

Results of the Eleventh Ministerial Conference of the World Trade Organization

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The WTO's eleventh ministerial (MC11), in Buenos Aires in December, represented an historic moment. Major corporations had sought to ensure that the global economy of the future, in which the digital arena will touch every aspect of economic activity, would be locked into a pro-corporate rules regime. But they were dealt a heavy blow when some developing country members successfully resisted new negotiations on "e-commerce." Yet the changes the developing countries demanded, to open up more policy space for development, remain elusive.

Developing countries only agreed to launch new negotiations through the Doha Round (including expanding the scope and coverage of economic sectors under the WTO's liberalization rules) on the basis that it would also address their concerns about how the organization's founding rules constrain policy space for national pro-development strategies. Since developed countries have never agreed to alter harmful WTO rules, the round has been stymied.

New Corporate Tech Offensive

For the last few years, proponents of liberalization have focused on getting new pro-corporate issues on the negotiating agenda. They hoped to use the Buenos Aires ministerial to launch a new round of talks, which would not only permanently displace efforts to change existing rules constraining development, but would lock-in a pro-corporate agenda focused on the future digital economy. They framed the need for this new set of rules around the argument that micro- and small and medium enterprises (MSMEs) and developing countries would be the prime beneficiaries of "e-commerce for development."

E-commerce rules proponents began this push with a US proposal in July 2016. They then ensured that at least one developing country was listed as supporting each developed country proposal that summer and fall, to create a narrative that e-commerce is not a North vs South issue. But there are at least 12 reasons to oppose e-commerce negotiations in the WTO, which have been detailed here, and summarized here. In short, tech behemoths like Google, Apple, Facebook, Amazon, and Microsoft seek to consolidate their deregulatory agenda globally, to ensure they cannot be held accountable by workers, consumers, communities, or by the governments of the countries where they operate; that they have an adequate supply of flexible labor; that their tax evasion strategies are codified; that they gain unrestricted market access; and so they can control the data — the world's most valuable resource — in their respective sectors. Their goal was to have a mandate to launch negotiations on "e-commerce" by the Buenos Aires ministerial, and last spring there was only tepid hope that this goal could be forestalled.

Other very important issues were on the agenda, including efforts to discipline harmful fishing subsidies; unfortunately, some industrial fishing countries were also using the negotiations to attempt to limit developing country competition. There were proposals on investment facilitation, and to limit countries' ability to regulate domestic services in the public interest. Developing countries sought delivery of a previous mandate to make WTO agriculture rules more flexible so they could feed their impoverished populations through public stockholding, and responses to their demands for changes to policies that have harmed their economies over the 23 years of the WTO's existence ("the development mandate").

Civil Society Advocacy

In early 2017, trade experts working through the global network, Our World Is Not for Sale (OWINFS), and new digital rights members started developing and sharing substantive analysis of the potential impacts of the "e-commerce" proposals. These revealed that Big Tech's agenda would further

its own power while severely limiting developing countries' ability to harness e-commerce for development. These civil society groups held standing room-only events at the WTO Public Forum and published a variety of important papers and research documents (all available at www.ourworldisnotforsale.net).

Some extremely skilled delegates, particularly from South Africa and Uganda, intervened strategically in negotiations throughout the year. African Group resistance accelerated as questions emerged about how pro-development the “e-commerce” proposals really were.

Just prior to the ministerial, e-commerce proponents scaled back their ambitions due to resistance from the African bloc and some Asian and Latin American members. They then proposed talks on more seemingly technical issues, such as those regarding e-payments, e-signatures, and spam. It seemed that perhaps a full new mandate on negotiations would not be agreed, but that at least something — such as “upgrading” committee-based discussions to a more institutional structure — could be achieved.

Just days before the ministerial, dozens of members of OWINFS and other civil society organizations (CSOs), received notice that the Argentine government had rescinded their accreditation — already confirmed by the WTO. The international press extensively covered this outrageously repressive move, and OWINFS demanded that all CSOs be allowed to participate, or that the WTO postpone the meeting until an amenable host could be found. Host country governments of some CSOs intervened with the Argentine government, and about half the banned representatives were finally allowed to participate.

During the ministerial, OWINFS members monitored the negotiations day by day and held twice-daily strategy meetings to share breaking news and create strategies to influence the outcome. We held daily mobilizations in the conference center, bringing our message to the delegates, and conducted extensive media outreach and livestreamed our events. We reacted to breaking developments with lightning speed; when an attempt was made to gain support for a liberalization agenda by promoting “gender and trade,” we conducted overnight analysis of the true impacts of the proposals, gained the support of hundreds of feminist groups, and warned delegates not to use “gender” as a Trojan horse for neoliberal policies. We constantly advocated for our positions with delegates in Buenos Aires, while our members at home talked to their capital-based decision-makers.

Evaluation of the Results of the Ministerial

The result was a near-miracle: the efforts of Google, Apple, Facebook, and Amazon were ultimately unsuccessful against the resistance from most developing countries. WTO members only affirmed existing mandates; there was no new mandate, not even to upgrade the status of discussions. Big business was left empty-handed. At the same time, a positive agenda for change has yet to be agreed.

Less than half of WTO members supported a “Joint Statement on Electronic Commerce” the final day. They plan to hold “exploratory work towards future WTO negotiations,” even though there is no mandate from the ministerial conference to take e-commerce further than the “discussions” currently authorized. This represents a repeat of tactics used in the proposed Trade in Services Agreement (TiSA). A self-selected group of countries took it upon themselves to rewrite the WTO's trade in services rules in ways that intrude deeply on nations' right to regulate, and that exclude any development dimension. TiSA had no WTO mandate and was in theory was conducted outside of it, but the secretariat was complicit by facilitating its meetings. The same must not happen with e-commerce.

A majority of countries agreed that their sovereign rights to regulate services in the public interest should not be further limited by the WTO; an attempt by neoliberal proponents to get agreement on

new “[domestic regulation](#)” disciplines failed. Likewise, most WTO members realize that new negotiations on [investment facilitation](#) are unwarranted and decided against a new mandate on this.

Other issues like MSMEs and “gender and trade” emerged as Trojan horses to sneak in “new issues” and proponents will likely continue these stealth tactics in the future.

At the same time, OWINFS delegates were deeply disappointed that WTO members again missed a crucial opportunity to address [fundamental problems in the global trading system](#). Despite a mandate to find a permanent solution for public stockholding in agriculture, members failed to remove WTO constraints on countries’ ability to [feed their hungry populations](#) and [improve farmers’ livelihoods](#); on a workable Special Safeguard Mechanism (which would allow countries experiencing import surges to protect domestic farmers); and on [disciplining subsidies](#) that [distort trade](#) and damage farmers’ livelihoods around the world. Likewise, they made no progress on the key issue of WTO [constraints to development](#), having completely ignored the G90 development proposals.

Fortunately, given that there was no ministerial declaration, previous affirmations of the development agenda still stand. It is unfortunate that members were not able to agree to discipline fish subsidies, but given that some members opposed preserving [development policy space in fisheries](#), it is better that members continue consultations in Geneva on this issue.

As the US attempted to bully its way into shaping an outcome in its corporate tech interests, the EU’s failure to play a constructive role at the ministerial was disappointing, and many right-wing Latin American and Asian countries also went along with the corporate agenda. The African Group, India, the ALBA group of Latin American countries, and others promoting an approach to multilateral trade policy that fosters, rather than constrains, development prospects saved the day.

A potential paradigm shift toward embracing “plurilateral” agreements emerged from MC11. While the current proliferation of bilateral and mega-regional agreements was going to continue irrespective of the ministerial’s outcome, attempts to gain agreement among “like-minded” countries on e-commerce and other issues within the WTO is a new challenge. This must be carefully watched, as there will be efforts to set a standard among the most neoliberal countries and then to import this into the WTO as a new multilateral obligation. OWINFS members continue to support changes to rules that harm farmers and constrain development in the WTO, and also oppose the expansion of liberalizing trade rules — be they in bilaterals, plurilaterals, or multilaterally in the WTO.

Next Steps: Where to Go from Here

Another key issue for the WTO this year will be US attacks on the dispute settlement mechanism (DSM). The Trump administration opposes any circumscription of US sovereignty, and has sought to interfere in dispute settlement proceedings by blocking confirmation of new members of the appellate body panel, on the basis that it has ruled against the United States in some key cases when the US was violating WTO rules, and is thus biased. Yet the DSM continues to enforce asymmetrical rules against developing countries and public interest regulations, and its effectiveness depends on the complainant country’s ability to retaliate, making it useful for powerful countries but less so for developing ones. The US is not unfairly targeted by the appellate body as Trump alleges; rather, the WTO consistently rules in favor of increased market access (on the side of the complainant) and against national interest regulations (on the side of the defendant). The Trump administration has not put forward critiques of the DSM with any proposed solutions, and it remains unclear where this issue will go, except that it will certainly “spill over” into negotiations occurring simultaneously.

At the same time, Trump’s recent invoking of tariffs on steel and aluminum, and on US\$60 billion of imports from China, may increase the US desire for a functioning dispute settlement system, as

countries often resort to safeguard measures or cases at the WTO when negotiations have failed to resolve differences proactively.

Civil society must massively accelerate its work to challenge and beat back the corporate “e-commerce” agenda, especially as we will face greater opposition, even from within civil society itself. Google and other tech companies provide significant funding to CSOs working on digital rights, campaigning on net neutrality and other issues. Now that they have faced a setback at the WTO, they will channel more funds to CSOs to campaign for “trade agreements to achieve digital rights,” including provisions like “access to the Internet.” This will create a situation in which advocates may think they’re working against censorship in Russia by putting that in a trade agreement, while remaining unaware that the structure of the agreement is organized around consolidating rights for corporations while limiting their responsibilities to the communities and countries where they operate.

Civil society, including trade unions, should expand work to create greater global awareness of the implications of proposed “e-commerce” rules in the WTO, particularly by noting that it would affect a multitude of issues — such as industrial policy, jobs, workers’ rights, development, financial regulation, tax justice, and others — rather than viewing it solely through the lens of trade or the WTO.

It will also be essential to safeguard development in fisheries while limiting harmful fisheries subsidies, as this will again be a key issue. Likewise, CSOs must remain on guard for any other expansion of the WTO, such as rules limiting domestic regulation and promoting investment facilitation. And it is essential that CSOs expand work on agriculture and development, such as highlighting how existing WTO rules constrain developing countries’ ability to achieve the SDGs, and demanding changes to allow more flexibility from harmful rules.

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