as a contributing factor:

There are increasing concerns regarding the liberalisation of the financial and investment sectors - and the increasing movement of short-term (often speculative) capital. The financial crisis in Asia, for example, precipitated massive and almost instantaneous capital flight. Not only were growth prospects severely reduced but there was a human cost as well - including increased prices for essential goods, bankruptcies and even suicides. Spending on social welfare and environmental protection was slashed as well (see Box 3). Foreign direct investment (FDI), where companies actually move into or have significant share holdings in companies in other countries, can have a marked, negative impact on local economies, small businesses and labour standards if it is at the expense of domestic development and environmental protection . (see *The World Trade System: Winners and Losers*, FoE for further detail and case studies)

Nevertheless, attracting inward investment is still regarded by many governments as being unquestionably good for development. The failed Multilateral Agreement on Investment (MAI), which was being negotiated in the OECD, and now the investment proposals before the WTO, are being promoted on the basis that, without an attractive (i.e. deregulated) investment regime, nations will not attract FDI and will not ‘develop’. Not only is FDI not necessarily beneficial, it does not automatically lead to

box 3: gdp and growth

In 1999, the UNDP reported that between 1975 and 1997 (using 1987 US$), average GDP per capita in industrialised countries increased by approximately 50%. Conversely, average per capita GDP for least developed countries fell by approximately 15% (UNDP, 1999).

The UNDP reports slightly different figures in 2001; that GDP per capita annual growth was -1.0% for sub- Saharan Africa between 1975 and 1999, +0.2% for least developed countries and +2.0% for OECD countries (UNDP, 2001).

‘development’ or increased employment. Second, there is no link between deregulating foreign investment rules and attracting FDI (see Box 4).

As Rubens Ricupero, Secretary General of UNCTAD recently commented: “*So far there is no empirical evidence to suggest that developing countries are necessarily better off in terms of attracting and retaining quality FDI within the confines of multilaterally agreed disciplines in investment ... What is evident … is that the existence of investment rules will do little to tackle the problem of distribution of the potential gains from trade and FDI. Investment tends to concentrate where capital is already present. Thus, imbalances between and within countries - imbalances that have been sharply exacerbated as a result of globalisation and liberalisation - will not be affected by the absence of investment barriers, as some of its proponents have suggested*” (Ricupero, 1999).

export-led development and debt as contributing factors:

As a result of governments’ wholesale acceptance of free trade theory as being in the public interest, the policies of the WTO, the IMF and the World Bank have focused on encouraging countries to follow a ‘liberal free market’ agenda. Export-led development - the (re)structuring of an economy towards producing goods for export markets in order to afford more imports and stimulate economic growth - is a further fundamental part of current western free market economic policy.

However, the empirical evidence in support of export-led development is poor. A focus on export-led development generally pushes countries into cash crops or increased mineral production with associated, severe negative impacts on the environment and on local communities. (see *The World Trade System: Winners and Losers*, FoE for further detail and case studies). In addition, not everyone can develop through the expansion of their export sector. One of the “*unspoken truisms of international trade*” is that “*...it isn’t possible for every nation to export more than it imports. Where will the surplus go?*” (Kierans and Stewart, 1989).

The issues surrounding export-led development (see Box 6 for examples) and the role of the IMF and the World Bank in shaping trade policy confirms that the trade system cannot be divorced from the other variables such as structural adjustment, the vagaries of capital and commodity (speculative) markets, and the external debt of countries.
Furthermore, heavy debt burdens

box 4: all the world’s a loser. The 1997 asian economic collapse - a global crisis with global effects caused by a global trade system

Cause: Speculative capital poured into the relatively immature Asian financial markets to take advantage of the growth in the tiger economies. At the first signs of economic problems, this capital flowed out again almost overnight. This was made possible because of deregulated financial markets.

Effects: It is estimated that over 50 million more people in Asia fell into poverty. In East Asia alone, unemployment increased by 3.3 million. The only major growth economy in the developed world - the US - had to absorb surplus and cheap production from Asia causing unemployment and a very large trade deficit in the US. Impacts were also felt elsewhere around the world. For example, cheaper exports from Thailand also caused the closure of a German Electronics company in the UK with the loss of 1,100 jobs.

Following the Asian crisis, global economic growth slowed down to about 2%, its lowest level for five years. Export commodity prices also declined, with severe impacts on African countries dependent on primary raw materials.

Source: UNDP, 1999.

on developing countries encourage governments to agree to export-led development programmes and to allow increased exploitation of natural resources for export in order to generate foreign exchange. The export-led development programmes of the Bretton Woods institutions have reinforced this short-term and damaging approach, creating a vicious circle in which world markets are oversupplied, commodity prices tumble, and poverty-stricken countries are forced to increase exports. Thus rich, importing countries have ready access to cheap supplies of natural resources and have, in fact, incurred an ecological debt to the countries of the South which far outweighs the official financial debt of the South. Impoverished countries unable to diversify their economies are amongst the poorest in the world. Authors of a UNDP report state that *“Primary product exporters have the highest poverty: with more than 80% of the people in mineral-exporting countries living on less than $1 a day at the end of the 1990s.”* (UNDP, 2003a)

In addition, heavily indebted countries are often forced to slash environmental and social spending, making it extremely difficult for governments to pursue sustainability objectives.

box 5: foreign direct investment (fdi)

A significant proportion of FDI is accounted for by cross border mergers and acquisitions. These are renowned for leading to job losses. Subsequent to one such merger (of BP and Amoco) 7,000 redundancies were announced. Moreover, in 1998 BP-Amoco axed a further 3,000 jobs because, despite the fact that it still made a massive $4.5 billion profit, this was a drop from $6.5 billion the previous year. In 1999, BP-Amoco acquired American oil company Arco resulting in a further 2,000 job losses. In 2000, Chevron acquired Texaco with the predicted loss of 4,000 jobs.

In 2001, China attracted US$47bn in FDI. This makes China the largest recipient of foreign investment in both the region and in the developing world: and UNCTAD predicts that it could even outstrip the US in the near future. Although China has recently joined the WTO, it is not renowned for its deregulatory approach to investment or any other sector of its economy. FDI is much more likely to be attracted to countries with a large market, basic infrastructure and a good skills base. This compounds the concept of ‘trade abandonment’ in which the majority of FDI goes to a minority of countries whilst the others are abandoned in a supposedly globalised economy.

Source: UNCTAD, 2000.

environmental and health impacts

The current trade system has a wide range of impacts on the environment and health, including increasing resource use and pollution, and conflict with international, national and local laws and practices that promote sustainability and protect the environment (see *The World Trade System: Winners and Losers*, FoE for further detail and case studies).

resource use:

The trade system effectively ignores the fact that increasing consumption is depleting natural capital (ie. the environment) on which the global economy is based. Increased trade also means more transport and thus more pollution. Since the economic system does not recognise limits to global resources or the pollution-absorbing capacity of the ecosystems, it is inherently and undeniably unsustainable.

UNEP has confirmed that tropical forests and marine fisheries have been seriously over-exploited and that globalisation is also leading to species invasion. The global marine catch increased by 35% between 1975 and 1999 (UNEP, 2003a) and one out of every six people depends on fish for protein. Yet 75% of the world’s fisheries are over-fished or fished at their biological limit (WRI, 2003).

Similarly, 350 million people are directly dependent on forests for their survival. Yet global forest cover has declined by 46% since pre-agricultural times (WRI, 2003). Demand for wood continues to increase (both for domestic fuel consumption and

box 6: export-led development - experiences in the philippines, ghana and indonesia

In the 1960s and 1970s, the Philippines became one of the top four timber exporters in the world. In the process, 90% of its forests were lost. The country subsequently became a timber importer with 18 million impoverished forest dwellers and an external debt of US$50 billion in 2001 (up from $17 billion in 1980). Despite its focus on export-led development, 40% of its population is now living below the poverty line.

Ghana’s Economic Recovery Programme was launched in 1983 and has seen over US$2 billion of foreign investment in the mining sector. Compared with agriculture, however, this heavy investment in environmentally-damaging open-cast mining has generated miniscule returns and low employment rates for the people of Ghana (this level of FDI constituted 56% of FDI to Ghana over the past decade, but generated only 1.5% of GDP. Over the same period agriculture generated 36% of Ghana’s GDP.) (FoE, 2002) In the Wassa Fiase area of the country, said to have the single largest concentration of mines in the African continent, people have reported being evicted from their homes and farmlands by soldiers making dawn raids to claim land for use as mining concessions. They are paid little or no compensation, yet this primarily agrarian community has lost its main source of food and income.

In Indonesia, the operation of the Grasberg copper and gold mine has been described as representing one the world’s worst known cases of environmental degradation and human rights’ abuses. Over 230,000 tonnes of ore tailings are dumped into rivers every day (IIED, 2002), killing fish and plant life and devastating the riverine rainforest). Villagers have been forcibly resettled including 2,000 people in 1998 alone. (FoE, 2000) for export) and the global production of wood products is now some 43% higher than in 1970 (UNEP 2003b). 106 million hectares of forest (roughly the same size as Egypt) has been lost since 1990 (UNEP 2003b). An analysis of the conservation status of 10,000 tree species (out of an estimated world total of 100,000) found that over half were globally threatened as defined by the International Union for the Conservation of Nature and Natural Resources (IUCN) (UNEP, 1999).

Importantly, the increase in global trade of wood products has also stimulated the invasion of alien species often with dramatic ecological impacts (since those species frequently have no natural predators). The US, for example, restricted imports of packing materials to prevent the accidental importation of the destructive Asian long horned beetle, but the beetle has nevertheless since been found at various sites in the US. At the same time, timber certification designed to promote the production and consumption of sustainably produced timber could be constrained by WTO rules.

UNEP has also pointed out that *"more than half of the world's population could be living in severely water-stressed areas by 2032 if market forces drive the globe's political, economic and social agenda"* (UNEP 2002a). Forty-one out of every 100 people live in water-stressed river basins. Already, 20% of normal global river flows are extracted for human use and 60% of major river basins are interrupted by dams (WRI, 2003).

It is also widely recognized that increased trade leads to increased road, sea and air transport which in turn increase air and water pollution and worsen climate change. In 1997, the OECD attempted to assess the potential impact of the Uruguay Round of negotiations on transport and related pollution, looking also at experiences in North America, under the North American Free Trade Agreement (NAFTA) and in the EU. It found worrying evidence at the time to indicate that increments in international trade were mostly being borne by road haulage and heavy goods vehicles; and that energy use and various air pollutants were markedly heavier for trucking than other forms of transport. It also found the sequence of liberalisation of trade in transportation services to be of particular importance, leading in Europe, for example, to a relative increase in the more damaging forms of transport (such as road transport, which was liberalized first) at the expense of more environmentally-friendly forms of transport (such as rail). (OECD, 1997).

Importantly, transport services are now being negotiated under the WTO's GATS 2000 negotiations (see below) with freight transport and maritime transport both on the table. The outcome of these negotiations could well have a significant impact on air and water pollution and climate change.

inequitable consumption:

The global economy is currently characterized by inequitable consumption. For example, in 1999, the average consumption of a North American person (as measured by how much money is spent) was 34 times as much as that of the average person living in Africa. The North American also consumed over six times as much water and ten times as much energy as the African (UNEP, 2003c).

conflicting with international rules to protect the environment:

In spite of claims that no multilateral environmental agreements have ever been challenged in the WTO, WTO rules and trade interests have already had a marked effect on some international agreements and ongoing negotiations designed to protect the environment and promote development. These include the Kyoto Protocol which sets out legally binding reductions in greenhouse gases. Because of the objections from the US (under heavy pressure from the country's fossil fuel-dependent TNCs such as Exxon-Mobil, see below) and other developed countries, the Protocol has been severely watered down. Other multilateral environmental agreements (MEAs) that have trade components - like the Convention on International Trade in Endangered Species (CITES) and the Biosafety Protocol - would also appear to remain vulnerable to challenge through the WTO.

conflicting with national rules to protect the environment:

The WTO's dispute settlement system has also been used several times to overturn national legislation designed to promote environmental protection and health. Whilst the details of each case differ, an overall pattern has emerged -

almost all decisions to date have favoured the 'trade' interest over environment and health concerns. An exception to this is the recent asbestos dispute (Canada objected to a French ban on production, trade and sale of the product). The WTO's dispute panel bodies ruled that members are free to set an appropriate level of protection in relation to public health (the WTO does allow trade restrictions where they are deemed necessary to protect human, animal or plant life or health) and that the health risks constituted a legitimate factor in determining the likeness of products. However, elsewhere disputes continue to overturn or impose sanctions on national legislation in various countries, for example, imports of dirty oil and hormone-treated beef. The imposition of punitive sanctions is fueling public opposition to the WTO in countries such as France, the UK and the US (see *The World Trade System: Winners and Losers*, FoE for further details and case studies of the trade disputes mentioned in this section).

gm trade dispute:

The 2003 US-led challenge to the European Union's *de facto* moratorium on genetically modified crops seems all set to take the conflict between trade rules and the environment to new heights. If Europe fails to lift the moratorium, the WTO could grant the US the right to impose several hundred million dollars in trade sanctions on EU products. Furthermore, the US, intent on using trade rules and negotiations to the benefit of its biotechnology sector can also be expected to use ongoing negotiations under the WTO's Doha mandate, including on agriculture, to attempt to force through new rules relating to biotechnology and the use of the precautionary principle (for further information on the GM dispute go to www.foe.co.uk).

food safety:

One particular WTO agreement, the Sanitary and Phytosanitary (SPS) Agreement has already been invoked by the WTO when ruling on food issues, most notably the EU ban on the imports of hormone-treated beef due to consumer and health concerns (see disputes, above). The SPS requires that appropriate risk assessment, involving an analysis of the available scientific evidence, must be undertaken before action (ie an import ban) can be taken. If the risks are unknown, and thus little or no scientific evidence exists, 'provisional measures' can be taken as a temporary measure whilst the risks are being assessed (this brings with it questions regarding the legal 'adequacy' of the risk assessment and the interpretation of results). This severely limits the application of the precautionary principle, which the EU argued in the beef-hormone case, despite the fact that the principle is now widely recognised in international law.

governments, corporations and trade issues

Transnational Corporations (TNCs) dominate world trade and about two-thirds of all trade is now accounted for by just 500 companies. They are thus able to exert considerable influence in trade negotiations and the establishment of trade rules.

Firstly, their views are generally given considerably more weight than those of the rest of civil society (in part this may be because many free traders believe – wrongly – that what is good for companies will always be good for the rest of society). As a result, they are granted extensive access to high-level decision makers, both within governments and the WTO. The WTO's Director General, Supachai Panitchpakdi, for example, established an 'informal business advisory body' in June 2003, inviting powerful corporate lobby groups, such as the International Chamber of Commerce (see below) and Nippon Keidanren (again, see below) to participate.

Secondly, the trade liberalisation process can work to drive down standards world-wide, leading to what is known as the 'race to the bottom'. Governments anxious to attract foreign investors may do so in a variety ways, all of which can be said to be harmful for the environment. These include ensuring that resource values or rents are kept artificially low, avoiding the introduction of energy and environmental taxes and relaxing or failing to introduce stringent environmental regulation. For example, it has been reported that India has been 'rolling back' a number of environmental laws in order to accommodate foreign investment including the loosening of forestry regulation for the pulp and paper industry (FoEI, 2001).

Cheap labour costs and low labour standards are also attractive to foreign investors. In a report on UNCTAD’s World Investment Report 2002 this was described as *“the need to search for lower-cost locations which could lead to an expansion in low-wage economies… Falling barriers to international transactions allow TNCs to locate different parts of their production processes across the globe to take advantage of the differences in costs, resources, logistics and markets.”* (UN, 2002).

Thirdly, to remain competitive and efficient, companies are consolidating through mergers and acquisitions. This process has resulted in the loss of many jobs as well as creating massive global monopolies and oligopolies which further increases their economic and political influence.

undue influence

Whilst member governments make up the composition of the WTO, TNCs play a very influential role in what is negotiated and decided. A particularly clear example of this was the involvement of the Intellectual Property Committee (IPC) of the US (see www.ieeeusa.org), which brought together 13 major US corporations (including Monsanto, DuPont and General Motors), in the drafting and promotion of what came to be the WTO’s Trade Related aspects of Intellectual Property Rights (TRIPs) Agreement. As

box 7: transnational corporations

Even using value-added measures (ie profits plus salaries rather than total sales) 29 of the world’s top 100 economic entities are TNCs. In 2000, the richest ten TNCs earned a combined US$410 bn (again value-added), which was more than the GDP of Australia and 0.9% of the world’s GDP. The wealthiest companies, such as General Motors and Exxon Mobil, each even out-ranked relatively well-off countries such as New Zealand and the United Arab Emirates (UNCTAD, 2002b). Whilst governments are bound by international law and UN conventions, there exists no comparable level of international regulation for TNCs.

box 8: chiquita

Within days of Chiquita - a major US banana multinational - making a $500,000 donation to the Democratic Party in the USA, the US Government lodged a complaint against the EU’s banana import regime that favoured Caribbean banana producers. Chiquita’s bananas are mainly from Latin America.

James Enyart of Monsanto is reported to have said *"Industry has identified a major problem in international trade. It crafted a solution, reduced it to a concrete proposal and sold it to our own and other governments."* (Shiva, 2003)

Friends of the Earth is particularly concerned with the unbalanced involvement of industry in the creation of trade policy. Governments give too much weight to industry concerns, and too little to other sectors of civil society. Public interest organisations and concerned individuals need a much greater voice in domestic trade policy development and at the WTO.

At the international level, three key lobby groups are the International Chamber of Commerce (ICC), the Transatlantic Business Dialogue (TABD) and Liberalisation of Trade in Services (LOTIS).

the international chamber of commerce:

The ICC (www.iccwbo.org)describes itself as *"The world's only truly global business organisation"* and offers members *"direct access to national governments all over the world through its national committees"*. ICC members represent the A-Z of the corporate world, with Aracruz, British Aerospace, Coca-Cola, Dow Chemical, Exxon, Ford, General Motors and a host of others participating in this influential body. The ICC is headed up by Jean-René Fortou of Aventis SA and its Commission on Biosociety is chaired by Dr Willy de Greef of Syngenta. Unsurprisingly, it takes particularly strong positions on investment and biotechnology, calling for the removal of barriers to investment in this sector. It also supports the EU's aim of expanding the WTO to include new issues such as investment liberalisation; calls for the elimination of *all* tariffs and non-tariff barriers (ie standards) relating to non-agricultural products; and opposes the use of the precautionary principle or discrimination between products on the basis of how they have been produced and processed (known in the WTO as 'production and processing methods' or PPMs).

the transatlantic business dialogue:

The TABD (www.tabd.org)was re-launched in June 2003 in order to reinvigorate transatlantic trade relationships, especially after September 11th. The TABD involves over 100 corporate leaders advising both the highest levels of the EU and US administration on trade policy and on the companies' positions regarding the WTO negotiations. It hosts regular high-level conferences with trade officials from around the world. Its post-September 11th 2002 leadership team was headed up by Phil Condit (Chairman and CEO of The Boeing Company) and Sir Charles Masefield (Vice Chairman of BAE Systems). The TABD is fully behind completion of the WTO's Doha agenda.

lotis:

A member of International Financial Services London (IFSL), LOTIS (www.lotis.org) is a little known but extremely influential corporate lobby group which was established under the chairmanship of Andrew Buxton, at the request of the European Commission. Its specific mandate is to focus on *"strategy and objectives for the new round of WTO services negotiations"*. It is chaired by Christopher Roberts, who was Director-General of Trade Policy in the UK from 1987 to 1997; and its high-level meetings of CEOs are held with members of UK Whitehall departments, the Bank of England and the Financial Services Authority in attendance as observers. The IFSL claims to offer members *"privileged access to those who influence decisions"* and states that it *"focuses on emerging and developed economies wherever there is an actual or potentially significant market"*.

other corporate lobby groups in the us:

In the US, corporate lobby groups are extremely influential. For example, through the Intellectual Property Committee (see above), the US Council for International Business (www.uscib.org) and the Biotechnology Industry Organisation (BIO), whose recommendations on adopting an aggressive, long-term strategy to deal with 'biotech trade issues' seem to have been adopted almost wholesale by the US Administration (see www.bio.org). Many corporate lobby groups sit on US advisory committees.

us advisory committees:

In the US, the private sector plays a pivotal role in trade negotiations through the mechanism of advisory committees.

According to the USTR, this process was extremely successful during the Uruguay Round and in initiatives through the Asia-Pacific Economic Co-operation (APEC). The primary objectives of the private sector advisory system are:

- to consult with the US government on negotiation of trade agreements;
- to assist in monitoring compliance with the agreements; and
- to provide input and advice on the development of US trade policy.

The Advisory Committee on Trade Policy and Negotiations (ACTPN) is appointed by the President. The committee has about 45 members mostly from representative elements of the US economy with international trade interests. Its mandate is to provide overall policy guidance on trade issues. This committee has the ear of the President and participants include representatives from TNCs such as Dell, IBM, Sony and Weyerhauser. At the next level are the policy advisory committees to the USTR in the areas of agriculture, defense, intergovernmental policy, labour, trade and environment and trade in Africa. There are also 26 technical, sectoral and functional advisory committees, which are composed of experts from their respective fields. All these committees advise the highest positions in the USTR.

In the EU, the process is no less formal. Many corporate lobby groups play an important role but a select few appear to wield the greatest influence.

the european services forum (esf):

The ESF was set up specifically to promote the *“liberalisation of services markets throughout the world in connection with the GATS 2000 negotiations.”* Its purpose is to liaise with European Commission officials and one high-level EC trade official, Robert Madelin, has even commented that *“We are going to rely on [the ESF] just as heavily as on member state direct advice in trying to formulate our objectives”* (Transnational Institute, 2002). Companies thus invited to participate in EC trade policy decision-making include Barclays, BT, Marks & Spencer plc, Accenture, Microsoft, Vivendi Environnement and Suez. Andrew Buxton, CEO of Barclays Bank, initiated the ESF and chairs its high-level European Service Leaders’ Group. As well as lobbying on GATS, the ESF has also been pushing hard for the inclusion of new issues in the WTO – especially investment liberalisation and negotiations on government procurement (which it estimates to be worth 7.1% of global GDP).

the european roundtable of industrialists (ert):

ERT has pushed for investment liberalisation for a long time. Its members include the largest TNCs in Europe - including AstraZeneca, Bayer, BP, Carlsberg, Fiat, Nestlé, Renault, Royal Dutch/Shell, Suez and Unilever. Its main objective has been to get investment into the WTO. To this end, the ERT has established a working group on foreign economic relations. At its head is Peter Sutherland, former GATT Director General and now chairman of BP.

other influential lobby groups in the eu:

These include the Union of Industrial and Employers Confederations of Europe (UNICE) which has regular meetings and contacts with the Commission (in fact, its contacts are so good that Commission President Romano Prodi graced out-going UNICE President Georges Jacobs’ leaving party in July 2003) (for more information go to www.unice.org).

Another key lobby group, representing American firms based in the EU, is the American Chamber of Commerce (www.amcham.be), which has a lobbying arm based in Brussels and is described by The Economist magazine as *“The most effective lobbying force in town”.* Heavyweight membership includes AOL Time Warner, Boeing, Cargill, Chiquita, Coca Cola, ExxonMobil, Goldman Sachs, McDonalds, Microsoft, Monsanto, Nike, Syngenta and Walt Disney. ‘AmCham’ as it is known, prioritises increased market access and services liberalisation; and also supports a new multilateral framework on investment in the WTO.

other country committees:

Again, formal links exist in Japan between companies and government officials. This is conducted through Nippon Keidanren (the Japanese Business Federation, (www.keidanren.or.jp). They have over fifty different committees, including on Trade and Investment (chaired by the CEO of Mitsubishi Corporation in 2003), Environment and Safety (chaired by Fujitsu’s CEO in 2003) and Comprehensive Strategy (in 2003, the chair was the Chairman of Toyota). Nippon Keidanren is strongly supportive of bringing investment into the WTO, completing the Doha negotiations and developing bilateral and regional investment treaties.

the influence of tncs on global environmental/trade agreements

TNCs exert considerable influence in negotiations leading to global multilateral environmental agreements (MEAs). Prior to the successful adoption of the Biosafety Protocol in early 2000, a small group of GM exporting countries, under pressure from their TNCs, had been responsible for the demise of previous negotiations to agree the Protocol. Such influence continues to be significant. At present, corporations and pro-biotech countries are attempting to stop countries implementing strict measures on biosafety at the national level.

Similar experiences have characterized the development of the Kyoto Protocol on climate change. The US withdrew from negotiations following intense pressure from fossil-fuel dependent TNCs such as Exxon-Mobil, under the premise that commitments to reductions in greenhouse gases would reduce the competitiveness of the US economy. Companies such as Exxon are keen to maintain their pre- eminent position, in Exxon’s case as the world’s largest producer, trader and marketer of petroleum products. It is reported that oil companies gave about $26 million to the Republican party throughout the year 2000 in the run up to the presidential election, of which Exxon donated over $1 million (President Bush himself received $1.9 million). Within days of assuming the Presidency, George Bush pulled out of the Protocol.

falling global standards and job insecurity

Falling standards and job security are mainly influenced by three important processes. The first is that governments, in their attempts to attract inward investment, are lowering environmental, health and safety standards and reducing the rights of workers. The second is that companies influence governments not to enact more exacting legislation because it will make domestic companies less competitive (known as ‘policy chill’). The third is the threat by companies to workers: that they will move abroad unless their employees accept poorer working conditions. These three factors contribute to what is known as the ‘race-to-the bottom’.

To remain competitive, companies are increasingly searching for low cost production areas - in terms of labour costs (both in terms of union activity and wages), the weakest environmental standards or lax health and safety regulations. This is being fueled by governments further enticing companies through subsidies and tax-related incentives. According to UNDP, “*the pressures of global competition have led countries and employers to adopt more flexible labour policies, and work arrangements with no long-term commitment between employer and employee are on the rise*” (UNDP, 1999).

In the UK, for example, several well-known (and much-loved) national manufacturers have moved production abroad, including Hornby model train-makers and Waterford Wedgewood producers of crystal and china (both to China); and Dyson, who manufacture vacuum cleaners (to Malaysia). The increasing tendency of companies to ‘outsource’ their activities is another version of the same activity, with Microsoft outsourcing hardware production to Hungary, for example. This ability to shift production from one country to another pushes companies to put pressure on governments in *all* countries to minimise labour and other costs, creating a downward spiral and an increasingly insecure workforce.

Investment negotiations are also creating pressure to keep standards to a minimum, as has already been seen in the North American Free Trade Agreement (NAFTA). There are already several well-known examples of companies using NAFTA’s ‘Chapter 11’ provision on investment to overturn (and indeed demand compensation for) environmental legislation in other countries. For example, US-based company Metalclad claimed $90 million in compensation was due from the Mexican government because of locally-initiated legislation preventing the establishment of a hazardous waste treatment facility. NAFTA ruled in favour of Metalclad, eventually ordering Mexico to pay the company $16.7 million in compensation.

monopolies and job insecurity

In today’s highly competitive global market, there is even more pressure on companies to reduce costs (this is partly driven by the need to increase profits to appease shareholders).This has sparked a trend for corporate restructuring, rationalisation and consolidation, primarily through mergers and acquisitions. The process of globalisation is thus driving a process that can actually increase unemployment and job insecurity whilst concentrating trade in the hands of the larger players and knocking out smaller, less competitive companies. This has serious implications for employment, consumer choice, value for money and prices. Recently, this consolidation has been most evident in the oil sector (see Box 4).

the world trade organisation - past, present and future

The last Uruguay Round of negotiations led to the formation of the WTO. Whereas the GATT was an agreement with ‘contracting parties’ and served as a negotiating forum, the WTO is a recognised international body with ‘members’, which is responsible for monitoring and enforcing the World Trade Agreement (WTA) which sets out the legal basis for trade policy. The Uruguay Round was the longest, most tortuous and most controversial set of negotiations in the GATT’s history. The Uruguay Round was concluded in 1994 and the WTO formed in 1995. By April 2003, the WTO’s membership stood at 146. The WTO’s website can be accessed at www.wto.org.

The WTO is responsible for administering these agreements and, according to the WTO Secretariat, it has three main objectives; “*...to help trade flow as freely as possible, to achieve further liberalisation gradually through negotiation, and to set up an impartial means of settling disputes*” (WTO, undated).

principles

In terms of helping trade flow as freely as possible, the WTA is founded on two fundamental principles,that of Most Favoured Nation status (MFN) and National Treatment (NT), both of which are designed to act against trade discrimination. There is also a set of further ‘annexed’ agreements that deal with potential trade barriers in more specific aspects of trade policy.

most favoured nation status (mfn)

Although the phrase ‘most favoured nation status’ suggests some kind of special treatment for one particular country, in the WTA it means non-discrimination - treating all countries equally. Each member is bound to treat all the other members equally as ‘most-favoured’ trading partners. If a country improves the benefits that it gives to one trading partner, it has to give the same ‘best’ treatment to all the other WTO members so that they all remain ‘most-favoured’. There are a few exceptions allowed (such as the Generalised System of Preferences or GSP) but, in general terms, MFN is intended to ensure that each WTO member treats other members equally.

national treatment (nt)

National treatment means that imported and locally-produced goods should be treated equally. The same applies to foreign and domestic services, and to foreign and local trademarks, copyrights and patents. National treatment only applies once a product, service or item of intellectual property has entered a market. This means that charging customs duty (tariff) on an import is not a violation of national treatment even when locally-produced products are not charged an equivalent tax. However, whilst such tariffs are permitted, members negotiate their reduction and ‘bind’ them at the WTO. After tariffs have been reduced or bound, raising them unilaterally is prohibited, other than in exceptional circumstances such as a balance of payments crisis.

the world trade organisation - past, present and future

content, structure and processes

content - the annexed agreements

As well as the main text of the GATT 1947, the WTA comprises a number of further 'annexed agreements'. The most basic function of these agreements is to incorporate the principles of national treatment and most favoured nation status into other, more specific, areas of trade policy. These include:

- Agreement on Technical Barriers to Trade (TBT)
- Agreement on Sanitary and Phytosanitary Measures (SPS)
- Agreement on Trade-Related Investment Measures (TRIMs)
- Agreement on aspects of Trade-Related Intellectual Property Rights (TRIPs)
- Agreement on Subsidies and Countervailing Measures (SCM)
- General Agreement on Trade in Services (GATS)
- Agreement on Agriculture (AOA)
- Agreement on Textiles and Clothing (ATC)
- Agreement on Government Procurement (GPA)

The last of these agreements, the GPA, is currently a 'plurilateral' or voluntary agreement, signed up to by some, rather than all the members.

structure

The WTO is an intergovernmental organisation with a secretariat based in Geneva. The Director General is appointed by the members (governments) while the rest of the staff are employed as in any other organisation. Its highest decision-making body is the Ministerial Meeting which takes place approximately every two years. Within the WTO is a General Council made up of member representatives that meets periodically to discuss issues that can be referred to the Ministerial Meetings.

processes - trade negotiations and monitoring

The WTO acts as an international forum for trade negotiations. This takes place mainly through the General Council of the WTO, through Ministerial Conferences and through periodic 'rounds' of multilateral trade negotiations. The WTO also has a variety of committees and councils at which particular aspects of trade policy are discussed and recommendations to the General Council are made.

Free trade theory works on the basis that those involved in trade have to know as much as possible about the conditions of trade. The WTO therefore stipulates that regulations and policies should be transparent. The WTO tries to achieve this transparency in two ways. Firstly, governments have to inform the WTO and fellow members of specific measures, policies or laws through regular 'notifications'. Secondly, the WTO conducts regular reviews of individual countries' trade policies and compliance with WTO rules - the trade policy review mechanism.

dispute settlement

Perhaps the most important function of the WTO is its dispute settlement role. The rules are administered by the Dispute Settlement Body (DSB).
In the event of a dispute between two Members, the DSB initially attempts to solve the problem through consultation, mediation and conciliation. If a settlement has not been reached after 60 days a Dispute Settlement Panel (DSP) can be requested. A DSP then holds hearings and produces a panel report which goes to the DSB for adoption unless an appeal is lodged, in which case the Appellate Body (AB) produces a further (and final) report for the DSB.

One of the critical differences between the GATT and the new WTO is that no one country can hold up a dispute panel decision in the WTO. Thus the WTO is much more powerful than the old GATT.

the third ministerial conference, seattle 30 november – 3 december 1999

At the end of November 1999, the heads of state of WTO members met in Seattle, USA for the Third WTO Ministerial Conference. World leaders were planning to initiate another 'round' of trade negotiations. However, the Ministerial collapsed because governments present could not agree an agenda for the proposed 'Millennium Round'. It failed due to:

- **Conflicts between developed and developing countries as to what should be on the agenda.** Right from the start, some developing countries, particularly in Africa and Asia, were opposed to the inclusion of any new issues, because of a lack of capacity, concerns that uncontrolled foreign investment will not benefit them, and the track record of the WTO whose current agreements (on issues like agriculture and intellectual property rights) have been biased towards rich countries and worked against the poorer countries. They were keen to prioritise 'implementation' issues surrounding some of the agreements but developed countries consistently refused to deal with this issue.

- **Opposition from civil society.** The civil disturbance in Seattle, with about 50,000 demonstrators, indicated the strength of opposition from groups around the world, from Northern and Southern countries. It illustrated the breadth of opposition to the proposed round and revealed unprecedented cooperation between different public-interest groups in different countries.

- **Disagreements amongst developed countries.** There were disagreements between developed countries that also remained unresolved. In particular, France, Norway and Japan maintained varying degrees of resistance to proposals to reduce agricultural support, the EU and the US were at odds over agriculture and a row between the European Commission and EU member states over whether to discuss biotechnology played a significant part.

- **Shockingly poor procedures.** The procedures employed during the meeting were the final straw for many countries. It was highly inappropriate that the chair was also the main trade negotiator for the US, Charlene Barshefsky. Ms Barshefsky appeared to be manipulating the agenda to suit US concerns and refused to acknowledge that she knew about objections to procedures from developing countries. Basically, some countries found themselves overruled in working groups, unable to attend smaller 'green room' meetings (either because they were refused access or didn't know about them) and sometimes found themselves in meetings without the right negotiating papers. At least one group (the African group) found itself trying to negotiate internally without interpretation when their interpreter was asked to leave to assist a US-backed meeting on trade and labour instead.

The WTO is notorious for its use of undemocratic and secretive processes. In Seattle, even staunch pro-free trader Pascal Lamy (the European Union's Trade Commissioner) referred to them as 'medieval' (although the EU has since made good use of anti-democratic fora such as mini-Ministerials – to which only a select group of countries are invited – to force through its agenda). (For detailed personal accounts of the WTO's strong-arm tactics, from developing country negotiators themselves, read *Power Politics in the WTO*, by Aileen Kwa of Focus on the Global South. (www.focusweb.org))

If the Ministerial had been concluded, the failed negotiations would have involved 'trade-offs' on four key issues - the Singapore issues (investment, trade facilitation, government procurement and competition), agriculture, the environment and biotechnology. These issues were the key areas of concern of the largest trading blocs, the US and the EU. It appears that the US only agreed to investment issues (championed by the EU) once the EU had agreed to some of the US demands on agriculture. Similarly, the US also came out in support of some of the environmental issues that were being proposed by the EU, in return for the EU's acceptance of the US proposal for the biotechnology working group. In the end, however, the talks collapsed and the deals were left undone.

the fourth ministerial conference, doha 9-15 november 2001

The WTO's fourth Ministerial Conference took place in the shadow of September 11th (in fact just two months later) which significantly influenced its outcome. The US in particular, as part of its effort to round up a coalition of states to combat terrorism, was able to insist that support for the multilateral trade system was essential from any country claiming to be opposed to terrorism. This extra pressure not to upset the trade 'apple cart' allowed the WTO to put together a package of negotiations. It also allowed the EU to push through agenda items on the 'new' or 'Singapore' issues, making the launch of negotiations a key agenda item for the next Ministerial (in Cancún). The fact that the location of the Ministerial was both small and remote also meant that there was no sizeable civil society representation (around 200 civil society NGOs were permitted access).

The main outcome of the Ministerial was the effective launch of a new 'round' of trade negotiations, since all negotiations agreed to (with the exception of those about dispute settlement) are considered to be part of a 'single undertaking' (which means that the deal is not complete until all parts have been agreed, effectively linking the different sectors). The Doha Declaration brought together the on-going 'built-in' agenda items (already mandated by the last Uruguay Round of negotiations) such as agriculture and services, and new negotiations on issues including implementation and special and differential treatment, market access for non-agricultural goods, TRIPs, rules on anti-dumping and subsidies, trade and the environment, regional agreements and dispute settlement.

From the point of view of many civil society organizations, one of the high points of the Ministerial was the final agreement on TRIPs and publ c health. This is intended to permit developing countries to secure medicines at reasonable cost (through procedures such as parallel importing or compulsory licensing of generic drugs). (To read the Declaration on TRIPs and Public Health, go to **http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm**)

However, the United States, under pressure from its pharmaceutical industry, has since back-tracked on this agreement to the consternation of developing country WTO members. As a result it remains an issue of considerable controversy.

The other principle point of disagreement in Doha concerned the extraordinary manoeuvres employed by both the EU and the WTO Secretariat to ensure that the EU's goal of including the Singapore issues (investment, competition, trade facilitation and government procurement) in the new set of negotiations would be met. For example, draft proposals from developing countries were excluded from the final draft text sent to Doha for consideration by Ministers and no differences of opinion were reflected (leaving Ministers in Doha to assume that there had been agreement where there had in fact been none). Calls were made to Ministers in developing country capitals (as opposed to their more knowledgeable trade negotiators in Geneva), along with suggestions that a WTO waiver, that allows the EU/ACP Cotonou partnership agreement to exist, might be removed. Negotiations were also extended throughout the final night to force through agreement. (FGS, 2002). Nevertheless, India resisted until the end, managing to secure a note from the Chairman clarifying that negotiating modalities on the 'new issues' would only be agreed by explicit consensus, leaving room for developing countries to reject those issues at the next Cancun Ministerial.

Doha was also notable in that trade and environment – especially the relationship between WTO rules and multilateral environmental agreements - became an issue for formal negotiation rather than discussion.

the world trade organisation - past, present and future

the fifth ministerial conference cancún, mexico, 10 – 14 september 2003

(This section contains a general overview of WTO negotiations in 2003 and prospects for the Cancún Ministerial. For a detailed explanation of FOEI's position on each of these issues, please refer to FOEI's 2003 Cancún position papers published separately at www.foei.org/Cancun)

Following the Doha Ministerial, the EU and US Governments, along with the WTO Secretariat, have many of the negotiations they want up and running, as a package or 'round' that is supposed to be completed by January 2005. Bearing this in mind, one would expect the EU and the US to portray or 'spin' the WTO's 5th Ministerial meeting in Cancún as little more than a mid-term review of the set of negotiations already agreed. Their main priority would therefore be to give the impression that negotiations are proceeding reasonably well and that the trade 'bicycle' is riding along smoothly.

However, there are numerous pot-holes in the road, which may well cause the trade bicycle to fall over completely. Curiously, most of them are of the US's and the EU's own making. They can be broadly categorized as tensions between (i) the EU and developing countries; (ii) the US and developing countries; and (iii) the EU and the US. These tensions have developed dramatically in the months since the Doha package was agreed and look all set to bring the Cancun ministerial grinding to a halt. (They are also remarkably similar to the intergovernmental dynamics in position before the 3rd Seattle Ministerial).

In particular, the EU's determination to force the new 'Singapore' issues onto the WTO's agenda in the face of developing country opposition, whilst at the same time resisting pressure to alter its domestic agricultural support systems, is likely to be a key flash-point. (see 'Agriculture' and 'Investment', below).

This is likely to be compounded by US intransigence (coupled with EU resistance) when it comes to resolving the issues that are of most importance to developing countries – in particular, the implementation (or lack of implementation) of previous WTO agreements; and special and differential treatment for developing countries. The US has also, single-handedly, prevented the conclusion of a working agreement on TRIPs and public health. All of these negotiations are currently stalled and dead in the water.

Finally, in spite of the fact that they are both members of the powerful 'Quad' grouping (which also includes Canada and Japan), the EU and the US fail to see eye to eye with each other on a number of issues (although this is not necessarily true of their chief respective trade negotiators, Pascal Lamy and Robert Zoellick). Lingering disagreements over numerous previous WTO disputes, and current rows over trade in biotechnology and food aid, could all contribute to what is shaping up to be an explosive mix in Cancún.

A failure to reach agreement in Cancún would mean that the WTO would be most unlikely to meet its overall negotiating deadline, which has been set at 1 January 2005. It would also severely damage the WTO's credibility.

Key issues being negotiated include the following:

agriculture

As with all WTO negotiations, the agriculture negotiations are ostensibly about liberalisation (ie opening markets and reducing domestic and export support). They began in early 2000, under Article 20 of the WTO Agriculture Agreement. The Doha declaration then set deadlines for the negotiations (1 January 2005).

The Cairns group of agricultural exporters is targeting agricultural subsidies in Europe. (The Cairns group consists of Australia, Canada, New Zealand and a number of developing countries including Argentina, Brazil, Malaysia and Thailand, all of whom operate with few or without agricultural subsidies). However, any such change (which would be delivered via reforms to the EU's Common Agricultural Policy) can be expected to generate intense opposition amongst European farming and rural communities and is likely to be extremely difficult for the EU as a whole to deliver (although it may try to argue that it has *already* delivered through previous reforms of the CAP).

A number of developing countries are also pushing to be allowed to protect their domestic agricultural production from the impact of cheap imports (which undercut local production and undermine domestic food security) through the designation of "special products to be protected and for the provision for special safeguard measures.

the world trade organisation - past, present and future

As countries jockey for position in the agriculture negotiations, all eyes will be on the EU in Cancun. If it makes or is perceived to have made no significant movement on this issue, talks will stall. However, if it succeeds in convincing other countries that it has or will change its agricultural support systems or market access limitations, there may then be movement in other sectors. But would this be a good move?

The answer is no. What has actually happened over the last decade (since the Uruguay Round was completed and the Agreement on Agriculture signed) is that the developed world has succeeded in maintaining high levels of domestic support, continuing to subsidise its own farmers (primarily the wealthiest ones), whilst forcing open developing country markets and inducing those same countries to focus their own production on export markets. At the same time, the TRIPs Agreement is being used by large agribusiness transnationals to expropriate knowledge from farmers and indigenous peoples in developing countries. As far as large farms and agribusiness are concerned, both in the North and the South, this mix has been a recipe for success. For small farmers, local food economies and the environment it is an ongoing disaster.

These factors need to be borne in mind when considering the current state of negotiations. What might further agricultural liberalisation be expected to achieve? One can only answer that, on the basis of past experience, any outcome will probably benefit large agribusinesses able to invest in and benefit from increased international trade in agricultural products. There is little on offer in the current negotiations for small farmers in the South (with the possible exception of the special safeguards clauses if those survive negotiations) or for the maintenance or development of sustainable agricultural systems.

*(For further information from FoEI about food sovereignty and about the impacts of trade liberalisation on people and their environment, go to **www.foei.org**).*

services

GATS 2000, the WTO's negotiation to liberalise services, is now well underway, with many countries, including the US and the EU, having tabled requests for others to open various service sectors, including water and energy services, air and maritime transport, tourism, and health and education services. Many of these could have extensive environmental and developmental implications, for example access to water supplies, increased pollution from transport and increased fossil fuel extraction. Furthermore, environmental services listed focus on 'end-of-pipe' post-pollution services (in other words, remedial services that apply after a problem has occurred).

Although countries should now be responding with offers and entering into bilateral negotiations with each other, what is actually happening is that various countries (especially the developing countries whose markets are being targeted for market liberalization) are waiting to see what happens with other negotiations in which they have an interest and negotiations are proceeding very slowly (for further information go to ***wwww.gatswatch.org***). As of mid-June 2003, only 26 countries, most of them developed, had submitted their initial offers in response to the initial requests. The Doha Declaration set a deadline of 1 January 2005 for the conclusion of the GATS negotiations. *(For more information on FOEI's position on GATS go to www.foei.org)*

non-agricultural goods

Another key strand of negotiations focuses on increasing market access for industrial (ie non-agricultural) goods, particularly by targeting high tariff 'peaks' and tariffs that discriminate against value-added products (this tariff 'escalation' discourages exporters from processing their raw materials before exporting them and, as a result, protects processing industries in the importing countries).

Pre-Cancun proposals have included the complete elimination of tariffs in seven sectors, including electronics and electrical goods, fish and fish products and stones, gems and precious metals (with potential environmental impacts in all three sectors). Some countries have also suggested including forest products and energy products, as "environmental goods", within the scope of the non-agricultural goods negotiations. The "environmental goods" negotiations required under Paragraph 31(iii) of the Doha Ministerial Declaration has been subsumed under the broader non-agricultural goods negotiations. The way in which liberalisation negotiations will take place in other industrial sectors is also up for grabs, with deep divisions emerging between developed and developing countries. In particular, the outcome of obscure negotiations over tariff-reducing 'formulae' – which will determine the extent to which different countries open their markets - could have very significant impacts on developing countries with higher tariffs and on tariffs in environmentally-sensitive sectors. These negotiations will also, at some point, focus on non-tariff barriers (ie health and environmental standards), but nothing specific is known about these discussions yet.

developing country issues – special and differential treatment and implementation issues

The Doha Ministerial Declaration required countries to also negotiate on, and provide for clear solutions to, issues that have been raised by developing countries in the WTO since 1996 – i.e. how to operationalise and make more effective the special and differential treatment provisions in favor of developing countries, and how to address the implementation (or non-implementation) of current WTO agreements in a manner that would favor developing countries.

These negotiations were supposed to have been concluded, or at least substantially advanced, by the end of 2002. However, developed countries (led by the US and the EU), despite their rhetoric about supporting the development needs of developing countries, have continued to oppose any changes in the WTO rules that would provide developing countries with more trade policy flexibility and trade opportunities that they have requested. Proposals submitted by developing countries are warped to reflect developed country perspectives, or dropped from the negotiating agenda altogether. The tactic of insisting that a particular issue be discussed in a non-negotiating forum has also been used by developed countries to block negotiations on that particular issue. Hence, due to the resistance shown by developed countries to the proposals submitted by developing countries in these negotiating areas, the negotiations have bogged down and the end-2002 deadlines were missed.

investment

Investment liberalisation is one of the highly contentious 'new' issues that the European Union has been trying to insert into the WTO's agenda since before the first Singapore Ministerial in 1996. In Cancun, WTO member states are scheduled to decide whether to proceed with investment negotiations based on an "explicit consensus" concerning the modalities (parameters) for those negotiations. This was finally agreed at the Doha Ministerial, when the European Union and its allies applied extraordinary pressure to the many developing countries that do not want these negotiations to take place. Since then, however, there has been much debate about whether or not developing countries will be able to use the Doha language (including a final clarifying note from the Chair in Doha, written at India's request) to block further negotiations.

To a certain extent, investment is already dealt with under the WTO's Agreement on Trade-Related Investment Measures (TRIMs). TRIMs – which only applies to trade in goods - bars countries from imposing several kinds of performance requirements (conditions) on foreign investors. TRIMs obligations were supposed to apply to developing countries from 1999/2000 but this is now the subject of further negotiation within the WTO under 'implementation' (as developing countries have experienced great difficulty in implementing even the Uruguay Round agreements). Investment in services is also under discussion as part of the ongoing GATS Negotiations (where it is referred to as 'Mode 3').

A key question in Cancun will be whether the EU and its partners succeed in their efforts to establish what is effectively a bill of rights for transnational corporations, significantly extending the reach of existing provisions. For example, a new investment negotiation could:

- Stop governments acting to develop their domestic industries, with severe implications for developing countries;
- Be used to challenge environmental and public protection policies and to claim compensation for 'expropriated' investment (as has happened in North America under NAFTA);
- Establish a new dispute settlement system that allows companies to challenge governments directly, at the international level (again, as in NAFTA);
- Prohibit the use of capital controls that can be critical to creating a stable context for sustainable development; and
- Make the considerably more stringent

provisions of some existing bilateral investment treaties (BITs, between two countries) multilaterally binding.

Investment liberalisation remains hugely controversial following the demise of the Organisation for Economic Co-operation and Development (OECD)'s similar proposed Multilateral Agreement on Investment (MAI) (MAI negotiations ceased in 1998 due to disagreements between governments and pressure from civil society groups.)

The strongest proponents of WTO investment negotiations have been the European Union, Japan, Switzerland, Norway and South Korea. However, investment negotiations have been opposed by a number of developing countries, including India, Malaysia, Zimbabwe, Tanzania, Zambia, Kenya, Belize, Uganda and Sri Lanka. India remains outspoken in its opposition and may refuse to agree to the required 'explicit consensus' in Cancun. The US, whilst not a vocal supporter of an investment treaty in the WTO (no doubt because of the benefits it derives through its own bilateral investment treaties), is nevertheless calling for any agreement to apply to a broad range of types of investment (ie portfolio investment as well as FDI).

competition policy, government procurement and trade facilitation.

These three issues are also 'Singapore issues'. Like investment, they were proposed by the European Union at the WTO's first Singapore Ministerial in 1996. In spite of stiff opposition from developing countries, the EU continues to try to force these issues onto the WTO's agenda (and to insist that that they be accepted as a package). They are also likely to be controversial in Cancun.

'Competition policy' may turn out to be a deceptive term for the proposed negotiations. International rules that would effectively stop the mega-merger-mania that has recently been sweeping the globe and placing larger amounts of trade into the hands of a smaller and smaller number of giant transnational corporations, would indeed be beneficial (if developed outside the WTO). However, whilst hard core cartels do get a mention, the European Union's proposals are primarily focused on another kind of competition – domestic competition regulations that might constitute trade barriers to foreign TNCs. Removing these regulations could in fact undermine the ability of developing countries to control their economies and foster their own domestic companies. Furthermore, the EU's proposal would allow the WTO to oversee the development of national competition law, ensuring conformity with WTO rules.

Government procurement is particularly significant for some of the poorest developing countries, where the government is the main economic agent (ie a significant proportion of GDP is being handled via government contracts). Developing countries are suspicious of any discussions that could lead to deregulation and the prohibition of their right to control government procurement. However, the industrialised countries are keen to gain additional market access in the developing world by forcing government procurement decisions to be as transparent as possible, 'non-discriminatory' and subject to the WTO's binding dispute resolution system.

Government procurement could also be an issue of concern for local authorities in many different countries. For example, binding WTO rules on procurement could discourage officials from promoting 'green procurement' that favours environmentally beneficial products (such as certified wood from sustainable sources, minimum recycled content in paper or energy efficient vehicles). Whilst it is difficult to predict the precise nature of investment liberalisation or government procurement negotiations, should they go ahead, there is certainly a possibility that any such negotiations could eventually undermine local or national government mechanisms to protect local economies and the environment, including procurement conditions. At worst, even if an agreement were only to focus on transparency (as currently proposed) there could be a risk of local authorities facing significantly higher implementation costs and the risk of being drawn into international legal disputes and massive compensation payments, which would undoubtedly see off all but the bravest of legislators.

There is already an Agreement on Government Procurement in the WTO. It covers such issues as transparency and non-discrimination but it is plurilateral and is only signed by about 30 countries. At the First WTO Ministerial in Singapore, it was agreed to set up a working group on Transparency in Government Procurement to further transparency issues with the intention of developing elements to include in an eventual multilateral agreement. Many developing countries remain adamantly opposed to launching negotiations on Government Procurement, as proposed by the EU.

Trade facilitation negotiations are intended to dismantle the bureaucratic hurdles importers have to jump. Whilst this sounds reasonable, from the environmental perspective, such negotiations could be significant were they to focus on removing 'bureaucratic' health and environmental regulations enforced at borders.

trips

The Agreement on Trade-Related Intellectual Property Rights (TRIPs) impacts on peoples' ownership of and access to food and seeds and has the potential to significantly reduce genetic diversity. It permits northern TNCs to claim traditional plant varieties or plant uses as 'inventions' that must be respected the world over. TRIPs was first brought into the GATT in the Uruguay Round and implemented in a way that favoured large Northern corporations. TRIPs and the use of patents expropriates knowledge from farmers and indigenous peoples in developing countries who, in many cases, have been cultivators, researchers and protectors of plants for thousands of years. This practice is commonly referred to as 'biopiracy'. Biopiracy is not the result of the absence of intellectual property right (IPR) systems in the developing world but a direct consequence of the imposition of western style IPR systems (based on the US patent regime) through the TRIPs Agreement.

The TRIPs negotiations are currently focused on the issue of public health – may developing countries sidestep the provisions of TRIPs if they need to provide cheap 'generic' medicines, to combat malaria and HIV/AIDS as well as other diseases, such as cardiovascular disease, to the poor in their countries? It was thought that agreement had been reached on this in Doha – indeed it was considered by many to be one of the only positive outcomes of that Ministerial. However, the US, at the insistence of its pharmaceutical industry, has since backtracked on this agreement, and negotiations have focused on the import of such generic drugs by countries that don't have any productive capacity (with the implication that those countries might sell them on, simply to make a profit). This also promises to be a flash-point in Cancun.

The TRIPs negotiations are also focusing on 'geographical indications' (labels which indicate that a product is from a particular region). The 5th Ministerial is the deadline for developing a register of geographical indications for wines and spirits. There is also debate as to which products from which countries should receive what level of protection.

Mandated reviews of TRIPs in its entirety (including its compatibility with the Convention on Biodiversity) and TRIPs Article 27.3(b) (which deals with patentability or non-patentability of plant and animal inventions, and the protection of plant varieties) appear to be moving slowly if at all.

multilateral environmental agreements (meas)

Environmental issues continue to be pushed strongly by the EU. Negotiations in the Committee on Trade and Environment (CTE) have focused primarily on the compatibility or otherwise of existing WTO rules and specific trade obligations in multilateral environmental agreements. They are scheduled to be concluded by 1st January 2005.

There are approximately 200 multilateral environmental agreements in place today, a number of which contain provisions related to trade and trade rules. In addition, trade measures constitute one of the most important instruments for effective national implementation of MEAs. The CTE's task is to clarify the relationship between these trade obligations and WTO rules. Some Member states have suggested focusing on the relationship between the WTO and those six MEAs whose trade obligations are considered to be 'specific' and 'mandatory' in nature. Other countries propose to focus not only on specific and mandatory trade obligations but to include the national trade measures used to implement MEAs as well. As a result, the discussion currently underway in the WTO is focusing primarily on the following MEAs and the 'specific trade obligations' they establish, although it has not ruled out a broader approach:

- The Montreal Protocol, which regulates the production, consumption and export of substances which damage the ozone layer (chlorofluorocarbons - CFCs);

- The Basel Convention which controls trade or transportation of hazardous

waste across international borders;
- The Convention on International Trade in Endangered Species (CITES);
- The Cartagena Protocol on Biosafety, which regulates trade in genetically modified organisms;
- The Stockholm Convention on Persistent Organic Pollutants; and
- The Rotterdam Convention on the Prior Informed Consent Procedure (PIC) for Certain Hazardous Chemicals and Pesticides in International Trade.

Most of the intergovernmental discussion since the Doha decision to negotiate on the relationship between MEAs and trade rules has focused on how to structure the negotiations. The principle question has been *how to define a specific trade obligation* (STO). Whereas most countries support the initial proposal of Australia to look at specific and mandatory trade provisions only, some countries, led by the EU and Switzerland, are in favour of a broad definition which includes national implementation measures, Conference of the Parties (COP) decisions and other MEAs such as the Convention on Climate Change and the Kyoto Protocol.

These apparent details could have extremely important consequences for MEAs. For example, the use of trade measures that are left to the discretion of MEA members could be deemed to be WTO-inconsistent. So too could decisions taken by the MEAs' COPs that are not codified in annexes or protocols or ratified by the full membership.

In general, there is a very significant risk that the negotiations could result in the WTO:

- Setting rules or criteria for the use of trade obligations in current and future MEAs;
- Defining a set of MEAs, or a set of specific trade obligations, that are WTO- consistent and thereby deeming others to be WTO-inconsistent regardless of their merits;
- Making provision for WTO supervision of national implementation of MEAs resulting in a limitation of governments' rights to regulate in favour of the environment; and/or
- Setting rules that may effectively prevent the adoption or implementation of MEA-mandated trade measures by any WTO Member or MEA Party.

The alternative conceptual approach, asking for a political statement about the relationship between the WTO and MEAs, as proposed by the EU and Switzerland, is also unlikely to offer any safeguards for MEAs. The main reason for this is that the WTO will never decide any wording that would go beyond "mutual supportiveness", which is effectively the status quo. The WTO would certainly not put environmental rules above trade rules. A statement about mutual supportiveness will mean little should a conflict between a MEA and a WTO agreement arise.

There has also been debate in the CTE on trade measures in specific sectors such as forests and energy, with clear lines of disagreement emerging between those who think these issues should be considered in the WTO; and those who believe they should be dealth with in other "appropriate" fora (such as the Kyoto Protocol). This presents another potential hazard for MEAs.

In short, whatever approach is taken, no 'safety net' for MEAs is likely to be forthcoming in Cancun. As a result, FoEI and other NGOs are calling for the negotiations to be removed to a more neutral forum, such as the UN.

(For details of FOEI's position on MEAs see www.foei.org)

biotechnology and other issues

Notwithstanding the successful negotiation of the Biosafety Protocol, there is still a possibility that trade in biotechnological products could creep onto the WTO's agenda before or during Cancun, not least because of ongoing transatlantic hostility over hormone-treated beef and genetically-modified organisms and products (including the new US challenge to the EU's *de facto* moratorium on GM products). It is possible that talks on biotechnology could crop up in any one of a number of the proposed WTO negotiations, including reviews of the TRIPs Agreement (see TRIPs above), as part of agriculture, or separately, as a new, 'stand-alone' issue.

(Full details of all of FOEI's positions on the above issues can be found at www.foei.org.)

conclusion

The world needs trade rules that reflect society's current values and needs. Existing trade rules and institutions and indeed the current global economic system are out of date and do not do this. Instead, they have contributed to increasing global inequality as well as undermining biological and cultural diversity. They are still based on the pursuit of profit regardless of social and environmental costs; and inequitable access to, and the overuse of, limited natural resources. Critically, current rules also prevent the maintenance and development of locally-appropriate and sustainable systems of commerce. A new and sustainable framework for the regulation of trade for the twenty-first century needs to be based on the principles of democracy, equity, reduced consumption, co-operation and caution. In order to achieve such a framework, broad reform of the global economy is a prerequisite.

For these reasons, it is vital that governments reject proposals to expand the mandate of the World Trade Organisation. They should agree instead to review and rectify both the current trade system and the economic context within which that system operates. It is time to develop a system of international trade that promotes self-determination, environmental protection, sustainable livelihoods, equity and cultural diversity, amongst all nations and people.

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contacts

contact details for friends of the earth International's trade, environment and sustainability Programme

international

Ronnie Hall
FoE (England, Wales & Northern Ireland)
26-28 Underwood St.
London N1 7JQ
United Kingdom
Tel: 44 20 7490 2665
Fax: 44 20 7490 0881
E-mail: ronnieh@foe.co.uk
Web Site: www.foe.co.uk

africa

Theo Anderson
FoE Ghana
Private Mailbag
General Post Office
Accra
Ghana
Tel: 233 21 512312
Fax: 233 21 512313
E-mail: foeghana@africaonline.com.gh

asia

Meenakshi Raman
Sahabat Alam Malaysia
27 Lorong Maktab
10250 Penang
Malaysia
Tel: 60 4 227 6930
Fax: 60 4 227 5705
E-mail: meenaco@pd.jaring.my
Web Site: www.surforever.com/sam

central america

Ambika Chawla
COECOCEIBA-FoE Costa Rica
PO Box 12423-1000
1000-San José
Costa Rica
Tel / Fax: 506 223 3925
E-mail: ambika_chawla@yahoo.com

europe

Alexandra Wandel
Friends of the Earth Europe (FoEE)
29, rue Blanche
B-1060 Brussels
Belgium
Tel: 32 2 5420185
Fax: 32 2 5375596
E-mail: alexandra.wandel@foeeurope.org
Web Site: www.foeeurope/trade/about.htm

latin america

Alberto Villarreal
REDES - FoE Uruguay
San Jose 1423
11 200 Montevideo
Uruguay
Tel/fax: 598 2 9082730
E-mail: comerc@redes.org.uy

north america

David Waskow
FoE (United States)
1025 Vermont Ave, NW, 3rd Floor
Washington DC 20003
United States
Tel: 1 202 783 7400
Fax: 1 202 783 0444
E-mail: dwaskow@foe.org
Web Site: www.foe.org

www.foei.org

friends of the earth international secretariat
po box 19199, 1000 gd amsterdam, the netherlands
tel: 31 20 622 1369. fax: 31 20 639 2181. e-mail: foei@foei.org

Friends of the Earth International