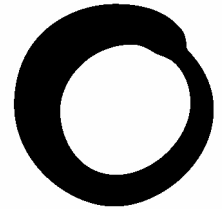


November 2004



**Friends of
the Earth**

Briefing

The WTO, GMOs and Democracy

A briefing for Parliamentarians on the issues, concerns and alternatives

The US World Trade Organisation (WTO) case against the EU on our precautionary approach to genetically modified food and farming (GM or GMOs) is a problem in itself, but it also highlights a number of the wider problems with the WTO and the way it functions.

This briefing gives UK MPs and MEPs a brief introduction to the issues Friends of the Earth finds most pressing, including the way democratic authority is being pulled out from under elected representatives, as well as offering ways they can support solutions now.

Friends of the Earth inspires solutions to environmental problems, which make life better for people.

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1. Introduction – facing the facts of failure

The WTO gets a lot of attention, some of it justified, some of it less so.

Friends of the Earth believes the WTO is failing to meet the needs of truly sustainable development for us and future generations. There are a number of reasons for this, including that the economic model it follows is out of date and that its processes are fundamentally unfair – participants of different strengths have a very different experience of WTO negotiations.

Underlying our concerns is the fundamental problem of a lack of democratic accountability for the WTO's mission or operations. Citizens are occasionally, and briefly, asked “how” negotiations should proceed, but we were never asked “if” we should proceed in this direction in the first place. For an organisation that aspires to rule over minute aspects of everyday life, like what we do or do not eat, this is a startling omission. It is for this reason, among others, that Friends of the Earth feels the kind and amount of attention given to the WTO by ardent “free” trade Governments is less than satisfactory.

In May 2003 the US instigated a formal complaint in the WTO against the EU's use of the Precautionary Principle to guide our approach to GM. They claim that by declining to accept their view that GM food is “equivalent” to conventional food, we are erecting illegal “barriers to trade” that must be removed. It is hardly surprising that Friends of the Earth finds this problematic. However, we also find this dispute illustrative of the wider problems in the WTO that must be addressed if the organisation is going to be accepted and useful.

Despite the heated rhetoric of WTO supporters, the continued progress of the organisation in this fashion is *not* inevitable. International trade must be governed by rules, but they must be just and the result of processes seen to be fair to those inside and outside the negotiations. There are alternatives, and there are ways to ensure that trade works for all, whether they be developing country merchants, EU farmers or citizens raising their families on our increasingly fragile planet.

We hope Parliamentarians can take the time to reflect on these issues and support the measures outlined in section 5 of this briefing.

2. The WTO – if it doesn't work for everyone, it isn't working (and it isn't)

For those who claim that the WTO is working, the string of failures it has spawned must be difficult to explain: the 1999 Seattle Ministerial collapsed without agreement; the 2001 Doha Ministerial met in the shadow of the attacks on the World Trade Center in New York and set in place what can be argued to be a cynical attempt to reframe old trade policy as newly “development friendly”; the Cancun Ministerial collapsed without agreement; and negotiations were then effectively stalled until a last-ditch deal was done at the end of July 2004 – a deal to which the French were publicly vehemently opposed and the US Trade Representative claimed days after it was struck will not require the US to change tack at all.¹ How these radically different views can be reconciled in the already beleaguered negotiations to the satisfaction of all EU players, nevermind the wider international community, remains to be seen.

Much of the attention aimed at the WTO, and the international trade system more generally, focuses on the appalling state of affairs many developing countries now face. No one can deny that the situation is indeed grave.

However, Friends of the Earth believes that the problems are not as simplistic as the “Rich North v Developing South” argument many are currently using, both inside and outside Government. The real problems lie elsewhere, and set up sizable difficulties not only between North and South, but within societies everywhere, including in the UK.

• So what, precisely, is the problem? Out of date and out of time

Trouble starts with the fact that the country members of the WTO are trying to roll out an economic model that won't work. Put simply, the theory says that if all Government interference in markets is removed, then countries will become best at what they are good at and leave off doing things they are less good at. In this way they will be highlighting their “comparative (or competitive) advantage”. Thus the market will provide by allowing them to command the prices they need in order to buy from other countries what they are best at. The UK is a key proponent of this ideology.

Trouble is then compounded by confusion (potentially deliberate for some) over the concept of “sustainable development”. Truly sustainable development is about the betterment of the human condition *everywhere* in the world *within* the limits of our environment in a way that ensures future generations will have something left to work with themselves. Many discussions about sustainable development are in fact about finding ways to set up a cycle of perpetual economic growth in the developing world, something Friends of the Earth believes is not only contrary to genuine sustainability, but also impossible on a finite planet. Indeed, as part of the Working Group on Climate Change and Development, we believe that not only are these issues pressing in themselves, but they can and will prevent other crucial areas of human progress, like the Millennium Development Goals, if they are not addressed properly.² The coalition's report *Up In Smoke* says:

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“Economic considerations about which patterns of trade bring real benefits to different trading partners, coupled with the carbon constraints suggested by global warming, both point to the need for new models of trade. The specific circumstances for a poverty and climate ‘win-win’ scenario need to be worked out. Trade will always be an important part of the global economy. But the picture of who trades what with whom, and how, will have to change if the poorest countries are to benefit and the climate is to be protected.”³

There are important measures of human progress other than a country’s economic growth, and these should be central to a pursuit of truly sustainable development. Instead we are faced with a WTO that makes slow progress in pursuit of growth while communities around the world and the environment face increasing damage and threat. **The need to alter the course and the nature of trade is urgent.**

• **Anything else? Secrecy and lack of democratic accountability**

Sadly there are other considerable problems with the development and operation of international trade policy and practice, including in the EU. Most of these either stem from or are facilitated by a lack of basic transparency. Some of the more pressing problems include:

- **with the repeated failure of the WTO to bring real help for members struggling to keep up with negotiations and implementation, the pressure is mounting on developing countries rather than abating.** As the World Commission on the Social Dimension of Globalisation clearly states in its 2004 report, *“More time to implement the rules is not enough. Uniform rules for unequal partners can only produce unequal outcomes.”⁴*
- **the WTO’s dispute resolution mechanism is a highly secretive body**, refusing to either allow journalists to cover proceedings or to publish any of their deliberations. Even members who manage to gather the resources to approach the body with complaints find justice hard to come by;⁵
- **there is no requirement for Parliamentary scrutiny or acceptance of WTO negotiations, positions or agreements at either EU or national level.** Once they are negotiated, countries are expected to comply whether their electorate like it or not. MPs and MEP are the elected representatives of the people, vested with the power and authority to ensure that Governments acts as citizens wish them to act.
- **the above is a problem because the way EU trade policy is set and pursued by the Commission is deliberately hidden from view and scrutiny.** Friends of the Earth has two clear recent examples of this:

1) in an usual move, the European Ombudsman made a “Further remark” at the end of his finding in Friends of the Earth’s complaint about lack of access to Commission documents on trade. He said:

“The Ombudsman finds that even if the limitation on public access imposed by the nature of the negotiations within the WTO framework are legally acceptable, regard has to be had to the expectations of many citizens toward greater

*transparency and openness in this important policy areas. Particularly so, in view of the recognition of the importance of transparency in the WTO's Guidelines and Procedures for the Negotiations on Trade in Services. **Transparency cannot be attained by entirely excluding public access to information. The Ombudsman believes that it would therefore be advisable for the Commission to consider additional means which may render these negotiations more open and transparent for the citizens, and thus facilitate public access to the exchange among the parties.***⁶ (emphasis ours)

2) Friends of the Earth is also applying to intervene in support of the World Wide Fund for Nature (WWF) suit against the Council of the European Union at the Court of First Instance (case T-264/04). The Case concerns the decision of the Council of 30 April 2004 refusing to provide WWF with documents and information concerning the so-called 133 Committee (the 133 Committee is the secretive body that scrutinises and approves Commission proposals for EU trade negotiating positions and mandates) agenda item "WTO - Sustainability and Trade after Cancun" at a meeting held on 19 December 2003.

The Council refused to provide the requested documents on the grounds of "sensitivity of the information requested".⁷ **Friends of the Earth would like to point out to the court that when we requested access to specific information concerning the remit, scope, terms of reference, powers or responsibilities of the 133 Committee, the Council told us that they were not able to find any legislative act or decision establishing the Committee and that no document establishing or defining the membership of the Committee exists.** Friends of the Earth feels that such a powerful body must be properly accountable, including with regard to formation and membership - citizens need to know the remit of this body and the criteria used to select members.

Requirements to secrecy facilitate bad practice and gets questionable results. These include the kind of bullying many government representatives report they receive regularly at the WTO and the WTO "deal" the Trade Commissioner helped strike in July by agreeing to set a date for removal of EU agricultural subsidies – something the French immediately rejected.

Secrecy also prevents necessary and appropriate scrutiny and calling to account for policy and practice outside the approval of the electorate. The "process" in Europe for deciding on offers and requests under the General Agreement on Trade in Services (GATS) lead to wholly inappropriate demands being made by the EU on other countries (such as on water provision) and was only finally proved through leaked documents.⁸

Institutionalised secrecy strips MPs and MEPs of their role, and citizens of their elected representatives.

Without transparency, there can be no accountability.

In other areas, the EU supports the WTO attempting expansion into new areas of power and influence. These include the attempt to reanimate the defunct Multilateral Agreement on Investment in the WTO as one of the highly controversial so-called Singapore, or New,

Issues. This was only put down at the Cancun WTO Ministerial by the steadfast refusal by a large coalition of developing countries, a situation the claimed consensus base for WTO decision making should preclude.

And then there's twice-disgraced UK politician Peter Mandelson, soon to be the new EU Commissioner for Trade. Mr Mandelson's reputation preceded him to Brussels, and it has caused a wave of disquiet among those working to create a more clear, just and accountable trade system.⁹ **Friends of the Earth was calling for a review of the Trade Commissioner's mandate for some time now, and the appointment of Mr Mandelson's does not encourage us to change our view that the need for such a review and revision is urgent.**

The UK Government, we know, is opposed to such a review. It frustrates increased transparency. Friends of the Earth members are regularly told that secrecy is required to protect the negotiating position of the EU. However **any need for confidentiality around individual negotiations cannot legitimately be used as a pretext for blanket secrecy around the entire process of setting and pursuing trade policy and practice in the EU.**

3. US v EU at the WTO over GM food and farming

After years of threats, the US, supported by Canada, Argentina, and Egypt, filed a formal complaint with the WTO about the EU's approach to genetically modified food and crops (GM or GMOs) in May 2003.¹⁰

Friends of the Earth believes that the US Government, at the behest of the US biotechnology lobby, is deliberately using the WTO to undermine the democratic will of Europeans lawfully exercised. They are doing so in order to force GMOs into European markets, who will almost certainly continue to reject the technology (if they are able to, see below on labels), but also lucrative markets in developing countries by threatening them with WTO actions they can scarce afford if they also seek to restrict or prevent the spread of the technology in their own areas.

This case is an example of the worst the WTO has to offer. It champions the cause of unsustainable, unnecessary and unwanted industrialised agriculture against the wishes of the farmers and consumers concerned. It is the direct result of corporate influence on Governments – we know this because the pressure put on the US administration to launch a WTO dispute is well documented. It assumes the authority to threaten our most basic right to choose what we eat. **It cannot be allowed to succeed.**

• WTO case phase I – the EU “moratorium” on importing GMOs

The EU has long taken a sceptical approach to GM food and farming. The overwhelming majority of the people of Europe (and the UK) want neither the unknown health and environmental impacts of the technology nor the corporate control of agriculture it represents. We have declined to take the US approach, based upon the notion that there is no proved harm and therefore no reason to restrict GMOs. Rather we have invoked the Precautionary Principle, as embodied in the Cartagena Protocol on Biosafety, preferring to be safe now than sorry later. **The EU uses its own approvals process for GMOs, and some countries instituted outright bans.**

The US considers this approach to be discriminatory to its trade interests, says GMOs are “substantially equivalent” to conventional foods, and is using the WTO to force Europe to conform.

The role of the Commission during this case has been less than we might have hoped. Rather than seeking to ensure that the will of the citizens of Europe is upheld, the Commission seems instead to have been doing whatever it can to prove to the US that our system is “working” (ie, that GMOs are approved). **Not only have more than a dozen GM varieties now been approved for use in the EU, but the Commission has also organised a vote at the end of November 2004 seeking to overturn the remaining national moratoria on GMOS.**

If the unelected and unaccountable WTO can be used by other nations to force its will on Europeans, and if Europeans cannot depend on the unelected Commission to defend their interests, then we can only turn to our elected MPs and MEPs for support in for building the kind of world we want.

We urge you to review this situation and help us slow the juggernaut of the WTO by reclaiming your democratic power and authority to represent the UK electorate, beginning with this issue.

• **WTO case phase II – labels on GM food the next target**

Perhaps more worrying still is the fact that Friends of the Earth now knows that the American Soybean Association, an influential member of the US biotechnology lobby, is collecting the funds needed to launch a second dispute at the WTO and has once again begun to put pressure on the US administration to go to the WTO. **The target of their ire this time is the labelling the EU requires on products containing GMOs.**

Once again, the EU approach is claimed to be “discriminatory” and counter to US commercial interests. **Friends of the Earth is deeply concerned that should this dispute be successful, not only with labels on GM foods be declared illegal, but labels on other items, like organic and fair trade foods, will also come under threat.** It is simply not acceptable for the wishes of industry to be put above the needs of consumers and voters. Friends of the Earth is watching progress toward this WTO complaint and will urge the Commission to fight it as well as the Phase I dispute.

5. Towards solutions

There are several things MPs and MEPs can do to help us increase the democratic accountability of the international trade system. In particular, we believe it is urgently important to ensure that the WTO recognises the rights of governments to 1) develop laws, bans and strict labelling requirements to protect human, animal and plant health from GM contamination and 2) use the Precautionary Principle.

• **Biting Back – citizens have spoken. Again.**

As you may be aware, in June the Bite Back campaign delivered to the WTO 109,000 Citizens’ Objections from 96 countries. The objections call into question the right of the US to use the WTO to impose GMOs on Europeans who don’t want them.

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However, being realistic, we are keenly aware that the dispute may not be resolved in our favour, and we need to prepare now to put in place the means to prevent GMOs being brought into our countries against our will.

• What MPs and MEPs can do

We ask you today to help the campaign in the following ways:

1. Support countries maintaining national bans and safeguard measures. The Commission will call for a vote at the 2001/18 Regulatory Committee on November 29th to try to overturn the legitimate GMO bans in Austria, France, Germany, Greece, Italy and Luxembourg. We need to ensure that a country's democratically arrived at decisions about what to eat and farm are protected. **We urge you to help us ensure that the UK votes against removing the bans.**

In addition, you may be aware that over 60 local authorities in the UK have put in place policies opposing GM crops and foods, and wish to declare themselves GM free areas. We would welcome any support you can give to these local authorities, including urging the UK Government to support and uphold their decisions. We can supply you with further information about developments in your area, or see www.gmfreebritain.com.

2. Support initiating an urgent review of EU Trade Commissioner's mandate with a view to increasing democratic accountability to the people of Europe. The mandate has not been reviewed since before the failed Seattle WTO Ministerial, and has been the subject of considerable discussion since. It's time to ensure that the Commissioner operated and negotiates in a way that is appropriately transparent to both EU and national Parliaments.

3. Sign the Citizens' Objection to the WTO case on GMOs (see http://www.foe.co.uk/campaigns/global_trade/press_for_change/bite_back/index.html)

Endnotes

¹ Friends of the Earth, *Not Dead, but Dying*, October 2004.

² See full coalition report *Up in Smoke* at http://www.neweconomics.org/gen/news_upinSmoke.aspx

³ Working Group on Climate Change and Development, *Up in Smoke*, 20 October 2004, p 29.

⁴ World Commission on the Social Dimension of Globalisation, *A Fair Globalisation: Creating opportunities for all*, 2004, p 85.

⁵ Friends of the Earth, *GM Trade War Looms*, February 2003.

⁶ P Nikiforos Diamandouros, The European Ombudsman, "Decision on complaint 1286/2003/JMA against the European Commission", 19 October 2004.

⁷ WWF press release, "Case T 264/04 is published this Saturday in the EU Official Journal", 10 September 2004.

⁸ See <http://www.wdm.org.uk/campaign/gats109leaks.htm>

⁹ Friends of the Earth, *Oh Mandy*, October 2004.

¹⁰ Egypt withdrew from the complaint almost immediately, and we are now asking the remaining countries to do the same.