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**The European Commission's Trade  
Dialogue with Civil Society:  
The First Step Towards More Open and Transparent Trade  
Policy Making?**

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NGO protests against the World Trade Organization have revealed a crisis of legitimacy related to the functioning of the multilateral trading system and the way trade policy has traditionally been made at the domestic level. Trade policy officials have had to deal with this crisis by allowing more participation from new international actors – non-governmental organizations and developing countries – in multilateral trade negotiations.<sup>1</sup> This paper analyzes how this crisis affected trade policy making in the European Union (EU) by focusing on the Commission’s recently established trade consultations with NGOs – referred to as the Civil Society Dialogue.

For the Commission, this dialogue’s “aim has been to discuss how the WTO system can be improved and to assess how civil society’s views on trade issues can be taken into account in the EU’s policy-making.”<sup>2</sup> This paper argues that the Commission has not only consulted NGOs on trade issues but that European trade policy is changing as a result of their participation in the Civil Society Dialogue. The research question addressed in this paper is the following: Has the Civil Society Dialogue created more open and transparent and, hence, more balanced and legitimate procedures for trade policy making in the EU?

By addressing the issues in this light, it is possible to situate this paper within the current debates on the need for transparency and efficiency in trade policy making. Thus, the EU’s Civil Society Dialogue should represent a shift toward more transparent policy making because it empowers civil society. This would explain why the EU has taken such a strong stance on NGO issues at Doha, such as trade and the environment, trade and labor or the softening of TRIPs rules as they apply to health crises. However, the Civil Society Dialogue can also be a tool for the Commission to build up domestic support for a new round of trade negotiations and to strengthen its position in multilateral negotiations vis-à-vis other WTO members. For instance, it could be argued that the EU is using the Civil Society Dialogue to legitimize its demands for a “Comprehensive Round” of multilateral trade negotiations and to break out of its isolation in the WTO over agriculture and textiles negotiation. This paper will show that the Civil Society Dialogue creates a more open and transparent trade policy making process and that it strengthens the credibility of strategic political actors trying to direct trade negotiations.

This paper focuses on two aspects of civil society participation in European trade policy making. The first concerns the reasons for NGOs’ recent interest in trade policy. Throughout most of the post-war era, trade policy was essentially a technocratic matter for the trade bureaucracies. Today, NGOs representing development, environmental, labor, consumer, animal rights and women’s rights issues want to participate in trade policy making in the EU. By analyzing the history of NGO participation in trade policy making, the changes in the EU’s position in multilateral trade negotiations in the 1990s and the evolution of the global trade regime, this paper will assess how the EU justifies greater NGO participation in trade policy making.

The second aspect concerns the effect of the Civil Society Dialogue on the EU's position in multilateral trade negotiations. One way of assessing whether or not trade policy making is becoming more balanced is to determine if the civil society dialogue has any impact on the EU's position in multilateral trade negotiations. To analyze this, the paper will compare the EU's position at the Seattle Ministerial Conference in November 1999, when the Civil Society Dialogue was not fully functioning, with its position at the Doha Ministerial Conference of November 2001, two years after the Civil Society Dialogue had been created. If this paper shows that civil society influence has made trade policy making more balanced, it may serve as a model for European governance.<sup>3</sup> However, it must be stressed that convergence between the interests of NGOs and the EU in trade policy may also be a reflection of their common interests in the multilateral trade regime.

Commissioner Lamy's personal commitment to the Civil Society reflects the view that trade policy can be made both balanced and efficient through more open consultation. He states: "For me, there is no contradiction between efficiency and accountability. Quite the contrary: the fact that I would negotiate with the full backing of the representatives of the European citizens will increase my leverage vis-à-vis third countries."<sup>4</sup> Thus for the Commission, negotiating efficiency and democracy require group input into decision making.

Because this paper focuses on intermediation between the Commission and NGOs in the Civil Society Dialogue, it highlights the role of the Commission in trade policy in comparison with other important institutional actors such as EU member states. However this is justified by the Commission's central role in trade policy at the domestic and the international level. At the domestic level, the Commission has used the Civil Society Dialogue to change the EU's position in WTO negotiations to reflect the demands made by non-corporate NGOs without provoking a Member State backlash. For instance, it has made environmental issues a priority for the EU in the next round of negotiations to gain the support of environmental NGOs. By pursuing wider NGO interests in WTO negotiations, the Commission may actually be weakening its position in other areas such as agriculture or textiles that are of high political salience in powerful EU member states. At the international level, the EU has begun to assume a leadership position in the WTO. Since the failure of the Seattle Ministerial Conference, the EU's trade commissioner, Pascal Lamy, has worked harder than any other minister to get WTO negotiations back on track.<sup>5</sup> As a result of its leadership position, the EU has had to expand its trade policy focus beyond purely domestic interests in order to convince reluctant WTO member states that a new round will have positive results for them.<sup>6</sup> This explains the EU's strong stand on promoting trade and development in a new round. Thus, this paper will show that the Civil Society Dialogue is both a policy tool and a provider of appropriate ideas that the Commission can use to strengthen and to legitimize its position in multilateral trade negotiations.

## **I. The evolution of the role of interest groups in trade policy**

The role of interest groups in trade policy making has evolved significantly over the years. Traditionally, interest groups are assumed to be pursuing protectionism and, hence, trade research often focuses on producer groups seeking economic rents through protectionist policy.<sup>7</sup> Since the late 1980s, however, studies have shown that interest groups can also promote trade liberalization.<sup>8</sup> For instance, liberalization in the services sector under the WTO was brought about under pressure from telecommunications and financial service providers seeking to expand internationally.<sup>9</sup> More recently, researchers have begun to reflect on the considerable, some would argue excessive<sup>10</sup>, influence that corporate interests have had on trade policy. The research focus has now shifted to studying the need to make trade policy more transparent by opening up the policy process to groups that were traditionally excluded or underrepresented.<sup>11</sup> The NGO backlash against the WTO occurred essentially within this context.

Robert Keohane and Joseph Nye have described the WTO as an example of a Club Model of multilateral negotiations. This is a system which enables state negotiators representing different functional interests to negotiate in relative isolation from their national political systems.<sup>12</sup> For instance, Trade Commissioner Lamy states that: "Trade negotiators in the past have had a tendency to live in their own little world."<sup>13</sup> Similarly, the chairman of the WTO General Council recently stated that WTO negotiators in Geneva form a kind of family because they "often talk about things that are absolutely incomprehensible to anyone else."<sup>14</sup> In spite of being closed to non-trade experts, the WTO has been successful because it is one of the few international organizations whose rules are enforced through a binding dispute settlement mechanism (DSM).<sup>15</sup>

However, the WTO risks spilling over into issue-areas that are only indirectly related to trade because its rules are binding.<sup>16</sup> For instance, "[difficult] issues like intellectual property rights were steered to WTO rather than WIPO because corporate interests and rich country governments thought WTO would be more effective."<sup>17</sup> Environmental and labor activists would also like to transfer international rules from the rather weak international organizations for their issues (UNEP and ILO) to the WTO, where sanctions for non-compliance will have "teeth".<sup>18</sup> Consequently, the trading system is now regulating domestic regulations as much as external tariffs.

Indeed, the WTO is "less and less centred on trade rather than domestic regulation and legal systems."<sup>19</sup> Trade agreements used to focus on dismantling barriers to trade (negative integration). Today, they concentrate much more on establishing harmonized regulations to facilitate trade (positive integration). These spillover effects of trade policy on domestic policies, such as environmental or social policy, have, in turn, encouraged excluded ministries to demand greater participation in multilateral trade negotiations. For instance, at the Seattle Ministerial Conference, the European Delegation was flanked by environment ministers from France, Britain and Germany demanding the right to defend

“their” interests in the negotiations. At one point, the national environment ministers publicly expressed their opposition to Commissioner Lamy’s acceptance of a biotechnology working group at the Seattle Ministerial Conference.<sup>20</sup> Thus, NGO demands for participation in international trade negotiations may also be associated with demands for greater participation by ministries excluded from trade policy making at the national level. In other words, “[different] NGOs will participate in different transnational-transgovernmental coalitions with governmental officials, often pitted against other transnational-transgovernmental networks with different purposes.”<sup>21</sup>

Many NGOs also feel that the WTO is undemocratic because all societal interests are not equally represented within the organization. Steve Charnowitz writes that “the spread of democratic norms has raised expectations about the transparency of international organizations and the opportunities they provide for public participation.”<sup>22</sup> To respond to this, international organizations have established more formal contacts with civil society representatives<sup>23</sup>, “but this varies across institutions, depending upon institutional culture, structure, role of the executive head and vulnerability to civil society pressure.”<sup>24</sup>

NGOs are now invited to participate in seminars and ministerial conferences at the WTO and they can submit *amicus curae*<sup>25</sup> briefs during disputes.<sup>26</sup> However, this will not necessarily address the democratic legitimacy issue because NGOs cannot exert any real influence over the WTO as long as it remains an intergovernmental organization.<sup>27</sup> In addition, the Seattle Conference protests by NGOs strengthened developing country opposition to further NGO participation in the WTO.<sup>28</sup> Developing countries oppose NGO participation in the WTO because they fear that it will lead to the adoption of labor and environmental standards in the WTO and because they do not believe that NGOs can be held accountable to a domestic constituency. If developing countries want to have more influence on trade rules, they need to “maximize their ‘voice’ [in the WTO], which means not having it diluted with the clamoring of environmentalist and labor groups from rich countries.”<sup>29</sup> Developing country opposition to civil society participation in WTO affairs is justified because the majority of NGOs are from either the US or Europe. Of the 686 NGOs that attended the Seattle Ministerial Conference, only 78 (11%) were from developing countries.<sup>30</sup> Consequently, NGOs are more likely to gain access to trade officials at the domestic level rather than the multilateral level.<sup>31</sup>

NGO participation in trade policy making may be more important in Europe than in other WTO member countries because the EU is currently facing a legitimacy crisis.<sup>32</sup> In the White Paper on European Governance, the Commission writes that:

People increasingly distrust institutions and politics or are simply not interested in them. (...) The problem (...) is particularly acute at the level of the European Union. Many people are losing confidence in a poorly understood and complex system to deliver the policies that they want.<sup>33</sup>

In this type of divided polity, legitimacy “depends on involvement and participation.”<sup>34</sup> By integrating NGOs into the policy process through official consultation processes, the

European Commission is trying to promote more participation and to diffuse criticism of its policies.

However, there is also a risk that NGOs will use the Civil Society Dialogue to undermine the international trade regime. Public support for free trade is relatively strong in Europe<sup>35</sup>, but groups opposed to trade liberalization tend to mobilize more effectively to protect themselves from future losses than those who support free trade. The legalized nature of the WTO may actually increase this tendency for protectionists to organize because it makes the gains and losses from trade liberalization much easier to calculate.<sup>36</sup> Therefore, protectionist groups should have a greater incentive to mobilize against further liberalization under the WTO than under the less legalized GATT trade regime.<sup>37</sup> The legalization of the WTO trading system also explains why NGOs want greater participation in trade policy making. As the system clarifies who “wins” and who “loses”, NGOs have been able to identify multinational corporations as obvious beneficiaries from the Uruguay Round Agreement.

Because the anti-globalization movement has attracted such a wide range of NGOs, scholars view them with some skepticism. Stephen Kobrin refers to the NGOs that protested against the MAI and that would later protest against the WTO as “a coalition of strange bedfellows.”<sup>38</sup> Jagdish Bhagwati also warned that this movement may be manipulated by protectionist interests.<sup>39</sup> While there is limited evidence that the anti-globalization movement is a “baptists and bootleggers” coalition, notably organized by the steel<sup>40</sup> and textiles<sup>41</sup> industries, there is also a genuine NGO concern with the influence of multinational corporations on trade policy.

Throughout much of the post-war period, governments kept trade negotiations secret to prevent protectionist corporate interests from blocking liberalization and when they threatened to derail international negotiations, they were bought off with special agreements like the Multifibre agreement for textiles, anti-dumping rules for steel, general exceptions for agriculture or voluntary export restraints for automobiles.<sup>42</sup> More recently, governments in both developed and developing countries<sup>43</sup> have consulted powerful producer groups when defining national trade policy and national trade advisory committees became “exclusive clubs for multinational corporations”<sup>44</sup> and farming interests. In the EU, producers continue to have a privileged role in consultations.<sup>45</sup> As corporations have become the primary source of societal support in America for the international trading system since the 1980s<sup>46</sup>, the agenda for the Uruguay Round was heavily influenced by American based multinational corporations.<sup>47</sup> A similar phenomenon occurred in the EU, where farm groups dominated the EU position until the EU began reforming the CAP in 1990. After that date, large service industries (telecommunications and especially financial services) were drawn in by the Commission and member states to support the Uruguay Round in exchange for stronger WTO agreements on telecommunications and financial services.

By inviting MNCs to participate in trade policy making, the US and the EU were trying to build up domestic support for the conclusion to a very difficult trade round. Indeed, the “negotiation to launch [the Uruguay Round] took almost as long as the Tokyo Round”<sup>48</sup> and the Round itself required seven years of negotiations because of powerful domestic opposition in the EU. The “excessive” influence of corporations over WTO rules should be understood within this context.

NGOs like to propagate the misconception that corporations are ideologically committed to free trade and liberalization. They assume that multinational enterprises pursue “neoliberal economic strategies - which involve promoting deregulation and privatisation in virtually all areas and subordinating every policy field to the objective of international competitiveness.”<sup>49</sup> In fact, the literature seems to show that corporations only pursue liberalization (or protectionism) in areas that are of direct interest to them.<sup>50</sup> This explains the expansion of the Uruguay Round negotiating agenda to the so-called new issues. The agreements on Trade Related Intellectual Property Rights (TRIPs), Financial Services liberalization, or Trade Related Investment Measures (TRIMs) to a lesser degree reflect the special interests of corporations.

The inclusion of the new issues in the Uruguay Round was an American initiative and this policy agenda was largely driven by American MNE's who were market leaders in the services and high tech sectors. These corporations made it clear to the government that without a fundamental rebalancing of the GATT they would not continue to support a multilateral policy but would prefer a bilateral or regional track.<sup>51</sup>

Consequently, NGOs that want to resist “corporate rule” have had little trouble identifying the key aspects of the GATT that are biased in favor of large MNCs. Denouncing the excessive influence of corporations on trade policy is common to all of their criticism of the international trading regime. They perceive trade policy to be overly friendly to corporate concerns and the WTO to be the “puppet of capitalist greed”.<sup>52</sup> One of the “unintended [consequences] of the Uruguay Round has been the rise in profile of the MNEs, in part due to their role in the round. For the more paranoid the round was simply a conspiratorial collusion between corporations and the U.S. government.”<sup>53</sup> Hence, non-profit NGOs are united in the condemnation of “corporate-led globalization”.<sup>54</sup>

For most public interest NGOs, the democratic deficit in trade policy is associated with the influence of MNCs on international trade agreements. They would like more participation by non-corporate interests in trade policy making. As the Uruguay Round was able to move forward in terms of positive integration for the protection of corporate property rights<sup>55</sup>, NGOs want similar positive integration measures for their issue-areas (development, labor, environmental and consumer rights). The Civil Society Dialogue is supposed to balance corporate interests with other interests in the EU's trade policy. In turn, this should strengthen public support for trade liberalization.

Some authors suggest that the trading system will lose public support if it is too closely associated with neoliberal domestic policies, as many NGOs argue that it is.<sup>56</sup> Dani

Rodrik has shown that the development of large welfare states in the world's most open economies are correlated with maintaining national support for free trade.<sup>57</sup> The conclusions of his work “suggest that scaling governments down without paying attention to the economic insecurities generated by globalization may actually harm the prospects of maintaining global free trade.”<sup>58</sup> Rodrik’s thesis partially explains why trade unions or women’s NGOs have become more vocal in their demands from the world trading system. Rightly or wrongly, trade unions<sup>59</sup> and feminists<sup>60</sup> worry that their members and women<sup>61</sup> more generally have to bare the brunt of restructuring costs related to trade liberalization.

NGOs are also acting to protect their specific interests just as firms are thought to lobby for “private goods”<sup>62</sup> in trade policy. Firms lobby for special advantages that will enable them to exploit new market opportunities or to protect monopolistic rents over a product.<sup>63</sup> Like firms, NGOs may also be defending their “private goods” in trade policy. Many environmental NGOs (ENGOS) believe that the international trade rules may contravene multilateral environmental agreements (MEA).<sup>64</sup> Generally MEAs are considered to be public goods, but their implementation at the domestic level often requires a “green” protectionist agenda because producer interests want economic rents in exchange for adopting costly environmental regulations.<sup>65</sup> This political compromise effectively transfers the political and economic costs of environmental measures to foreign producers and national consumers. Hence, the clash between WTO rules and MEAs relates more to the discriminatory application of environmental rules than to whether or not states can enact them. A good example of this in Europe is the ban on genetically modified organisms (GMOs). European farmers have accepted this restriction in exchange for prohibiting foreign produced GMO products from entering the EU market.

To allow civil society representatives to express their views and to balance corporate and non-corporate influence on trade policy, the Commission established a consultative committee in 1999. This is a typical reaction by the Commission for dealing with interest group opposition. However, while consulting NGOs may be typical in social or environmental policy making, this represents a radical shift in trade policy. Most governments try to shield themselves from interest group influence when making trade policy, especially when the groups are opposed to further liberalization as most NGOs are. By integrating NGOs into the consultation/decision making process, the European Commission is taking tremendous risks.

The Civil Society Dialogue is open to all NGOs with an interest in trade policy. Meetings are organized prior to important international negotiations, such as the Doha Ministerial Conference, and the Commission informs NGOs of the evolution of multilateral negotiations on an ad hoc basis. NGOs are also invited to submit reports on specific trade issues of concern to them. In addition to allowing NGOs to express their views on trade policy, the Civil Society Dialogue has also been used by the Commission to attract the



participation of some NGOs more than others in order to strengthen domestic support for a new trade round.

The Commission's decision to establish the CSD can be viewed as an example of EU policy learning because the CSD resembles the U.S. Trade Advisory Committee (USTAC). However, there are significant differences between the European and American system of interest group consultation. USTR is required by law to consult the USTAC regularly during the negotiations and to take its advisory reports under consideration. In addition, the USTAC is well structured with a number of sector sub-committees that enable USTR to define the American negotiating position well in advance of WTO meetings. Under EU law, there is no obligation to consult the CSD or to take its reports under consideration. In addition, the CSD has much more of an informal structure as the Commission organises meetings on an ad hoc basis prior to important international meetings.<sup>66</sup>

## **II NGO influence on EU trade policy**

The decision to create the Civil Society Dialogue reflected the need to improve both the transparency and the efficiency of trade policy making in Europe. NGOs justify their participation by arguing for more transparent trade policy. For many NGOs, this means countering the influence of multinational corporations on trade policy. Thus there is a link between demands for access to institutions and having actual influence over trade policy.

Although NGOs have not achieved all of their aims, this paper argues that they did influence the EU's position through the Civil Society Dialogue. To demonstrate this, we will compare the EU's position before the Civil Society Dialogue was established (the Seattle Ministerial Conference in 1999<sup>67</sup>) with its position two years into civil society consultations (the Doha Ministerial Conference in 2001). This comparison will allow us to determine whether NGOs have more influence over the EU's trade policy as a result of the Civil Society Dialogue.

There are essentially four issue-areas in which the Civil Society Dialogue can be seen as having an impact on the EU's position: the environment, consumer affairs, labor rights and development. By focusing on the influence that NGOs had on the EU's position at the WTO in these areas, we should be able to discern whether EU trade policy is more balanced as a result of the Civil Society Dialogue. Below is a table describing the EU's negotiating position at the Seattle and Doha Ministerial Conferences and the support that it received from NGOs on certain issues.

## ENVIRONMENTAL ISSUES

Environmental NGOs (ENGOS) have been the most vocal in their protests against the EU's trade policy. Interaction with ENGOS in the Civil Society Dialogue has been somewhat problematic because of conflicts between ENGOS themselves and between ENGOS and the Commission. There are essentially three main ENGOS interested in trade policy at the EU: Greenpeace Europe, Friends of the Earth (FOE) Europe and the World Wildlife Federation's (WWF) European Policy Office. However, only the latter cooperates with the Commission because it takes a moderate stand on issues. Greenpeace strongly opposes the new trade round because it wants to see major progress on multilateral environmental issues before a new trade round is launched.<sup>68</sup> FOE Europe is also highly critical of EU trade policy and it has a rather ambiguous position towards dialogue with either the EU or the WTO.<sup>69</sup> Nevertheless, there are some issues upon which all environmental NGOs agree. For instance, they all support the EU's strong position on the "precautionary principle"<sup>70</sup> and they want MEAs to take precedence over WTO rules.

Although the EU was unable to make much progress on environmental issues at either the Seattle or the Doha ministerial conferences, it would be unfair to write that Commissioner Lamy did not push for this at Doha. At one point during the Doha negotiations, he claimed that the environmental issue was just as important as the agriculture or services trade issues on the EU's agenda.<sup>71</sup> However, the EU had to settle for an uneasy compromise with the US on biotechnology that is certain to upset most environmental NGOs.

The EU managed to resist American pressure for the creation of a working group to study the liberalization of trade of biotechnology products. In Seattle, the EU had accepted this American request to the displeasure of environment ministries and NGOs.<sup>72</sup> In its critique of the Commission's handling of this issue in Seattle, a British Development NGO, CAFOD<sup>73</sup>, provided the following description of the conflict this provoked.

[In Seattle], issues like development and environment, which belong with other directorates, got short shrift [by DG Trade] in the heat of negotiations. The most notorious example of this was when Commissioner Lamy accepted a US proposal for a biotechnology working group, leading to a debilitating row within the EU delegation, as Michael Meacher and other environment ministers from EU member states publicly expressed their opposition to the concession.<sup>74</sup>

To ward off another major conflict with environment ministries and NGOs in Doha, DG Trade took a more aggressive position on the environmental issue by making several demands related to the "precautionary principle", "ecolabeling" and the "clarification of the relationship between WTO rules and Multilateral Environmental Agreements (MEAs)" as well as a proposal on fisheries subsidies.<sup>75</sup> The first three environmental demands were linked to the conflict over biotechnology with the US.

The EU bases its effective ban of genetically modified organisms (GMOs) on the “precautionary principle” because the scientific evidence that they are harmful to human health or to the environment is insufficient. Some scholars argue that the conflict over GMOs reflects different regulatory cultures in the US and the EU.<sup>76</sup> The EU’s regulatory culture is considered to be more circumspect about introducing new crops because of a recent series of health crises in the agricultural sector. Consequently, the EU wants to introduce the labeling of products containing GMOs to inform consumers. However, the US is strongly opposed to labeling because it fears that European consumers will not purchase goods containing GMOs.<sup>77</sup> The EU also wants the WTO to clarify the relationship between MEA and WTO rules to ensure that MEA rules take precedence over trade rules in cases of conflict. Although the EU’s aim is to protect the wider range of MEAs from WTO rules, its main goal is to get the Convention on Biodiversity, which authorizes import restrictions on GMOs, protected from a claim before the WTO Dispute Settlement Body.

The EU only managed to get its third demand in the Doha Declaration because of opposition from most other WTO member states. During the next round of trade negotiations, the WTO’s Committee on Trade and Environmental (CTE) will have a mandate to clarify the relationship between MEAs and multilateral trade rules. However, the US ensured that this clarification procedure would not strengthen the EU’s position on GMO import restrictions because the CTE’s clarification rules will only apply to WTO member states that have ratified the MEAs in question. As the US did not ratify the Convention on Biodiversity, it will therefore be unaffected by the WTO’s clarification rules.<sup>78</sup>

Although this compromise does not satisfy demands made by environmental NGOs, it partially satisfies DG Environment and the Environment Council as MEAs will be granted greater legal protection than they now enjoy in the WTO. However, this will do little to diffuse a major trade conflict with the US over the GMO issue in the future.<sup>79</sup> In addition, although the EU was relatively unsuccessful in getting the environmental issue onto the agenda at Doha, it is planning to use its bilateral trade policy to offer “positive inducements” to countries that abide by certain environmental standards.<sup>80</sup>

Thus, it is quite clear that the EU did defend environmental issues to the extent of its abilities at Doha. However, it is not clear whether ENGO influence was determinant in this decision. To the extent that ENGO demands were in line with the overall EU position on GMOs and with demands made by national environment ministries, it is difficult to distinguish between NGO influence and EU interests.

## CONSUMER AFFAIRS

Traditionally, trade liberalization has been concerned with lowering costs and empowering consumers as opposed to providing economic rents to producers. Therefore, we would expect consumer organizations to support trade liberalization. However,

consumer NGOs have become very critical of the multilateral trade regime recently. For instance, Public Citizen's president Ralph Nader lobbied to liberalize the American automobile market in the 1980s because Japanese cars were less expensive, safer and more fuel-efficient than American cars.<sup>81</sup> Today, Ralph Nader is one the WTO's most vocal critics because of concerns that free trade can lead to lower health and safety standards. European consumer NGOs are also critical of trade policy's impact on health and safety issues.<sup>82</sup> Therefore, consumer organizations do not necessarily have an ideological commitment to free trade.

Consumer NGOs are well represented in the Civil Society Dialogue as both the British National Consumer Council and the Bureau of the European Union of Consumers (BEUC) are members of the "contact group".<sup>83</sup> In addition, consumer NGOs have contributed to the EU position on issues such as the "precautionary principle", "ecolabeling" and GMOs. There is little doubt that the EU's strong stance on these issues in the WTO was linked to consumer NGO influence on its position. Nevertheless, we can question to what extent consumer NGOs provided added legitimacy for the EU's position on issues like the precautionary principle. It is likely that the EU would have defended these issues at the Doha Ministerial with or without consumer NGO support because several EU member states and governmental agencies (DG Agriculture, Health, Consumer Affairs) demanded this as well. In fact, it appears as though the Commission uses consumer NGOs as a cover for defending its position in WTO negotiations. Whenever the Commission refuses to negotiate on an issue, it invokes consumer rights as a justification.

## TRADE UNIONS

The EU failed to make any progress on the trade and labor standards issue at either the Seattle or the Doha Ministerials, which is likely to disappoint both European trade unions<sup>84</sup> and employment ministries. The Trade Commissioner worked very hard at Doha to get this issue on the multilateral trade agenda<sup>85</sup> but he had to back down when he encountered with major opposition from developing countries and received little support from other industrialized nations. However, it could also be argued that the EU did not push hard enough on this issue. Indeed, it was able to get other issues on the negotiating table, such as investment despite "vociferous opposition from India".<sup>86</sup> Quite clearly then, those other issues were of a higher priority for DG Trade than trade and labor standards.

There were two main reasons for the EU's failure to make progress on the labor issue at Doha. First, while many WTO members would agree that agricultural and business NGOs have legitimate reasons for participating in trade negotiations, the involvement of trade unions remains quite controversial. Developing countries have categorically refused to accept any link between trade and labor rights<sup>87</sup> because they fear that this will lead to a new form of disguised protectionism in the WTO.

The second reason is associated with EU domestic politics. The Trade Commissioner did his best to establish a working group on WTO relations with the ILO in order to get the labor issue on the table. However, this was also linked to Commission ambitions to replace EU member states as members of the ILO, as it has replaced them in other international organizations such as the WTO. The Commission has been trying to acquire a 'single voice' within the ILO for many years.<sup>88</sup> By proposing the creation of a joint WTO-ILO Committee on Trade and Labor Standards, the Commission may have been trying to gain access to participation in ILO where the EU member states currently speak for the EU.<sup>89</sup> Therefore, it is quite possible that EU member states opposed the ILO Working Group to prevent the Commission from getting into the ILO "through the back door". Support from trade unions for a stronger EU position on trade and labor standards was likely not strong enough to overcome member state opposition to Commission expansionism into ILO affairs.<sup>90</sup>

## DEVELOPMENT NGOS

Although the Civil Society Dialogue is open to participation by all NGOs, Commissioner Lamy courted the support of Development NGOs (NGDOs) more than any other group. This is quite clearly demonstrated in his shift in policy orientation from trying to promote "Sustainable Development" within a "Millennium Round" in Seattle to promoting a "Development Round" in Doha, two years later. This lexical shift is associated with Commissioner Lamy's policy of strengthening the voice of NGDOs in the Civil Society Dialogue at the expense of other NGOs.

One of the major hurdles that the Commission needed to overcome to get a new round launched at the WTO in Doha was opposition from the coalition of environmental, development, labor and citizens NGOs that had united in Seattle. Commissioner Lamy could not ignore their demands because they were undermining his credibility at the national level where many of these NGOs have close links to left-wing governments in EU member states.<sup>91</sup> Gaining the support of development NGOs was high on the Commission's agenda because 1) they are the first group of NGOs to have organized against the trading regime<sup>92</sup>, 2) their interests converge with DG Trade's in the WTO and 3) they contest some of the demands made by environmental NGOs and trade unions at the WTO.

European NGDOs were among the rare NGOs that actually took an interest in the Uruguay Round negotiations. Although they were ultimately unsuccessful in influencing the EU's position toward developing countries during the Uruguay Round, their opposition to the WTO never ceased. Instead, they united with a rainbow coalition of other interested NGOs to contest the very legitimacy of the multilateral trading system. Therefore, gaining the support of NGDOs at Doha was crucial to the dividing of the coalition of anti-globalization NGOs.

Robert O'Brien has argued that NGDO support for a new trade round is essential because they can provide support for a soft position on environmental and labor issues in the WTO.<sup>93</sup> Although most development NGOs want to mainstream environmental costs into development aid programs, they are skeptical as to the ability of developing countries to be able to afford implementing costly international environmental or labor standards. In addition, development NGOs often act as "South Virtual Secretariats"<sup>94</sup> in the WTO by providing more voice to developing country demands against the extension of costly environmental and social regulations at the multilateral level. For Commissioner Lamy, NGDO support was crucial because he was well aware that the EU position on environmental and labor standards was not making much progress in the WTO prior to the Doha Ministerial.<sup>95</sup> However, to gain their support, the EU Commissioner needed to provide concrete results for developing countries in Doha.

The Commission's greatest success at the Doha Ministerial Conference was the Declaration on TRIPs and public health which allows developing countries to grant compulsory licenses that override patents for medicines during medical health emergencies. Although EU pharmaceutical firms opposed the softening of the TRIPs agreement<sup>96</sup>, the Commission fought hard for this<sup>97</sup> in order to gain the support of very important development NGOs such as OXFAM and Médecins Sans Frontières.<sup>98</sup> In so doing, Commissioner Lamy was able to split the NGO opposition to the new round. Incidentally, this shows that the corporate lobby does not dictate EU trade policy as anti-globalization activists like to claim.<sup>99</sup> Interest groups have influence over policy when their interests converge with the objectives of bureaucratic agencies.

Most development NGOs implicitly support DG Trade's position in internal EU Trade policy debates by demanding a more flexible EU position on agriculture and textiles liberalization in the WTO. In contrast, the pharmaceutical industry did not support DG Trade's policy of launching a new trade round because it wants to prevent a renegotiation of the TRIPs agreement with developing countries. Therefore, the pharmaceutical industry's interests in maintaining the status quo on TRIPs were at odds with DG Trade's bureaucratic logic of trying to launch a new round.

We can argue that the NGDO position and DG Trade's position on the new WTO round have converged now that the EU is promoting a "Development Round". By calling for greater access to the EU market for developing countries, NGDOs support the Commission position against member states that refuse to open their agriculture and textiles markets. This may explain how Commissioner Lamy was able to agree to accelerate the implementation of the EU's Uruguay Round commitments on textiles liberalization at Doha even though Italy, Portugal and Greece were opposed to concessions on phasing out the Multifibre Agreement ahead of schedule.<sup>100</sup> This concession to developing countries was remarkable given that Pascal Lamy had also promised the French textiles industry in December 2000 that the EU would only dismantle the Multifibre agreement "intelligently" and that the EU would not give developing countries any "unnecessary gifts".<sup>101</sup> However, with the support of NGDOs

on this issue, the Commission was able to shift the balance of member states in favor of textiles liberalization.<sup>102</sup>

Development NGOs also had little choice but to support the EU because they have been heavily criticized for their role in blocking a new trade round that may actually be beneficial to developing countries. The former President of Mexico, Ernesto Zedillo, warned that they were trying “to save developing countries from development.”<sup>103</sup> Therefore, development NGOs had an interest in supporting a new round to prove that they were defending the interests of developing countries at the WTO.

The EU position on development at Doha was also influenced by government agencies responsible for development aid policy in Europe. For instance, WTO members have agreed to help developing countries build up institutional capacity for implementing WTO agreements.<sup>104</sup> This is clearly favorable to DG Development as it will be able to develop trade institution-building programs for developing countries.<sup>105</sup> In addition, the Doha Declaration provided a waiver for the EU’s Cotonou preferential trading arrangement<sup>106</sup> and thus protected DG Development’s main policy instrument. Therefore, both Development NGOs and governmental agencies gained from the EU’s commitment to development at the WTO.

## **CONCLUSION: Explaining influence**

This paper has shown that NGOs can influence the EU’s trade policy through their participation in the Civil Society Dialogue. However, we need to assess to what extent this influence resulted from the ideas propagated by NGOs and to what extent it resulted from the interests they shared with strategic political actors.

On the one hand, we can argue that the Civil Society Dialogue has made trade policy more transparent by allowing participation by NGOs that were previously excluded from the policy process. This paper has demonstrated that public interest NGO demands were integrated into the EU’s official negotiating position at the WTO as a result of their participation in a formal consultative structure. This would confirm new theories on interest intermediation such as Pieter Bouwen’s *the logic of access*.<sup>107</sup> According to it, influence is closely associated with access to EU institutions. In other words, NGOs had little or no influence over the EU’s position in multilateral trade negotiations under the GATT system because they had no access to the institutions responsible for trade policy making. In fact, most NGOs, other than service providers, were specifically denied access to these institutions under the GATT system because it was feared they would derail the multilateral trade negotiations. However, this policy failed under the WTO because NGOs threatened to block future trade negotiations unless they were granted access to the policy making process. Once NGOs were granted this access through their participation in the Civil Society Dialogue, their influence on the EU’s position in the WTO increased dramatically, as the *logic of access* theory would predict.

By granting NGOs access to the policy-making procedure, the Civil Society Dialogue also addressed the legitimacy issue in two ways. First, trade policy making has become more transparent in the EU because all major trade issues are now discussed openly in the Civil Society Dialogue with interested stakeholders. Trade policy making in the EU is no longer confined to the trade policy elite as described in the Club Model of multilateral trade negotiations. Attempts by the Commission to revert to old-style, secretive negotiations with key corporate interest groups have met with failure because too many NGOs are involved in the negotiation process. For instance, the EU has held secret negotiations with service providers on several occasions in preparation for WTO negotiations on services trade liberalization. However, news of the secret meetings was leaked on two occasions over the Internet.<sup>108</sup> Consequently, Commissioner Lamy has been forced to apologize for the leaks to NGOs<sup>109</sup> and to the European Parliament.<sup>110</sup> This will make the Commission think twice before resorting to secret consultations in the future.

Second, the Civil Society Dialogue has redressed the balance between producer and non-producer interests in trade policy making in the EU. While it would be an exaggeration to argue that all public interest NGO concerns have been successfully integrated into the EU's negotiating position, there is no denying that Commissioner Lamy fought hard to promote a number of environmental, consumer, labor and development issues at the Doha Ministerial Conference. Of course, the EU still vigorously defends its economic interests in multilateral trade negotiations in agriculture and services, for instance. However, the Doha Ministerial Declaration on TRIPs and Health Crises clearly showed that corporate interests do not always take precedence over public interest NGO demands in the EU's position in multilateral trade negotiations. Therefore, the Civil Society Dialogue appears to be a worthwhile model for the Commission to improve governance in the EU.

Although this paper concludes that the Civil Society Dialogue is a step toward more transparent trade policy making in the EU, we cannot ignore the role that strategic political actors have played in mobilizing support for their position in the trade debate. This paper shows that interest intermediation is a two-way street because NGOs can only influence policy if they provide something to political institutions in exchange. Therefore, it is possible to envisage both interest groups pressuring public institutions to support their views and public institutions pressuring interest groups to support them.

In interest group studies, it is often assumed that public institutions confer legitimacy on interest groups by allowing them to participate in the policy-making process because public institutions have the political legitimacy to act on behalf of the constituency that elected them and to represent the general interest. On the other hand, interest groups do not have a legitimate right to participate in policy-making because they have not been democratically elected and because they represent special interests.<sup>111</sup> This paper shows that this assumption can also be reversed because interest groups often provide legitimacy



for public institutions to act in the EU system in exchange for gaining influence over or receiving special benefits from public institutions.

While the EU did push strongly for environmental, consumer, labor and development issues at the Doha Ministerial, this was also associated with its own strategic interests. From an internal perspective, the EU's strong stance on these issues legitimized the launching of a new round for public opinion. In addition, by focusing on public interest issues at Doha, the Commission provided left-wing governments in the EU with solid reasons for supporting a new round of trade negotiations. Finally, greater NGO participation in trade policy making has enabled governmental agencies that were formerly excluded from trade negotiations under the Club Model, such as environment, consumer, health, labor and development ministries/DGs, to participate more actively in defining the EU's position in the WTO. Our final point is that focusing on interests and values or ideas reveals that such a focus involves us in certain ambiguities. Greater access to trade policy making for governmental agencies allows them simultaneously to defend their sector interests and to widen the trade policy debate. Therefore, this paper concludes that making trade policy more transparent can also be related to the interests of strategic actors in trade negotiations.

## APPENDIX A

EU NEGOTIATING POSITION IN SEATTLE AND IN DOHA				
<u>ISSUE</u>	<u>SEATTLE</u>	<u>DOHA</u>	<u>Support from issue-area interest groups (Yes/No)</u>	<u>Commission successful (Yes/No)</u>
ENVIRONMENT	Wide environmental agenda in spite of developing country opposition, but with US support.  Clarification of MEA/WTO relationship Biotechnology Labeling The Precautionary Principle	Moderate environmental agenda in spite of developing country opposition and lack of US support.  Clarification of MEA/WTO relationship. Biotechnology Labeling The Precautionary Principle	Yes, from moderate ENGOS No, more radical ENGOS (Greenpeace) remained critical of the EU position  Yes Yes Yes Yes	Yes  Yes No No No
CONSUMER RIGHTS	Working group on the Precautionary Principle.  Labeling of GMO products	Working group on the Precautionary Principle.  Labeling of GMO products.	Yes  Yes	No  No
LABOR RIGHTS	Seconded US requests for a trade and labor rights committee	Proposed improving cooperation between the ILO and the WTO to address core labor standards.	Yes	No

DEVELOPMENT	<p>“Millennium round”</p> <p>Focus on new trade issues such as Environment, Labor Standards, Financial Services, Investment, and Competition.</p>	<p>“Development Round”</p> <p>Focus on new trade issues but with reduced demands for the Environment, Investment and Competition.</p> <p>Labor Standards were dropped (major developing country demand).</p>	<p><i>Yes</i></p> <p><i>No</i>, opposition from ENGOS and some NGDOs (Oxfam)</p> <p><i>No</i>, opposition from trade unions that threatened to support anti-globalization activists in the future.</p> <p><i>Yes</i>, continued support from financial service providers</p>	<p><i>Yes</i></p> <p><i>Yes</i></p>
	<p>No position on implementation of Marrakech issues (speeding up of implementation agriculture and textiles liberalization commitments)</p> <p>No position on capacity building issues for developing countries.</p> <p>Opposed to softening of TRIPs agreement.</p> <p>Proposed WTO waiver of Cotonou Agreement with ACP</p>	<p>Position on Financial Services unchanged.</p> <p>Agreement by the EU to speed up implementation of textiles commitments.</p> <p>Opposed progress on Agriculture issues, however.</p> <p>Strong EU commitment to capacity building for developing countries.</p> <p>EU promoted a softening of TRIPs agreement as it applies to pharmaceuticals in cases of health crises in developing countries.</p> <p>Proposed WTO waiver for Cotonou Agreement with ACP countries</p>	<p><i>Yes</i>, support from NGDOs</p> <p><i>No</i>, opposition from textiles industry</p> <p><i>Yes</i>, support from agricultural interests.</p> <p><i>Yes</i>, support from NGDOs</p> <p><i>Yes</i>, support from NGDOs and health NGOs</p> <p><i>No</i>, opposition from pharmaceutical industry.</p> <p><i>Yes</i>, support from NGDOs.</p>	<p>N/A</p> <p><i>Yes</i></p> <p><i>Yes</i></p> <p><i>Yes</i></p> <p><i>Yes</i></p> <p><i>Yes</i></p>

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<sup>14</sup> Sergio Marchi (Ambassador from Canada) "Statement by the Chairman to the General Council" WTO General Council, 12 September 2002. [http://www.wto.org/english/news\\_e/news02\\_e/chair\\_statement\\_gc\\_sep02\\_e.htm](http://www.wto.org/english/news_e/news02_e/chair_statement_gc_sep02_e.htm).

<sup>15</sup> John Jackson "Designing and Implementing Effective Dispute Settlement Procedures: WTO Dispute Settlement, Appraisal and Prospects", in The WTO as an International Organization edited by Anne Krueger (Chicago: The University of Chicago Press, 1998), pp.161-180.

<sup>16</sup> Roessler shows that the GATT was notoriously ineffective at attaining policy goals (such as development, monetary stability) other than strict trade liberalization. Frieder Roessler "Domestic Policy Objectives and the Multilateral Trade Order: Lessons from the Past", in The WTO as an International Organization, edited by Anne Krueger (Chicago: The University of Chicago Press, 1998), pp.213-229.

<sup>17</sup> Keohane, p.7.

<sup>18</sup> James Mazur "Labor's New Internationalism," Foreign Affairs (January/February 2000).

<sup>19</sup> Sylvia Ostry "WTO: Institutional Design for Better Governance, Efficiency, Equity and Legitimacy: The Multilateral Trading System at the Millennium", paper presented at the Kennedy School of Government, Harvard, (2-3 June 2000), p.2.

<sup>20</sup> Cafod "The World Trade Organisation : The EU Mandate Post-Seattle", CAFOD Submission to the House of Lords European Union Committee (12 October 2001). <http://www.cafod.org.uk/policy/policyeurunion.shtml>.

<sup>21</sup> Keohane, p.9.

<sup>22</sup> Steve Charnovitz "Two centuries of participation: NGOs and International Governance", Michigan Journal of International Law, Vol.18 (Winter 1997), p.266.

<sup>23</sup> Keohane, p.27.

<sup>24</sup> O'Brien, p.7.

<sup>25</sup> Friends of the court briefs are submissions by third parties that clarify certain legal issues. For instance, in a WTO trade dispute between the US and several developing countries (notably Thailand and India) over an American import ban of shrimp caught with nets that are not turtle safe, an environmental NGO submitted a brief to the Dispute Settlement Panel evaluating the environmental risks associated with this dispute. The panel rejected this brief on the grounds that it had not requested the information. However, the Appellate Body overturned this decision and required the panel to review the brief before deciding whether or not to include the information in the final decision.

<sup>26</sup> Marceau, p.32.

<sup>27</sup> The WTO claims that it is a "member state driven" organization which means that all initiatives and proposals must come from member states. Unlike other international organizations, the WTO Secretariat has few powers of initiative.

<sup>28</sup> Ostry "WTO: Institutional Design for Better Governance", p.29.

<sup>29</sup> Keohane, p.8.

<sup>30</sup> There were 303 American NGOs (44%), 205 Western European NGOs (30%), 72 from Canada, Australia and New Zealand (11%) and 20 from Japan (3%). The author would like to thank the WTO's NGO Administrator, Bernard Kuiten, for providing the statistics on NGO participation in Seattle.

<sup>31</sup> Keohane, p.27.

<sup>32</sup> Philippe Schmitter "What is there to legitimize in the European Union... and how might this be accomplished?", Reihe Politikwissenschaft Political Science Series, Institut für Höhere Studien (HIS), (May 2001) Vienna.

<sup>33</sup> Commission of the European Communities "White paper on European Governance", COM(2001) 428 final, (25 July 2001) p.3.

<sup>34</sup> Commission "Governance", p.11.



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- <sup>35</sup> In Europe, public opinion is surprisingly open to free trade, according to Messerlin, p.27 - citing the Economist (2 January 1999), p.53-54.
- <sup>36</sup> Judith Goldstein and Lisa Martin "Legalization, Trade Liberalization, and Domestic Politics: A Cautionary Note", International Organization, (Summer 2000) pp.603-632.
- <sup>37</sup> Judith Goldstein and Lisa Martin also argue that pro-liberalization groups have an incentive to maintain the status quo (that is not to support further legislation) because they have already gained what they wanted from the trade regime (legal protection for exports). However, it could be argued that pro-liberalization groups have an incentive to support trade liberalization under a legalized regime such as the WTO because it also makes it easier to calculate the gains from trade liberalization. This is the case for the European financial services industry.
- <sup>38</sup> Stephen Kobrin "The MAI and the Clash of Globalizations", Foreign Policy, (Fall 1998), p.98.
- <sup>39</sup> Jagdish Bhagwati "Don't Muddy the Waters", Newsweek, (22 November 1999), p.63. See also Bhagwati, Jagdish "What Really Happened in Seattle", Jagdish Bhagwati website, [www.columbia.edu/~jb38/really.pdf](http://www.columbia.edu/~jb38/really.pdf).
- <sup>40</sup> James Harding "Unions step up support to globalisation activists", Financial Times (16 August 2001).
- <sup>41</sup> An American journalist claims that the anti-WTO campaign led by Ralph Nader's consumer NGO, Public Citizen, is being secretly funded by a textiles industry magnate trying to defend protectionist rents. Ryan Lizza "Silent Partner. The Man behind the Free Trade Revolt", The New Republic, (1 October 1999).
- <sup>42</sup> Some scholars critical of the WTO argue that the trade regime is too rigid today and that the trading system should always allow a certain level of flexibility for those kinds of pay offs. See Goldstein.
- <sup>43</sup> Kym Andersen "Lobbying incentives and the pattern of protection", Economic Development and Cultural Change, Vol.1 (January 1995), p.401-434.
- <sup>44</sup> Steven Shrybman A Citizen's Guide to the World Trade Organization. (Toronto: The Canadian Centre for Policy Alternatives and James Lorimer and Co. Ltd., 1999), p.5.
- <sup>45</sup> For instance, the Commission promised to consult EU producers on the application of four billion dollars worth of sanctions against the US in reaction to the Foreign Sales Corporation dispute before the WTO. Commission of the European Communities "FSC / EU publishes products that could be subject to countermeasures", DG Trade, EU Trade News Flash Announcement. (13 September 2002).
- <sup>46</sup> Milner.
- <sup>47</sup> John Odell and Barry Eichengreen "The United States, the ITO, and the WTO: Exit Options, Agent Slack, and Presidential Leadership", The WTO as an International Organization (Chicago: The University of Chicago Press, 1998) pp.181-209, p.202.
- <sup>48</sup> Ostry "WTO: Institutional Design for Better Governance", p.7.
- <sup>49</sup> Balanya.
- <sup>50</sup> Gilligan, Michael "Lobbying as a Private Good with Intra-Industry Trade", International Studies Quarterly. (September 1997), pp.455-74. See also Dirk De Bièvre The WTO and Domestic Coalitions in trade policy: The effects of reciprocity and enforcement on the European Union, Ph.D. Thesis, Florence, European University Institute, (2002).
- <sup>51</sup> Sylvia Ostry "Global Integration: Currents and Counter-Currents", Walter Gordon Lecture, Massey College, University of Toronto, (23 May 2001), p.5.
- <sup>52</sup> David Woods "WTO defeats itself in Seattle as poor preparation combines with bad management, mistrust and US politics", World Trade Agenda, no.99/16, (8 December 1999), p.4.
- <sup>53</sup> Ostry "Global Integration: Currents and Counter-Currents", p.7.
- <sup>54</sup> Ostry "WTO: Institutional Design for Better Governance", p.14.
- <sup>55</sup> Ostry "WTO: Institutional Design for Better Governance", p.9. Sylvia Ostry argues that the new issues in the Uruguay Round shifted the GATT focus from negative integration - what governments must not do - to positive regulation or what governments must do because the TRIPs agreement includes provisions for enforcement procedures at the national level.
- <sup>56</sup> Helen Milner "The Political Economy of International Trade", Annual Review of Political Science, N°2 (1999), pp.91-114.
- <sup>57</sup> Rodrik, Dani "Why do open economies have bigger governments?", Journal of Political Economy, (January 1998).
- <sup>58</sup> Rodrik, p.30
- <sup>59</sup> Andersen, p.401-434. Andersen argues that trade liberalization has only minor effects on employment in industrial countries.
- <sup>60</sup> Pascal Lamy "Trade liberalisation and globalisation : What are the impacts on women's lives?", Speech presented to the European Women's Lobby, Barcelona, (9 June 2001); Laura MacDonald "Trade with a Female Face - Women and the new international trade agenda", in Global Trade and Global Social Issues edited by Annie Taylor and Caroline Thomas (London: Routledge, 1999), p.67.
- <sup>61</sup> Feminist scholars also argue that female workers also suffer from difficult conditions of work in export processing zones. The counter argument to this may be that globalization has empowered women in developing countries by providing them with relatively well-paid industrial employment.
- <sup>62</sup> Gilligan, p.457.
- <sup>63</sup> For instance, multinational pharmaceutical companies lobbied heavily for the TRIPs agreement during the Uruguay Round negotiations because it ensures that patent law will be applied in WTO member states and it secures them



monopolistic rents for their products. At the Seattle Ministerial Conference, pharmaceutical corporations intervened heavily in the negotiations to protect the agreement that they had lobbied for during the Uruguay Round.

<sup>64</sup> Gabrielle Marceau "A Call For Coherence In International Law - Praises For The Prohibition Against Clinical Isolation in WTO Dispute Settlement", the Journal of World Trade, Vol.33, N°5, (October 1999).

<sup>65</sup> Roessler, pp.213-229.

<sup>66</sup> It is surprising that the U.S. should have developed a legalized corporatist-type structure for USTAC when corporatism is considered to be the European theory of interest intermediation as opposed to the pluralist system in America. However, it should be recalled that Philippe Schmitter and Wolfgang Streeck believe that the EU's divided political institutions are unable to direct a policy of corporatist interest intermediation. Philippe Schmitter and Wolfgang Streeck "From National Corporatism to Transnational Pluralism: Organized Interests in the Single European Market", Politics and Society, Vol.19, N°2, June 1991, pp.134-164.

<sup>67</sup> The Civil Society Dialogue was actually created a few months before the Seattle Conference. However, it was not fully functional until November 1999.

<sup>68</sup> Rémi Leparmentier "Safe Trade and the World Trade Organization" Speech delivered at the Royal Institute of International Affairs Chatham House Conference (Environment Series) Sustainability, Trade and Investment – Which Way Now for the WTO? London, (27-28 March 2000). <http://www.greenpeace.org/search.shtml>. See also, Greenpeace "Greenpeace International Comments and Annotations on the Doha Ministerial Declaration", Greenpeace Document JOB (01)/140/Rev.1, (27 October 2001), <http://www.greenpeace.org/search.shtml>.

<sup>69</sup> At an NGO symposium organized by the WTO in July 2001 (which the author attended as a guest), the FOE representative stood up and announced that her organization would have difficulty participating in the symposium because it did not want to be manipulated by pro-free trade forces. FOE is also very critical of the EU's trade policy, see FOE Europe "The non-trade impacts of trade policy – Asking questions, seeking sustainable development," An informal commentary to the European Commission's discussion paper of DG Trade (April 2001), <http://www.foeeurope.org/trade/Non-trade.pdf>.

<sup>70</sup> Greenpeace "NGOs Welcome WTO green light to French ban on asbestos but remain sceptical about the WTO Dispute Settlement Process", Press Release, (14 March 2001), <http://www.greenpeace.org/search.shtml>.

<sup>71</sup> Le Monde, AFP and Reuters (2001a) "OMC : Accord à portée de main", 14 novembre 2001.

<sup>72</sup> Pascal Lamy "World Trade Organisation Ministerial Conference in Seattle Appraisal and prospects", speech to the European Parliament Plenary Session in Strasbourg, France (13 December 1999). [http://europa.eu.int/comm/trade/speeches\\_articles/spla08\\_en.htm](http://europa.eu.int/comm/trade/speeches_articles/spla08_en.htm).

<sup>73</sup> Official Aid and development agency of the Catholic Church in England and Wales.

<sup>74</sup> Cafod.

<sup>75</sup> Commission of the European Communities "Trade and Environment: What Europe really wants and Why", Memorandum by DG Trade (11 November 2001).

<sup>76</sup> Natalie Kuehler "EU-US Economic Disputes: There is More to Trade than Goods and Services", Challenge Europe Online Journal, The European Policy Centre (EPC), (25 July 2002). [www.thepc.be](http://www.thepc.be).

<sup>77</sup> This could even lead to European consumers refusing to buy American food products containing traces of GMOs that are currently sold in the EU. See Ronald Bailey "The Looming Trade War over Plant Biotechnology", Trade Policy Analysis, no.18, Center for Trade Policy Studies, Cato Institute (August 1 2002) [www.cato.org](http://www.cato.org).

<sup>78</sup> This probably explains why the US dropped its support for a strong environmental declaration at Doha, leaving the EU to carry the environment issue alone.

<sup>79</sup> See Bailey.

<sup>80</sup> Commission of the European Communities "Environmental Integration in the External Policy of the General Affairs Council" Commission Staff Working Paper, SEC(2002) 271 (7 March 2002), [http://europa.eu.int/comm/trade/pdf/envir\\_wp120302.pdf](http://europa.eu.int/comm/trade/pdf/envir_wp120302.pdf).

<sup>81</sup> Moses Naim "Meet Lori Wallach", Foreign Policy Magazine Online, (Spring 2000), <http://www.foreignpolicy.com>.

<sup>82</sup> International Centre for Trade and Sustainable Development "NGOs Mobilise Against WTO", ICTSD Bridges, (20 September 1999), <http://www.ictsd.org/newsdigest.htm>.

<sup>83</sup> The "contact group" was established to facilitate the dissemination of information on trade policy from the Commission to NGOs. For each issue-area there are two or three representatives that are expected to send out information to the wider NGO community throughout Europe. The list of members can be found on the DG Trade website. <http://europa.eu.int/comm/trade/csc/listpart.htm>.

<sup>84</sup> Trade unions have warned that they would provide greater support for the anti-globalization movement because the WTO failed to address the labor rights issue. See endnote 41.

<sup>85</sup> Pascal Lamy and Franz Fischler "The 4<sup>th</sup> WTO Ministerial Conference, 9-14 November 2001, Doha, Qatar – Assessment of the results for the EU", Information note to the European Commission (19 November 2001). <http://europa.eu.int/comm/agriculture/external/wto/newround/doharesults.pdf>.

<sup>86</sup> Lamy "The 4<sup>th</sup> WTO Ministerial Conference".

<sup>87</sup> O'Brien, p.99.

<sup>88</sup> Tonya Novitz “A Human Face or More Cosmetic Surgery?: An Analysis of EU Competence in the Promotion of Core Labour Standards and Improvement of Global Social Governance”, paper presented in the European Forum of the Robert Schuman Centre for Advanced Studies, EUI, Florence (2002), p.20.

<sup>89</sup> Commissioner Lamy has stated that the “Commission should have competence, as in trade, to negotiate on all matters pertaining to the management of globalisation (e.g. environment, transport, energy negotiations, commodity organisations, OECD, FATF, WHO, FAO, etc.)....” Pascal Lamy “Europe’s Role in Global Governance: The Way Ahead”, Speech delivered at Humbolt University, Berlin, 6 May 2002, DG Trade website, speeches and articles.

<sup>90</sup> However, the Commission already uses positive trade inducements (access to EU markets for certain products at lower than MFN tariff rates) to promote the adoption of core labor standards in its preferential trading arrangements for developing countries. World Trade Organization (November 2000) Trade Policy Review: European Union 2001, Volume 1, p.36.

<sup>91</sup> In November 2001, all EU member states had left-wing governments except for Spain and Italy.

<sup>92</sup> Alison Van Rooy “The Frontiers of Influence: NGO Lobbying at the 1974 World Food Conference, The 1992 Earth Summit and Beyond”, World Development, Vol.25, N°1 (1997): 93-114, p.111; Michael Wilkinson Lobbying for fair trade: Northern NGDOS, the European Community and the GATT Uruguay Round”, Third World Quarterly, Vol.17, N°2 (1996), pp.251-267.

<sup>93</sup> O’Brien, p.87.

<sup>94</sup> Ostry “WTO: Institutional Design for Better Governance”, p.16.

<sup>95</sup> The Dutch government opposed the Commission’s attempts to strengthen the Doha Declaration on Trade and Environment because of pressure from development NGOs. Vittorio De Filippis and Christian Losson “L’OMC cale à Doha : Confusion hier soir sur la suite à donner à la Conférence”, Les Echos, (14 November 2001).

<sup>96</sup> Due to strong media pressure, the pharmaceutical industry played down its opposition to the declaration on TRIPs. The International Federation of Pharmaceutical Manufacturers Associations said the declaration was “ambiguous” and needed further study. AP “France Threatens to Bolt WTO Talks”, Associated Press (13 November 2001). The European pharmaceutical industry was more vocal in its opposition to the Declaration, however. See De Filippis.

<sup>97</sup> The EU faced major American and Canadian opposition at Doha to the softening of TRIPs.

<sup>98</sup> Médecins Sans Frontières, Oxfam, Third World Network, Consumer Project on Technology, Consumers International, Health Action International, The Network “Green Light to Put Public Health First at WTO Ministerial Conference in Doha”, Joint Statement by Médecins Sans Frontières, Oxfam, Third World Network, Consumer Project on Technology, Consumers International, Health Action International, The Network (20 November 2001).

<sup>99</sup> Balanya, Introduction.

<sup>100</sup> Libération, AFP and Reuters “Projet de déclaration finale : Des accords sur les médicaments et le textile”, Libération (13 November 2001). Although the EU has followed its schedules for the phasing out of quotas on textiles (12 of 52 quotas have been eliminated), this has only liberalized 5.4% of restricted imports in this sector. World Trade Organization “EU has open market, but still holds back on agriculture and textile products”, First press release by the Trade Policy Review Division of the WTO, PRESS/TPRB/137 (4 July 2000).

<sup>101</sup> Pascal Lamy “Le textile est un secteur majeur de l’économie européenne” (The textiles industry is an important sector of the European economy), speech presented at the Groupe d’études sur l’Industrie Textiles Habillement, Assemblée Nationale, Paris (12 December 2000). “Groupes d’études” are French parliamentary cross-party groups that represent specific interest groups. In theory, their very existence is unconstitutional and contrary to the internal rules of the National Assembly because French parliamentarians are supposed to defend the “general interest”.

<sup>102</sup> Sweden and the Netherlands were lead countries pushing for textiles liberalization. See Leif Pagrotsky, the Swedish minister for trade, Gerrit Ybema, the Netherlands minister for international trade, Maj-Inger Klingvall, the Swedish minister for development cooperation, Eveline Herfkens, the Netherlands minister for development cooperation (17 October 2000) “It’s Time for EU Barriers to Fall”, article published in The International Herald Tribune.

<sup>103</sup> Speech delivered at the 1999 Davos Conference cited by Bruce Nussbaum “Davos: A Tale of Two Forums”, Business Week Online, <http://www.businessweek.com/bwdaily/dnflash/feb2000/nf00203g.htm>.

<sup>104</sup> Lamy “The 4<sup>th</sup> WTO Ministerial Conference”.

<sup>105</sup> In their Statement, Pascal Lamy and Franz Fischler State that Commission proposals for capacity building aid projects will be forthcoming. Lamy “The 4<sup>th</sup> WTO Ministerial Conference”.

<sup>106</sup> This will also facilitate the reaching of a compromise with the US over the EU’s preferential trading arrangement for bananas – which is another ECHO priority. Lamy “The 4<sup>th</sup> WTO Ministerial Conference”.

<sup>107</sup> Pieter Bouwen “Corporate lobbying in the European Union: towards a theory of access”, EUI Working Papers Series (2001), <http://www.iue.it/PUB/sps20015.pdf>.

<sup>108</sup> Erik Wesselius “Liberalisation Of Trade in Services: Corporate Power at Work” GATSwatch – a joint project of Corporate Europe Observatory and Transnational Institute (2001). GATSwatch also keeps all leaked Commission documents on its website. [www.gatswatch.org](http://www.gatswatch.org).

<sup>109</sup> Pascal Lamy “GATS : Pascal Lamy responds to Trade Union concerns on public services” Open Letter to Emilio Gabaglio, General Secretary European Trade Union Confederation (ETUC) (7 June 2002), [http://europa.eu.int/comm/trade/speeches\\_articles/answla01\\_en.htm](http://europa.eu.int/comm/trade/speeches_articles/answla01_en.htm).

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<sup>110</sup> Pascal Lamy “Negotiations on Services in the World Trade Organisation”, Declaration before the European Parliament (14 May 2002), [http://europa.eu.int/comm/trade/speeches\\_articles/spla106\\_en.htm](http://europa.eu.int/comm/trade/speeches_articles/spla106_en.htm).

<sup>111</sup> Yves Mény “La légitimation des groupes d’intérêts par l’administration française” (The Legitimation of interest groups by the French state), *Revue française d’administration publique*, N°39, (July-September 1986).