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# Policy Brief

## summary

The world's trade ministers, who will meet at a WTO ministerial in November 2001 in Doha, are wrong to think that only a new round of negotiations will save the much-maligned international trade system. Instead, John Audley and Ann Florini argue, they should simultaneously tackle internal and external reform of the WTO to make it a truly equitable institution. Internally, industrial countries must start treating developing countries as equal partners in making the rules that govern global trade, and where necessary provide technical assistance to make that equality possible. More consistency between trade-negotiation objectives (such as market access for agricultural products) and domestic policy priorities (such as subsidies for local producers) would help communicate the message that industrial countries take seriously their commitment to a fair global trading system. Externally, to satisfy legitimate public demands, members should improve the transparency of WTO proceedings and permit public participation in keeping with international norms. These changes, however, will occur only when national leaders link internal and external reform objectives—a step that will require leadership from key countries as well as the WTO Secretariat. ■

## Overhauling the WTO: Opportunity at Doha and Beyond

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More than one battle is currently raging over trade and the global economy. While protesters clash with police at global economic summits, the countries that belong to the World Trade Organization (WTO) also are clashing over whether a new round of trade negotiations should be launched later in 2001. Having described Europe and the United States in a recent *Washington Post* editorial “as the two biggest elephants in the global economy,” European Union trade commissioner Pascal Lamy and U.S. trade representative Robert Zoellick are pressuring the rest of the world into launching a new trade round at the WTO ministerial scheduled for November in Doha, Qatar: “The case for launching a new round is clear [and] the potential reward for success is great. The price for failure would be painfully high.” But trade ministers from 49 least-developed countries (LDCs)—tired of being stomped on by the elephants—met in Zanzibar, Tanzania, in July to express their determination to

“reverse the marginalization of our countries in international trade and enhance LDCs’ effective participation in the multilateral trading system.”

The outcome of the Doha meeting is important, but the West’s emphasis on launching a new round at this time is misplaced. No trade negotiations will succeed until member governments make a commitment to substantially reform the WTO to enable it to responsibly and equitably administer the international trading system. This reform, not another round, is the essential next step. The strength of the multilateral trading system should be measured not by how many issues can be thrown on the table, but by whether the system provides fair and effective mechanisms for negotiating trade rules and whether it engenders widespread support. An international institution with so much influence over people’s lives must operate with due process and public accountability. It is time for the global trading system to



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The Trade, Environment, and Development Project was created to foster dialogue on the complicated and controversial policy tensions at the nexus of international trade, environmental protection, and economic development. The project is part of the Endowment's Global Policy Program.

earn support from the public whose interests it claims to advance.

At Doha, member governments should agree to reform the WTO's internal management and operations to ensure that all members can understand and implement their WTO obligations, and can engage each other in trade negotiations as equal partners. They also should agree to reform the way the WTO interacts with the public to ensure that it operates in an open, transparent fashion. And they must take these two steps toward WTO reform simultaneously. In the WTO today, industrial countries are reluctant to share power with developing countries, and developing countries are suspicious of public involvement that would further dilute their limited influence. Only when there is clear evidence of internal reform can powerful countries expect developing countries to consider new trade obligations or embrace increased public involvement and broader social and environmental policy objectives. Likewise, developing countries can use the political capital they earn from agreeing to external reforms to bargain for the internal reforms they want. Linking these two items together brings all sides—industrial and developing countries, the WTO itself, and members of civil society—together to produce a more legitimate and effective world trading system.

### The Need for Reform

Industrial countries—under pressure from slumping national economies and haunted by the failure to launch a new round of multilateral trade negotiations at the 1999 Seattle WTO ministerial—are pressing for the launch of a comprehensive round of negotiations. During a July WTO meeting, Director-General Mike Moore argued that the very future of the global trading system is at stake:

We cannot pretend that this can be merely a "routine" Ministerial meeting. . . . Failure to reach consensus on a forward work pro-

gram that would advance the objectives of the multilateral trading system, particularly in the light of the earlier failure at Seattle, would lead many to question the value of the WTO as a forum for negotiation. It would certainly condemn us to a long period of irrelevance, because it will not be any easier next year, or the year after.

It is not surprising that the nongovernmental organizations (NGOs) that have led the public protests against the WTO have reacted negatively to the push for a new round. NGOs fear what Public Citizen calls the "final sale of democracy to corporate global capitalism." What is new is that hostility to a round is being expressed publicly by developing-country governments—the very countries that industrial-country governments argue are best served by further negotiations. In a speech on July 27, 2000, at the Barbican Centre Hall in London, incoming WTO director-general Supachai Panitchpakdi said that "The top priority facing the WTO today is first to identify and redress many of its shortcomings. . . . We need to strengthen the organization and rebuild confidence among its members."

These "round or no round" tensions featured by national and international media are rooted in the changing nature of the WTO, including its growing membership, expanding agenda, and shifting relationship with the outside world. The tensions can be organized into two distinct categories for reform (using terms already employed by WTO members): internal reform (agenda setting, decision-making procedures, and redefining the WTO Secretariat's responsibilities) and external reform (the relationship between the WTO and civil society). Together, they constitute an agenda for WTO institutional reform that is supported by an overwhelming number of experts on trade, the environment, and development. These experts may disagree about the solutions, but protesters and government officials

alike believe that the WTO's present structure and management are inadequate.

### Internal Reform

When it began operations on January 1, 1995, the WTO had 76 members. Since then, its membership has grown to 142—an 87 percent increase. Nearly 75 percent of its members are now developing countries—as are nearly all of the 30 countries with applications still pending—but their numerical dominance has not translated into influence, or even regular participation. Currently, 28 developing-country WTO members and 9 observer countries have no permanent mission to the WTO headquarters in Geneva. At

resulting in as many appellate rulings. Under the WTO, trade disputes now deal with a wide range of national regulations. Recent disputes involving the United States, for example, have focused on trademarks and licensing privileges, tax policies for offshore business operations, laws to protect U.S. air quality, antidumping protection for the U.S. steel industry, and rules protecting threatened or endangered marine life.

But perhaps the most significant example of WTO rules' influence on domestic policy involves the struggle of developing countries to balance trade-related intellectual property rights with their battle against the spread of HIV/AIDS. The United States used trade

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least as many members have offices staffed by fewer than five diplomats, many of whom must also represent their countries at meetings of other international institutions based in Geneva, and in Brussels as well.

International trade rules now apply to 20 percent of the world's production of goods and services, whether traded internationally or not. Both the number of trade disputes and the range of issues have grown substantially. Between 1980 and 1994, General Agreement on Tariffs and Trade (GATT) signatories engaged in 122 dispute consultations, of which 51 resulted in formal rulings by a dispute-resolution panel. Between 1995 and 1999, under the WTO, the number of consultations jumped to 185, leading to 62 panel reports. GATT dispute proceedings did not include an appellate process, but 44 of the WTO panel reports were contested,

rules to pressure developing countries to enforce the intellectual property rights of multinational pharmaceutical companies, which argued that their patent protections were violated when countries such as Brazil and India allowed domestic firms to manufacture generic HIV drugs for local populations lacking affordable access to life-saving treatment. The United States—under intense pressure from such citizens' groups as Doctors Without Borders and Oxfam International—eventually withdrew its complaint.

In response to complaints that developing countries cannot negotiate on an equal footing with more powerful industrial countries, the WTO Secretariat has begun to assist developing countries in meeting their obligations, and it also has started to coordinate the technical assistance efforts of other international organizations. The WTO also works



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The Project on Transparency and Transnational Civil Society focuses on the pressing need for innovative approaches to global governance, exploring two promising new tools: the growth of transnational civil society networks, and the rise of transparency.

with the International Monetary Fund, the United Nations Development Program, the U.S. International Trade Commission, and the World Bank to offer seminars that assist developing-country government officials in designing development strategies consistent with international trade disciplines. Despite these new responsibilities and its increased membership, the WTO's budget has grown only 18 percent since 1995, to roughly \$77 million, and its staff has increased only 6 percent, to about 500.

In short, although the Uruguay Round negotiators who created the WTO dramatically improved trade-rule effectiveness, they did not create an institution capable of taking

and informal procedures preclude effective participation by developing countries?" The answer is often yes. For example, developing countries cite practices such as negotiating a "single undertaking"—concluding a set of multiple negotiations simultaneously—as favoring countries that are capable of staffing simultaneous negotiations and whose political circumstances allow them to swap concessions in one area for gains in another. For a country to be able to make such trade-offs among policy issues that will be acceptable back home—such as agreeing to eliminate the use of countervailing duties in exchange for eliminating price-distorting agricultural subsidies—it must have a relatively mature

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on the responsibilities they assigned it. The negotiators apparently either did not fully consider the responsibilities this new institution would face or ignored the demands that would be made by a larger and more diverse membership, a more heavily used dispute-settlement mechanism, and growing pressure for public involvement.

The starting point for internal reform should be discussions among WTO members and the interested public. Such discussions can only take place once the member governments acknowledge that internal management is the problem—one that undermines the important role trade rules can play in promoting healthy economies.

The reform of agenda setting and decision making involves the reallocation of power among WTO members. This reform begins with the question, "Do WTO rules

and open governing system. Developing-country members, lacking parity with more open industrial countries, must fall back on the system's rules to block decisions, resulting in policy stalemates and resentment among member governments.

In theory, WTO operations are flexible enough to adjust the negotiating format. Indeed, its secretariat was created in part to avoid complex negotiations by enabling countries to address issues one at a time. Seventeen committees continually discuss country obligations under the current rules, and two groups—agriculture and services—are actively negotiating further liberalization under the built-in agenda left over from the Uruguay Round. Rules also exist to overcome a lack of consensus by resorting to making decisions by majority vote. However, neither these rules nor the daily negotiating structure

has helped developing countries—especially those that cannot afford a large staff in Geneva—overcome their weak bargaining positions. To many observers, the informal norms and rules still concentrate agenda setting and decision-making influence among a few economically powerful governments.

#### External Reform

Internal reform must be coupled with efforts to reach out to a public that is more and more alienated. As the disciplines of the global trading system have grown more effective, they have alarmed many people, who are demonstrating their concern both on the streets and in repeated demands for greater transparency.

tional trade regime is largely closed to public scrutiny and participation.

The WTO's relationship with the outside world has already begun to change. The increasing impact of trade rules on other policy areas has compelled the WTO to engage in regular interaction with a wider range of multilateral organizations, especially the United Nations Environment Program and United Nations Development Program. Growing public interest in its work has compelled the WTO to organize public meetings and consultations, as well as engage in a series of regional conferences and workshops designed to encourage interaction between the WTO Secretariat and the public. The sec-

## Citizens must be empowered to participate in the formation of policy before decisions are made.

Many governments, especially of developing countries, object strongly to calls for increased citizen participation, arguing that public input should take place only at the national level and is inappropriate in negotiations and dispute settlement. In part, their objections stem from the North–South imbalance. Northern civil society groups, including trade associations, generally have the resources to engage the WTO. Many Southern governments fear that allowing greater civil society participation will further turn the odds against them. It is understandable that these new WTO members are reluctant to dilute the benefits of their membership in this once-exclusive club. But civil society demands have become so strong, effective, and globally connected that efforts to fend them off will only result in damage to the WTO as a whole. The companion to internal reform must therefore be a systematic effort to address the widespread public perception that the interna-

retariat has also made significant progress toward document availability. Its 1996 derestriction policy, which calls for informal but regular meetings with the public, and the availability of its documents on the Internet now enable more people around the world to review its material.

Nevertheless, citizens still lack access to the information that would enable them to comment on trade policy as it is being considered or to present their views in any meaningful way. Citizens must be empowered to participate in the formation of policy before decisions are made, not after. Although public participation is seldom efficient, democratic governments must earn public support by engaging in a degree of open discussion, sharing information, and subjecting their decisions to public scrutiny. The WTO has yet to satisfy civil society groups on these counts.

External reforms should permit sustained interaction among the WTO, its members,



and the interested public. Now, interaction is sporadic, and is often based on late or leaked documents and occasional WTO-organized symposia. Other intergovernmental organizations have devised means to facilitate such sustained interaction—indeed, efforts to keep the WTO relatively closed are swimming against a powerful tide of greater citizen participation in global institutions. The United Nations and many of its agencies routinely involve NGOs in their deliberations and have standard procedures for accreditation. The International Monetary Fund and World Bank have steadily increased the flow of information publicly available about their plans, policies, and proceedings. In intergovernmental treaty negotiations on many issues, NGOs have become constructive players. They are routinely incorporated into negotiations on environmental issues, receiving country position papers and draft treaties as a matter of course. Even for issues traditionally under state control, such as arms control and disarmament, NGOs have proven themselves indispensable interlocutors among contending governments and between governments and the public. Both the existence of the Comprehensive Test Ban Treaty and the survival of the Nuclear Non-Proliferation Treaty are due in part to the roles played, often behind the scenes, by NGOs.

External reform also should address the dispute-settlement process. Because institutionalized efforts such as the WTO Committee on Trade and Environment have so far failed to resolve policy tensions, the dispute-resolution procedure is the WTO's de facto policy-setting organ. To ensure that all groups and interests affected by WTO decisions know about and have a voice in those decisions, NGOs want the dispute-settlement and appellate body proceedings open to public observation, and they want the right to submit amicus curiae (friend of the court) briefs directly to dispute-settlement panels and the WTO appellate body. Although the appellate body has ruled that panels may con-

sider amicus briefs submitted by NGOs, many developing countries object vehemently to what they see as a usurpation of their right to design dispute-settlement procedures. These strongly voiced objections appear to have deterred panels from taking amicus briefs into consideration. This controversy badly needs to be resolved, and an effective mechanism for public input needs to be designed.

No one is suggesting that NGOs should have a vote in either trade negotiations or dispute settlement. The final authority in all these institutions and forums rests firmly with governments. But NGOs have proven their value as sources of ideas and as educators of the public on a wide range of international issues. Now, it is urgent that the WTO devise an effective way to reap the benefits of NGO participation. The alternative is the status quo: a system incapable of making difficult policy decisions and facing increasing pressure from a flood of demands for public involvement. Ultimately, the threat to the global trading system is not just violence in the streets, but a backlash against the WTO and a much-reduced chance for further trade liberalization.

### **Who Will Lead?**

During the very short life of the WTO, the world has changed a great deal. And although industrial countries will continue to consume the vast share of global goods and services for the foreseeable future, they neither can nor should continue to dictate the rules for the global economy. Information technology, the growing acceptance of democratic values, the increasing role of developing countries as engines of growth, mounting environmental degradation and income inequality, and basic demands of equity are rendering the old ways unworkable. The WTO has a key role to play in creating new ways, but only if it can rid itself of its "gentleman's club" approach to trade bargaining. Although the WTO Secretariat can effect some changes on its own, it

can only undertake serious reform under instruction from its members. To allow the WTO to operate as a true international organization, comprising a diverse membership and accountable to both that membership and the public, member nations must demonstrate leadership and agree on a reform agenda.

The Doha WTO ministerial presents influential WTO member governments with an opportunity to build a sound foundation for global economic rule making. But at present they seem blinded by their own short-

sistencies between their desire to expand market access for agricultural products with domestic programs that subsidize local production and effectively underprice developing-country producers. Unfortunately, this kind of policy coordination is not currently among the subjects under discussion by parliaments and administrations.

Supachai Panitchpakdi of Thailand—who next year will become the first WTO director-general from a developing country—has an opportunity to make these dual reform tracks the cornerstone of his term. Just as

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term self-interest. If trade liberalization is ever to become a “moral imperative,” as envisioned by U.S. president George W. Bush, industrial countries—and particularly the United States, the most powerful actor in the global economy—must relinquish their longstanding domination of the global trading system. So far, industrial countries have shown little willingness to pay more than lip service to developing-country concerns over the inequities built into the current rules, procedures, and implementation practices. A country such as the United States could demonstrate its sincerity before Doha by supporting proposals offered by other governments to allow the WTO Secretariat to provide greater assistance to developing countries engaged in dispute-settlement proceedings. Further, both the United States and the European Union could reconcile the incon-

only Richard Nixon could go to China, perhaps only someone such as Supachai, straddling the worlds of the powerful and the disenfranchised, can broker this monumental bargain. But it will not be easy. Reforming the WTO sufficiently to redress its internal and external deficiencies will be difficult for powerful industrial countries, because this reform will create political difficulties at home. By making a commitment to real internal reform, however, industrial countries could sway developing countries to accept the external reforms those countries currently oppose. Such farsighted leadership on the part of all concerned—the WTO Secretariat and its member governments—is essential if the global trading system is ever to overcome its current gridlock on key, sensitive issues and earn the respect it needs from people worldwide.

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Breaking the Trade-Labor Deadlock, Carnegie Economic Reform Project and the Inter-American Dialogue (Carnegie Working Paper #17, 2001)

Does the Invisible Hand Need a Transparent Glove? The Politics of Transparency, Ann M. Florini, in *Annual World Bank Conference on Development Economics 1999*, Boris Pleskovic and Joseph Stiglitz, eds. (The World Bank, 2000)

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