

Global economic governance: The WTO's ongoing crisis of legitimacy

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There seems to have been a great deal of talk about the global trade system and its effects. But, so far, little has been said about the political implications of the WTO as a system of global economic governance. Yet, if one wants to understand why many are actively opposed to the WTO, then one needs to take a closer look at the WTO as a political regime that has a crisis of legitimacy.

GLOBAL GOVERNANCE

Seven years after the launching of the WTO, it is time to ask what kind of global institution was put in place in 1995. After all, the WTO is much more than simply an international trade system dealing with imports and exports. It is no less than a global economic regime with binding enforcement powers that have profound political implications. At the core of the WTO, as a political regime of global economic governance, is a vast body of trade rules. These range from the inherited GATT rules to the agricultural agreements, the TRIPS, the SPS (Agreement on Application of Sanitary and Phytosanitary Measures), the TBT (Technical Barriers to Trade Agreement), and the GATS.

Taken together, this body of trade rules comprises what the former director general of the WTO, Renato Ruggiero once described as the making of “the constitution of the global economy.” Increasingly, political scientists and law professors are referring to this as the “new constitutionalism.”

The WTO was largely designed to enforce this new “constitution” for the global economy. Given the binding enforcement tools of its dispute settlement mechanism, the WTO was equipped to enact judicial, legislative, and executive powers of global governance. Through panels of unelected trade experts set up to adjudicate claims under its dispute settlement mechanism, the WTO has the *judicial* powers to hand out eco-

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nomic punishment to countries that violate its trade rules.

In turn, these WTO tribunals have the *legislative* powers to, in effect, compel member state governments either to strike down domestic laws, policies, and programs judged to be in violation of the WTO rules and/or to establish new laws, policies, or programs in conformity with the WTO rules. If nothing else, the threat of escalating economic sanctions creates a “chill effect,” compelling governments to comply with the WTO rulings. Furthermore, the QUAD (composed of

the United States, the European Union, Japan, and Canada) increasingly appears to operate as the WTO's *de facto* executive. Although not formally recognized as the WTO executive, the QUAD, by its very composition, is able to informally exercise real *executive* power.

CORPORATE MODEL

It is argued, of course, that the WTO is a legitimate form of global economic governance. After all, it is government ministers and their representatives who sit at the table of the WTO General Council. But, for the most part, government representatives at the WTO table act on behalf of their corporate clients, not the majority of citizens in their own countries. When it comes to the WTO, it is big business interests by far that wield the most clout with their governments. The name of the game is to open up markets for their transnational corporations (TNCs).

Moreover, since the world's largest transnational corporations are overwhelmingly home-based in the QUAD countries (that is, 450 of the Global Fortune 500), it follows that big business coalitions like the US Business Round Table, the European Round Table of Industrialists, the Japanese Keidanran, and the Canadian Council of Chief Executive Officers (formerly the Business Council on National Issues) are in a position to exercise enormous influence and power at the WTO. As a result, the WTO is global governance *of, by, and for* transnational corporations.

What's more, many of the recent WTO trade rules have been and are being written by the TNCs themselves. Take, for example, the TRIPS agreement. It is well known that the Intellectual Property Rights Committee, composed of 13 leading US corporations (for example, Bristol Myers Squibb, DuPont, Pfizer, Monsanto, and General Motors) effectively wrote, word for

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word, the TRIPS agreement that was adopted at the Uruguay Round of the GATT negotiations and subsequently became part of the WTO body of rules.

The Financial Services Agreement was largely written by a coalition of over 50 leading US and EU bank, insurance, and investment corporations (for example, Barclays PLC, Chase Manhattan, Bank of America, Dresdner Group, Citigroup, and Goldman Sachs). Together called the Financial Services Group, they worked hand-in-glove with US and EU government officials to apply a full court press on Asian and Latin American countries to sign-on by December 1997.

Similarly, there is mounting evidence that the current GATS negotiations for new rules governing cross-border trade-in-services, are largely being driven by the US Coalition of Service Industries and the European Forum on Services. These both comprise leading for-profit corporations trying to access new markets in public services like healthcare, education, electricity, and water, to name only a few.

LEGITIMACY CRISIS

It is this corporate-dominated model of the WTO that has become a central target of the growing crisis of legitimacy concerning the institutions of global economic governance today. "By what authority" does the WTO govern the global economy? For many peoples, including Canadians, the question of the WTO's legitimacy goes back to its origins. Who, if anyone, can recall when and how the Canadian Parliament decided, let alone debated, the replacement of the GATT with the all-powerful WTO? Certainly, there was no consultation with concerned civil society organizations and no public discussion and debate in Canada before the WTO was ratified by Parliament. At least, in countries like India, the Philippines, and even the United States, there were open and vigorous public debates over WTO ratification.

Since 1995, the WTO's legitimacy has come under increasing public scrutiny,

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especially as the corporate domination of this institution became more and more evident. By the Seattle Ministerial Conference in late 1999, the WTO's crisis of legitimacy had reached new levels, provoked not only by the uprisings in the streets but also by the use of strong-armed "green room" tactics against developing countries in the convention centre, as well as the failure to reach agreement on a new round of global trade negotiations. While the outcome of Doha two years later may have succeeded where Seattle had not, the control exercised by the QUAD, the "twisting arms" process, plus the continuing use of bullying tactics such as the threat of aid withdrawal and stronger SAP (Structural Adjustment Program) measures have served to further fan the flames of the WTO's crisis of legitimacy.

At the core of the WTO's problems of legitimacy is, of course, the crisis of democracy itself. As the prime institution of global economic governance, the WTO mainly functions to serve the interests of member governments in the North, acting on behalf of their corporate clients.

Developing countries, which comprise the vast majority of the planet's population, are largely marginalized and penalized by the WTO's governing structures. What's more, virtually all citizens of the world and the civil society organizations that represent their interests, are systematically excluded. Instead, the WTO's body of rules are designed to uphold the "rights" of transnational corporations and investors, not the rights of citizens encoded in the Universal Declaration of Human Rights and its accompanying covenants. Indeed, the WTO's constitution for the global economy effectively supplants the Universal Declaration and the covenants, along with the fundamental democratic rights and freedoms they enshrined.

POST-SEPTEMBER 11

Furthermore, the WTO's crisis of legitimacy has taken on a new twist since September 11, especially in the light of US Trade Representative, Robert Zoellick's statements, equating the war on terrorism and the neoliberal agenda on trade. "Fighting terrorism through trade" is the new agenda, declared Zoellick. Well, as it turns out, the only legitimate role of governments that is fully protected by the WTO rules, has to do with military operations. According to the so-called security exemption clause (article XXI of the GATT), the WTO rules do not apply to government activity in providing military engagement and police enforcement. This includes actions "relating to the traffic in arms, ammunition and implements of war and such traffic in other goods and materials as is carried on directly for the purpose of supplying a military establishment [or] taken in time of war or other emergency international relations." In effect, massive government subsidies that fuel the arms industry and military build-up are fully protected under this WTO clause.

Finally, the popular resistance against corporate globalization and the WTO's **Global economic governance, page 64**

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ners” and exclude “troublemakers.” For the moment, civil society bodies have ample positive incentives to enhance their credentials, including increased access to and influence on governance institutions, increased support from the wider public, increased backing from funders, and increased internal cohesion within the associations themselves.

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blocks in the path of the neoliberal engine, which in fact is getting its fuel from local polity and bureaucracy? Or should anti-globalization activists be a part of the process in a way that influences the terms of reference defining the movement and pace of the neoliberal engine?

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with enhanced efficiency. A rule-making organization such as the WTO should have more resources, both human and financial, and should be more management driven. It should have mechanisms that allow for routine decisions, both on management and on substance without going through the cumbersome process of the General Council. It should also allow initiatives to be taken by the director general on substantive issues. Last but not least, the organization should be able to take decisions in improving, adapting, and clarifying rules outside a round or a single undertaking.

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global governance is, in all likelihood, bound to grow and intensify. After 9/11, most observers concluded that the movements’ resistance had reached its peak at the G8 meetings in Genoa, in August 2001. But, by March 2002, the movement had rebounded with over 500,000 protestors on the streets of Bar-


THE CHALLENGE


Civil society agitation has grown in recent years to become a prominent feature of the politics of the global economy. Already, this activity has had notable policy impacts, and it could go on to acquire a much more substantial role. If and as this happens, it will be all the more important for the movement to have capacities for critical self-regard

HOPE, JUSTICE, AND EQUITY

It is always difficult to conclude with respect to movements, happenings, and situations in a state of flux. One can offer only an opinion about the level of maturity of this flux, the rate of change, and the type of energy that this change creates. The anti-globalization move-

and proactive self-improvement.


So neither implacable skeptics nor romantic enthusiasts have had it right regarding civil society engagement of global economic governance. This development has considerable positive potentials along with substantial negative possibilities. The challenge will be to maximize the benefits and minimize the harm. 

ment and the processes that are significant in defining its dynamics are indeed in a state of flux. What one can conclude from the discussions above is that this flux is indeed maturing and its momentum is spreading positive energies of hope, justice, and equity at local, national, and international levels. 

One cannot contemplate WTO reform without addressing the question of external transparency and accountability. Both have to start at home through a greater involvement of civil society and national parliaments in WTO matters, which call nowadays for a much broader constituency than the traditional trade policy community. We need to find the ways and means for a greater involvement of civil society and parliaments in Geneva as well. Otherwise transparency will be limited and accountability will suffer.

We are not likely to get there in the immediate future but we should reflect

on it. The globalization process should be matched by the capacity of the rule-making body to live up to it. At the same time we have to realize that the WTO on its own cannot eradicate poverty, ensure sustainable development, or promote our labour standards. The Doha Declaration usefully reminds us of this.

Other international organizations—Bretton Woods and the UN—will need more coherence and complementarity between themselves and with national governments. Only then can we respond to the challenges of globalization and address the needs of the developing world. 

celona at the European Union summit. Despite the anti-terrorist legislation and the concurrent criminalization of dissent that is sweeping across the world, the resistance is escalating, particularly in Europe and parts of the third world. Here, in North America, the events of 9/11 and the anti-terrorism legislation

has, for the time being, cast a cold blanket over this kind of protest activity. Undoubtedly, this will affect the G8 protests in Kananaskis this summer. But, even here, the crisis of legitimacy swirling around the WTO’s global governance will continue to spark new waves of resistance in the future. 