

# The WTO and the World Food System: a trade union approach



International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and  
Allied Workers' Associations

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# introduction: the wto and “global agriculture”

Making sense of the world food system today is both easy and complex. It is easy if we consider the importance of food in sustaining human life. Everyone needs food; access to adequate, safe and nutritious food is a fundamental human right. Some 1.3 billion people are actively engaged in agricultural production, with the agricultural sector employing half of the world's labour force. This includes 450 million waged agricultural workers. In developing countries agricultural workers constitute the majority of the workforce, reaching as high as 80 percent in some countries. Women account for more than half of the world's waged agricultural labour force, and 70 percent of all child labour is employed in agriculture.

The majority of working people engaged in agricultural production are involved in the production of food. According to the UN's Food & Agriculture Organization (FAO), rural women are responsible for half of the world's food production and between 60 to 80 percent most developing countries. All agricultural workers and small farmers are both producers and consumers of food, and their livelihood is tied to the livelihoods of those who consume the food they produce. This is a simple but fundamental link in the world food system.

A common sense approach to understanding the world food system raises some basic questions. If access to safe, nutritious food is a fundamental human right, why are 820 million people living in hunger today? Why are people in food-exporting countries living in hunger, and why are agricultural workers among the malnourished? If the value of annual global exports in agricultural products is USD 545 billion, why do waged agricultural workers and small farmers register among the highest levels of global poverty?

More than half of the world's workforce is engaged in agricultural production. Why then are the conditions under which food is produced so destructive to the health and well-being of these people? According to the ILO at least 170,000 agricultural workers are killed every year as a

result of workplace accidents. Agricultural workers are twice as likely to die at work than workers in any other sector. Among these fatalities are an annual 40,000 deaths from exposure to pesticides. Every year an estimated three to four million people engaged in agricultural work suffer severe poisoning, including work-related cancer and reproductive impairments, from the hazardous pesticides they are forced to use. Only five percent of the world's 1.3 billion agricultural workers have access to any kind of labour inspection system or legal protection of their health and safety rights. Yet the agenda of corporate globalization aggressively promoted by agencies like the World Trade Organization (WTO) seeks greater deregulation and *less* social protection.

Following what the WTO calls “the setback in Seattle” in 1999, the Fourth WTO Ministerial meeting in Doha (November 9-15, 2001) launched a new round of trade liberalization. The winners of this new ‘Doha Development Round’ are clearly the transnational corporations (TNCs) that dominate the global economy. This includes the agricultural and food processing industries, where mergers and acquisitions have seen the centralization of control in the hands of a few global corporations. Corporations supplying seeds have merged with agro-chemical and biotechnology companies, effectively reshaping the world food system. The president of Monsanto's seed division, Robert Fraley, says “This is not just a consolidation of seed companies, but really a consolidation of the entire food chain.”<sup>1</sup>

It is through this control of the entire food chain that corporations like Du Pont can claim – in its “to do list for the planet” – a simple task: “feed the planet.” What this really means is that people are less able to feed themselves without corporate giants like Du Pont as they become more dependent on the products and production methods of TNCs. In this sense, the food chain is locked and the TNCs hold the key. This is the direction corporate globalization is taking us, and the new round of WTO trade talks will take us there more quickly.

These are not philosophical questions or reflections on the morality of our times. They are some of the most basic *political* questions that must be asked about the system we live in. They in turn raise another basic question: If these are the most serious problems facing billions of people today, why does the WTO work so hard to exacerbate them? Hunger and malnutrition, food security and sustainable agriculture were sidelined as “non-trade issues” in the final WTO Ministerial Declaration. The conditions of work in the agricultural sector were ignored altogether. Instead of serious attempts to deal with these problems, the trade talks focused on how to increase the pressure on agricultural workers and small farmers to become more competitive, and how to expose them more fully to a volatile, fluctuating market. This is the same market that has displaced and impoverished hundreds of thousands of small farmers and agricultural workers faced with falling prices for coffee, sugar and other agricultural products. While hunger and the need for millions of people to gain access to food is one of the biggest challenges we face, the WTO agenda gives priority to gaining “market access” in ways that consolidate corporate power and profit in the agrifood industry.

In 1996 the World Food Summit announced its plan to halve world hunger by 2015. Yet in the WTO trade talks more urgent deadlines were drawn up for expanding global agribusiness. While the deadline for halving world hunger is 15 years away, the deadline for more rapid market liberalization in agriculture is to be achieved in 15 *months* – with new commitments planned for the Fifth WTO Ministerial in Mexico in mid-2003.

Hunger and malnutrition only enter the picture when the problem can be redefined to benefit agribusiness. In the months leading up to the WTO Ministerial in Doha, US President Bush declared: “I want America to feed the world. We’re missing some great opportunities, not only in our hemisphere, but around the world.”<sup>2</sup> In this way a global humanitarian crisis and the large-scale violation of people’s right to access to adequate, safe and nutritious food is redefined as a business opportunity. Among those to be “fed by America” (i.e. US agribusiness) are the small farmers and agricultural workers around the world whose livelihood was destroyed by competition, declining commodity prices, debt and displacement resulting from the dumping of under-priced produce by corporate agribusiness and dependence on over-priced

fertilizers and seed. Moreover, the 30 million people in the US who live in hunger – including over four million malnourished people living in the food-exporting state of California – know that only when their hunger is a business opportunity will “America feed America.”

For the US government feeding the world’s hungry and promoting US agricultural exports are one and the same. As Bush declared, “It starts with having an administration committed to knocking down barriers to trade, and we are.”

What are these “barriers”, how are they “knocked down” and what are the consequences?

Shortly after the WTO meeting in Doha, the US Secretary of Agriculture, Ann M. Veneman, stated clearly that these “barriers” include any efforts by governments to protect public health by ensuring that consumers have the right to choose not to consume GMO food products. In particular, Veneman criticized the EU’s move to strictly regulate GMO foods and impose compulsory labeling of GMO food products. Like other forms of environmental and social protection, restrictions on GMOs are seen as “barriers” that must be knocked down or prevented from being erected in the first place.

In the same speech Veneman reaffirmed that “...non-trade issues cannot be allowed to undermine key WTO provisions or divert us from our primary goal.” That goal is not to ensure the universal right to adequate, safe and nutritious food, or to promote sustainable agriculture that supports the livelihood of millions, but to create “global agriculture.”<sup>3</sup> Under this global vision, “future agriculture policies must be market-oriented ... they must integrate agriculture into the global economy, not insulate us from it.” It is in this context that the WTO Agreement on Agriculture and the Agreements on Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT) play a central role in breaking down barriers and consolidating global corporate domination of the world food system.

Regardless of differences in views on when and how to liberalize agriculture and promote the interests of agribusiness, the majority of governments represented at the WTO meeting in Doha tacitly support the US government’s vision of a market-oriented and commercialized “global agriculture.” With a few exceptions, the main disputes among trade negotiators concerned who

gets what share of the profits from “global agriculture”, not the violation of the rights of working people in the destructive process of globalizing agriculture.

This vision of “global agriculture” fails to recognize the social and environmental crises which are built into the current world food system and their enormous cost in human lives. Significantly, the rights and livelihood of the millions of agricultural and food processing workers, subsistence farmers and marginalized/small farmers on whose labour this entire system is based are ignored altogether.

This is why the labour movement must meet the challenge of building a long-term, comprehensive strategy to ensure that the world food sys-

tem is primarily geared towards fulfilling the right to food safety, food security, food sovereignty and the rights and livelihood of working people engaged in food production.

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<sup>1</sup> Quoted in *The Guardian*, December 15, 1997

<sup>2</sup> *New York Times*, June 19, 2001.

<sup>3</sup> Speech by US Secretary of Agriculture Ann M. Veneman, Oxford, UK, January 3, 2002.

## 2. building a trade union response: an integrated rights approach

As trade unions organizing and representing the interests of food and agricultural workers and supporting the interests of marginalized and small farmers, how do we respond to these challenges?

It is not enough to add these problems as “issues” on our unions’ list of things to do. We need an approach that builds a critical understanding of the WTO, globalization and agriculture, one that makes sense of what is going on and lays the groundwork for union responses. Such responses involve strategies and tactics that must take into account complex problems without getting caught up in technicalities and distracted by minor debates. As we will see below (in section 4), treating the WTO agreements as legal texts requiring a technical understanding and a technical ‘fix’ is a self-limiting strategy that fails to take into account the power and politics of the WTO.

For our strategy to be of real consequence to our members it must involve a perspective on the globalization of agriculture and the WTO which provides a set of criteria for understanding their impact on workers and small farmers around the world. Moreover, it must provide a road map for unions to chart their local responses. We need a common agenda that strengthens international solidarity and builds an internationally coordinated response, while at the same time respecting and encouraging a diversity of strategies and tactics at the national and local level.

In the introduction we indicated that the WTO, and neoliberal policies generally, undermine the working conditions and livelihood of working people and deny access to adequate, safe and nutritious food. To put it another way, the right to adequate, safe and nutritious food is denied by the WTO and neoliberal policies.

This paper does not provide a comprehensive analysis of the WTO agreements and their impact on food and agriculture, but instead attempts to develop a framework for trade union strategy. This framework starts with a set of prin-

ciples and goals – a commitment to *rights* – and uses this to assess the impact of the WTO on the world food system, and to identify the challenges faced by agricultural workers and small farmers. What is presented here is an *integrated rights-based approach* to understanding the impact of the WTO Agreement on Agriculture, particularly the implications of the new round of negotiations that will culminate in the Fifth WTO ministerial in Mexico in 2003, and a framework for education and mobilization among our members.

One approach is to agree on a set of collective rights which cover as many of the issues as possible, but which is clear and manageable. These rights should be treated as a package; inseparable not only in principle but in practice. This is important because one set of rights cannot be realized without the other. Since the problems we face are multi-faceted and are tied to a wide range of problems, we require an integrated approach that is able to respond to a multiple range of issues.

The principle of interdependent, inseparable rights is certainly not new. The Universal Declaration of Human Rights dating back to 1948, advances this notion. In reflecting on the inseparability of these rights the FAO has stated that:

*The civil, cultural, economic, political and social rights proclaimed in the Universal Declaration are considered interdependent, interrelated, indivisible and equally important. To be able to enjoy the right to food fully, people need access to health care and education, respect for their cultural values, the right to own property and the right to organize themselves economically and politically.*

This argument concerning inter-dependent and indivisible rights also applies to the UN’s International Covenant on Economic, Social and Cultural Rights (1966). Among the rights stipulated, Article 8 of the Covenant guarantees the right to organize, freedom of association and the right to strike and Article 11 guarantees the right to adequate food.

However, a trade union response that links worker and trade union rights with food rights reaches beyond mere principles to the practice on the ground. An integrated approach is necessary not only because of the broad range of challenges the world food system presents us with, but also because of the nature of the food chain itself, where workers' and consumers' interests are inextricably tied.

All too often the right to safe food is treated as a principle that must be enshrined in multilateral agreements like the WTO Agreement on Agriculture. It is an important principle, but any serious consideration of its enforcement in practice must take into account the role played by workers in growing and processing this food. Whether it concerns hazardous pesticides or the speed-up of production lines, protection of the right to safe food begins not on the shelf, but in the fields and factories. For example, the widespread problem

of repetitive strain injuries and the high incidence of industrial accidents and fatalities suffered by many workers in the food processing industry are directly related to the high speed of production and the intensity of work. The doubling and tripling of slaughter and processing line speeds in recent decades has also been the principle vector for spreading the pathogens behind the rising incidence of meat-related food poisoning. The production system that places worker health and safety at risk also contributes to unsafe food. The right to safe food therefore cannot be separated from the right of food processing workers to organize and bargain collectively to ensure a safe work environment. Furthermore, if one set of rights cannot be separated from the other in practice, then they cannot be separated in a strategy that attempts to enforce the right to food safety at international level. That is precisely why the new ILO Convention on Safety and Health in Agriculture

### Box 1: ILO Conventions concerning agriculture

Convention No. 87: Freedom of Association and Protection of the Right to Organize

Convention No. 98: Right to Organize and Collective Bargaining

Convention No. 29: Forced Labour

Convention No. 105: Abolition of Forced Labour

Convention No. 100: Equal Remuneration

Convention No. 111: Discrimination (Employment and Occupation)

Convention No. 138: Minimum Age

Convention No. 11: Right of Association (Agriculture)

Convention No. 141: Rural Workers' Organizations

Convention No. 129: Labour Inspection (Agriculture), 1969

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture)

Convention No. 101: Holidays with Pay (Agriculture)

Convention No. 25: Sickness Insurance (Agriculture)

Convention No. 36: Old-Age Insurance (Agriculture)

Convention No. 38: Invalidity Insurance (Agriculture)

Convention No. 40: Survivors' Insurance (Agriculture)

Convention No. 12: Workmen's Compensation (Agriculture)

Convention No. 10: Minimum Age (Agriculture)

Convention No. 110: Plantations



(adopted in June 2001, and yet to be ratified) must be treated by trade unions, small farmers' organizations and consumer organizations alike as a tool for advancing not only the rights of agricultural workers, but the right of all working people to good, safe food.

The struggle to combine food workers' rights and the right to good, safe food is not new. The IUF has long been committed to defending and advancing a comprehensive set of rights concerning food production, distribution and consumption. This includes the right to adequate, safe and nutritious food whereby food production is geared towards the satisfaction of human needs. Article 2, paragraph 6 of the IUF Rules reads:

*Within its specific sphere of activity, the IUF shall actively promote the organization of the world's resources in food for the common good of the population as a whole, and it shall seek adequate participation of labour and consumer interests at all stages of national or international policy-making relating to the production, processing and distribution of food and associated commodities.*

The objective of seeking "adequate participation of labour and consumer interests at all stages of national or international policy-making" expresses a particular right – the right of workers' organizations, together with consumer interests, to shape national, sub-national and international food policies. Yet in the following discussion of the WTO and the world food system, we will see that the WTO systematically removes that right, reducing the space for labour and consumer interests to determine food policy in order to promote the power and interests of agrifood, chemical and biotechnology corporations. Moreover, *at all stages of national and international policy-making* the WTO is enforcing a model of market-oriented, industrial agriculture that gives priority to *food production for corporate profit* over the common good of the population as a whole.

The right to food security alone is not enough if it is narrowly interpreted in terms of the availability of food. Who produces it, how it is produced and the long-term sustainability and capacity to maintain an adequate supply of food are important factors. In the WTO's Marrakech Ministerial Decision the concept of food security was included, but was redefined as the availability of food in the market, not the adequacy of food for the population or ad-

equacy of nutritional intake. In practice the Marrakech Decision only permits developing countries that are net food-importers to provide government assistance and direct payments to *import* foodstuffs if there is a shortfall. In other words, in developing countries government subsidies for the import of *commercial* foodstuffs on the world market are permitted, but subsidies for local food production are not. This contradiction has led some to argue that genuine food security can only be guaranteed through food sovereignty.

The concept of food sovereignty is a relatively new concept, dating back to 1996, and was coined specifically in response to the threat posed by the WTO to poor countries' capacity to develop and maintain an adequate supply of staple foods. In this context, mere availability of food (as defined by food security) is no longer sufficient, since it fails to recognize the source of this food and the livelihoods dependent on its production and use. A useful working definition of food sovereignty may be found in the Final Declaration of the World Forum on Food Sovereignty, Havana, Cuba, September 7, 2001:

*Food sovereignty is the means to eradicate hunger and malnutrition and to guarantee lasting and sustainable food security for all of the peoples. We define food sovereignty as the peoples' right to define their own policies and strategies for the sustainable production, distribution and consumption of food that guarantee the right to food for the entire population, on the basis of small and medium-sized production, respecting their own cultures and the diversity of peasant, fishing and indigenous forms of agricultural production, marketing and management of rural areas, in which women play a fundamental role.*

If we combine this notion of food sovereignty with food security, and incorporate a key set of rights uniting the interests of working people as waged workers, small and subsistence farmers and consumers, the following set of integrated rights may form the basis for a trade union strategy:

✓ **The right to adequate, nutritious and safe food**

✓ **The right to food security and food sovereignty**

✓ **The right to organize and bargain collectively and freedom of association**



√ **The right to a safe working and living environment**

√ **The right to livelihood protection**

By starting with these fundamental integrated rights, we can then determine whether agreements like the Agreement on Agriculture, and the WTO generally, are compatible with these rights. We must ask whether these global rules for a “global agriculture” deny or restrict any of these rights, and whether they can co-exist with these rights. An integrated rights-based approach would serve to raise critical awareness of key aspects of the world food system today and the impact of corporate globalization. It requires us to think through the contradictions between the demands and the realities of the world food system, and to work through the strategy and tactics for achieving our goals.

It is not the primary aim of this strategy to decide whether or not to seek the inclusion of these rights in the Agreement on Agriculture or be drawn into a fruitless ‘reform vs. abolish’ debate. Rather, it attempts to reveal how incompatible these rights are with the Agreement on Agriculture and the global trade and investment regime of which it is a part. Our strategic focus here is not about sorting through the technicalities of the agreement or seeking a re-wording, but rather to aggressively assert a set of rights-based priorities, objectives and processes that – if they were accepted – would render the Agreement on Agriculture useless to the corporate interests that crafted it.

This raises the question of how our approach can make use of the existing international treaties that are intended to secure these rights. There is a concrete basis for arguing that these treaties – such as the ILO Conventions guaranteeing basic trade union and worker rights and the rights of agricultural workers (see Box 1) - should be enforced *over and above* the WTO agreements. The more critical issue is the way in which the focus on securing collective rights emphasizes the role of national governments, for to a large extent it is only at the national and sub-national level that these rights can be institutionally guaranteed and enforced.

We may summarize the strategy - and its benefits - as follows:

- An integrated rights-based approach is used to assess the impact of global trade and invest-

ment regimes and define the kinds of collective action needed.

- The suppression of these rights exposes the political and economic logic behind the WTO Agreement on Agriculture and similar regimes.
- These rights are not only treated as a set of principles but also as the objectives underpinning a trade union response.
- These rights are not passive principles but tools for working people to fight back and overcome the poverty, vulnerability and insecurity we face today.
- These rights are necessary to enhance democratic control and develop collective capacities.
- A rights-based approach is necessary to rectify inequalities and imbalances between and within countries.
- At the same time a rights-based approach helps us to focus on the systemic and global violations of worker rights, thereby avoiding a narrow country analysis and a facile “North/South” dichotomy.

Finally, a rights-based approach reminds us of the urgency with which we must act. Hunger and malnutrition, the destructive impact of the current world food system on human health and the environment, the serious injuries and fatalities affecting workers in the agrifood industry, the systematic violation of workers’ rights and the growing sense of vulnerability faced by working people in their factories, plantations, farms and communities do not permit us the luxury of a “wait and see” attitude. Nor will they pause while we lobby and fine tune policies.

## 3. the WTO Agreements and global inequality

In the introduction we looked at how the most serious problems we face – mass hunger and malnutrition, poverty and poor working conditions – are ignored by the WTO. This is not simply a matter of priorities, or the absence of key workers' issues on the WTO agenda. In fact, the social, political and economic measures necessary to alleviate hunger and malnutrition, improve working conditions in agriculture and protect the interests and livelihood of agricultural workers and small farmers express a set of *rights* that require social regulation and protection – the very kind of social regulation and protection treated as 'barriers' by the WTO. The Agreement on Agriculture, for example, treats national and sub-national measures to protect the livelihoods of small farmers and subsidies for local food production as barriers that must be removed. "Food security" may only be achieved through purchasing from the global market and not by fostering domestic food production capacity. The Agreement on Sanitary and Phytosanitary Measures (SPS) treats food hygiene and safety measures designed to prevent the import of foodstuffs carrying diseases and pests or the protection of public health through rigorous food inspection procedures as 'barriers' that must be removed in the name of free trade.

WTO rules and obligations are not only concerned with breaking down barriers. They also determine the function of food-related policies and the *purpose* of agriculture. The WTO Agreement on Agriculture promotes a system of trade and investment in food and agriculture based on large-scale, export-oriented industrial production. This kind of agriculture emphasizes corporate profit over human needs, and the compulsion to supply the world market over internal food production.

The WTO Agreement on Agriculture and related WTO agreements inhibit the capacity of governments to introduce those regulations necessary to deal with problems of food shortages, hunger and rural poverty by narrowly defining a set of pro-market policy options through which governments may respond to these problems. As a re-

sult the *existing* problems of poverty, deprivation and displacement are exacerbated and the right to food security and food sovereignty are undermined.

The WTO allows certain kinds of subsidies to continue, particularly export subsidies through export credits and direct income provision to farmers. These subsidies are common in the major industrialized countries, but developing countries tend to rely on less expensive measures such as tariffs. WTO obligations require the abolition of tariffs, but permit export subsidies like the US government's export credit scheme and direct income transfers. The continued use of export subsidies and other forms of domestic support for big agribusiness in the US and the EU allows massive dumping of under-priced agri-food products in developing countries.

The governments of the US and EU aggressively prevented the issue of export dumping from inclusion in the WTO agenda in Doha and it will still be off the agenda in Mexico next year - despite the fact that export dumping is one of the key problems threatening the livelihood of small farmers and agricultural workers in poorer countries.

In response to the problems caused by export dumping, the Second World Conference of the IUF Agricultural Workers' Trade Group (Capetown, South Africa October 5-6, 1998) adopted a resolution calling for an end to export subsidies in the US and the EU.

### 3.1 the Development Box

One of the basic criticisms of the Agreement on Agriculture is that it exacerbates global inequality – inequality between developed and developing countries, and inequality within countries between large-scale agribusiness and small farmers. While developing countries are forced to reduce import tariffs and abolish non-tariff import restrictions that were not converted to equivalent tariffs during GATT negotiations, the

## BOX 2: IUF resolution on the impact of subsidized agricultural exports on developing countries

The USA and the European Union (EU) pursue a policy of subsidizing agricultural exports to specific target countries with the goal of artificially depressing prices. This policy is leading to the destruction of farms, plantations and rural employment in Southern, East and West Africa and in other regions of the world.

The subsidized exports of the EU and the USA are therefore contributing to the growth of hunger and the destruction of the potential for strengthening local and regional agricultural production in many regions of the world.

The 2nd world conference of the AWTG of the IUF therefore calls upon:

The governments and representatives of the USA and the EU

- to halt the export of subsidized agricultural goods to less-developed regions of the world;
- to monitor, together with rural producers and agricultural workers' trade unions, the impact of subsidized exports on local agricultural production, and to make public the results of this monitoring;

The trade union movement, democratic civil society, and all progressive persons to act to bring about an end to this destructive policy.

major industrialized countries such as the US, the EU and Japan maintain significantly higher tariff levels even after reductions.

It is for this reason that the governments of several developing countries have demanded the inclusion of a "Development Box" in the Agreement on Agriculture. The Development Box proposal reflects a limited attempt at international policy level to rectify imbalances in WTO rules by giving governments in developing countries more flexibility to protect "low-income and resource-poor farmers" from cheaper imports and to provide support for the domestic production of "food security crops". These food security crops include staple foods or crops that are the main source of income for low-income and poor families. The Development Box would exempt certain food security crops from tariff reduction commitments in the Agreement on Agriculture. The Development Box incorporates an earlier proposal for a separate "Food Box" that would exclude from the Agreement on Agriculture those "measures that countries may be allowed to ensure domestic food security." This is in contrast to food security based on food imports.

At the WTO ministerial in Doha, government representatives from Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Nicaragua, Nigeria, Pakistan, Peru, Senegal, Sri Lanka, Uganda, and Zimbabwe formed the

"Friends of the Development Box Group" as a negotiating group within the talks on the Agreement on Agriculture. In the press statement released by the Friends of the Development Box in Doha on November 10, 2001, the inequalities of the present system were highlighted:

*The WTO is supposed to ensure equity in trade, but the present agricultural trading system in practice legitimizes the inequities, for instance, by allowing the dumping of agricultural products from the North. OECD domestic supports have risen by 50 percent since the time of the Uruguay Round to over USD 370 billion today - a figure of USD 1 billion a day which is roughly equal to the daily income of the poorest 1 billion people in the world. Subsidies comprise 45 percent of the value of all production. Small farmers in developing countries simply cannot compete in this unfair environment.*

*In many developing countries, up to 60-90 percent of our population are small farmers. Agricultural production is critical as the key sources of employment and food security. Because there are no guaranteed alternative sources of employment for such a large number, large-scale food imports for many of our countries are synonymous with importing unemployment and food insecurity.*

Despite these concerns the proposal for a Development Box and other calls for "special and differential treatment" (S&D) for developing countries were strongly resisted by the US, EU and the Cairns Group. The final Doha Ministerial Declaration refused to recognize calls for a Development Box.

On February 4-6, 2002, a special session on the Agreement on Agriculture again rejected the Development Box proposal. The US government argued that the Development Box is contrary to the direction set out in the Doha Ministerial Declaration and that any kind of special and differential treatment must be subordinated to the overall market logic of the Agreement on Agriculture, promoting market-oriented investment and trade in agricultural production.

The government of the United States is actually correct in arguing that the pursuit of more flexible, non-market policies contradicts the logic of the Agreement on Agriculture. Under the terms of the agreement, the signatories have no right to develop policies that protect domestic food security and the livelihood of low-income and poor farmers, i.e. policies based on social concerns rather than market logic. *They surrendered this right when they signed the Agreement on Agriculture.*

The Development Box exclusions cannot be incorporated into the Agreement on Agriculture because they conflict with its real purpose, which is to generate market dependency. This dependency limits the capacity of governments to seek non-market alternatives to resolve food shortages and protect the livelihood of farmers. The expansion of large-scale commercial agriculture geared towards export *needs* the inequalities that the Development Box attempts to address. Market opportunities for export-oriented agribusiness only exist because of these inequalities and the destruction of local capacity for self-sufficiency in food. The Friends of the Development Box Group's proposal is inherently flawed because the entire basis of the Agreement on Agriculture is not to promote fair and equitable trade, but to reinforce these inequalities and the import dependence of developing countries that are the fastest growing market for EU and US agribusiness.

Another problem facing proposals for box exclusions like the Development Box is the deadline imposed by the Peace Clause in the Agreement on Agriculture. This stipulates that the exclusion of certain kinds of "box" subsidies expires when

the Uruguay Round ends and is replaced with the Doha Development Round – to be launched at the next WTO ministerial in Mexico in 2003. Even if the developing countries were successful in getting "Development Box" or "Food Box" exclusions from the Agreement on Agriculture, it is very likely that the EU, US and the Cairns Group of countries would link these boxes to the Peace Clause deadline of 2003.

While we should support the concerns raised in the Development Box proposal *on the basis of the right to food security and food sovereignty*, we must recognize the fact that the Development Box proposal is silent on the employment, working conditions and livelihood protection of waged agricultural workers engaged in food production. In fact, the governments which joined together to form this negotiating group have done nothing to guarantee the worker and trade union rights of agricultural workers and have denied the right of both agricultural workers and small farmers to livelihood protection.

There are serious limitations built into the "developing countries" approach, which does nothing to challenge the prevailing definition of national development and its divisions into developed, developing and least developed. This obscures poverty, inequality and underdevelopment within countries, including those designated as 'developed.' Within developed countries small farmers and farmer cooperatives have suffered destructive competition, displacement and indebtedness as a result of the expansion of large-scale factory farming and agribusiness. Subsidized exports in the US, for example, have not benefited the vast majority of farmers. The increasing concentration and centralization of agricultural production has led to the rise of factory farms and the decline of family farms. Over 50 percent of US production comes from only 2 percent of farms, while 9 percent of production comes from 73 percent of farms. The scandalous position of US farm workers is sufficiently well known and needs no elaboration here.

The "developing countries" approach ultimately ends up supporting trade technocrats from the "South" (and the domestic capitalist interests they represent) as proponents of an "alternative view." As trade unionists, our focus should not be on providing corporate welfare for local capitalists. Rather, we must seek to build capacities for democratic control and overcome restrictions on that control.



### 3.2 Consolidating Corporate Control

The real issue underlying global inequality is not a “North” vs. “South” dichotomy, but the power of the TNCs headquartered in the North and the political support they receive from political elites at home and abroad. The WTO institutionalizes this support and gives TNCs even greater control over food and agricultural policy-making around the world.

Currently the top 10 agro-chemical companies control about 80 percent of a USD 32 billion global market, while 80 percent of world grain is distributed by just two companies, Cargill and Archer Daniel Midland. Approximately 75 percent of the banana trade is controlled by just five corporations, while three corporations control 83 percent of the cocoa trade and another three corporations control 85 percent of the tea trade. These are just a few examples that illustrate the extent of corporate monopolization and control of the world food system.

According to the FAO, developing countries over the last 30 years have seen their trade deficit in cereals rise from 17 million tons to 104 million tons. The FAO sees this as a ‘precarious trend’, since historically both developed and developing countries have achieved food security through enhanced domestic food production. Yet this is not merely the result of unfair rules that must be rectified through temporary measures like a Development Box. It is in fact the result of a deliberate strategy of agrifood TNCs to expand markets for their produce in developing countries, and in doing so increase developing

countries’ dependence on food imports. This involves destroying local competition and gaining control of these growing markets. The conversion of land use to non-traditional agri-exports creates a paradoxical situation of increased dependency on TNCs for access to markets and distribution and inputs - including seed - while importing heavily subsidized agricultural products to substitute for the traditional crops originally displaced. From the perspective of agribusiness this is the meaning of ‘market access’ secured through the Agreement on Agriculture.

For example, in the Philippines, the government’s promotion of cash crop exports to replace rice and corn involved the conversion of 2.5 million hectares of land used to grow rice and 2.5 million hectares of corn to livestock production. This was linked to the US Department of Agriculture’s support for Cargill’s plan to become a major exporter of corn to the Philippines, making the Philippines a “regular corn importer”.

It is no accident that Cargill’s former senior vice president drafted the US proposal on agriculture (which later became the draft Agreement on Agriculture) in the Uruguay Round of GATT that set these policies in motion.

At that time the export subsidies paid to a US corn farmer were 100 times the average income of a corn farmer in Mindanao. It is because of this heavy subsidization that US corn exports undercut Philippines corn prices by more than 20 percent. Having converted to livestock production, this sector is now being “opened up.” Heavily subsidized US pork and poultry exporters have gained greater access to

#### Box 3: Cargill

Cargill is one of the top two exporters of soybeans from the US, Argentina and Brazil, who between them dominate world supply. Cargill exports an estimated 40 percent of the corn that leaves the US, which in turn supplies about 30 percent of the world market. Cargill is a major corn exporter and importer around the world, buying, shipping and milling grain in more countries than there are WTO members (160 or so). This kind of market power is an aspect of global agricultural trade that is entirely ignored by the current rules but that cries out for more attention, to ensure market distortions are managed. Even simple transparency measures are not yet in place. Trade rules need to reflect the actual conditions under which markets work, rather than theoretical models of efficient markets that have little connection to reality.

*Excerpted from “Food Security and the WTO”, by Sophia Murphy CIDSE Position Paper (September 2001)*

the Philippines, reducing the market share of Filipino producers from 82 to 45 percent for pork and from 94 percent to 49 percent for poultry. A 1998 WTO ruling in favour of the US against import controls on pork and poultry in the Philippines further opened this market to domination by US agribusiness.

Agribusiness TNCs also pursue their interests through the use of the WTO dispute mechanism – a system that threatens trade sanctions against those countries maintaining “barriers” to the expansion of corporate control and profit. The September 1997 WTO ruling against the EU’s banana import scheme for African, Pacific and Caribbean exporters reveals the extent of TNC domination. The complaint against the EU was filed by Ecuador, Guatemala, Honduras, Mexico and the United States. The US government filed the case on behalf of the US-based TNC Chiquita, even though the United States does not export a single banana.

### 3.3 Downward Harmonization

Under the WTO, national and sub-national laws and regulations must be “harmonized” with international standards. Although these international standards are supposed to be the basis for local laws and regulations, any local standards which exceed these international standards are labeled unfair trade barriers. Since the definition of new international standards under the WTO is determined by private industry, there is an inevitable downward harmonization.

An example of this downward harmonization is the WTO Agreement on Sanitary and Phytosanitary Measures (SPS) – a set of rules and obligations enforcing the international harmonization of health and hygiene inspection of imports. The very fact that food import inspection and safety measures were included in the WTO agreements means that they were already identified as potential barriers to the interests of agribusiness.

In the introduction reference was made to the US Secretary for Agriculture’s targeting of food safety and hygiene inspection procedures as trade barriers. The SPS Agreement is the tool used to break down these barriers. For example, in October 1998 the WTO ruled in favour of the US in a dispute with Japan over the latter’s health inspection and quarantine procedures for

imported agricultural products (particularly fruit). It was concluded that these measures violated the SPS Agreement, despite the fact that protection of local farmers’ fruit crops against imported diseases and pests is an important issue relating to the rights of these farmers. The US government lodged the WTO complaint and won on behalf of US agribusiness interests seeking greater access to the Japanese market. The fruit import measures were then revised downwards in line with the WTO ruling.

The systematic downward harmonization of hygiene and safety measures for food imports under the SPS Agreement occurs at a time of growing food safety crises. The spread of BSE (“mad cow disease”), the rising incidence of salmonella and e-coli and the toxic contamination of eggs are just a few of the serious health threats facing farmers, food and agricultural workers and consumers in recent years. These crises highlight the urgent need for more stringent and effective food and agricultural inspection and safety measures. Higher standards and stricter enforcement of standards are necessary. Yet the WTO is taking us in the opposite direction by lowering standards and declaring strict safety and hygiene measures illegal. At the same time, TNCs have put profit before public health during these crises and therefore cannot be trusted in a deregulated environment.

The international standards on which the WTO enforces the SPS Agreement are based on the standards devised by the Codex Alimentarius Commission. The Codex Alimentarius Commission is an international standard-setting body established by the World Health Organization (WHO) and the Food and Agriculture Organization (FAO) and is made up of government representatives and official advisors from private business. The Commission is heavily influenced by representatives of major food and chemical corporations. US-based agrifood TNCs participate in Commission meetings and determine the position taken by governments. Monsanto, for example, is one of the TNCs exercising a powerful influence in Codex. The US won its case in the WTO against the EU’s ban on imports of hormone-fed beef despite extensive scientific evidence showing the potentially harmful effects on human health of growth hormone residues in beef. The reason is that the WTO decision was based on Codex, and the growth hormone concerned is a product of Monsanto.

As a result of direct TNC influence in the Codex Alimentarius Commission, Codex standards are



extremely lax, allowing the use of hazardous chemicals that are otherwise banned in many countries. For example, Codex permits DDT residues in milk, meat and grains and permits the use of several hazardous pesticides that are banned by many governments and rated as highly dangerous by the WHO. New international standards on agrochemicals in the WTO – which are below existing national standards in many countries – are based on Codex standards.

This problem is not limited to food safety but also concerns the health and safety of the workers involved in producing that food. Codex's (sub-)standards for food safety are rolling back national standards which limit or ban hazardous chemicals. In this sense harmonization not only brings national laws and regulations into line with multilateral trade rules, it also detaches them from democratic pressures on national governments, locking them into a set of obligations and rules which are constantly redefining standards in accordance with the interests of private industry, especially TNCs.

### 3.4 The Attack on GMO Labeling

Under the WTO Agreement on Technical Barriers to Trade (TBT) "production processes and production methods" (PPMs) are excluded from consideration. This means that the social, health and safety, environmental and political conditions under which goods are produced are deemed irrelevant: commodities with the same characteristics must be treated as "equivalent" products under national and sub-national laws and regulations. This also applies to "standards", including voluntary, non-binding mechanisms such as voluntary labeling. As a result even voluntary labeling can be treated as discrimination against the products of companies that do not participate in voluntary labeling schemes.

The separation of the production process and the product means denying the right to know what is in a product and how it was produced. The exclusion of PPMs enforced by the TBT agreement directly challenges the historic struggle of the trade union movement to bring recognition to the labour behind the product. Unions have always fought for products to be judged according to the conditions under which they were produced. Unions have effectively mobi-

lized consumer awareness to put pressure on employers to reveal the conditions under which a product was made. By insisting on the separation of traded goods and services from their production processes and methods, the WTO has established the grounds for challenging national laws that attempt to make this link.

The use of the WTO to attack GMO labeling and bans on GMO food products is an example of this. The US considers GM food and non-GM food to be equivalent products: therefore no special safety testing, reviews, or labeling are required before entering the market. This position is supported by the exclusion of process and production methods in the TBT Agreement. As a result, moves by the governments of Sri Lanka and Bolivia to introduce laws banning GMOs were met with threats of action in the WTO by the US government, as well as by the Argentine and Australian governments.

In January 2001, Bolivia introduced a twelve-month ban on all food and agricultural products derived from GMO crops, but pressure from the Argentine government as well as agrifood and bio-tech corporations forced the withdrawal of the legislation. In response to pressure from environmental groups and small farmer/agricultural worker organizations the Bolivian government announced in August 2001 that the ban would be elevated to a Supreme Decree, making it a permanent law. However, the threat by the Argentine and US governments to take action in the WTO forced the Bolivian government to end the ban two months prior to its expiry. The Bolivian mission to the WTO in Geneva had informed its government that the Argentine and US threat was "valid under WTO rules". Argentina is the second largest exporter of GMO soya after the US, and Monsanto's Roundup pesticide is used extensively in Argentina.

In May 2001 the Sri Lankan government introduced a ban on imports of 21 categories of GMO food products, including GMO soya, soya milk, soy sauce and soya flour, tomatoes and tomato-based products, and corn flour. At the same time the government declared that it would enforce the ban under amendments to the Food Act to be enacted in September of that year. Under the ban GMO-free certification was needed for all imported food products. In response the US and Australian governments warned the Sri Lankan government that they would take action in the WTO against the ban. The US government indicated that Sri Lanka could face USD 190 million in sanctions if it

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proceeded with the new law. As a result the ban was postponed. Meanwhile, the WTO called on the Sri Lankan government to provide scientific evidence to support its decision and warned that the ban would be treated as an unfair trade barrier.

Only six weeks after joining the WTO, China faced the threat of a possible dispute over its GMO labeling regulations. The US government threatened to launch a formal complaint at the WTO against China's new regulations on the import of GMO foodstuffs. The US government described the new regulations (designed to protect public health and the environment) as "an unfair trade barrier."

The need to regulate GMOs is not only an issue of food safety because the protection of public health is concerned, but also concerns the right

of people to decide not to consume GMO foods. Moreover, it is a critical issue for small farmers, including subsistence farmers, whose livelihood is threatened by competition from agribusiness, which uses GMOs to undercut prices and produce surpluses for dumping overseas. Their livelihood is further threatened by dependence on GMO seed and the specific pesticides and fertilizers required by GMO seeds. From a rights-based perspective small farmers, subsistence farmers and peasant farmers must have the right to choose not to grow GMO crops and must have the right to be free both from dependency on TNCs and from destructive competition with TNCs that displaces farmers' produce from local markets and forces them from the land. In this sense we must talk about the right to regulate GMOs as a means to protect other rights.

## 4. the broader context

The impact of the WTO Agreement on Agriculture and the SPS and TBT Agreements is not confined to the reversal or abandonment of particular policies and regulations to comply with WTO rules. Often these changes do not result from WTO disputes or the direct application of WTO rules. Their impact is felt even without any dispute in the WTO or clear warnings that rules are being violated. The WTO's Trade Policy Review mechanism, for example, plays an important role in institutionalizing these rules. As part of this process, policy-makers at national and sub-national level must continually evaluate existing or proposed policies and laws in the light of a potential challenge under WTO rules, including the possible threat of trade sanctions on any export commodity. Decision-making at national and sub-national level is constrained by constant risk assessment, meaning that public concerns and interests can be ignored so long as any proposed legislation has the potential to violate WTO rules. This further isolates governments from the pressure of labour and social movements.

This reminds us that the rules governing world trade, which are routinely presented as embodying unanimous agreement on the rationality and common sense of free trade, are in fact based on the threat of sanctions by the WTO. What appear as voluntary and openly negotiated agreements are in fact bargained through a process of threats, coercion, concessions and business deals that is the exclusive domain of technocrats and private business. In the following section we will examine this coercive power and politics underpinning the WTO regime, as well as the broader context of corporate globalization.

### 4.1 The WTO as a Regime

The WTO member-states are officially classified as "developed", "developing" and "least-developed." The official reason for this is that developing and least-developed countries require more time to fulfill the obligations laid down in WTO agreements. This is justified by the fact

that differences in the level of development produce differences in the capacity of countries to comply with WTO rules and disciplines. As a result, the time frames established for the removal of certain kinds of barriers are longer for the less developed countries. However, the reality is that in the past five years the Quad (the governments of the EU, US, Japan and Canada) has aggressively used the WTO dispute settlement and trade policy review mechanisms to strictly enforce WTO rules and disciplines on poor countries. Rather than making concessions for the differences in the level of development, the WTO has defined *what kind of development* is permitted, forcing developing countries to comply with this model at tremendous political, social and ecological cost. More broadly, the harmonization of national and sub-national laws and regulations to conform with the new global standards devised by private industry and imposed by the WTO has resulted in the systematic destruction of efforts to protect the collective rights, health, and livelihood of working people and our capacity to exercise democratic controls over capital.

Underpinning this is the fact that the WTO operates less as an organization of member-states than as a coercive enforcement *regime* that preserves the inequality of the global economic system, ensuring the continued dominance of the developed countries - particularly the EU, US and Japan, where over 480 of the world's 500 largest TNCs are headquartered. The kind of development both permitted and enforced under the WTO regime is that which advances the interests of these TNCs, expanding their power and profits.

By limiting the developing and least-developed member-states to this kind of development model, the possibility of democratic initiatives to reduce poverty and foster development in more creative and sustainable ways is significantly reduced. In particular, efforts aimed at supporting localization and community-centered development are undercut by bans on government subsidies and restrictions on any kind of public support that might limit the dominance of TNCs

in local markets. Under WTO agreements the governments of developing countries cannot use industrial policies which promote local industry or impose performance requirements on foreign investors to contribute to local development (for example, domestic content policies or technology transfer requirements), despite the fact that governments in developed countries used these same policies to industrialize in the past. Instead, increased dependence on TNCs is combined with increased financial instability, and greater inequality within and between countries.

In this way the WTO regime takes the existing hierarchy of wealthy and poor nations and freezes it, perpetuating the inequality of the global economy and its colonial origins.

### 4.2 Corporate Globalization: Breaking down barriers

It is in this context that we must return to the issue of globalization. As a political process globalization involves the breaking down of political and social barriers to the expansion of capital, especially international capital represented by transnational corporations and banking and financial institutions. These barriers are not tariff or other barriers to the flow of goods and services across borders. They are political and social barriers, constructed over decades of struggle by labour and social movements to protect the collective political, economic and social rights of working people by limiting corporate power and the predominance of profit over people. These include various forms of government regulation of corporate activities, such as laws on employment, environmental protection and public health. Public ownership and public provision of services are also attacked as barriers, since they place fairness and social needs before the most important need of corporations - private profit.

In the pursuit of greater corporate freedom, TNCs placed increased pressure on governments to de-regulate and privatize. In the last decade alone, of the 1,035 changes to foreign investment laws around the world, 94 percent of these changes granted corporations greater freedom and rolled back the ability - and the right - of governments to regulate them. However, this still was not enough. Based on their fear that labour and social movements would turn back the tide and restore (or create) democratic controls

on capital, the TNCs demanded that the changes under free trade be locked into place and made permanent. A new set of global rules was therefore created to force each and every government to protect and preserve the rights of TNCs, with the threat of trade sanctions and economic isolation for any country that did not. These rules not only placed the global system above the local, but gave global corporations the status of governments. The largest of these corporations already had the wealth of most governments, so the same legal and political standing under international law was seen as the next logical step.

In this context the purpose of the WTO agreements as components of the WTO regime is to lock states in at the national and sub-national level, preventing the possibility of re-erecting these barriers. The regime is expressly designed to prevent a reversal of neoliberal policies and the corporate power it consolidates by threatening sanctions against countries whose governments attempt to re-erect these barriers or create new forms of social and/or ecological protection in response to the pressure of labour and social movements.

Like the structural adjustment programs imposed by the IMF, harmonization under the WTO has targeted food self-sufficiency/food security and food safety as barriers to corporate profit. The WTO is fundamentally opposed to a sustainable agriculture which guarantees food security, fairer redistribution, and ecological protection precisely because such practices restrict the profit-maximization drive and expansion of agri-food TNCs.

### 4.3 Export Dependency and External Debt

The inequality perpetuated in the WTO regime is illustrated by the ban on trade-balancing measures (where governments impose restrictions on the import of inputs by a corporation or limit the import of inputs in accordance with its level of exports) and foreign exchange balancing requirements (where a corporation's permitted imports are tied to the value of its exports so that there is a net foreign exchange earning). This ban ignores the realities of a global economic system in which poorer countries are locked into a model of export-oriented industrialization (EOI) and massive overseas debt. In fact, much of the pressure to impose export performance

requirements on foreign investment and to ensure a net inflow of foreign exchange is based on the need to meet debt repayment obligations in foreign currencies. Failure to meet debt repayment deadlines merely places the governments of these countries under greater control by the transnational banks and the IMF.

The overall global debt of all developing countries, according to UN statistics, was USD 567 billion in 1980, and USD 1.4 trillion in 1992. In that same 12-year period, total foreign debt payments from "Third World" countries amounted to USD 1.6 trillion. This means that despite having already paid back three times over the USD 567 billion they had borrowed, in 1992 they owed 250 percent of what they owed in 1980. Of the USD 226 billion in debt service owed by 93 poor countries in 1998, USD 209 billion was actually paid. It is estimated that this used up over USD 70 billion that should have been spent of health, education and development in order to satisfy basic human needs and rights.<sup>1</sup>

Developing country debt today exceeds USD 2.5 trillion. So far, the governments of developed countries have proposed to write off only about USD 100 billion of this debt. Yet more than USD 600 billion in debt owed by 71 countries that cannot afford to pay their full debt service must be cancelled immediately for them to be able to fulfill basic human rights, including the right to adequate, safe and nutritious food and the right to livelihood protection.

The promise of debt reduction announced at the G8 Summit in Okinawa in 2000 in no way resolves this problem. While highly-indebted countries were granted immediate reductions of up to 25 percent of their total debt, these reductions are conditional on the repayment of the outstanding debt sooner, and the implementation of more far-reaching neoliberal economic policies, particularly the privatization of public services and utilities. Countries like Mozambique, where annual debt repayment exceeds total expenditure on health and education, find themselves having to further cut public provision of health and education (thus deepening poverty and inequality) in order to benefit from debt reduction.

The destructive logic underpinning this situation clearly reinforces the need for the international trade union movement to demand the complete and unconditional cancellation of developing country debt. This is an essential step in addressing the inequalities perpetuated by the

WTO regime. It would also create space to build alternative models of development in which social needs and the livelihood of working people are placed before private profit.

If this debt were cancelled, what would be the cost to working people in the developed countries? According to the Jubilee 2000 Coalition the cost of canceling the debt of the poorest countries would be negligible. For the UK, the cost per person is likely to be under two pounds per year, or four pence per taxpayer per week. In Canada the impact of cancellation of debt owed to Canada by poor countries is equivalent to approximately CAD 15 per year for three years for every Canadian.

The relationship between the vicious cycle of debt and export dependence and the WTO regime is crucial. The power of WTO member states to impose sanctions on any other member deemed to have violated the rules is the key element in the regime's coercive authority. But trade sanctions, or the threat to invoke them, are only effective against countries that are dependent on exports.

The power of trade sanctions is in fact premised on export dependency. In contrast, democratic systems of food self-sufficiency and sustainable agriculture based on the right to food security and food sovereignty would prevent the threat of sanctions from having their full effect, and would thereby weaken the ability of the WTO to exercise leverage over national governments to allow unrestrained exploitation by TNCs.

This analysis of the coercive power of debt also implies that simply replacing "free trade" with fair trade is not a solution in and of itself. Fair trade makes no sense if a country has been forced for the last hundred years to grow and export coffee, or if people are starving and exporting rice at the same time. Instead, we need to fundamentally rethink why we trade, what we trade and the need for local alternatives.

For the developing countries, however, such alternatives cannot even be considered as long as they are burdened by international debt. The pressure of debt repayment is a driving force behind exports, locking these countries into the free trade and investment regime of the WTO and the structural adjustment policies of the World Bank and IMF.

The total and immediate cancellation of poor country debt and increased, unconditional inter-

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national social assistance is necessary before any system of fair trade can be truly effective. At the same time, the power of TNCs must be confronted through more effective international union action, including more aggressive transnational collective bargaining. This must be combined with broader social movements that

build pressure to reign in the TNCs, restricting - rather than expanding - their rights.

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<sup>1</sup> Joseph Hanlon, "How much debt must be cancelled?", *Journal of International Development*, 12, 2000, pp.877-901.



## 5. global investment regimes

One of the most important outcomes of the WTO Ministerial in Doha and the resulting 'Doha Development Round' is the move to include investment rules in the WTO. Paragraph 20 of the WTO Ministerial Declaration in Doha recognizes "... the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment that will contribute to the expansion of trade."

This effectively revives the failed attempt in 1998 to create the MAI (Multilateral Agreement on Investment) in the OECD, a set of rules establishing a global charter of rights for TNCs. By making illegal all kinds of government regulation of TNC activities and increasing their corporate reach into health, education, and the environment, the MAI traded off human rights and democracy for corporate rights and profit. The proposed MAI was not only designed to protect the rights of industrial capital, but financial capital as well. Mutual and pension funds, hedge funds, banks, securities firms and insurance companies would have been even freer from government regulation and controls, despite the fact that these same corporations are a primary source of global financial instability, producing the financial crises in Asia, Eastern Europe and Latin America that have impoverished millions of working people.

It was in this context that one of the most important victories against neo-liberal globalization was achieved in 1998. Mass mobilizations and protests forced several governments to realize that the domestic political costs of the MAI were far too high - at least for that moment. No sooner was the MAI defeated than it reappeared as the proposed MIA (Multilateral Investment Agreement) in the WTO, and various other disguises. Ignoring the popular rejection of global corporate rule, trade officials put the MAI back on the agenda in new, and more secretive, ways.

### 5.1 Investment Rules in the WTO

Some of the corporate rights laid down in the MAI are in fact already included in the WTO. The Agreement on Trade-Related Investment Measures (TRIMs) bans any laws, policies or administrative regulations favouring domestic products. This includes government incentives to encourage corporations to use domestically made products as a way of creating or protecting local jobs. This has serious ramifications for industrial policies designed to support the development of domestic capacity, secure flow-on benefits from foreign investment or limit the effects of foreign competition. By making local content policies and performance requirements on foreign investments illegal, the ability of organized labour to pressure governments into implementing socially useful, job-creating industrial policies was even further diminished.

The real significance of the TRIMs Agreement lies in what it was supposed to be - not what it is. Originally it was proposed that a comprehensive agreement on investment be included under the WTO regime. This would guarantee national treatment for foreign investors and ban any kind of government regulation on foreign investment such as technology transfer requirements, restrictions on the transfer of profits overseas, controls on foreign exchange flows, government reviews of foreign investment performance, nationalisation, expropriation, etc. The governments of the EU, US, Japan and Canada tried to push this proposal through, but faced strong resistance from the governments of developing countries. A watered-down TRIMs Agreement was the result. However, there is still pressure for an expanded, more powerful TRIMs Agreement that would act as another bill of rights for TNCs. After Doha, it is more likely that a new investment agreement in the WTO will be introduced to supersede the current TRIMs Agreement.

## 5.2 NAFTA Chapter 11

The draft text of the MAI was based on the investment rules in Chapter 11 of the North American Free Trade Agreement (NAFTA). The assault on the rights and well-being of working people under NAFTA's Chapter 11 therefore holds very important lessons for trade union movements around the world.

NAFTA's Chapter 11 expresses in concentrated form global capital's drive to free itself from all restrictions on the terms and conditions of cross-border investments. Chapter 11 sets out a series of investor "rights" and protections culminating in the right of corporations to directly challenge the laws, regulations and practices of a signatory country if these impinge on the investor's ability to extract maximum profit. Under Chapter 11, it is illegal to impose local content, technology transfer, or profit repatriation requirements on investments. Investor-to-state lawsuits can be initiated by corporations demanding compensation for potential *future* loss of earnings. The corporation in such cases is deemed to be the victim of an act "tantamount to expropriation". The disputes are heard in closed tribunals staffed by arbitration "experts". Needless to say, the treaty provides for no reciprocal right of governments to take action against corporations for current or future social, economic or environmental damage.

The right of foreign corporations to sue the governments of other countries for passing laws which affect their actual or future business activities means that governments can no longer draft and implement legislation which protects environmental, health and social standards without risking an investor-to-state lawsuit. Moreover, the investor-to-state complaint mechanism allows several TNCs to file individual complaints over the same issue, multiplying the pressure - and potential payment in damages - on a government. These claims of 'regulatory expropriation' not only change the meaning of expropriation, adding to the list of foreign investors' rights; they also redefine the meaning of government regulation. A wide range of government policies, administrative measures and laws which restrict, moderate, guide, adapt or deter the activities of foreign investors are now treated as acts of 'taking away' the property of these corporations.

On November 6, 2001, Crompton Corporation, a US company, notified the Canadian government of its intent to sue under NAFTA Chapter 11 for USD 100 million in damages.

Crompton Corporation claims that measures taken by the Canadian Pest Management Regulatory Agency to phase out a harmful pesticide, lindane, are "tantamount to expropriation" under NAFTA rules. Lindane, which is similar to DDT, is manufactured by Crompton Corporation and used mainly in canola/rapeseed production. Lindane has been shown to cause breast cancer and nervous disorders and is consequently banned in seven countries and severely restricted in others, including the US.

In 1997 the US chemicals giant, Ethyl Corp, used NAFTA Chapter 11 to sue the Canadian government for a ban imposed on MMT, a gasoline additive produced by Ethyl Corp. which is toxic and hazardous to public health. Ethyl claimed that the ban "expropriated" its assets in Canada and that *"legislative debate itself constituted an expropriation of its assets because public criticism of MMT damaged the company's reputation."* Ethyl sued the Canadian government for USD 250 million. A year later, in June 1998, the Canadian government withdrew environmental legislation banning MMT and paid Ethyl Corp USD 13 million to settle the case.

Three years later, a Canadian corporation, Methanex, lodged a suit against the US government for USD 970 million in compensation for environmental laws in California which ban a hazardous chemical the company produces. Methanex argued that the law protecting public health was "tantamount to expropriation."

The same NAFTA investment rules were used by Metalclad Corporation in its lawsuit against the Mexican government. In October 1996, Metalclad Corporation, a US waste-disposal company, accused the Mexican government of violating Chapter 11 of NAFTA when the state of San Luis Potosi refused it permission to reopen a waste disposal facility. The State Governor ordered the site closed down after a geological audit showed the facility would contaminate the local water supply. The Governor then declared the site part of a 600,000 acre ecological zone. Metalclad claimed that this constituted an act of expropriation and sought USD 90 million in compensation. In August 2000 the NAFTA Tribunal for the case of Metalclad Corp vs. Mexico ruled in favour of Metalclad, ordering the Mexican government to pay USD 16.7 million in compensation.

The lawsuits by Crompton and Ethyl against the Canadian government and the NAFTA ruling in

favour of Metalclad against the Mexican government are not just an assault on legislation protecting environmental and public health. They are assaults on the original local struggles that brought this legislation into being in the first place. In this sense, *rolling back social and environmental legislation under free trade means rolling back the past victories of labour and social movements.*

The NAFTA investor-to-state lawsuits also showed that federal governments are often willing to lose these cases in order to discipline provincial, state or municipal governments that have adopted progressive social and environmental policies. Where federal governments do not have the legal or political power to reverse such legislation, it can allow the external intervention of NAFTA (or the WTO) to act on its behalf.

TNCs. Despite opposition to the inclusion of NAFTA Chapter 11 or MAI-like rules in the FTAA, there are strong indications that this is going ahead. Although an investor-to-state complaint system might be successfully opposed, there is a real risk that the expanded definition of expropriation will be included. Building on the NAFTA investment regime, the FTAA seeks to radically circumscribe *our* space to act in defense of our living standards, our working conditions, our environment and our rights as workers and citizens by stripping governments of their capacity to take regulatory action in the public interest.

### 5.3 The FTAA and Bilateral Investment Regimes

Despite the public backlash against NAFTA, the US and Canadian governments have already included the essential elements of NAFTA's investment rules in their bilateral investment agreements with developing countries. The Canadian government has already signed 25 of these agreements. This reflects the fact that since the signing of the Free Trade Agreement (FTA) with the US in 1988, the Canadian government has followed the US strategy of building layer upon layer of multilateral and bilateral free trade and investment regimes to lock in the expanded rights and powers of TNCs.

The proliferation of bilateral trade agreements is significant for two reasons. It invalidates one of the principal ideological claims advanced on behalf of a WTO which would give greater power to TNCs by arguing that strong (investor-friendly) global rules are the only effective antidote to a multiplicity of bilateral agreements. And it reveals the content behind the drive to conclude new investment and trade agreements and strengthen existing ones.

An investment chapter similar to NAFTA's Chapter 11 is also being drafted in the new Free Trade Area of the Americas (FTAA). The FTAA is an expansion of NAFTA to include all 35 countries in the Americas, excluding Cuba. In 1998 an FTAA negotiating group on investment was formed to draft the new charter on the rights of

## 6. conclusion: implications for strategy

The rebirth of the MAI, and the spread of NAFTA's investment rules in new forms, hold important lessons for trade union strategies for responding to corporate globalization and the WTO. We clearly cannot limit ourselves to opposing particular investment agreements and free trade deals. Where we succeed in stopping one free trade agreement, another will surface in a different form to replace it. Nor can we dash from one global meeting to the next, leaving our members with no role other than as passive observers to a process of global summitry isolated from their own struggles. This can only lead to the exhaustion of our movement. Instead, it is necessary to take on the free trade and investment regime as a whole, not by tackling its individual parts in isolation, but by building a strategy that fundamentally challenges the regime and the corporate interests that lie behind it.

This does not mean that unions should abandon campaigning against new or existing components of the regime. These campaigns are essential. It does, however, mean, that individual campaigns must be thoughtfully integrated into an overall strategic vision.

This applies as well to attempts to include specific provisions or terms in the texts of the agreements. It is often assumed that the social impact of the WTO can be moderated or redirected by identifying what is *missing* in the WTO agreements and insisting on its *inclusion*. However, closer examination of the power and politics of the WTO regime reveals the limits inherent in strategies of inclusion (that is, attempts to include rights or social and environmental standards in the WTO agreements).

The deliberate ambiguity in WTO agreements like the TRIMs agreement (referred to in the previous section), and the apparent contradictions in the wording of some WTO agreements, suggest that they must first be understood as political tools and only then read as legal texts. Experience over the past seven years has shown that the power and politics of the WTO regime determines the interpretation of the agreements

and their use. The inclusion of "food security" in the Marrakech Ministerial Declaration's reference to the Agreement on Agriculture did not lead to any change in the enforcement of commercialized, export-oriented agrifood or the alleviation of hunger, but instead involved a mutation in the meaning of food security. *In the WTO regime, even hunger becomes a business opportunity.*

Inclusion strategies are therefore contradictory for two reasons. First, because our pursuit of collective rights must directly tackle global inequality and weaken the coercive power of trade and investment regimes like the WTO, whose power ultimately derives from the very inequality we would seek to diminish. Second, because the WTO regime, by locking states into an agenda that guarantees the freedom and rights of TNCs and a 'development' model that prevents alternatives to market dependency, is incompatible with the long-term fulfillment of these rights. The right to adequate, safe and nutritious food cannot be realized in a world where TNCs are dominating local markets and destroying local production, and in which the rights of these corporations are guaranteed through the WTO. Nor can the right to a safe working and living environment be achieved through a global trade and investment regime that imposes the downward harmonization of standards and treats environmental and health protection as barriers to the expansion of corporate profit.

Since the coercive power of the WTO relies on global inequality, debt and export dependency, the WTO's rules and disciplines restrict the pursuit of alternatives which may reduce the effectiveness of this coercive power (for example, national policies to guarantee food sovereignty). But this power requires the compliance of national governments. As we have seen in the case of the threat to impose WTO sanctions on countries introducing GMO labelling laws and import restrictions, often the *threat* of taking a case to the WTO is enough to force governments (especially in export-dependent countries) to change their policies.

Resistance, however, is possible, and this affords a key opening for the labour movement and its allies. In circumstances where national policies or laws are needed to deal with pressing social problems (such as mass hunger or a serious health crisis) the labour movement must forcefully argue that solving these problems is more important than complying with WTO rules. Such in fact was the basis for the global mobilization for the rights of HIV/AIDS sufferers over the (WTO-guaranteed) rights of the pharmaceutical transnationals, in the face of which the companies beat a tactical retreat.

In response to such non-compliance other WTO member-states (usually developed countries) may threaten to lodge complaints in the WTO and seek the right to impose sanctions or demand compensation. Whether these threats succeed depends on whether there is sufficient pressure from labour and social movements internationally and within those countries to successfully make the case for non-compliance. In the final analysis, the outcome will be determined, not through jurisprudence and interpretation of the texts, but by the balance of social and political forces.

There is no reason why non-compliance, both non-compliance from below and non-compliance expressed as *state disobedience* within the WTO regime, should be limited in their application to developing countries. Unions everywhere can campaign for governments at all levels (local, national, regional) to review existing trade and investment rules and treaties in the light of the rights set out at the beginning of this paper, and to reject all such agreements which conflict with these rights. Legitimizing non-compliance is an important means to assert our priorities (expressed in an integrated set of rights) over the priorities of corporate profit

Unions can and must campaign against the inclusion in trade agreements of investment rules modelled on the MAI or NAFTA's Chapter 11, on the simple grounds that such rules are fundamentally incompatible with the fulfilment of basic democratic rights. The successful campaign to block the MAI suggests that democratic public opinion is already largely sensitive to such appeals.

There is no doubt that a number of varied tactics will be used to tackle the WTO and corporate globalization. A diversity of tactics has proven useful in the past. However, it often appears that various tactics are pursued by trade unions at lo-

cal, national and international levels in the absence of an effective, coherent, and sustainable strategy.

For a strategy to be effective, it must directly challenge the powerful political and corporate interests shaping the WTO regime, while recognizing its broader context. Clearly it is necessary to do more than identify what is missing or to rearrange the priorities reflected in WTO rules. We must address both the broader context of the WTO regime and the extent to which the problems in the world food system are caused by the system itself, not merely misguided policies. In doing so we must avoid de-linking these problems from each other, just as we must avoid de-linking our set of integrated rights. As pointed out in section 2, the rights we advance are interdependent and inseparable. This is not merely a matter of principle, but a reflection of the fact that the problems working people face are themselves interdependent and inseparable.

For a strategy to be coherent it must be based on a common set of goals which are pursued without compromise, and which – regardless of the tactics used in different situations – must be expressed in a language that makes sense to our members. It must therefore be framed in a language of rights and livelihood, and not legal or technocratic language. And for a strategy to be sustainable, it must be pursued with a sense of urgency which recognizes the seriousness of the problems faced and the importance of the values we are pursuing. Yet this sense of urgency must not translate into attempts to achieve a short-term 'fix', but instead form the basis of a long-term strategy that mobilizes working people to develop, through their trade unions, their own collective capacities to exercise democratic control over capital and impose our collective rights and interests over and above corporate power and profit.

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