



## The E-Commerce threat to agriculture at the WTO

IUF presentation to the WTO Public Forum 2019 panel *Re-Imagining Agriculture in the New WTO Architecture*, Geneva, October 9, 2019

Agriculture has always been a contentious issue at the WTO because food is essential, because so many depend on the food system for their livelihoods and because the rules and disciplines of the WTO play a significant, and some would argue a determining role, in shaping that system. We tend to speak about agriculture as if the only producers and actors were farmers, but farmers are a heterogeneous group ranging from subsistence growers to large corporations, and we tend to forget that of the more than one billion women and men around the world engaged in agriculture, over 40% are waged agricultural workers, still the world's largest waged labour force. The IUF is an international trade union federation representing some 10 million workers employed in agriculture, in food and beverage manufacturing, in restaurants and catering - workers at every stage along the global food system. As a union we look at agriculture from the standpoint of the working and living conditions of our members and their rights, including their right to sustainable livelihoods and the internationally recognized right to food, which is inseparable from their rights as workers, since so many of the world's hungry are agricultural workers.

The tensions over food and agriculture at the WTO are still with us, essentially due to resistance to the fundamental power imbalances embodied in the Agreement on Agriculture and in the TRIMS and TRIP agreements. Conflicts arising from the lack of consensus at the time the WTO was established - on investment, on services and on government procurement - continue to resurface, here and in regional and bilateral trade negotiations. All of these impact on agriculture. Now, after having abandoned the so-called development round, we are dealing with a cluster of new issues, one of which is E-commerce.

The push for global rules for what is misleadingly called E-commerce has raised a variety of concerns, for example privacy protection and internet governance. But in a digitalized world, E-commerce as a subject for rules on trade is infinitely elastic, and has implications for every aspect of human activity, including the way food is produced. To understand the full scope of these implications we have to take a step backwards and look at it in the specific context of the WTO and in the development of trade and investment regimes more generally.

E-commerce has a definition at the WTO, according to which it is the "production, distribution, marketing, sale or delivery of goods and services by electronic means". While we ponder the meaning of 'the production of goods by electronic means', there are two things to note here. The first is that the WTO, despite having a treaty on trade in services, the GATS, has no definition of what constitutes a service. It has a list, in some contexts, it has two lists, but it has no working definition. The services classification list used in the WTO, the 'W/120', dates from 1991, when the internet was in its infancy, there were no cloud computing services and no drones delivering food or collecting data on soil conditions on farms. It lists 12 main headings with over 160 sub-headings. These include "Services incidental to manufacture of food,

beverages and tobacco, on a fee or contract basis”, that is to say activities that are outsourced and thereby considered to be services. To understand in detail what this might include, you can look at the related reference document, which is the UN International Standard Industrial Classification system. Under ‘services incidental to agriculture’, you find a variety of activities, mostly performed on the farm, which are treated as services because... they are outsourced on a fee or contract basis. These include “Activities establishing a crop, promoting its growth or protecting it from disease and insects. Harvesting and activities related to harvesting such as preparation of the crop for primary markets. Operation of irrigation systems for agricultural purposes. Animal boarding, care and breeding. Activities to promote propagation, growth and output of animals and to obtain animal products.” That’s only part of it but what’s important is that these activities apply to every aspect of agricultural work and they become discrete outsourced services.

The second thing to note is that in this classification process agricultural production is dematerialized and becomes a bundle of services. And the importance of that is that these services then fall under rules on trade in services and to the extent that they involve so-called ‘electronic means’ in their delivery, they potentially fall under E-commerce rules.

To understand the transformation of agricultural production into services you can also consult the United Nations’ Central Product Classification list, which was updated in 2015. There you find under category 86 something called ‘Support and operation services to agriculture, hunting, forestry, fishing, mining and utilities’, under which you find 8611 ‘Support and operation services to crop production’, under which is 86111 ‘Post-harvest crop services’. This subclass includes ‘preparation of crops for primary markets’, and is followed by 86113, ‘Crop production services on inputs owned by others’, which includes ‘Operation of a crop production unit on a fee or contract basis’, followed by 86119 ‘Other support services to crop production’, which includes:

- tilling of fields preparatory to planting
- planting, cultivation and fertilization of crops
- pest control for agriculture
- trimming of fruit trees and vines
- transplanting and thinning of crops
- harvesting
- other services necessary for agricultural production.

So everything workers in agriculture do on a daily basis is now defined as a service, and the taxonomy of these services is laid down in a *product* classification list which serves as a vehicle for their servicification.

There are many aspects to E-commerce beyond this but for unions a fundamental concern is that it would further fragment already fragmented employment relationships and reduce worker bargaining power, and it would further strip governments of their power to protect workers. The terms ‘trade in services’ and ‘E-commerce’ are deliberately misleading. Services are not ‘traded’ across borders. The function of these rules is to empower corporations to operate on a multinational basis

from wherever they can to maximise their reach and profits and minimise their labour costs, taxes, licensing and regulatory responsibilities. The transformation of agriculture into a bundle of outsourced services, electronic or otherwise, is being imposed on a workforce which already suffers from high levels of extreme poverty, precariousness, casualization and debilitating levels of work-related illness, injury and disease. Seventy percent of child labour globally takes place in agriculture. Only 5% of workers in agriculture have any access to a labour inspection system or legal protection of their health and safety rights. Their right to freedom of association, to organize and to take collective action by forming trade unions, a fundamental human right, is routinely violated. *E-commerce rules applied to agriculture would intensify the existing levels of poverty, precariousness and casualization, because work in agriculture would be organized by service producers operating without any local presence, employment, or content requirements, and the data flows underpinning their operations would be mined and protected offshore under E-commerce rules.* Living and working conditions, and workers' capacity to organize to improve their conditions, would be submitted to source codes and algorithms over which they, and their governments, have no control. To the extent that these 'services' require labour inputs, the labour can be outsourced by the service provider to a labour hire agency – outsourcing squared. Platform operations like Uber are only one manifestation of this extreme outsourcing.

I've emphasized this point because I feel it is not generally understood or appreciated, not least by trade negotiators who may have no idea of what they're signing onto, or trading away, in these negotiations. But I want to briefly make one other point.

Corporate dominance of the food system was well underway at the time the WTO was established, and it has intensified enormously under the rules of an organization ostensibly devoted to something called free trade. The food sector is highly concentrated at every level, from basic inputs like seeds and fertilizers through to processing and retail. The 6 companies that dominated global markets for seeds and pesticides are now 3 with the Bayer buyout of Monsanto. A handful of companies dominate global trade in staple food crops and primary processing. Mega-mergers are consolidating corporate dominance across the food chain, from inputs and farm machinery and in the processing and retail sectors. Data flows inform every aspect of agriculture and the wider food system and are driving the wave of consolidation and vertical integration which is increasing pressure on dependent producers and restricting their choices to a limited menu. This ratchets up the pressure on workers in agriculture, but also leaves processing workers squeezed between giant commodity traders, transnational food processors and global retail.

Data-driven agriculture is also fueling the expansion and consolidation of a high-input, energy intensive system of industrial mono-cropping which we know is one of the driving forces behind the climate crisis. It is depleting and impoverishing soil, polluting and exhausting water supplies and drenching the world in toxic pesticides. The industrialized agriculture promoted by E-commerce is an extractive industry which is strip mining the soil and destroying the biodiversity on which life depends. Promoted as 'precision agriculture', it is in fact a blunt instrument. The so-called efficiencies it claims to deliver have made the world food system more fragile and more prone to shocks which threaten global food security. We know that the sustainable alternative to industrialized monoculture is the development of more

diverse, adaptable and resilient local systems of mixed farming and multi-cropping, and we know that the alternatives involve low-cost and accessible technologies. The obstacles to transitioning to a low-carbon agriculture are political, and do not require data-driven technologies which take us in the opposite direction.

Yet when we raise these issues at the WTO we are told the organization has no mandate to deal with them. Transitioning to socially and environmentally sustainable agriculture requires, in the largest and not merely WTO-specific sense, special and differential treatment, including space for public support for appropriate measures which would currently be defined as illegal subsidies or illegal ‘barriers to trade’.

That is one more reason to take E-commerce, its rules and disciplines which threaten to invade every aspect of our lives, out of the WTO.