

# 世界貿易組織與全球貿易體系所面臨的 挑戰

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## 中文摘要

本文假設制度是很重要的，因此聚焦於制度化過程將可找出國際政治的重要特徵。就廣義而言，全球貿易體系是指一套跨境貿易的制度、規範、規則與實務。而 WTO 則是此一體系裡的一個管理跨國貿易流動的主要機構。WTO 的活動型塑與限制參與全球貿易體系如國家、公司與非政府組織（NGO）的行為。換言之，WTO 是全球治理的關鍵架構。

WTO 是個著床於正在演進中的超國家治理架構之上的政府間組織。此一雙重角色形成環繞著 WTO 政治論爭的重要特徵。批判者強調超國家的層面，而捍衛者則認為 WTO 只不過是會員國的總稱。兩方都忽略了當代全球治理的複雜特徵。在很多方面，WTO 不是個與會員國政府分開的獨立實體，而是個在法律上對會員國的權利與義務有所規定的簽有契約性文件的組織，同

時又是會員國可追求本身利益的論壇。此外，WTO 也不是個服務性組織，與其他許多國際組織相較，它僅有少數工作人員組成的秘書處。不過，此一描述僅顯示 WTO 是個對體系相當倚賴的組織，卻未能理解到該組織蛻變的經過以及繼續對貿易規範具有影響力。

成立 WTO 所簽訂的協議及其後該組織所做的決議構成國際經濟法則的一部份。WTO 位居全球經濟體系裡雙邊與多邊經濟協定的最高點。WTO 是各國政府設計來管理此一多邊貿易體系，其他貿易協定是否具有正當性端視這些協定是否與 WTO 所構建的架構相容。再者，WTO 不僅是個多邊貿易協商論壇，而且透過協商制訂國際經濟法則，同時也透過監督各會員國的貿易政策機制來促進貿易關係與貿易政策之演進。WTO 的另一項重大功能是爭端解決。由於沒有有效的解決爭端的程序，自由化將難以發生。因此，作為解決爭端的中心，WTO 有助於全球貿易體系的穩定與進一步演進。

本文旨在檢視 WTO 治理架構目前所面臨的挑戰。作者首先探討 WTO 架構下所衍生出的兩個問題：難以達成決議以及必須確保發展中國家能從貿易獲利。除非 WTO 能做出有效的決議與提供發展中國家實利，否則就無法超越挑戰，完成發展回合的談判。其次，本文也論及 WTO 所遭逢一些市民社會組織的挑戰。WTO 若要維持其合法性，就必須對這些市民社會組織的不滿有所回應。

# **The World Trade Organization and Challenges to the Global Trading System**

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The multilateral trading system appears to exist in a state of semi-permanent crisis permeated by an occasional bout of euphoria. In the context of the historic project of trade liberalization ushered in after the end of the Second World War the World Trade Organization's Ministerial Meeting in Doha, Qatar, in November 2001 marked the beginning of a new round of trade negotiations. Designated a 'development round', the Doha Round was to hold the needs and interests of developing countries, particularly the least developed, as key priorities in the expansion of trade liberalization. The sudden and abrupt collapse of the Cancún Ministerial Meeting in September 2003 signaled a severe jolt to the goals established in the Doha Declaration. Even before negotiations on a new round began, however, the extent to which the timetable established at Doha would be adhered to was greeted with some skepticism by many observers. The aim of this paper is not to assess the potential for the successful conclusion of the Doha Round. Rather its aim is to analyze the World Trade Organization (WTO) as a venue for

multilateral trade negotiations with a focus on the challenges facing the global trading system.

In broad terms the global trading system can be defined as the set of institutions, norms, rules and practices under which trade across national borders is conducted. Within this system the WTO is the major organization concerned with the regulation of cross-border trade flows. The activities of the WTO shapes, molds and constrains the behavior of the agents (states, firms and NGOs) involved in the global trading system. In other words, it is the key structure of global governance in a global trading system characterized by uneven liberalization. At the centre of the global trading system is an unresolved tension between trade liberalization and the protection of national and/or sectional interests. Thus while the precise challenges facing the global trading system at any given time reflects the salience of the issue(s) to key political actors this underlying tension between trade liberalization and protection is inscribed in the framework of the trading system.

This paper has two main sections. The first section examines challenges to the WTO from its member governments, and examines the ways in which conflicting national goals and priorities as represented by the member governments of the organization stymie its development, and can undermine commitment to the multilateral project. Recently, national forms of regulation are being increasingly supplemented with governing arrangements at the sub-state, supranational and private spheres (Scholte 2000: 132-158). Compared with its predecessor, the General Agreement on Trade and Tariffs (GATT), the WTO has increased competence over issues that were previously solely within national regulation. This

increased authority has drawn civil society organizations into engagement with the WTO. The second section therefore examines the challenges posed by these actors. Specifically the paper explores certain challenges to the WTO as a structure of governance in the global trading system.

### **State Interests and the Global Trading System**

The WTO is an intergovernmental organization. It presides over a system of managed trade but one in which there is an in-built commitment to liberalize trade. Thus it has a bias towards freer trade. The move towards trade liberalization has been slow and policy-makers and observers have questioned the ability of the WTO to provide the necessary framework for the global trading system. One of the challenges facing the WTO is its ability to make effective decisions. In this section I will therefore examine briefly some of the problems attendant on decision-making in the WTO. The majority of WTO members are classified as developing countries. Development remains a key challenge facing the organization and the second part of this section will discuss this issue.

### **Decision-Making in the WTO**

One of the main challenges facing the WTO concerns the difficulties the organization has faced in promoting its agenda. Since its creation the WTO has seemingly been unable to advance trade liberalization significantly. The slow progress of further trade liberalization is the result of a complex of factors. These include the refusal of major trading states to abandon perceived short-term interests, the absence of political will in the negotiating process, and the WTO's decision-making structure.

Here I will suggest that deficiencies in WTO decision-making pose a challenge to the global trading system. If the WTO is not an effective negotiating forum it will prove difficult to provide stability for the global trading system.

In legal terms all members of the WTO are equal and decisions are based on consensus. However, formal equality masks inbuilt asymmetries of power and influence. Informal procedures have developed that reflect the distribution of economic power rather than the procedural implications of state sovereignty, and these developments do not necessarily promote effective governance. It has been claimed that that the consensus model of decision-making promotes secrecy, and intense pressure behind the scenes (Kwa, 2003). She reports one unnamed delegate as asserting that, "The informality of the process means that, in fact, it is a process of consultation and discussion behind closed doors. This means that those with clout will carry the most weight." (cited in Kwa 2003:18). If such exercises of power result in effective decision-making a governance structure may happily trade-off formal democracy for efficient governance. But if such practices prove incapable of providing results it is likely that increasing discontent will surface in an organization. Recently, it is arguable that this has been the case in the WTO.

Like its predecessor, the GATT, the major trading powers exercise the most influence over WTO decisions. Historically, the United States and the European Union have been the two most important actors in multilateral trade negotiations. The so-called Quad countries (Canada, Japan, the United States and the European Union) are the most influential states in agenda-setting and the conduct of negotiations. The

Quad countries conduct internal negotiations and invite selected countries to participate in bargaining away from the general discussions. But recently, despite their continued dominance in world trade the Quad coalition is no longer able to deliver a successful outcome to WTO Ministerial Meetings. There is no agreement on the reasons for the failure of the Quad to alter the slow progress of negotiations.

It has been argued that the unrepresentative nature of the process means that many developing countries feel disenfranchised by the process and therefore are unwilling to agree to a decision in which they have placed no part in constructing. In a speech in April 2002 Nathan Iumba the representative of Uganda to the WTO and a spokesperson for the group of the Least Developed Countries at the WTO stated that, "We are simply asking for fair and equitable rules that would take into account our development needs and allow us to participate fully in the trade system. But instead we risk being pressured once again into accepting rules that we don't need and can't afford" (cited in Kwa, 2003:7). Developing countries have argued that multilateral trade negotiations should be more inclusive. They contend that developing countries should be represented on informal working groups and the pace of negotiations should be kept manageable for smaller delegations.

The inability of WTO members to launch a new round in Seattle in 1999 was principally the result of conflicts among the membership over the direction and content of the negotiations. At the center of the negotiations was an ongoing conflict between the developing countries and the developed countries represented by the Quad countries. The developing countries believed that the Quad members were attempting to shape the

agenda at their expense. They thus refused to sign off on an agenda that did not adequately reflect their interests. The failure of the Fifth Ministerial Meeting at Cancún, Mexico in 2003 to make progress on the Doha agenda reflected continuing North-South conflict over the shape of the multilateral trade negotiations.

These formal and informal decision-making processes have to be viewed in the context of asymmetries in bargaining power, and in research and strategic thinking (Panagariya, 2002:119-121). Three factors account for the asymmetry in bargaining power – share of world trade; size of the coalition; and similarity of levels of development. Whereas the developed countries accounting for the largest share of world trade and can use market share as a bargaining tool developing countries lack the economic strength to affect most bargaining outcomes. Moreover, the small size of the developed country coalition and the similarity in levels of development compared to the heterogeneous nature of the developing country grouping and its diversity in policy regimes makes it more difficult for developing countries to exercise effective bargaining power in multilateral trade negotiations (Panagariya, 2002:119-120). Furthermore, while most developing countries lack the intellectual and technical resources to develop independent negotiating positions the research activities, both public and private in developed countries provide their governments with access to vital intellectual capacity and enhances strategic thinking and decision-making (Panagariya, 2002: 121). These factors prevent many developing countries from effective participation in WTO decision-making.

One way of increasing bargaining power is through the



formation of coalitions. Prior to the Cancún Ministerial Meeting new forms of alignment of developing countries emerged in the WTO. The most significant group to emerge was the G20 which comprised some of the largest developing countries, e.g. Brazil, China, India, and South Africa. The G20 was a surprising development since it grouped together countries which had previously taken separate approaches in multilateral trade negotiations. It brought together the developing country members of the Cairns Group, large developing countries such as India, and Nigeria, and China. It is too early to determine the significance of the G20 on the negotiating process. While it will give increased prominence to large developing countries its stability remains in question.

The difficulties discussed above arise from the heterogeneity of WTO membership. Another source of the current challenge facing effective decision-making in the organization can be viewed from the perspective of the size of the WTO. As the membership of the WTO has increased it has potentially become more difficult to arrive at decisions. A stark example of the difficulty at arriving at consensus was demonstrated with the high level political wrangling in the search for a successor to the first Director-General, Renato Ruggiero. The two candidates – Mike Moore, a former New Zealand Prime Minister, and Supacahi Panitchpkadi, Thailand's Finance Minister, were each supported by a coalition combining developed and developing countries. Neither coalition proved capable of prevailing and the dispute was resolved through a compromise arrangement in which Mike Moore served a three-year term, followed by Supacahi Panitchpkadi's tenure of office for the same period.

It has also been argued that the difficulties in arriving at effective decisions arise because there are no adequate consensus building mechanisms. In the absence of a consensus building mechanism trade talks are bound to fail. In this context the EU's chief negotiator Pascal Lamy referred to the WTO's decision-making process as medieval. He asserted, "Despite the commitment of many able people, the WTO remains a medieval organization...there is no way to structure and steer discussions amongst 146 members in a manner conducive to consensus. The decision-making process needs to be revamped." One of the issues to be considered when assessing the prospects for a successful conclusion of future multilateral trading negotiations is the extent to which the WTO is an effective negotiating forum.

### **Developing Country Concerns**

The "classic" 19th-century migrations from Europe to North America and Australasia revived after World War II. These were voluntary movements of persons intending to settle permanently in nations that welcomed them as new residents and, potentially, as citizens.

The United States has been admitting an average of half a million immigrants a year over the last two decades, thereby increasing its population by about 0.2 percent a year; currently it receives over 700,000 settlers a year. Australia and Canada have taken even larger flows relative to their base populations. For some time the Australians and Canadians distinguished themselves from the United States by an explicit policy of seeking out highly educated and highly skilled youthful settlers and successful business migrants. But beginning with the Kennedy-Simpson Act in 1990 the United States also built such

criteria into a more significant component of its migrant programs.

For these traditional host countries, European sources of migration came increasingly to be supplemented by flows from other sources. These included the Middle East and Asia for Australia and Canada, and Latin America for the United States.

### **Civil Society and the Global Trading System**

The WTO as the guardian of the global trading system faces challenges to its legitimacy and authority from non-state actors. The WTO Ministerial Meeting in Seattle 1999 made world headlines, less for the focus of the world's media on the deliberations in the conference hall, and more for the events in the streets surrounding the Seattle Convention Center. The so-called Battle of Seattle between protesters against the WTO and the Seattle law enforcement authorities turned the spotlight of international media on the world trading system. The events in Seattle were a vivid reminder of the conflict between forces supportive of further trade liberalization and those groups antagonistic to this aim. On one side of the divide stood those for whom continued protectionism obstructed development and economic growth, and on the other were groups dedicated to rolling back what they perceived as a system supportive of increasing global inequality, environmental degradation and human rights abuses. It is not my intention to assess these competing claims. Rather the aim is to show in this section how discontent within civil society poses a challenge to the WTO's liberalization project.

Within democratic societies trade agreements are subject

to legislative scrutiny and therefore governments need to construct domestic coalitions supportive of further trade liberalization. In a managed trade system relevant domestic interest groups and the wider public has to be convinced of the benefits of trade liberalization. This relationship between governments and their citizens has become even more important since the shift from negative integration under GATT to the positive integration of the WTO. The seemingly intrusive nature of trade rules brings the trading system into greater prominence within domestic politics. Public support, especially in the major industrialized countries, for trade reform is therefore a vital ingredient in the stability of the global trading system. The challenge for the global trading system is the maintenance of public confidence and support, and the challenge to the system arises from activists who attack the legitimacy of central institutions and seek to disrupt further moves towards liberalization. In the words of a former high ranking WTO official, "Improving understanding of the WTO is important to securing the necessary support for future trade negotiations from environmentalists and other civil society representatives" (Sampson 1999:3). Failure to secure such support is likely to erode legitimacy in the rules and norms of the global trading system. Both defenders and opponents of the WTO have recognized the salience of public support for further trade liberalization (Esty, 1999:98). This is, of course, not unique to the WTO and GATT faced similar problems. Indeed, President Truman's failure to secure legislative support for the Havana Charter was a decisive moment in the evolution of the post-war international trade regime. American domestic politics, in particular, has become an important consideration in the management of the global trading system. American presidents require Congressional support for trade treaties entered into by

the United States. The possibility that Congressional scrutiny would undermine any trade deal entered into by a US Administration led to the passage of legislation giving the president 'fast track' authority. Fast track authority authorizes the president to enter into agreements with the knowledge that Congress would not seek to amend the package of measures put before it.

While the importance of domestic coalitions in support of trade liberalization was an integral feature of the GATT regime the move to the WTO has brought about an important change in the relationship between citizen groups and the global trading system. The challenge for the WTO is an adaptation to what has been termed complex multilateralism. Complex multilateralism (O'Brien et.al. 2000) refers to a situation in which conventional multilateral practices involving state based rules and norms have been extended to an engagement with non-state actors. Under conditions of an emergent complex multilateralism intergovernmental institutions such as the WTO no longer focus exclusively on relations with their member states but instead must also engage with a number of non-state actors. It is in the context of complex multilateralism that we can situate one of the biggest challenges to the WTO. The intergovernmental nature of GATT was never seriously questioned and its legitimacy to preside over the trading system only surfaced in the final few years of its life with environmentalists challenging its authority to adjudicate in cases involving environmental issues. On the other hand, from its inception the WTO has faced challenges to its legitimacy from a range of civil society groups. This greater engagement with the trading system by civil society representatives and hostility to the WTO reflects both the increased scope of the WTO in

comparison with the GATT, and the perceived impact of globalization on the nature of contemporary democratic practices.

Civil society organizations have posed two key challenges to the WTO. First, they have mounted a critique of the liberalization project alleging that the impact of trade liberalization is harmful to domestic societies as a whole and specifically to the most vulnerable peoples in the world system. Secondly, they have campaigned against the governance of the WTO arguing that it is a profoundly undemocratic organization. The scientific validity of these claims is not my concern. In the context of this paper I am interested in the articulation of these criticisms of the WTO, and the extent to which the visibility of these critiques are politically significant.

Civil society contains a diverse array of actors with an interest in global trade governance (Scholte, O'Brien and Williams 1999; Williams and Ford, 1999). In this section I am less concerned with those groups that adopt a rejectionist stance and will focus on those groups that seek engagement but remain critical of the WTO and the project of further liberalization. These groups are certainly not homogenous but it is possible to discern certain common features of the radical critique of the WTO. The rest of this section will first examine the critique of the substantive content of further trade liberalization followed by an exploration of the arguments against the WTO's democratic credentials. In doing so it will also seek to provide an assessment of the impact of the civil society challenge to the functioning of the organization.

### **Trade Liberalization**

Not all civil society groups are antithetical to further trade liberalization. However, in examining challenges to the WTO and the global trading system I am concerned with those groups that critique further trade liberalization. Two aspects of this critique will be examined here. The first concerns general approaches to trade liberalization, and the second arises from concerns over the WTO's impact in specific issue-areas.

Reformist civil society groups on the whole are based on a qualified acceptance of the tenets of liberal economic theory and do not oppose free trade in principle (Scholte, O'Brien and Williams 1999) However, while it is acknowledged that trade has the potential to benefit poor countries it is argued that the current system tends to support the dominance of powerful forces who obstruct genuine free trade and construct policies that serve to maintain their dominance. For example, the trade provisions on intellectual property rights serve to legitimize the control of Western transnational corporations at the expense of poor people in the developing world. Thus reformist critics challenge specific policies rather than reject all further liberalization measures. From the perspective of rejectionist critics, the global trading system is an instrument of exploitation (Williams and Ford, 1999). These critics argue that the gains from trade are unevenly distributed and trade maintains structures of global inequality. They reject the liberal contention that trade is a benign process. In contrast they contend that trade is a process of unequal exchange that transfers value from the poor to the rich. The difference is therefore between writers who object to the operation of the global capitalist system and those who emphasize the flaws in the operation of the system. Both sets of critics point to the role of values at the center of the trading system. Free trade, is not, a neutral and technical

mechanism. Instead it is conceived as an ideology that promotes the interests of firms and dominant states.

The 'arrival' of three issues - environment, labor standards, and health - on the trade agenda has brought increased scrutiny of trade rules. The central challenge relates to the potential conflict between trade rules and concerns about the protection of the environment, health and workers. The environment was the first of the new issues to emerge and the environmental critique of the global trading system has been at the forefront of challenges faced by the WTO. The potential conflict between trade regulation and environmental protection was the subject of two high profile cases that captured the public imagination (at least in Western countries). In both the tuna-dolphin and shrimp- turtle cases environmentalists gained much public support for their argument that the trading system discriminated against national regulation that sought to protect dolphins and sea turtles respectively. The potential conflicts between environmental standards and trade rules are complex and no easy solutions are available. However, it is not the case that the trading system systematically promotes a 'race to the bottom' in environmental regulations or is antithetical to sustainable development. Nevertheless, the issue remains contentious and the challenge remains to reconcile in a manner likely to gain widespread public acceptance two apparently opposed positions.

The politics of public health and the relationship between trade rules and national regulation on health has recently become an important challenge for the global trading system. At the center of this issue is the problem of disguised protectionism. Under WTO regulations governments can act to prohibit the



import of products that are harmful to their populations even if such action restricts trade. However, the distinction between the legitimate use of health and safety barriers to trade and the use of such measures to protect and safeguard domestic producers from competition is not always easy to adjudicate. And the public discussion of such issues can undermine confidence in the global trading system. A recent high profile case concerns the dispute between the Canada, United States and the European Union over hormone-treated beef. The EU imposed a ban on the import of hormone-treated beef from the Canada and United States and cited health concerns as the reason for this action. WTO rulings supported the American and Canadian claim that there was no scientific evidence to support the EU's action, and Canada and the United States were authorized to impose countervailing tariffs on EU exports to the United States. Although the EU has published a directive which it argues complies with recommendations of the Dispute Settlement Body (DSB) neither Canada nor the United States have accepted that EU action meets the recommendations of the DSB. The challenge for the global trading system is to find a way to manage such disputes in future. It is imperative that a clearer framework is agreed so that it will be possible to distinguish between measures to protect public health and those designed to protect special interests under the guise of health and safety requirements.

A third issue concerns the debate over (core) labor standards in the WTO. This issue has been at the forefront of concerns by human rights organizations and trade unions. Human rights groups have sought protection for child workers, and women, and have campaigned for higher wages for workers trapped in cycles of poverty. Trade unions in developed countries have in the name of international solidarity supported

campaigns for higher wages in the developing world. This support is also motivated by a desire to protect jobs in the industrialized world because of the belief that transnational corporations export jobs to developing countries thus creating unemployment in OECD countries. Developing countries have resisted the attempt to bring this issue into the WTO arguing that this is yet another attempt to penalize their international competitiveness. This issue poses a challenge for the trading system because it creates friction between some industrialized countries and the developing countries and it provides an opportunity for various groups to question the legitimacy of a trading system that allegedly perpetuates poverty and human rights abuses (Wallach 1999).

### **Democratic Deficit**

While the protesters on the streets of Seattle and other so-called anti-globalization activists may be unrepresentative of wider social interests it would be folly to dismiss the broader critique of the WTO (and other global governance institutions) of which their protest is one highly visible example. The civil society critique of the democratic credentials of the WTO cannot simply be ignored. The broad challenge to the WTO's legitimacy is significant for future trade negotiations.

Legitimacy implies a degree of consensus among the members of a society that those exercising authority has a right to do so. The precise character of legitimacy at any specific time and place is contingent on the particular nature and distribution of resources of authority and on the dynamic relationship between those in authority and the constituencies they address. The problem of investigating legitimacy at the global level is

made complex by disputes concerning the conceptualization of the international. Is it an international system, international society or global society? Identification of relevant constituencies in international relations is dependent on answers to this question. Recent economic, social, technological and political changes encapsulated in the term globalization have created a shift in decision-making from local and national arenas to global structures. Of course, this is a complex process, and it is by no means, inevitable, irreversible or the sole movement in the spatial organization of decision-making. Nevertheless, this construction of global spheres of decision-making and authority structures is a significant feature of contemporary world politics. The WTO is a crucial part of this architecture of global governance through which legitimacy is secured in the context of non-territorial social organization. It has been accorded central significance in the construction of contemporary trade policy, and organization of the multilateral trading system, and legitimacy issues in the WTO constitute a salient context of current concerns in the global trading system.

The civil society critique of the WTO focuses on the issues of transparency, accountability and participation (Williams, 2004). Civil society critics argue that while the WTO's decisions impact on a range of stakeholders decisions in the organization are reserved exclusively for states. On the issue of transparency they criticize the fact that trade negotiations, meetings of WTO bodies, and the dispute settlement process are conducted in secret. They argue that the democratic credentials of the organization are harmed by this secrecy. Moreover, they have campaigned for better access to WTO documents. The WTO has responded to both of these aspects of the transparency issue. NGOs have been given

limited access to the dispute settlement process through the decision to allow them to provide *amicus curae* (friends of the court briefs). However, other aspects of the organization retain their strictly intergovernmental character. Although trade agreements do affect many stakeholders trade negotiations are conducted by governments and civil society organizations can influence these negotiations through access to governmental delegations (Robertson, 2000). The WTO has also moved to make its documents more readily available to the public (WTO 1996b; WTO 2002), and maintains an excellent website with provision of source material on its activities and the functioning of the global trading system.

Critics from civil society argue that only through greater participation of NGOs will the WTO become more accountable (Bellman and Gerster 1996; Enders, 1999; WWF 1999). These critics claim that the argument that civil society groups should work through the state structure rather than being granted direct access to the WTO is disingenuous because corporate interests enjoy unprecedented access to national decision-makers. It has been claimed that the structure of influence in national societies and the deregulation of decision-making privileges corporate power at the expense of local and national communities (Vander Stichele, 1998).

The failure of the WTO to enhance the participation of civil society it is argued contributes to poor policy-making. Social movement representatives have contended that increased participation by civil society groups will lead to improved, more informed policies (Bullen and Van Dyke, 1996; Esty, 1997) because NGOs possess specialized, technical information (Esty, 1999:100). Moreover, these

critics claim that restricted participation also public support for the WTO's decisions. Public confidence in and support for the WTO is likely to increase if NGOs are given greater access to the deliberative, negotiating and adjudicating processes of the organization.

The relationship between increased participation, accountability and the effective functioning of the WTO is a complex one. For example, even if it is agreed that the intergovernmental nature of the WTO undermines its democratic credentials an agreed model of democratic accountability that is applicable to international organizations is not readily available (Williams, 1999:160-166). Furthermore, caution has to be exercised in assigning superior moral weight to civil society organizations. Furthermore, it is by no means evident that many of these organizations are themselves representative institutions. Secondly, increasing the number of participants in trade talks may not necessarily garner more support for further liberalization. The proliferation of interests represented in negotiations may make it more difficult to arrive at a zone of agreement. In the current decision-making structure governments have to strike internal bargains and thus arrive at a single position in the negotiating process. The multiplication of parties to the bargaining table may create greater opportunities for interests opposed to an open trading system to stymie attempts at reform.

The challenge to the WTO's functioning posed by the critique of its legitimacy and democratic credentials has been recognized by WTO members. As mentioned above the WTO has responded to these concerns with a policy of document

derestriction, and the dispute settlement panels now accept *amicus curae*. In addition the WTO Secretariat in pursuance of a decision by the General Council taken in July 1996 (WTO 1996a) has expanded access to the organization for social movement activists, and corporate actors (since the WTO's definition of civil society actors is inclusive of the corporate sector). The Secretariat has initiated consultations and dialogue with civil society organizations. Various symposia on trade, development and environment have been held, briefing sessions between the Secretariat and Geneva-based NGOs have taken place, and Renato Ruggiero, Mike Moore, and Supacahi Panitchpkadi have initiated direct contacts with NGO representatives. NGOs are also welcomed to WTO Ministerial Meetings.

The response of individual member states has been varied. While the majority of WTO member states believe that "it would be inappropriate to allow NGOs to participate directly even as observers of WTO meeting (Sampson, 2000:42), the United States has been the most supportive advocate of increased recognition of civil society engagement with the WTO. US support for increased NGO participation and greater transparency of proceedings reflects the nature of trade politics in the US and also the strength of labor, environmental, human rights and corporate lobby groups. The Clinton Administration openly declared its support for more direct participation by civil society in the WTO (Bridges Weekly Trade Digest, 1998), and this policy has been endorsed by President Bush's policies.

## **Conclusion**

The post-war global trading system has proved robust in promoting trade liberalization. This system has historically

faced a number of challenges in its attempts to reconcile national and sectional interests and a commitment to improving global welfare through the reduction of barriers to trade. I have argued that a managed trade system cannot escape this central dilemma. The move from the GATT to the WTO maintained the basis of the regime but engineered a shift in favor of greater liberalization and more intense scrutiny of domestic policy. A stronger judicial system also made it more difficult for states to escape their obligations.

This paper has examined some contemporary challenges to the WTO's governance structure. First, it explored two issues that have arisen in the framework of the WTO –the difficulties encountered in arriving at decisions and the necessity to secure gains from trade for developing country members. The WTO cannot complete the challenge of concluding a development round unless it can make effective decisions and provide real benefits for developing countries. Second, the paper discussed the challenge posed to the WTO by certain civil society organizations. The WTO has been the focus of considerable attention from civil society much of it critical. The WTO has to respond to public disquiet if it is to retain legitimacy.

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