

**TRADE, SOCIETIES AND SUSTAINABLE
DEVELOPMENT SUSTRA NETWORK**

Vested Interests and Trade Policy Reforms
Policy Brief Paper

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INTRODUCTION

Trade policies are part of a complex economic labyrinth, intricately connected to a web of vested interest groups. Interest groups, in a general sense, can be described as those groups interested in the outcomes of a particular decision-making process because (i) they are financially affected by the decision taken; or (ii) they have an ideological stake in the legislative and regulatory actions. Whereas category (i) may include 'vested' interest groups, such as corporate bodies and trade associations, most 'public' interest groups¹ fall under category (ii). This policy brief explores the strategies of vested interest groups and role played by public interest groups in trade policy-making, both in the World Trade Organisation (WTO) and the European Union. It identifies ways in which the influence of various interest groups on EU trade policy could be better balanced, with the overarching objective of achieving sustainable development.

**IMBALANCES OF PARTICIPATION IN THE
WORLD TRADE ORGANISATION**

Despite an outwardly democratic appearance of equal participation by all Members in consensus-based decision-making, the WTO lacks internal transparency. It also lacks external transparency. While the WTO does not allow active participation or voting by civil society representatives of industry or public interest organisations, it allows their limited participation as observers in selected meetings at Ministerial Conferences. Outside of Ministerial Conferences, civil society has no formal access to the WTO committees or working groups charged with daily operations, either as observers or for the purpose of distributing information.

The symposia organised by the WTO Secretariat, side events at Ministerial

Conferences and informal day-to-day meetings, are simply channels of communication between civil society and trade negotiators.

The WTO has been criticised for the lack of transparency in its institutional arrangements, secrecy in its decision-making processes and its overall failure to give due weight to broader policy objectives such as health and environmental protection. According to some environmental non-governmental organisations (NGOs), the WTO is dominated by corporate interests.² Despite the fact that formal channels of participation in the WTO are closed to public interest and industry groups alike, industry or corporate access and influence at the national level has a significant impact on the decisions taken in the WTO.

**CORPORATE LOBBY GROUPS AND THE
EUROPEAN COMMISSION**

Relations between the European Commission and industry lobby groups have evolved over time. Since the late 1980's, EU liberalisation, deregulation and privatisation policies have facilitated the waves of mergers and acquisitions resulting in corporate concentration in Brussels.³ More than two hundred corporations have their European government affairs offices in Brussels and they are supported by no less than five hundred corporate lobby groups. In some cases, the corporate lobby groups act as a proxy for the citizen-based constituency lacking in the European Commission. Though the power of the European Parliament is expanded by both the Maastricht and the Amsterdam Treaties, it plays a very limited and indirect role in trade policy-making, and thus is less pursued by lobby groups. Involving corporate lobby groups in the decision-making process means other stakeholders, such as environmental organisations and trade unions, may be sidelined. Some environmental groups lack resources, both financial (advertising, establishing

front organisations, donations to public relations companies) and human (hiring experts and researchers, establishing national level bodies). Centralisation of power of the EU in Brussels also means there is less access for national level public interest organisations in EU level decision-making processes.

COMMITTEE 133: A KEY ROLE IN THE EU TRADE POLICY

The non-transparent nature of the trade decision-making process in the EU has been identified as facilitating the growth of industry lobby groups. The EU has exclusive competence over trade policy, as reaffirmed in the proposed EU Constitution.⁴ Within the EU, it is the Commission that takes the lead in trade policy-making, and the '133 Committee'⁵ is the main decision-making forum. The 133 Committee does not have any formal operational guidelines, it has no set deadlines for consultation on Commission proposals, and the response time for comments from Committee members depends on the urgency of the case.⁶ Both the European and national parliaments have failed to exert any control over the 133 Committee. Apart from Directorate-General (DG) Trade of the European Commission, other DGs, such as DG Environment or Development, may attend 133 Committee meetings but they do not take the floor.⁶ Therefore, the decision-making is highly compartmentalised and little horizontal co-ordination exists between different DGs with a shared interest in an issue. Moreover, it is arguable that the Regulation on public access to EC documents⁷ does not entitle the public to access 133 Committee documents on the ground of confidentiality.

There have been several calls for reform of the 133 Committee which include formalisation of the consultation process, implementation of transparency procedures that apply to other Council meetings, and encouragement of the full participation of other EU institutions.⁶

STRATEGIES AND INFLUENCE OF VESTED INTEREST GROUPS IN EU TRADE POLICY MAKING: THE EXAMPLE OF BIOTECHNOLOGIES

Vested interest groups, such as industry lobby groups, deploy various strategies in policy making processes. An example is the biotechnology sector where industry groups influence the regulatory

process by relying on diverse strategies. Sector-specific groups tend to gain wide access because they offer specific information.⁸ Within the EU biotechnology sector, the combined political influence of biotech firms is channelled through federations, associations and confederations with interests in agriculture, trade and consumer issues. Umbrella organisations, such as EuropaBio, Eurocommerce, European Federation of Biotechnology and COPA-COGECA, participate in the EU policy-making process in accordance with their own mandates and strategies.

Corporate lobby groups are not only large in membership, but they also collaborate with each other to strengthen their collective efforts.² These umbrella groups are active in agenda setting and regulatory development. They operate at multiple levels to influence the policy-making processes: through inter-governmental organisations and through national associations, presenting their views to the respective EU Member State governments.

The involvement of corporate lobby groups can be either formal or informal. Formal involvement includes submission of regular position papers, contributions at public hearings as experts, and participation in consultation meetings that open communication channels between decision-makers and industry. Major corporate groups are often informally involved in the work of the decision-making body, for example, through participation in advisory groups, regular contact with high-level bureaucrats and politicians, drafting proposals and assisting in setting agendas for policy making.

Corporate lobby groups can, therefore, implement various strategies to influence the decision-making process, such as: (i) *re-emphasizing the importance of free trade*: condemning any measure which does not conform to industry's preferred standards as 'illegitimate' barriers to free trade. For example, US industry has attacked EU's *de facto* moratorium on GM crops as an illegal restriction on trade. (ii) *voluntary guidelines*: appealing for a harmonised effort to synchronize risk assessment procedures internationally, the biotech industry has supported initiatives such as the 1992 OECD's guidelines on Safety Considerations for Biotechnology⁹ which are aimed at reducing barriers to trade by making regulatory requirements more transparent, predictable and universal, thus helping to reduce transaction costs for business. (iii) *technicality*:

ensuring that regulations are as technical as possible in order to exclude from the decision those who are not able to reach the same technical level. (iv) *sound science*: promoting scientific principles that compare the novel aspects of technologies with what is already assumed to be safe. (v) *develop related regulation*: influencing related intellectual property regulation by claiming that intellectual property protection is crucial to their business strategies. (vi) *promote protectionist regulation*: lobbying for more restrictive regulation in order to create a market-entry barrier to smaller competitors that are less able to afford the cost of regulatory compliance.¹⁰

ROLE OF PUBLIC INTEREST GROUPS IN THE TRADE POLICY MAKING PROCESS

Similar to corporate groups, European public interest groups have also formed umbrella organisations, such as the European Environmental Bureau (EEB), and other European level networks, to contribute actively to the political agenda in the environmental sector. However, most environmental groups lack the financial resources to participate in the policy making processes, from the initiation phase through to policy decision and implementation, as intensively as their corporate counterparts. A limited number of environmental NGOs, such as WWF, Greenpeace and Friends of the Earth, have offices in Brussels. However, the number of environmental NGOs is well below that of corporate lobby groups, with staff having to cover special issues simultaneously and being unlikely to specialise. Apart from institutional factors such as size, membership, funding, and relationship with national authorities, there are several other determinants of successful NGO networking: *familiarity* with the EU decision-making structure and process; *location* in Brussels is considered a decisive advantage; a *co-ordinated or concerted approach* to influencing EU-wide legislation and policies; *exchange of information* among NGO networks; and promoting *transparent and inclusive decision-making* options, thus pressing for a change in the EU decision-making process.

The actions of public interest groups can serve to counterbalance the regulatory flaws and gaps which might result from intense business lobbying and can point legislators' attention to wider public concerns. The role of public interest groups was evident when the European Commission adopted a process-oriented, consent-based and risk

assessment-reliant precautionary approach to the regulation of GMOs. Initially, the environmental groups campaigning for stricter regulations of GMOs relied on legal challenges and actions that intended to restrain, restrict and regulate the actions of multinational corporations (MNCs).¹⁰ A subsequent strategy has been to undermine the market for GM crops by encouraging farmers to conclude that the risks associated with GMOs outweigh the benefits of growing GM crops. A further strategy has been to weaken the technocratic nature of policy discourses around biotechnology by subjecting expert claims to public scrutiny. Finally, environmental groups have played the role of public watchdogs by monitoring the enforcement of biotech regulations. In this way, environmental groups have gradually promoted scepticism about the safety of GMOs and have drawn companies into a public debate about the environmental and human safety of GMOs.¹⁰

MOVE TOWARDS SUSTAINABLE TRADE POLICY MAKING

The successful interest groups, be they corporate or environmental, are those that exhibit professional characteristics, namely, resources, regular contact with bureaucrats, and an ability to provide policy-makers with sound information and advice. Reputations for expertise, reliability and trust are key resources for vested interest groups. Their lobbying style may be as important as the content and objectives of the lobbying itself. In order to balance the influence of various interest groups in the EU trade policy making, there seems to be a need to move:

- ♦ *From secrecy to transparency*: Transparent decision-making processes, at the EU and WTO level, would require further information-sharing, publication of committee reports, and effective and timely consultation processes. A move towards more accountable trade policies would certainly involve increased parliamentary scrutiny at all levels of trade policy, improved coherence inside the European Commission, and would enhance external transparency of the 133 Committee. Moreover, existing EU regulations related to access to information and public participation in decision-making processes must be compatible with the 1998 Aarhus Convention.¹¹ Improved collaboration and structured partnership with public interest groups will assist the EU in

achieving its commitment to transparency, participation and democracy - as envisioned by the EU Sixth Environmental Action Programme and the forthcoming EU Constitutional Treaty.

♦ *From confrontation to partnership:* Interaction between NGOs and corporate groups is complex and multi-dimensional. Environmental NGOs either recognise the role of the industry lobby and are willing to work together to achieve common objectives, or distrust the activities of corporations, and MNCs in particular. Corporate support could be invaluable for environmental monitoring and for implementing community development projects, as well as ensuring corporate compliance with the local, national and international regulation. More successful collaboration among European environmental NGOs could be possible if they were able to jettison subtle competition within the environmental sector for membership, financial support, or status in the policy processes.

♦ *From reactive to proactive style of lobbying:* Trade policies are an amalgam of country-specific and cross-border issues and are inseparable from other policy areas. As the agenda-setting has become more political and uncertain, there is a need for public interest NGOs to become more proactive both at the technocratic level in the direction of the European Commission, and at the political level in the direction of the European Parliament. There is a further need to have open and extended networks, rather than exclusive policy communities.

♦ *From profit-oriented to sustainable business practice:* Some industry groups are adapting their practice to become more environmentally motivated. A few MNCs are moving towards more sustainable practices in order to: avoid negative publicity; avoid threats of fines and lawsuits; win new markets for clean technologies; apply government regulations; and show genuine commitment to protecting the environment.¹²

♦ *From good practice to regulation:* Within the EU and the WTO, lobbying by interest groups is prompted by either economic or ideological or non-commercial motives. Whatever the type of lobbying, there is a greater need for regulation as not all groups are well-organised, or well-represented. Lobbying

processes within the EU could be structured in a way to reduce the possibility of abuse by various vested interest groups. New legislation, modelled on the 1995 US Lobbying Disclosure Act,¹³ might be useful to regulate disclosure of information, register lobby groups, account for financial donations made to political parties, and monitor and report lobbying activities.

1. See Ecologic/FIELD Briefs on 'Participation of Non-Governmental Organisations in International Environmental Governance', (2003). This paper explores participation of NGOs, including public interest groups, in environmental decision making processes. Available online :

<http://www.ecologic.de/modules.php?name=News&file=article&sid=773>

2. B. Balanya et al. (2000), *Europe Inc.: Regional and Global Restructuring and the Rise of Corporate Power* (Corporate Europe Observatory, Pluto Press). Also see the websites of the Friends of the Earth International (www.foei.org) and the World Development Movement (www.wdm.org.uk).

3. D. Coen (1997), 'The evolution of the large firm as a political actor in the European Union', *Journal of European Public Policy*, vol. 4: 91-108.

4. Article 12 (exclusive competence) and Chapter III (Common Commercial Policy), Art III-217. Website: http://europa.eu.int/futurum/constitution/index_en.htm

5. Based on Article 133 of the EU treaty, this committee, which is represented by a group of various national trade officials and European Commission, representatives scrutinises, amends and approves Commission proposals for EU negotiating mandates on trade agreements. See: http://europa.eu.int/comm/trade/issues/newround/index_en.htm

6. WWF (2003), *A League of Gentleman*. Website: www.wwf.org.uk

7. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. OJ L 145/44.

8. B. Kohler-Koch (1997), *Organised interests in the EC and the European Parliament*, European Integration Online Papers. Website: <http://eiop.or.at/eiop/texte/1997-009a.htm>

9. OECD. 1992. *Safety Considerations for Biotechnology*. OECD: Paris.

10. P. Newell, and D. Glover (2003), *Business and Biotechnology: Regulation and the Politics of Influence*, IDS Working Paper 192, Institute of Development Studies, Brighton. <http://www.ids.ac.uk/ids/bookshop/wp/wp192.pdf>.

11. Convention on Access to information, public participation in decision making and access to justice in environmental matters, (Aarhus, Denmark, 1998). <http://www.unece.org/env/pp/documents/cep43e.pdf>

12. G. Ledgerwood and A.I. Broadhurst (eds) (2002), *Environment, Ethics and the Corporation* (Macmillan, Houndmills), chap. 4, 60-82.

13. The 1995 Act established criteria for determining whether an organization or firm should register their employees as lobbyists. Available online : http://www.senate.gov/legislative/common/briefing/lobby_disc_briefing.htm

FURTHER INFORMATION

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