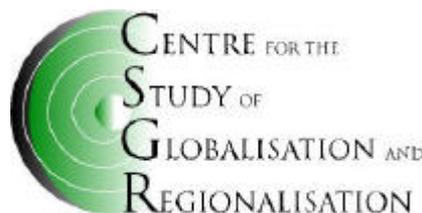


The WTO and Civil Society

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Abstract:

In line with a general trend in contemporary global governance, the World Trade Organization has been developing increased links with civil society groups. If conducted well, these contacts can make important contributions towards greater effectiveness and democracy in the global trade regime. If handled poorly, however, the relations can undermine policy and undercut democracy. Already the WTO and civic associations have taken notable steps to increase the quantity and quality of their mutual exchanges. Yet major resource constraints and deeper structural impediments have to date prevented a fuller development of this dialogue.

Keywords: civil society, democracy, World Trade Organization.

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Global Governance and Civil Society

The creation of the World Trade Organization (WTO) has reflected and reinforced an important structural shift, in the face of large-scale globalization, from statist to post-sovereign governance. At the close of the twentieth century, regulatory activities are no longer always centred on or subordinated to the state. Instead, much governance has become spread across a host of substate (e.g. municipal and provincial), state, and suprastate (e.g. regional and transworld) institutions, as well as a number of private organizations such as credit-rating agencies and foundations. None of these sites of authority holds a clear, complete and consistent primacy over the others.¹

Contemporary accelerated growth of supraterritorial flows has made sovereignty (in its traditional sense of absolute, supreme, comprehensive, unilateral state control over a given territorial jurisdiction) unworkable. Recent intensified globalization has broken the Westphalian mould of politics. To be sure, the end of sovereignty has in no way meant the end of the state. On the contrary, many states (especially those of the OECD countries) have in recent history grown in size, acquired new policy instruments, and expanded their competences. However, the unprecedented proliferation since mid-century of global communications, global ecological problems, global finance, global production, global markets, global organizations and global consciousness has made *sovereign* statehood impracticable.

In these circumstances, regulators have devised numerous substate, suprastate and private-sector mechanisms to supplement or even in some respects to supersede rule by states.² A key challenge in our contemporary globalizing world is to construct

¹These and the following general points are elaborated in J.A. Scholte, 'The Globalization of World Politics', in J. Baylis and S. Smith (eds), *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 1997), pp. 13–30; Scholte, 'Global Capitalism and the State', *International Affairs*, vol. 73, no. 3 (July 1997), pp. 427–52; Scholte, 'Globalisation and Governance', in P. Hanafin (ed.), *Identity, Rights and Constitutional Transformation* (Aldershot: Dartmouth Publishers, forthcoming).

²See, with respect to the WTO, M. Hart, 'The WTO and the Political Economy of Globalization', *Journal of World Trade*, vol. 31, no. 5 (October 1997), pp. 75–93; A. Tita, 'Globalization: A New

effective and democratic governance out of what has become multilayered and often fragmented authority. How can policy formulation, implementation and review be properly coordinated in decentred governance? How can post-sovereign conditions be fashioned to yield adequate popular participation, open debate, consultation and representation as well as transparency and democratic accountability?

The WTO is a prominent instance of growing supranational governance in the globalizing world of the late twentieth century.³ The new organization has given transworld regulation of trade a permanent institutional framework. The WTO's remit has rapidly expanded to cover not only cross-border movements of manufactures, but also trade in agricultural products and various services, intellectual property issues, foreign direct investment, trade and environment questions, competition policy, and more. The WTO Trade Policy Review Body conducts periodic supranational surveillance of member governments' commercial measures. The organization's Dispute Settlement Body received over a hundred complaints during its first three years of operation, while the General Agreement on Tariffs and Trade (GATT) faced less than a hundred cases during the preceding half-century.

Although the operations and authority of the WTO integrally involve states, the global trade regime also has some relative autonomy from and power over the governments that subscribe to it. For one thing, the forces of globalizing markets and currently prevailing ideologies have been such that states are heavily constrained to join the WTO. Although, formally, membership has been a matter of 'sovereign choice', in effect governments have had little option but to approve the Uruguay Round accords. Moreover, by Article XVI (4) of the Marrakesh Agreement Establishing the World

Political and Economic Space Requiring Supranational Governance', *Journal of World Trade*, vol. 32, no. 3 (June 1998), pp. 47–55.

³See, e.g., B.M. Hoekman and M.M. Kostecki, *The Political Economy of the World Trading System: From GATT to WTO* (Oxford: Oxford University Press, 1995); J. Croome, *Reshaping the World Trading System: A History of the Uruguay Round* (Geneva: World Trade Organization, 1995); A.O. Krueger (ed.), *The World Trade Organization as an International Institution* (Chicago: University of Chicago Press, 1997); J.H. Jackson, *The World Trade Organisation* (London: Cassell, 1998).

Trade Organization, member-states commit themselves to alter their laws, regulations and administrative procedures to conform with the suprastate trade regime.⁴ Alleged violations of WTO rules are considered by panels of experts whose decisions are binding unless *every* state party to the global trade regime (including the initial complainant) votes to overturn the advice.⁵ Already, even powerful states like Japan and the USA have received guilty verdicts from the WTO. More broadly, too, the consensus principle that prevailed in GATT operations from 1948 to 1994 has given way to a majority vote principle in its successor.⁶ In addition, states may not make any reservations in respect of their membership of the WTO.⁷

Not surprisingly, given this substantial growth in both the range and the authority of global trade law, many civic groups have developed considerable interest in the WTO. As an important influence on the distribution of resources worldwide, the institution has come to occupy a prominent place on the agenda of numerous business lobbies, labour unions, farmers organizations, environmentalist groups, women's associations, development cooperation groups, consumer unions, human rights advocates, think tanks, and other elements of civil society. Many of these nonstate actors have sought direct contact with the WTO, bypassing government authorities in order to interrogate and lobby the multilateral institution itself.

This increase in approaches from civic organizations to the WTO has flowed in part from the recent enormous growth in civil society across most of the world. In the present context, 'civil society' refers to a broad collectivity of non-governmental, non-commercial, more or less formal organizations. It encompasses all those groups that, from outside official circles and firms (though sometimes closely linked with them),

⁴*The Results of the Uruguay Round* (Geneva: World Trade Organization, n.d.), p. 17.

⁵*Ibid*, pp. 405, 417. For further details see E.-U. Petersmann, *The GATT/WTO Dispute Settlement System: International Law, International Organizations, and Dispute Settlement* (London: Kluwer Law International, 1997), ch. 5.

⁶Article IX (1) – see *Results of the Uruguay Round*, p. 11.

⁷Article XVI (5) – see *ibid*, p. 17.

pursue objectives that relate explicitly to reinforcing or altering existent rules, norms and/or deeper social structures.

One leading researcher of civil society has described (albeit perhaps with some hyperbole) 'a global "associational revolution" that may prove to be as significant to the latter twentieth century as the rise of the nation-state was to the latter nineteenth'.⁸ For example, in the 1990s Kenya has counted some 23,000 registered women's groups, and more than 25,000 registered grassroots organizations have operated in the state of Tamil Nadu in India.⁹ Significant parts of this expanding civil society have involved transborder affiliations. The number of active transborder civic groups (e.g. of religious believers, professionals, human rights campaigners, etc.) has increased more than tenfold since 1960, to a total of 16,000 in 1997.¹⁰ Many local and national civic organizations, too, have incorporated global networking into their activities.

Since the 1970s, most of the major public global governance agencies have experienced a notable growth of direct exchanges with local, national and transborder civic associations.¹¹ Almost all organs of the United Nations system have acquired expanded external relations departments, and many UN agencies have instituted liaison committees with participants from civil society. Proposals have furthermore circulated for the creation of a UN People's Assembly composed of civil society representatives next to the General Assembly of state delegates. Already civic groups have in the 1990s convened global meetings with fair regularity, for example, alongside the Group of Seven summits, the Annual Meetings of the International Monetary Fund (IMF) and the World Bank, and ad hoc UN conferences on various global issues. A broad

⁸L.M. Salamon, 'The Rise of the Nonprofit Sector', *Foreign Affairs*, vol. 73, no. 4 (July-August 1994), p. 109.

⁹United Nations Development Programme, *Human Development Report 1997* (New York: Oxford University Press, 1997), pp. 96–7.

¹⁰Union of International Associations, *Yearbook of International Organizations 1997/98. Volume I* (Munich: Saur, 1997), pp. 1762–3.

¹¹See further P. Willetts (ed.), *'Conscience of the World': The Influence of Non-Governmental Organisations in the UN System* (London: Hirst, 1996); T.G. Weiss and L. Gordenker (eds), *NGOs, the UN, and Global Governance* (Boulder: Rienner, 1996).

consensus has by now emerged that civil society and global governance institutions should have relations with each other. On the other hand, there is far less clarity, let alone agreement, on how these relations should be conducted, and to what ends.

Given this wider context of contemporary world politics, WTO staff and national trade ministry officials ought not to have been surprised to encounter substantial civil society interest in the new multilateral organization. Indeed, a prominent business association, the World Economic Forum (WEF), was instrumental in launching the Uruguay Round of trade negotiations that produced the WTO. Major gatherings of civic groups have accompanied each of the two WTO Ministerial Conferences held to date: at Singapore in December 1996; and at Geneva in May 1998. Civil society organizations have furthermore undertaken studies of the WTO, disseminated information about the new organization, arranged policy dialogues with WTO staff, and so on.

The Marrakesh Agreement of 1994 in fact explicitly acknowledges interest and involvement by civil society in the WTO. Article V (2) stipulates that the new agency should make 'appropriate arrangements for consultation and cooperation with non-governmental organizations'.¹² The GATT never acted on similar provisions in the (unratified) Havana Charter of 1948 for 'consultation and co-operation with non-governmental organizations'.¹³ In contrast, the General Council of the WTO has already (in July 1996) elaborated formal guidelines for increased relations with nongovernmental organizations (NGOs).¹⁴ In July 1998 the Director-General, Renato Ruggiero, announced further measures to improve contacts with civic groups.¹⁵

¹²*Results of the Uruguay Round*, p. 9.

¹³Cited in S. Charnovitz and J. Wickham, 'Non-Governmental Organizations and the Original International Trade Regime', *Journal of World Trade*, vol. 29, no. 5 (October 1995), p. 115.

¹⁴'Guidelines for Arrangements on Relations with Non-Governmental Organisations', WT/L/162, 23 July 1996 – cited in M. Williams, 'The World Bank, the World Trade Organisation and the Environmental Social Movement', in R. O'Brien *et al.*, *Complex Multilateralism: The Global Economic Institution-Global Social Movement Nexus* (Unpublished report, February 1998), p. 109.

¹⁵'Ruggiero Announces Enhanced WTO Plan for Cooperation with NGOs', WTO Press Release 107 dated 17 July 1998.

The remainder of this paper examines contacts between civil society and the World Trade Organization in greater detail. The next section considers both the potential opportunities and the potential dangers that relations between the WTO and civil society present. The third section of the paper reviews the aims and activities of civic organizations who have developed interests in the WTO, while the fourth section assesses the overtures made to date by the WTO towards civil society. A fifth section notes remaining shortfalls in the WTO-civil society dialogue, while a sixth section highlights some of the constraints which have to date inhibited a fuller development of these relationships. The final section looks to the future.

Benefits and Pitfalls

Before examining specific relationships between the World Trade Organization and civil society, it is good to reflect in general terms on the possible effects of those exchanges. Civil society is inherently neither good nor evil. It can both improve and harm policy. It can both enhance and detract from democracy. In short, civil society's contributions to post-Westphalian governance depend very much on the particular features of individual civic associations and official institutions and the wider sociohistorical conditions in which these actors operate.

Unlike the World Bank and UN development agencies, the WTO does not engage so-called 'operational' civic groups in the delivery of services. However, civil society offers the global trade regime at least six other potential benefits:

- (1) civic associations can provide the WTO with information (both data and analysis) that is useful in policy formulation, implementation and review.
- (2) civil society groups can stimulate debate about WTO policies, particularly by offering alternative perspectives, methodologies and proposals. Such challenges push the WTO better to clarify, explain, justify and perhaps rethink its positions.

- (3) civic organizations can provide channels through which stakeholders may voice their views on trade issues and have those opinions relayed to WTO staff. With this input officials can better gauge the political viability of proposed measures or programmes.
- (4) civic associations can play an important role in democratically legitimating (or indeed delegitimizing) WTO activities. For example, civil society can influence the respect accorded (or denied) to WTO views and the ratification (or rejection) of WTO-sponsored trade agreements.
- (5) civil society bodies can serve as important agents of civic education, increasing public understanding of the WTO and its policies. Many civic associations have in this vein prepared handbooks and information kits, organized workshops, circulated newsletters, written press articles, maintained Internet sites, developed curricular material for schools, and so on.
- (6) relations between the WTO and civic associations can reverberate to have more general democratizing effects. For example, citizens' groups that are denied access to their national governments may be able to gain a voice through global channels such as the WTO.

However, the benefits just reviewed do not flow automatically. If badly organized and executed, relations between civil society and the WTO can also have detrimental effects on policy and democracy in the global trade regime. In a negative vein:

- (1) the collection of civic associations that develops relations with the WTO might not adequately or fairly represent the various constituencies with a stake in the global trade regime. Civic contacts could thereby reproduce and even enlarge inequalities and arbitrary privileges connected with nationality, class, race, gender, religion, and so on.
- (2) the WTO could treat overtures to civil society as merely a public relations exercise. The institution would thereby not only miss out on the valuable inputs indicated above, but also alienate many if not most of its potential civic partners.
- (3) interventions from civil society into global governance of trade could be misdirected and/or ill-informed. Such low-quality involvement can unhelpfully disrupt institutional operations and policy development.
- (4) the WTO could through its exchanges with civic groups become embroiled in local and national politics of which it has little understanding, perhaps undermining democracy in the process.

- (5) the WTO could focus its exchanges with civil society on supportive groups to the neglect of challengers. As a result, the institution would get a false sense of popular endorsement of its policies. Indeed, such marginalization of critics (deliberate or unconscious) could generate a severe backlash against the global trade regime.

In sum, relations between civil society and the WTO can have far-reaching consequences – positive or negative – for the design and operation of the global trade regime. Given the previously described dynamics of politics in the contemporary globalizing world, it seems most unlikely that contacts between the WTO and civic associations will decline, let alone disappear. On the contrary, most indications suggest that these interchanges will further proliferate in the years to come. The challenge before the WTO and civil society is therefore to develop their mutual relationships in ways that minimize the pitfalls and maximize the benefits outlined above.

Civic Interest in the WTO

Civil society encompasses huge diversity. The multitude of civic associations exhibit widely differing constituencies, institutional forms, sizes, geographical coverage, resource levels, organizational cultures, orientations, goals, and tactics. In short, due caution is necessary when generalizing about civil society groups.

That said, we may loosely distinguish three types of civic organizations in terms of their general approach to the WTO. One group, whom we might call 'conformers', accept the established discourses of trade theory and broadly endorse the existing aims and activities of the WTO. A second group, whom we might call 'reformers', accept the need for a global trade regime, but seek to change reigning theories, policies and/or operating procedures. A third category of civic associations, whom we might call 'radicals', seek to reduce the WTO's competences and powers or even to abolish the institution altogether.

Corporate business associations, commercial farmers' unions and economic research institutes have usually taken a conformist approach to the WTO. Prominent business groups that have supported the WTO-based global trade regime include the aforementioned WEF, the International Chamber of Commerce, and the European Round Table of industrialists. With a narrower agenda, the US Dairy Foods Association, the Pork Producers Council, the National Farmers' Alliance, and the American Sugar Alliance have urged a rapid liberalization of trade in agricultural products.¹⁶ Think tanks that have promoted a broadly conformist line on the WTO include the Brookings Institution and the Institute for International Economics.¹⁷

This is not to say that conformist civic organizations have approved of each WTO rule, procedure and decision. On the contrary, business lobbies have frequently sought to revise or overturn a WTO measure to their commercial advantage, and mainstream researchers have often queried certain WTO actions and analyses. However, these disagreements have remained within the conventional framework of trade debates, namely, on a spectrum running from liberalism to mercantilism. Conformists therefore 'speak the same language' as WTO staff and most national trade officials. For these circles, arguments about trade regulation do not go beyond issues concerning the balance between free trade and protectionism and the degree and speed of liberalization. Conformers only interrogate the outputs of the existing global trade regime, not its foundations.

In contrast, reformers in civil society aim to change the thinking, rules and procedures of the WTO. Most reformist activities have sought to redress alleged undesirable effects of the existent trading order: e.g. in respect of labour conditions, underdevelopment of the South, environmental degradation, consumer protection, and

¹⁶<http://www.ictsd.org/html/special.htm>, p. 8.

¹⁷Cf. S. Collins and B. Bosworth (eds), *The New GATT: Implications for the United States* (Washington: Brookings Institution, 1995); the Conference on the Future of the World Trading System, Institute for International Economics, Washington, DC, April 1998.

gender inequalities. Many of these lobbyists have concurrently campaigned for a democratization of WTO operations: e.g. in terms of wider participation and greater public release of information.

Trade unions and human rights advocates have spurred efforts to incorporate protective labour standards into the global trade regime.¹⁸ These reformers maintain that trade liberalization coupled with market globalization has greatly weakened the power of workers *vis-à-vis* managers and investors. In order to safeguard basic labour rights and restore a fair balance of class interests – so these civic groups argue – the WTO needs a social clause that commits states to respect seven key conventions of the International Labour Organization (ILO).¹⁹ Leading voices from organized labour in this campaign have included the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour, and several International Trade Secretariats. Certain human rights groups have also engaged the WTO on issues of labour protection: e.g. the Washington-based International Labor Rights Fund; the Montreal-based International Centre for Human Rights and Democratic Development; and the Brussels-based SOLIDAR alliance. Significantly, some trade unions and NGOs in the Third World have viewed this lobbying with scepticism as an effort to perpetuate the privileges of workers in the North at the expense of development in the South.²⁰

Indeed, many development NGOs with interests in global economic governance have expanded their advocacy work beyond the Bretton Woods institutions and UN development agencies to encompass the WTO as well. Given that WTO rules severely restrict the autonomy in trade policy of already weak states in the South, these civic groups have worried that the Uruguay Round and subsequent accords might well compromise possibilities for equitable human development. Prominent NGOs in trade-

¹⁸The following paragraph is largely adapted from R. O'Brien, 'The WTO and Labour', in O'Brien *et al.*, pp. 59–84.

¹⁹See J. Evans, 'The Trade Union's View on International Labour Standards: A Comment', in P. van Dijk and G. Faber (eds), *Challenges to the New World Trade Organization* (The Hague: Kluwer Law International, 1996), pp. 291–7.

²⁰O'Brien, pp. 71–3.

and-development debates have included Oxfam, Third World Network, and the Harare-based International South Group Network.²¹ These issues have also occupied a number of development think tanks, including the North-South Institute (Ottawa), the Brazilian Institute for Social and Economic Analysis (IBASE, Rio de Janeiro), and so on.

Some of the most persistent efforts in civil society to reform the WTO have come from environmental NGOs.²² These critics maintain that a liberal trade regime tends to exacerbate ecological degradation: (a) by encouraging a relaxation of national environmental protection measures in order to maintain international competitiveness; (b) by promoting production for export (more environmentally damaging) rather than for home consumption; (c) by stimulating, with increased exports, unsustainable levels of natural resource exploitation; and (d) by (implicitly) sanctioning trade in toxic wastes. Environmentalists have sought, firstly, to get sustainable development concerns on the WTO agenda and, secondly, to institute restrictions on trade where it causes ecological damage. Leading reformist environmental NGOs in dialogue with the WTO have included the International Centre for Trade and Sustainable Development (ICTSD, established at Geneva in September 1996), the World Conservation Union (IUCN), the World Wide Fund for Nature, the International Institute for Sustainable Development, and the Center for International Environmental Law.

A fourth issue of notable concern in campaigns to reform the WTO has been consumer protection. Advocates in this area argue that the existing liberal global trade regime has greatly enhanced the power of large (usually transborder) firms. They affirm that global competition policy and a binding code of conduct for global companies are needed to constrain this corporate power in the public interest. Prominent civic

²¹Cf. B. Coote, *The Trade Trap: Poverty and the Global Commodities Markets* (Oxford: Oxfam, 1996); C. Raghavan *et al.*, 'Globalisation or Development', *Third World Resurgence*, no. 74 (October 1996), pp. 11–34; Y. Tandon, 'The WTO: A Southern NGO Perspective' (May 1998), at <http://www.ictsd.org/html/review2-3.1/htm>.

²²See Williams, pp. 108–18.

associations in this campaign have included UK-based Consumers International, India-based CUTS, and the International Organization of Consumer Unions.

Meanwhile certain other NGOs have sought to bring gender awareness to the WTO. Employing feminist political economy, they are concerned that the global trade regime, like the modern economy generally, contains structural biases against women.²³ Some voices in the global women's movement have therefore called *inter alia* for gender assessments of WTO rules and for attention to gender issues in the WTO's trade policy reviews.²⁴ These associations created an Informal Working Group on Gender and Trade at the Singapore Ministerial Conference and convened again at the Geneva Ministerial Conference.²⁵ Prominent actors in these (to date fairly limited) efforts have included the New York-based Women's Environment and Development Organization (WEDO) and the Brussels-based campaign, Women in Development Europe (WIDE). WEDO has produced several booklets on the global trade regime, and WIDE organized a Women and Trade Conference at Bonn in May 1996.²⁶

The issues discussed so far relate to policy content, but many civic activists have sought also to change the operating procedures of the WTO. In particular they have advocated a democratization of the organization by giving citizens increased access to, and influence in, its proceedings and decisions.²⁷ Some reformers have argued in this vein that relevant representatives in civil society should participate directly in WTO policy deliberations, trade policy reviews, and dispute settlement procedures.²⁸

²³Cf. S. Joekes and A. Weston, *Women and the New Trade Regime* (New York: UNIFEM, 1995); A.K. Mehta and C. Otto, *Global Trading Practices and Poverty Alleviation in South Asia: A Gender Perspective* (New York: UNIFEM, 1996).

²⁴Cf. 'World Trade and the Rights of Women', *Women Working World Wide Bulletin*, no. 2 (January 1997).

²⁵<http://www.idtsd.org/html/special.htm>

²⁶*Who Makes the Rules? Decision-Making and Structure of the World Trade Organization* (New York: WEDO, 1995); *How Secure Is Our Food? Food Security and Agriculture under the New GATT and WTO* (New York: WEDO, 1995); *Who Owns Knowledge? Who Owns the Earth? Intellectual Property Rights and Biodiversity under the New GATT and WTO* (New York: WEDO, 1995).

²⁷Cf. C. Bellmann and R. Gerster [Swiss Coalition of Development Organizations], 'Accountability in the World Trade Organization', *Journal of World Trade*, vol. 30, no. 6 (December 1996), pp. 31–74.

²⁸Cf. S. Bullen and B. Van Dyke, *In Search of Sound Environment and Trade Policy: A Critique of Public Participation in the WTO* (Geneva: Center for International Environmental Law, 1996).

Pursuing a complementary line, the Swiss Coalition of Development Organizations has urged the establishment of a WTO Parliament with legislative competence or, in the interim, the formation of a parliamentary group with an advisory role *vis-à-vis* the WTO.²⁹ Other proposals have called for a more transparent WTO, that is, one which has open hearings, increased (and more timely) publication of official documents, and greater dissemination of information, particularly in the South.³⁰

Whereas reformers aim in one way or another to alter the WTO, radicals in civil society regard the existing global trade regime as incorrigible. They therefore advocate its contraction (e.g. back to the original parameters of the GATT) or complete abolition. In the mid-1990s, radical groups campaigned against ratification of both the Uruguay Round accords and the North American Free Trade Agreement. In February 1998 many of the same opponents formed a loose worldwide network called Peoples' Global Action against 'Free' Trade and the World Trade Organization. The PGA has called openly for 'the disappearance of the WTO'.³¹ Its rejectionist stance may be broadly likened to the position of the 50 Years Is Enough coalition towards the IMF and the World Bank. Indeed, participation in the two networks has overlapped to some extent. Radical circles also include environmentalists like Greenpeace who – in contrast to the reformist associations named earlier – refuse to talk with the WTO.

The preceding survey amply confirms the observation made at the start of this section that civil society relations with the WTO encompass a large diversity of organizations, activities and approaches. The distinction of conformist, reformist and radical groups is not always neat in practice, of course. For example, some economic research institutes have straddled conformist and reformist positions. Meanwhile many development NGOs have fluctuated between radical and reformist positions. Nevertheless, the

²⁹<http://www.ictsd.org/html/special.htm>, p. 2.

³⁰Cf. the collective NGO submission, coordinated through the Dialogues Programme of the ICTSD, in July 1998 on 'Openness, Transparency and Access to Documents in the WTO' (source: e-mails circulated by ICTSD in June 1998).

³¹PGA press release, 18 May 1998. See the PGA website: <http://www.agp.org>

three-way categorization of conformers, reformers and radicals remains analytically useful in mapping the politics of civil society in regard to the WTO.

WTO Overtures to Civil Society

How has the World Trade Organization reacted to the various initiatives from civil society associations described above? The institution has during its short history already taken some steps to implement Article V of the Marrakesh Agreement. In brief, the WTO has: (a) adjusted its language to recognize civil society; (b) undertaken various outreach initiatives towards civic associations; (c) increased its public dissemination of information; and (d) made some alterations to substantive policy that (partly) meet civil society demands. These four positive developments are detailed below. On the other hand, as the next section will elaborate, the WTO has to date done relatively little to institutionalize relationships with civil society or to involve civic associations directly in policy deliberations. Nor has the organization so far made much use of contacts with civil society to gauge the political viability of its policies.

In its discourse, the WTO has joined other global governance agencies in acknowledging the importance of civil society inputs to policy. For example, in his address to the Singapore Ministerial Conference, Ruggiero highlighted the presence of many 'representatives of non-governmental organizations, the business sector, and the media'. He went on to argue that:³²

a world trading system which has the support of a knowledgeable and engaged global community will be in a far stronger position to manage the forces of globalization for everyone's benefit.

³²Cited in Hart, p. 77n.

At the Geneva Ministerial Conference, too, Ruggiero and several government leaders publicly endorsed the idea of increased relations between the WTO and civil society.³³ In this vein President Clinton of the USA proposed 'a forum where business, labour, environmental and consumer groups can speak out and help guide the further evolution of the WTO'.³⁴ At a time when UN bodies and the Bretton Woods institutions are continually speaking of 'stakeholders', 'ownership' and 'participatory development', the WTO can hardly speak another language.

The shift in discourse has been more than rhetorical insofar as the WTO has taken various initiatives to establish dialogue with civic groups. Its staff has provided many briefings to and received multiple representations from business associations, labour unions and NGOs. More elaborately, the Secretariat has since June 1994 organized four annual symposia with representatives of civil society on trade and sustainable development issues.³⁵ In September 1997 two dozen NGOs from four continents participated in a Joint WTO/UNCTAD Symposium on Trade-Related Issues Affecting Least-Developed Countries.³⁶ At the Ministerial Conferences the WTO has provided civil society representatives with office space and media facilities.³⁷

The organization has also responded to demands from civil society for greater release of information concerning WTO policymaking. The production of official publications has expanded, and staff have since 1995 constructed an elaborate website.³⁸ In July 1996 the General Council adopted Procedures for the Circulation and De-Restriction of WTO Documents.³⁹ Under these guidelines, reports of dispute panels are now

³³<http://www.ictsd.org/html/special.htm>, p. 3.

³⁴Clinton Endorses Call for High-Level WTO Meeting on Trade-Environment and Calls for WTO Openness', *Bridges Weekly Trade News Digest*, vol. 2, no. 18 (18 May 1998).

³⁵Williams, p. 110; <http://www.ictsd.org/html/review2-3.7.htm>

³⁶<http://www.wto.org/wto/develop/hlm5.htm>

³⁷O'Brien, 'The WTO and Labour', p. 76.

³⁸<http://www.wto.org>

³⁹WT/L/160/Rev.1, 22 July 1996; see also L.B. Van Dyke and J.B. Weiner, *An Introduction to the WTO Decision on Document Restriction* (Geneva: International Centre for Trade and Sustainable Development/Center for International Environmental Law, n.d.).

made public as soon as they are adopted. The WTO also publishes completed trade policy review reports and summaries of the proceedings of the Committee on Trade and Environment. Some important documentation continues to be restricted, but the WTO releases far more information than the GATT ever made available. As one NGO representative recently described the situation, 'The WTO has evolved from opaque to translucent'.⁴⁰ At the Second Ministerial Conference, Ruggiero pledged to consider how moves towards greater transparency could be taken further.⁴¹ Following the measures announced in July 1998, the WTO Secretariat has alerted member governments to all documents, position papers and newsletters submitted to it by civic organizations.⁴²

Several other turns in WTO policy have also responded to demands from civil society. For example, the expansion of trade liberalization measures to cover intellectual property matters, telecommunications, financial services and so on has (at least partly) met the wishes of various business lobbies. On another front, the WTO has sought to appease trade unions by putting labour standards on its agenda and by deepening its collaboration with the ILO. In response to development questions, the WTO has maintained a Committee on Trade and Development and in October 1997 convened a High-Level Meeting for Least-Developed Countries. In recognition of ecological concerns, ministers assembled at Marrakesh decided to launch a wide-ranging work programme on trade and environment in the WTO. (In contrast, the GATT Group on Environmental Measures and International Trade, formed in 1971, met only once, in 1993 to discuss the results of the UN Conference on Environment and Development.⁴³) On questions of unfair business practices in global markets, the Singapore Ministerial Conference established a WTO working party to study the interaction between trade and competition policy. These and other policy

⁴⁰<http://www.ictsd.org/html/review2-3.7.htm>, p. 1.

⁴¹<http://www.wto.org/wto/anniv/dgen.htm>; also 'Draft Ministerial Text Submitted by the Director-General at the Second Ministerial Meeting', *Bridges Weekly Trade News Digest*, vol. 2, no. 18 (18 May 1998).

⁴²WTO Press Release 107, *op cit.*

⁴³Williams, pp. 114–15.

developments have often fallen short of what civic groups (reformists in particular) aim for,⁴⁴ but changes there have been.

Shortfalls in Relations

Contributions from civil society to the global trade regime have clearly increased in both quantity and quality in the 1990s. Nevertheless, major additional advances would be required before civic inputs could realize their full potential (on the lines described earlier) to increase policy effectiveness and democracy in the World Trade Organization. The following paragraphs outline three major shortcomings in current relations between civic associations and the WTO, namely, unequal access, shallowness, and limited reciprocity. These flaws have caused WTO-civil society exchanges to suffer significantly from the possible pitfalls noted earlier.

A first major way that WTO-civil society contacts have thus far failed to maximize their potential contributions to policy enhancement relates to biased participation. The various elements of civil society have not enjoyed equal opportunities to engage with the WTO. In a rough ranking, conformers like business associations have usually had easiest access. Thus, for example, 65 per cent of the civic organizations accredited to attend the Singapore Ministerial Conference represented business interests.⁴⁵ Certain reformist groups such as trade unions, environmental NGOs, and development NGOs have generally come (a rather distant) second. Many other civic bodies, including most grassroots associations, have had no direct entry to the WTO at all.

⁴⁴See, e.g., environmentalist complaints about purported inadequacies of the WTO Committee on Trade and Environment: World Wide Fund for Nature, *The WTO Committee on Trade and the Environment - Is It Serious?* (Geneva: WWF, 1996); Friends of the Earth, *A Call to Close the Committee on Trade and the Environment* (Amsterdam: FOE International, 1996).

⁴⁵O'Brien, p. 77.

Other inequalities in access have favoured organizations based in the North over groups located in the South and the East. In class terms, civic contacts with the WTO have principally involved urban-based, university-educated, computer-literate, (relatively) high-earning English speakers. A few development NGOs have attempted to incorporate 'voices from the base' into their advocacy work on the WTO, but for the rest underclasses have been locked out of exchanges with the institution. The dialogue has also shown a gender bias, with disproportionately large participation from men in both the WTO staff and civic groups (especially business, academic and labour associations).

A second major shortcoming in WTO-civil society relations to date has been their overall shallowness. Although, as seen above, the WTO leadership has become convinced in general terms of the importance of civil society in emergent global governance, the organization has for the most part lacked clearly formulated objectives and carefully constructed channels of communication for its interchanges with civic groups. On the whole the WTO's engagement of civil society has occurred through improvisation. Its External Relations Division has remained small, and its staff has lacked expertise in respect of civil society. In contrast to the World Bank, the WTO has established no liaison committee with civic groups. In contrast to the United Nations, the WTO has made no arrangements for permanent accreditation of civic organizations, as opposed to ad hoc admission to specific events. No civil society associations have participated as ex officio observers on WTO committees. Nor have civic groups been systematically involved in trade policy reviews or dispute settlement procedures. To this extent the WTO has done little to bring civil society into policymaking. Indeed, in contrast to the IMF and the World Bank, the WTO has given civic associations no mention in its first annual reports.

Approaches from civil society towards the WTO have often suffered from similar shallowness. Relatively few associations have – like the WEF, the ICFTU, Third

World Network and the ICTSD – pursued sustained, focused, carefully researched efforts to understand and shape WTO policies. Most civic groups with concerns about global economic governance have shown only haphazard and superficial interest in the WTO, becoming active only around a particular conference, set of negotiations, or trade dispute.

A third general limitation in WTO-civil society relations – namely, a lack of veritable 'dialogue' – has mainly affected the institution's contacts with reformers and radicals. These interchanges have often lacked sufficient openness and reciprocity, where the WTO on the one hand and activists on the other are fully ready to listen to, learn from, and be changed by each other. Such 'dialogues of the deaf' were particularly acute, for example, in early contacts between free traders at the WTO and environmentalists who automatically linked trade liberalization with increased environmental degradation.⁴⁶ Exchanges between the WTO and reformist groups have tended to become more cordial in the late 1990s. However, parties to WTO-civil society exchanges are still not as prepared as they could be to consider positions other than their own.

In sum, relations between the WTO and civil society have to date often succumbed to the potential dangers highlighted earlier. First, the exchanges have not been democratically representative. On the contrary, they have tended to reinforce structural inequalities in world politics. Second, on balance the WTO has not yet taken its contacts with civil society that far beyond public relations exercises. Third, on the whole civic groups have not provided the WTO with sufficient precisely formulated and carefully researched inputs. Fourth, the WTO has not given careful thought to the possible repercussions of its contacts with civil society on national and local politics in its member countries. Fifth, the WTO has for the most part skewed its contacts toward conformist groups, to the relative neglect of its reformist and radical critics, thereby

⁴⁶Williams, p. 110.

obtaining an artificially optimistic assessment of the popularity and viability of its policies.

To note shortfalls in relations between civil society and the WTO is not to advocate an abolition of these links, of course. As stressed before, the dynamics of contemporary governance are such that those exchanges are in effect irrepressible. We cannot return to a Westphalian world where 'international organizations' dealt only with states. The unavoidable challenge is therefore to forge relationships that maximize the contributions of civil society to effective and democratic global governance.

Constraints

In order to prescribe measures for improved relations between civil society and the WTO, one needs first to assess the causes of the problems. In a word, the shortfalls just described have arisen primarily from resource limitations and deeper structural forces. That is, the shortcomings in WTO-civil society relations have not resulted in the first place from the personalities and attitudes of individual officials and lobbyists, but from the political, economic and cultural context in which they work.

In terms of resources, the WTO has thus far lacked the personnel, funds, stores of information and coordination capacities to realize the full potential of relations with civil society. At present the organization has only a modest staff of about 500 to handle a vast global trade agenda.⁴⁷ (In comparison, the IMF currently employs around 2600 persons, whereas the World Bank payroll nears 5500.⁴⁸) In terms of disposition, the professional staff of the WTO are overwhelmingly economists without formal training in socio-political issues such as the organization and operations of civil society. Meanwhile the WTO runs on a total administrative budget of less than \$100

⁴⁷World Trade Organization, *Annual Report 1996* (Geneva: WTO, 1996), vol. I, p. 153.

⁴⁸<http://www.imf.org/external/np/ext/facts/glance.htm>; <http://worldbank.org/html/extpb/annrep97/admin.htm>.

million per annum, hardly a sum that allows for major overtures to civil society.⁴⁹ (In comparison, the World Bank operating budget is some \$1375 million, while the IMF travel budget alone currently amounts to \$77 million.⁵⁰) In view of these personnel and funding limitations, it is not surprising that the WTO has accumulated little information on civil society. Its staff are therefore usually very thinly briefly on the civic groups that they meet. Nor has the organization developed any mechanisms to coordinate its work on civic associations with national governments and other global governance bodies that have more experience in these contacts.

In most cases, civic groups suffer from even more precarious resource situations than the WTO. In terms of personnel, civil society organizations rarely have more than one or two staff with detailed knowledge of the global trade regime. Major business associations and certain think tanks have operated with fairly substantial and reliable funding, but most trade unions and NGOs have worked on shoestring budgets and/or short-term grants. Most civic groups have (partly owing to the inaccessibility of many official documents) lacked sufficient data and analysis to mount fully informed campaigns for policy change at the WTO. In addition, civil society groups have developed few arrangements (aside from loose networking as seen in the PGA) to exchange information on and coordinate lobbying of the WTO. As a result, the limited resources of civil society have rarely been optimally employed.

That said, improved staffing, funding, information flows, and coordination would not by themselves maximize the benefits of exchanges between civil society and the WTO. Indeed, certain conditions of social structure have, if anything, stood as greater barriers to a fuller development of the dialogue.

⁴⁹WTO, *Annual Report 1996*, p. 153.

⁵⁰World Bank, *Annual Report 1996* (Washington: The World Bank, 1996), p. 155; International Monetary Fund, *Annual Report 1997* (Washington: IMF, 1997), p. 226.

For example, difficulties of access to the WTO for civic organizations have resulted in part from the culture of secrecy that has traditionally enveloped both global economic governance in general and global trade regulation in particular. Recent WTO moves toward increased disclosure mark an important shift towards greater openness, but the embedded culture of secrecy has slowed the process and is unlikely to dissolve quickly.

The previously described inequalities of civil society access to the WTO have also reflected deeper structural conditions: in this case pervasive entrenched social hierarchies in contemporary world politics between countries, classes and genders. Such structures of subordination have figured centrally in producing a lower allocation of resources and opportunities: to South-based civic organizations relative to North-based groups; to labour unions relative to business associations; to women relative to men; and indeed to civil society relative to official circles.

The power of neoclassical economic orthodoxy has been another important structural force against a more inclusive, deeper and more open dialogue between the WTO and civil society. So-called 'neoliberal' ideology has dominated social knowledge in the late twentieth century, particularly following the dissolution of communist regimes and the collapse of post-colonial socialism. In this situation of near-monopoly, ideas of market rationality and comparative advantage have readily reigned as unquestioned truths, and staff of the WTO have faced little pressure to give alternative perspectives a serious hearing. This knowledge/power structure has put reformers and radicals at a marked disadvantage in civil society relative to conformers.

A fourth structural inhibition to greater development of relations between the WTO and civil society has been the persistent hold of the sovereignty norm. Although, as indicated at the start of this paper, states have lost their effective capacity to exercise sovereign governance, governments have continued to cling jealously to the *claim* that they always have the complete and final say in regulation. Most civic activists and

WTO officials, too, have continued to work under the spell of the sovereignty myth. They have therefore generally directed their contacts firstly at states rather than at each other, and both civic groups and the WTO have usually limited their direct exchanges to an intensity that governments would tolerate.

Finally, and partly as an extension of the sovereignty issue, structural conditions have limited dialogue between the WTO and civil society insofar as civic groups have generally experienced difficulty establishing their legitimacy. In the Westphalian international system to which contemporary globalization has brought an end, states were normally regarded as the only legitimate actors in world politics. Today's post-Westphalian situation allows for a multiplicity of agents, but nonstate entities must still work hard to establish their credentials. Civil society associations can best secure their legitimacy in terms of democratic practices; however, most civic groups have to date attended insufficiently to questions concerning their representativeness, consultation processes, transparency and accountability. Indeed, some of the organizations that have pressed hardest for a democratization of the WTO have done little to secure democracy in their own operations. This has allowed the WTO and states to take civil society less seriously than they might otherwise have done.

In sum, then, a host of resource limitations and structural constraints have together created substantial obstacles to the development of a wider and deeper dialogue between civil society and the WTO. In these circumstances, it is not surprising that the contacts have had the partial, generally shallow, and often uneasy character described earlier.

Toward the Future

Exchanges between the World Trade Organization and civil society have become a notable feature of the global trade regime, much as civil society has become an

important player in global governance generally. Civic groups have in the 1990s undertaken a multitude of initiatives to reinforce, reshape or replace existing rules of world trade. The WTO has responded with a larger number and variety of overtures toward civil society than were ever seen under the GATT regime or before. The dialogue between civic associations and the WTO continues to have significant shortcomings, but most signs point to further growth of the involvement of civil society in the global trade regime.

If – as seems probable – globalization continues at substantial rates into the next century, then governance is likely to become increasingly quadrilateral, between substate authorities, states, supranational agencies, and civil society associations. As indicated above, civic inputs can contribute greatly to policy efficacy and democracy in this situation of multilayered governance. Yet such benefits do not accrue automatically. It is understandable that the WTO and civil society have allowed the early development of their relations to be largely haphazard and improvised. However, the next phase requires more concerted and carefully constructed efforts. What sorts of practicable measures are available to take relations between civil society and the WTO forward in the short to medium term? Five general suggestions follow from the analysis presented above.

In the first place, the parties can aim to clarify and specify their objectives. What, more precisely, are they trying to achieve by engaging with each other? The WTO in particular needs more explicit policy aims in regard to civil society.

Second, further steps can be taken formally to institutionalize relations between the WTO and civil society. Drawing on the experience of other global governance agencies, the WTO can devise mechanisms for permanent accreditation, observer status in relevant committees and panels, a regular cycle of consultations (extending the practice of the annual symposium with environmentalists), etc.

Third, both the WTO and civil society can improve relevant staff capacities. For example, the WTO could appoint several specially designated 'civil society liaison officials'. Other relevant staff could take short training courses on relations with civic groups, for example, as are currently being developed by the United Nations Staff College in Turin. Likewise, more civil society capacity is needed – particularly among marginalized groups – regarding the global trade regime.

Fourth, the parties can make more efforts to coordinate their activities in WTO-civil society exchanges. For example, the WTO could join the 16 other global governance agencies that subscribe to the UN Non-Governmental Liaison Service. It could also exchange information and advice concerning civil society with other multilateral institutions that have more experience in these relationships. Meanwhile civic groups with interests in the global trade regime could do more in the way of exchanging information, sharing tasks, coordinating initiatives, and so on.

Fifth, both civic organizers and WTO officials can consciously nurture attitudinal changes that promote more constructive dialogue. For instance, all participants in the relations can make more deliberate efforts to include otherwise marginalized circles. The WTO and civic groups can also cultivate greater mutual recognition, respect and reciprocity. In addition, both civil society organizations and the WTO can become more sensitive to issues of their democratic accountability. To this end, all parties could *inter alia* do more to publicize their activities to each other and to the wider public.

None of the steps just described need be particularly costly or difficult. Given the substantial benefits of well-developed WTO-civil society relations – in terms of increasing information, stimulating debate, educating citizens, legitimating regimes, and democratizing politics generally – such initiatives are surely worthwhile.