Open Letter
on
Institutional Reforms in the WTO

October 2001

Introduction

For several months now, the WTO has been preparing for its first Ministerial meeting since the debacle in Seattle in 1999. However, current processes and procedures illustrate that the systemic inequalities and imbalances — which were so graphically exposed in Seattle — remain to be acted upon. WTO processes and negotiations are dominated by a few powerful countries, many delegations continue to be excluded from informal consultations, and not much has been done to level the playing field. The treatment of transparency issues in the draft Ministerial Declaration for Doha is totally inadequate. In addition, restrictions on the number of civil society representatives allowed to attend the Doha Ministerial Meeting has reinforced the widespread perception that the WTO is closed to public scrutiny and participation.

As WTO members meet for the final stretch of negotiations on the draft Ministerial declaration before Doha, the undersigned NGOs urge them to seriously address the systemic inequalities and imbalances, which have prevented them from making meaningful progress on key substantial issues and continue to cast doubts on the legitimacy and transparency of the multilateral trading system. This open-letter focuses on issues and concerns related to internal and external transparency.

Internal Transparency

Imbalances in the WTO system prevent developing countries from adequately participating and influencing international trade and their negotiations. Concerns include the following:

- Informal processes of consensus building have placed developing countries at a disadvantage. Problematic practices include a lack of transparency in the agenda setting of small open-ended group meetings and the tendency to rely on the Chairperson as mediator and facilitator of negotiations in the absence of clear rules on procedure. The small group meetings are viewed by some WTO member delegates as a mere exercise in public relations which does not lead to any of their views being taken on board.

- The average size of a developing country WTO mission in Geneva is 3.51 compared to 7.38 for developed countries. This affects their capacity to promote their national interests. In addition, twenty least developed and developing members, as well as eleven observer countries and those in the process of accession, have no permanent mission in Geneva.

- The number and frequency of the open-ended meetings, which have increased in the context of on-going negotiations, have also negatively affected the participation of developing countries, and have not been matched by greater technical and/or financial assistance. There are far too many meetings with overlapping schedules.

- The lack of transparency around the selection of Chairs for committees has also become an issue for some WTO members.

- Recently, the way in which the Director General and some staff of the secretariat have pushed the trade liberalisation agenda and the idea of launching a new trade round at Doha, despite opposition from many developing country members, has raised questions on the consistency and "neutrality" of the WTO secretariat in this so-called "member-driven" organisation. Some delegates have even referred to the "Anglo Saxon" atmosphere of the WTO, in part the result of the very weak representation of developing countries in the composition of the Secretariat staff. Of the current 512 staff, 410 are from developed countries compared to 94 from developing countries.

External Transparency

Trade policy cannot be left in the hands of a few to decide for the majority. Trade ministers in many cases represent or listen only to certain segments of business interests. This often results in policy outcomes that are unbalanced or otherwise lack legitimacy. It is crucial to ensure that those affected by trade and its effects, such as farmers, women producers, parliamentarians, and ordinary citizens, have a say in developing trade rules and policies.

Rebalancing policy-making has major benefits to the multilateral trading system. It lends legitimacy, provides better rules and more importantly better substantive outcomes in terms of maximising the contribution of trade rules to the welfare of the people and communities it is supposed to serve.

Nonprofit public interest nongovernmental organisations (NGOs) groups have a major role to play in rebalancing trade policy, to ensure that it serves the poor and the environment. WTO members should continue to harness the creativity and support of civil society. Failure to engage with NGOs has already proved problematic for the WTO. Increasing protests against powerful economic institutions demonstrate public suspicion and mistrust of these institutions. This mistrust must be addressed through open discussion, information sharing and subjecting decisions to public scrutiny at both the multilateral and national levels.

At the international level, to increase its openness and accountability, the WTO should initiate discussion on the following reforms:

- Creation of an accreditation system for non-profit and public-interest organisations. The undersigned NGOs and others express our willingness to work with the WTO and its members to identify appropriate guidelines for such NGO accreditation system that are based on other existing models for NGO accreditation and participation in other international intergovernmental bodies (such as those established in the UN Economic and Social Council). Participation of nonprofit public interest NGOs from developing countries in the development of accreditation and consultation systems and guidelines should be actively sought.

- Development of a more effective system of consultations with other International Organisations such as the Convention on Biological Diversity and the United Nations Human Rights Bodies.

At the national level, a number of specific reforms could be considered :

- Development of guidelines for national consultation with relevant stakeholders, and particularly, the marginalised sectors in trade policy making. In addition, the WTO embodies many procedures to ensure transparency in the implementation of its rules. This is done for example in transparency obligations in the TBT Agreement (Art 14.3 and Annex 2). There is no reason why its members should not agree on basic rules to ensure transparency in formulation of WTO-related policies at the national as well as at the international level.

- Creation of additional national parliamentary scrutiny of developments at the WTO to ensure that they

are consistent with, and do not undermine, parliamentary prerogatives, and the interests of sub-national bodies.

- Provision of support to developing countries and particularly the least developing countries in the conduct of national consultations. Such assistance must be focused on building capacity rather than promoting a trade liberalisation agenda. Such consultations must be broad-based and participatory and be made available also to local civil society groups.

The undersigned NGOs acknowledge that the solutions to the systemic problems need to be strategically planned and implemented in a series of manageable steps. However, it is urgent that this process begins at the Fourth Ministerial Meeting. In this context, the undersigned NGOs call for:

A decision by Ministers at the Ministerial Conference to instruct the General Council at its first meeting, to develop a comprehensive work program on Institutional Reform, covering both internal issues (capacity building, meetings, decision-making, reform of dispute settlement measures) and external issues (NGO accreditation, cooperation mechanisms with IGOs, parliamentary oversight, national consultation guidelines). The General Council should develop recommendations for reform and report back to Ministers at the Fifth Ministerial.

In considering the above proposals, there is a need to recognise the concerns of developing countries that wider public participation in the WTO will play into the hands of Northern economic interests. This would disadvantage the weaker members of the system, and further imbalance the policy-making process, which increased participation, is supposed to correct. We therefore urge developing countries to put forward proposals to advance discussions on institutional reform and systemic issues in consultation with civil society groups in their countries.

Conclusions

The WTO is facing a fundamental crisis of legitimacy. Systemic inequalities and imbalances mean that the WTO has not effectively lived up to its developmental mandate. This calls into question not only how its institutional structure addresses development concerns, but also the very premise of the trade rules and processes that the institution is responsible for managing. The lack of external oversight as well as internal accountability to the majority of its members have given a few WTO members disproportionate control in determining the direction and progress of global trade policy without taking into account and effectively addressing the negative impacts that implementation of such global trade policy through trade liberalisation has had on people and the environment.

The legitimacy of the WTO depends not on the economic interests represented by transnational corporations and the governments of major developed countries, but rather on how its actions and policies contribute to improving the lives of poor communities, particularly in the South. WTO rules and policies need to respect and reflect the development needs, goals and priorities of the poor and the impacts of trade related economic activities on the local, national and global environment.

WTO members need to act decisively to protect the integrity and legitimacy of the multilateral trading system. Absent the significant reforms proposed above, support for the WTO will further diminish, both among its members and the public at large. WTO needs to show leadership and to demonstrate that it is institutionally capable of accepting the challenges it faces. The upcoming Ministerial conference provides WTO members with a clear opportunity for acting on institutional reform concerns.

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