

UNDER THE INFLUENCE

Exposing undue corporate influence
over policy-making at the World Trade
Organization

“

I want my negotiators – I say my negotiators because I think they negotiate for us – to try to do the utmost to open up the services trade market all over the world.

Pascal Kerneis,
managing director of corporate lobby
group the European Services Forum

”

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Acronyms and abbreviations

EC	European Commission	PhRMA	Pharmaceutical Research and Manufacturers of America
ESF	European Services Forum	TRIPS	Trade-Related Aspects of Intellectual Property Rights
EU	European Union	UNCTAD	United Nations Conference on Trade and Development
GATS	General Agreement on Trade in Services	USTR	United States Trade Representative
ICONE	Institute for the Study of Trade and International Negotiations	WTO	World Trade Organization
NAMA	Non-agricultural market access		

Executive summary

Multinational companies have an undue influence over the making of global trade rules at the World Trade Organization (WTO). Big business lobbyists have privileged access to government policy-makers and use it to push trade agreements that undermine the fight against poverty.

This report highlights many examples of privileged corporate access to, and excessive influence over, the WTO policy-making process. It argues that governments must take urgent action to curb corporate influence in the WTO and put the rights of poor people before the profits of multinationals in the current round of global trade talks.

Lobbying the trade superpowers

In recent years, huge lobbying industries have mushroomed in the EU and US capitals, where the two trade superpowers develop their policies for WTO negotiations.

in the EU

- around 15,000 lobbyists are based in Brussels – roughly one for every member of staff at the European Commission (EC)
- more than 70% of Brussels lobbyists represent business interests, while only 10% advocate for environmental, human rights, public health and development interests
- annual corporate lobbying expenditure in Brussels is estimated to be between €750 million and €1 billion.

in the US

- around 17,000 lobbyists work in Washington DC, outnumbering lawmakers in US Congress by about 30 to one
- nearly half of all US legislators who go into the private sector when they leave Congress join the lobbying industry
- corporations and lobby groups spent nearly \$13 billion influencing US Congress and federal officials from 1998 to 2004 – equivalent to the combined economic output of Cambodia and Ethiopia in 2004
- the pharmaceutical industry spent over \$1 billion lobbying in the US in 2004 alone.

Companies have a legitimate interest in shaping the policies that affect how they do business in the global economy. But ActionAid believes the WTO's policy agenda is being dominated by a narrow set of corporate interests, while poor people's interests are largely excluded.

The EU and US's corporate trade agenda

The EU and the US are home to 80% of the world's biggest multinational corporations. They are also the world's dominant trade powers, and have a publicly stated commitment to promote their commercial interests by opening up markets in developing countries through the WTO.

The EU and US continue to claim they are acting in the interests of poor countries in the current 'development' round of trade negotiations, due to conclude this year. But the outcome of last December's WTO summit in Hong Kong shows the reality is very different.

By offering small cuts in agricultural export subsidies in return for greatly increased access to the developing countries' markets for services and manufactured goods, the EU and US are aggressively pursuing a self-interested agenda on behalf of their multinational companies. This threatens to undermine poor people's rights and outlaw the trade policies that developing countries need to build thriving economies.

This report exposes how multinational companies are:

1) given privileged access to WTO policy-makers that is denied to poor people and public interest groups:

in the EU

The European Services Forum (ESF) – a corporate lobby group set up by former EU trade commissioner Leon Brittan when he was still in office – represents services multinationals such as British Telecom, Lloyds, and Suez. Despite denials from top EC officials, new evidence confirms ESF enjoys privileged access to senior policy-makers in EU commissioner Peter Mandelson's trade department.

ESF also has easy access to the '133 Committee', a powerful but secretive body made up of EC officials and trade experts from the EU's member states, which formulates important EU policies for

WTO negotiations. In contrast to ESF's easy access, details of 133 Committee meetings are kept secret from the public and parliaments in the EU.

in the US

Business lobbyists representing corporations such as Coca-Cola, McDonalds, Pfizer and Wal-Mart dominate the US Trade Policy Advisory Committees, giving multinationals a free rein to influence the development of the US's WTO negotiating positions in Washington DC.

A total of 742 official external advisors to the US's trade department have access to confidential WTO negotiating documents and attend meetings with US trade negotiators. Of these 742 advisers, 93% represent business lobby groups and corporations including Burger King, Halliburton and Monsanto.

at the WTO's base in Geneva

The US government brought corporate lobbyists on to its delegation at the WTO's base in Geneva to negotiate directly with developing country officials during the run-up to the WTO's Hong Kong summit in 2005. These meetings are meant to take place between governments only. The US included the business lobbyists in its delegation to promote its negotiating positions on food aid and cotton subsidies. These policies benefit US agribusiness multinationals including Archer Daniels Midland and Cargill, but often hurt poor communities in developing countries.

2) having undue influence over WTO policies that has damaging impacts on poor communities:

in WTO negotiations on services

The EC adopted key demands made by corporate pressure group the European Services Forum (ESF) to force open services markets in poor countries for multinational companies. The EC is pushing ESF's agenda aggressively in WTO negotiations, including by the use of 'arm-twisting' tactics.

Despite massive opposition from developing countries, the EC and ESF got almost everything they wanted into the services text of December's Hong Kong WTO ministerial declaration. If adopted as it stands, the deal is set to increase pressure on poor countries to open up their markets for basic services such as water, healthcare

and education. Previous episodes of liberalisation in these sectors have restricted poor people's access to these essentials.

in WTO negotiations on intellectual property

Senior officials from Pfizer, the world's largest drug company, negotiated directly with the director-general of the WTO and officials from WTO member states in 2003 to block a proposal from developing countries that would allow them to import cheaper copies of patented drugs during public health emergencies, including the HIV and AIDS pandemic.

Although the agreement reached allows countries in theory to import copies of drugs during health crises, relentless and sometimes aggressive lobbying by the drug multinationals helped ensure the process – known as 'compulsory licensing' – is so restrictive and complex that to date no developing country has successfully used it.

The drug lobby also helped to make sure the WTO's agreement on intellectual property means key countries that are able to manufacture cheaper copies of patented medicines – including Brazil, India and Thailand – are only permitted to do so under compulsory license. This is in spite of the fact that large numbers of people in poor countries suffering with conditions such as HIV and AIDS rely on cheaper drugs from these countries for treatment.

3) setting up global networks of influence to shape countries' WTO positions and national trade policies:

global networks – the Yum! Brands alliance

Yum! Brands, a group of multinational fast food chains including KFC, Pizza Hut and Taco Bell, has helped set up new global lobbying networks to influence the WTO's agriculture talks. It formed the US Food Trade Alliance in 2005, whose members include the food multinationals Burger King, Dominos, Dunkin' Donuts, McDonald's and Starbucks.

Yum! Brands' corporate coalition heads the Global Alliance for Liberalized Trade in Food and Agriculture, which is made up of food industry lobby groups from 15 countries including Australia, Brazil, Canada and Japan. The Global Alliance's members are pushing governments to prise open agricultural markets through the WTO, including in developing countries.

influencing national laws – India’s new patent act

PhRMA, a US drug industry group whose members include Pfizer and Merck, waged a comprehensive lobbying campaign in India that helped push through a new WTO-compliant patent law in 2005. Drug industry representatives lobbied the Indian prime minister’s office and used their easy access to government officials to put pressure on the Indian government to bring in the new law. Campaigners fear it will deny AIDS treatment to up to 350,000 people who depend on low-cost Indian drugs worldwide.

4) funding think-tanks and front groups that advocate trade policies harmful to poor communities

A large number of hardline pro-business think-tanks have grown rapidly in the EU recently. Analysts believe donations funnelled from corporate backers are a major factor behind their expansion. Institutes such as the Centre for a New Europe, the Edmund Burke Foundation and the International Policy Network promote policies that benefit a narrow set of corporate interests, including stronger intellectual property protection for the multinationals’ patented drugs in developing countries.

Almost all of the radically pro-business think-tanks that were asked to disclose their funding sources in a recent survey failed to do so. However, recent investigations reveal Pfizer gave \$470,000 to the Edmund Burke Foundation between 2001 and 2004 on condition that it would promote private healthcare policies.

ActionAid’s recommendations

Big business’s privileged access to policy-makers is contributing to global trade rules that undermine the fight against poverty. Governments must take urgent action to curb corporate influence in the WTO, and to address the WTO’s anti-democratic policy-making procedures.

ActionAid calls on WTO members to put the needs of poor people above those of multinational corporations, and calls on the EU and US to stop pushing developing countries to open their markets to foreign multinationals through the WTO.

If the final trade deal is anything like the declaration that came out of the recent Hong Kong ministerial meeting, ActionAid believes poor countries must reject it.

the WTO secretariat and WTO member countries must

- take action to include poor people’s groups in the trade policy-making process, as well as address the WTO’s anti-democratic and non-transparent negotiating procedures

the EU must

- introduce new laws to increase transparency and accountability in lobbying, as well as put an end to cases of privileged access for corporate lobbyists

the US must

- ensure broader representation of public interest groups on its Trade Advisory Committees, and require lobbyists to file comprehensive reports into a publicly available internet database

corporations should

- disclose their lobbying positions on key public policy issues, as well as membership and funding of trade associations, think-tanks and campaigns to influence public policy.

Context: The Hong Kong WTO ministerial and beyond

"If the WTO is worth having, it is to give opportunities to companies and entrepreneurs... It is not governments, international agencies, or, indeed, NGOs, that create wealth for the world's poor."¹

Peter Sutherland, former director-general of the WTO, currently chairman of BP and Goldman Sachs

In the run-up to the WTO's 2005 ministerial summit in Hong Kong, multinational corporations sustained a lobbying assault on governments that threatens the rights of millions of poor people in developing countries.

The EU and US continue to claim they are acting in the interests of poor countries in a so-called 'development' round of global trade negotiations.

But the outcome of the Hong Kong meeting shows the reality is very different.

By offering minor reductions in agricultural export subsidies in return for greatly increased access to the developing countries' markets for services and manufactured goods, the EU and US are promoting a self-interested market opening agenda on behalf of their business elites. This threatens to strip away the policy tools developing countries need to protect people's rights and to build thriving economies.

Following the Hong Kong ministerial, there is still very little on the table that benefits developing countries. In fact, much of what is being proposed threatens to undermine the fight against poverty, disease and hunger. If the final deal to emerge from the 'Doha' round of trade talks is anything like what is currently on offer, ActionAid believes developing countries should reject it.

1. Background to corporate influence in the WTO

"Without the enormous pressure generated by the American financial services sector, particularly companies like American Express and CitiCorp, there would have been no services agreement."²

David Hartridge, former director of the WTO services division

It's a well-worn maxim that with economic power comes political influence. "He who has the gold makes the rules," as Samuel J LeFrak put it. As one of America's richest real estate magnates, LeFrak spoke with a certain authority about making the rules.

Over the past two decades or so, the rules that regulate international trade and investment have been changed dramatically. A wave of liberalisation, privatisation and deregulation, brought in through organisations such as the WTO, the International Monetary Fund (IMF) and the World Bank, has allowed corporations to grow enormously in size, power and influence in the world economy. These policies have generated colossal wealth for multinational companies, and their existence owes a great deal to the influence of business lobbying.³

It is only natural, of course, that corporations seek to shape the policies that affect how they do business in the global economy. They have a legitimate interest in doing so, and governments have a duty to listen to their advice. Companies, after all, carry out the world's trade.

Nor are big companies alone in seeking to influence trade policies. A range of interest groups lobby trade policy-makers, such as small business federations, trade unions, farmers' associations and other civil society organisations, including ActionAid. The participation of different groups in the WTO policy-making process, whether at the local, national or international level, is crucial to the WTO's functioning as a public institution charged with regulating international trade in the public interest.

¹ Peter Sutherland, 'The future of the World Trade Organization,' annual lecture of the Transatlantic Programme, Robert Schuman Center for Advanced Studies, Italy, 2 July 2004. ² Hartridge, D (1997) 'What the General Agreement on Trade in Services can do', speech to the conference 'Opening markets for banking worldwide: The WTO General Agreement on Trade in Services', London, 8 January 1997
³ Harvey, D (2005) *A brief history of neoliberalism*, Oxford: Oxford University Press

But ActionAid believes the interests of a relatively small number of multinational companies are disproportionately represented in WTO negotiations, and that big business exerts undue influence over the making of global trade rules. The WTO's policy agenda is dominated by a narrow set of corporate interests and its anti-democratic policy-making process is in urgent need of reform.

In this report, we argue that:

- business lobbyists are granted privileged access to decision-makers and use it to promote trade rules that undermine the interests of poor communities
- public interest organisations are denied the levels of access granted to business lobby groups in the trade policy-making process
- insider arrangements between government and business are virtually devoid of transparency and accountability
- hundreds of millions of poor people affected by decisions made at the WTO are denied their right to participate adequately in the development of trade policies, and are frequently denied their right to access information about trade policy issues.

Corporate influence in the WTO: the wider picture

So how did we arrive at this situation, where a small number of companies have disproportionate influence over policies that affect hundreds of millions of poor people? The answers can be found to a large extent in the following:

1) The rich countries' commercial interests

The EU and US are the most powerful members of the WTO. They are also home to 80 of the world's top 100 multinational corporations,⁴ and the two trade superpowers have a publicly stated commitment to promote their domestic business interests by pushing to open up new markets, including in developing countries, through the WTO:

- "We want to liberalise trade and grow markets in which to sell European goods and services. Multilateral negotiations [in the WTO] offer the biggest prize in achieving this." EU trade commissioner Peter Mandelson, July 2005.⁵

- "The WTO...negotiations are the opportunity to significantly improve market access for our products all around the globe." US trade representative Robert Portman, September 2005.⁶

2) The dominant free trade agenda

Trade policy-makers, particularly in developed countries, generally share a belief with corporate lobbyists that promoting business interests by opening up markets in developing countries will generate economic growth and reduce poverty. As such, governments actively encourage the corporate sector to help formulate trade policies. As one senior Brussels-based business lobbyist says: "There is a broad political consensus. We share a common interest."⁷

The assumption that trade liberalisation will automatically lead to economic growth and cut poverty in developing countries has dominated debates in trade policy-making circles. This is in spite of little convincing empirical evidence that trade liberalisation is associated with subsequent economic growth,⁸ and strong evidence that it can have extremely destructive impacts on poor people and developing economies.⁹

3) Anti-democratic policy-making procedures in the WTO

The EU and US's offensive interests in opening up markets for their multinational companies are helped by the WTO's anti-democratic policy-making procedures and the EU and US's strong-arm negotiating tactics. These ensure that WTO negotiations are stacked in favour of its most powerful members.

Important decisions made at the WTO continue to be taken in exclusive, secretive and informal meetings. These are open to a small and select number of WTO members only and the meetings are frequently dominated by rich countries. Many of the WTO's poorest members have very few or no representatives stationed at the WTO headquarters in Geneva, and many developing country officials based in Geneva have to represent their governments at several different international organisations simultaneously.

The EU and US, by contrast, say they have respectively 43 and 25 officials working specifically on WTO issues based in Geneva,¹⁰ and these are supported by large teams of lawyers, special advisers and academic consultants who regularly fly in to the city for key meetings. At the Hong Kong ministerial – the highest-level

⁴ UNCTAD (2005) 'World investment report 2005: transnational corporations and the internationalization of R&D', New York and Geneva: UNCTAD. ⁵ Peter Mandelson, speech to a City of London audience, 21 July 2005. ⁶ Robert Portman, statement to the US Senate, 21 September 2005. ⁷ Quoted in Seattle to Brussels Network (2005) 'The EU corporate trade agenda: the role and interests of corporations and their lobby groups in trade policy-making in the European Union', Brussels and Berlin: Seattle to Brussels Network. ⁸ Rodrik, D (2001) 'The global governance of trade as if development really mattered', New York: UNDP. ⁹ For examples see ActionAid (2005) 'Trade invaders: the WTO and developing countries' right to protect' Islamabad: ActionAid International; as well as section 1.4 and case studies 1, 2 and 3 in this report. ¹⁰ Personal communications, 2 December 2005.

decision-making body in the WTO – the EU included over 800 people in its delegation, while the US brought over 350 delegates. This compares to the three negotiators in Burundi's Hong Kong delegation, two in the Gambia's delegation, and one in Djibouti's delegation.¹¹

ActionAid has exposed how the EU and US have used 'arm-twisting' and bullying tactics to get their way in WTO negotiations. These include:

- threatening to cut countries' aid budgets
- threatening to end favourable trade agreements with poor countries
- personal attacks against WTO delegates from developing countries.¹²

4) The size and power of corporations

Multinational companies dominate global trade. Corporations carried out two-thirds of international trade in 2000,¹³ and their worldwide sales more than quadrupled from \$3 trillion to \$14 trillion between 1980 and 2000.¹⁴

A boom in mergers and acquisitions over the past two decades has increased the multinationals' economic might. Corporate consolidation has been a feature of almost every major industry, including the seed, agrochemical, agricultural trading, food processing, food retailing, pharmaceutical, petrochemicals, biotechnology, water services, financial services, entertainment and telecommunications sectors.

The result is that a smaller number of corporations now wield enormous power in local, national and international economies and use it to influence public policies, including at the WTO. The fact that a smaller number of companies now control a larger share of their respective markets allows for more focused corporate lobbying campaigns, which can add further weight to the multinationals' political influence.

This report argues that the size and power of multinational corporations, combined with a receptive ear in government and the WTO's unfair policy-making process, has led to excessive and undue corporate influence over global trade rules that endangers the rights and livelihoods of poor people around the world.

Box 1: Poor people's participation in the WTO

Some analysts claim that poor communities are adequately represented in global trade talks through their government delegations. But this skates over stark facts about policy-making at the WTO:

- 1) The WTO's policy-making process is anti-democratic, non-transparent and systematically skewed in favour of rich countries.¹⁵ Developing countries have been repeatedly pushed into accepting agreements that damage their interests, and have been prevented from introducing trade rules that would promote poor people's rights.¹⁶
- 2) More than half of the poorest countries in the WTO have no representation at its headquarters in Geneva. This leaves over 80 million people without a voice at the WTO secretariat.¹⁷
- 3) Governments often sign up to WTO agreements without sufficient reference to national public opinion or parliamentary scrutiny,¹⁸ and they do not always stand up for the rights of their poorest citizens.
- 4) Poor people and their representatives cannot hope to match the millions of dollars that corporations funnel into their sophisticated global lobbying campaigns and advocacy networks. Lobbying missions to Geneva, for example, are beyond the means of women silk loom workers in India or poor farmers in Africa, whose basic rights are under threat from WTO rules.

1.1 Lobbying the trade superpowers

*"Corporate involvement in the political process... is vulnerable to abuse and manipulation, leading in extreme cases to criminal prosecution and fines, and more widely to deteriorating public trust and reputational damage."*¹⁹

Global investors F&C Asset Management, 2005

¹¹ Oxfam Briefing Paper 'What happened in Hong Kong: initial analysis of the WTO ministerial, December 2005', Oxford: Oxfam; Caroline Lucas MEP, Guardian Unlimited blog, 14 December 2005. ¹² ActionAid (2004) 'Divide and rule: the EU and US response to developing country alliances at the WTO', London: ActionAid International. ¹³ UNCTAD, press release, 'Foreign direct investment soars, but will decline this year: M&A boom to flatten out', 18 September 2000. ¹⁴ UNCTAD, press release, 'Global foreign direct investment to exceed \$1 trillion, UNCTAD predicts', 3 October 2000. ¹⁵ United Nations Development Programme (2003) 'Making global trade work for people', New York: Earthscan; South Centre (2003) 'Institutional governance and decision-making processes in the WTO', Geneva: South Centre; ActionAid (2004) 'Divide and rule: the EU and US response to developing country alliances at the WTO', London: ActionAid International. ¹⁶ For examples, see South-North Development Monitor's CD-Rom 'From GATT to the WTO: the secret story of the Uruguay Round'. ¹⁷ Blagescu, M et al (2005) 'Pathways to accountability: the GAP framework', London: One World Trust. ¹⁸ Oxfam (2002) 'Rigged rules and double standards: trade, globalisation, and the fight against poverty', Oxford: Oxfam. ¹⁹ Lascelles, D (2005) 'The ethics of influence: political donations and lobbying', London: Institute of Business Ethics.

Lobbying is one of globalisation's growth industries. Around 100,000 professional lobbyists are in business worldwide, according to a recent estimate.²⁰ About a third of these lobbyists are based in Washington DC and Brussels, where the two trade superpowers – home to four out of five of the world's multinational corporations – formulate their policies on WTO issues. These include global agreements on trade in agricultural goods, manufactured goods, services and intellectual property rights.

Around 17,000 lobbyists work in Washington DC, where they outnumber US legislators in Congress by about 30 to one.²¹ Most of the major US lobbying firms have their headquarters in Washington's K Street, which is often referred to as the US's 'fourth branch of government'. Nearly half of all US legislators who return to the private sector when they leave Congress join the lobbying industry.²² Around 3,000 of the city's lobbyists have represented the pharmaceutical industry since 1998, and a third of these are former federal government employees.²³

Hundreds of consultancies, public relations agencies and law firms offering lobbying services have sprung up in Brussels in recent years, as well as dozens of industry-funded think-tanks and corporate public affairs offices, reflecting the increased power of

EU institutions. Analysts estimate around 15,000 lobbyists are now based in the city – roughly one for every member of staff at the EC.²⁴ More than 70% of these are thought to represent business interests, while only 10% lobby on behalf of civil society groups that represent environmental, human rights, public health and development interests.²⁵

Lobbying is a lucrative trade that has turned Brussels and Washington into a lobbyist's paradise. Annual corporate lobbying expenditure in Brussels is estimated to be between €750 million and €1 billion.²⁶ In the US, corporations and lobby groups spent nearly \$13 billion influencing the US Congress and federal officials from 1998 to 2004.²⁷

Pharmaceutical companies spent over \$1 billion on lobbying in the US 2004 alone, according to *The Hill* newspaper, which covers US Congress.²⁸ A single company, the food and tobacco group Altria, spent \$101 million on lobbying in the US between 1998 and 2004, while oil giant ExxonMobil and drugmaker Pfizer spent \$60 million and \$44 million respectively over the same period.²⁹ The actual amounts spent by companies in the US could be higher, as US law does not require organisations to report every dollar they spend on lobbying.

Table 1: US corporate lobbyists – the top ten spenders (1998-2004)³⁰

Companies and business lobby groups	Reported lobbying expenditure
1 US Chamber of Commerce (cross-industry lobby group)	\$205,000,000
2 Altria Group (food and tobacco)	\$101,000,000
3 General Electric (general products and services)	\$94,000,000
4 Northrop Grumman (defence)	\$83,000,000
5 Edison Electric Institute (electricity utilities lobby group)	\$83,000,000
6 Verizon Communications (telecommunications)	\$82,000,000
7 Business Roundtable (cross-industry lobby group)	\$80,000,000
8 Pharmaceutical Research & Manufacturers of America (pharmaceutical industry lobby group)	\$73,000,000
9 National Association of Realtors (real estate lobby group)	\$69,000,000
10 ExxonMobil (oil)	\$60,000,000

20 AccountAbility (2005) 'Towards responsible lobbying: leadership and public policy', London: AccountAbility. 21 *ibid.* 22 Washington Post, 'The road to riches is called K Street', 22 June 2005. 23 Center for Public Integrity, 'Drug lobby second to one: how the pharmaceutical industry gets its way in Washington', 7 July 2005. 24 Corporate Europe Observatory (2005) 'Lobby planet guide: Brussels – the EU quarter', Amsterdam: CEO. 25 European Parliament (2003) 'Lobbying in the European Union: current rules and practices', working paper, Directorate-General for Research. 26 Harris, P & Fleisher C (2005) *Handbook of public affairs*, Thousand Oaks: Sage. 27 Center for Public Integrity, 'Lobbyists double spending in six years', 7 April 2005. 28 *The Hill*, 'Lobby league number 44: pharmaceuticals', 19 October 2005. 29 *ibid.* 30 Source: The Center for Public Integrity.

1.2 Who does the influencing?

*"I don't want to abolish government. I simply want to reduce it to the size where I can drag it into the bathroom and drown it in the bathtub."*³¹

Grover Norquist, US corporate lobbyist

The term 'corporate lobbyist' can be a loose one. In addition to hiring professional lobbying consultants, business groups engage lawyers, public relations experts, ex-government officials, think-tank analysts and university academics to promote business interests in WTO policy-making. Secondments from companies to government and vice versa – known as 'the revolving door' – are also commonplace. So common, in fact, that the lines between government official and company official often become blurred, raising concerns about undue corporate influence over public policy.

CEO-driven lobby groups

The US Business Roundtable and the European Roundtable of Industrialists are both active on WTO issues. These influential 'CEO-driven' pressure groups are made up of an elite band of chief executive officers from some of the world's biggest corporations including Archer Daniels Midland, Bechtel, Caterpillar, DuPont, ExxonMobil and Pfizer in the Business Roundtable, and BP, British American Tobacco, Nestlé, Unilever, Royal Dutch Shell

and Rio Tinto in the European Roundtable.

These groups have access to the highest levels of government and play an agenda-setting role rather than lobby on the finer details of policy-making. According to a report by the European Parliament, the creation of forums such as the European Roundtable "suggested the development of an inner core of policy-makers and the institutionalisation of big business in the EU policy process."³²

Business lobby groups

But perhaps the most influential business groups that lobby the WTO are:

- trade associations that represent companies with a particular expertise (for example, drug manufacturers)
- lobby groups that represent companies in a particular economic sector (for example, manufacturing or services)
- lobby groups that advocate for companies across sectors.

Policy-makers often approach corporate lobby groups first to sound out the 'common view of business'. Consequently they are often the most powerful private sector lobbies of all, commanding an all-encompassing authority that they do not always deserve, according to recent research. Procedures for consulting members within business lobby groups are often informal and lack transparency, and consensus is often achieved by adopting the

Table 2: Examples of business groups that lobby the WTO

Trade associations	Sectoral groups	Cross-sector groups
European Chemical Industry Council (EU)	Committee of Professional Agricultural Organisations (EU)	International Chamber of Commerce (global)
European Retail Roundtable (EU)	European Services Forum (EU)	Union of Industrial and Employers Confederations of Europe (EU)
National Cotton Council (US)	National Association of Manufacturers (US)	United States Council for International Business (US)
Food Trade Alliance (US)	Coalition of Services Industries (US)	American Business Coalition for Doha (US)
Pharmaceutical Research and Manufacturers of America (US)	Liberalisation of Trade in Services (UK)	Mouvement des Entreprises de France (France)

³¹ The Guardian, 'Ignorance and abdication that amounts to madness', 15 September 2005. ³² European Parliament (2003) 'Lobbying in the European Union: current rules and practices', working paper, Directorate-General for Research.

'lowest common denominator' position. Representation of members' interests is therefore often patchy and incomplete, making them unreliable guides to the national interest.³³

Box 2: How do companies influence?

Direct influencing:

- face-to-face meetings with policy-makers
- serving on government advisory committees
- making presentations to policy-makers
- sending letters, memos and emails to policy-makers
- making formal submissions to government consultations.

Indirect influencing:

- securing media coverage (e.g. opinion pieces, interviews, letters)
- making financial donations and giving gifts to political parties and candidates
- funding think-tanks and research projects
- funding 'grassroots' and public relations campaigns
- bringing policy-makers to corporate hospitality events.

Kimmons & Kimmons, a Brussels-based lobby firm, outlines a list of strategies employed by business advocates, including:

- 'the gunship': threatening to relocate businesses outside the EU if proposals are not dropped
- 'the Kofi Annan' (also known as 'the Trojan horse'): constructive engagement, offering decision-makers a mutually acceptable compromise
- 'the dentist': removing the most disliked elements from proposed legislation then coming back for more 'treatment'
- 'the donkey': winning over decision-makers by capitalising on their interests and preferences, but stopping short of bribery.
- 'good cop, bad cop': one company or lobby group takes a hardline position while others present a compromise.³⁶

Campaigners have highlighted that the policies promoted by business lobby groups often contradict sharply with their individual members' 'corporate social responsibility' policies. Business lobby groups give companies the scope to present an ethical face in public while privately supporting policies advocated by pressure groups that undermine people's basic rights and environmental safeguards.³⁴

For example, the drug multinational GlaxoSmithKline publicises its efforts to increase access to essential medicines in poor countries. At the same time, it is an influential member of the Pharmaceutical Research and Manufacturers of America (PhRMA), which lobbies aggressively for WTO rules and national laws that restrict people's access to low-cost drugs in developing countries.

Many companies have taken steps to improve the transparency of their lobbying. Of 100 major corporations surveyed for a recent report, half provide at least some degree of transparency about their lobbying activities.³⁵ But none of the companies surveyed reached the highest standards of transparency set by the researchers. Moreover, access to this information relies on corporate goodwill, as currently there is no legal requirement for major corporations to produce comprehensive reports on their lobbying activities.

1.3 The corporate trade agenda

"Trade liberalisation benefits the private sector. This organisation [the WTO] is about trade interests, primarily commercial business interests. Therefore it should not be a surprise that the corporate sector has a keen interest."³⁷

WTO delegate from a developed country, 2005

As part of their search for new markets, higher profits, lower-cost labour and cheaper raw materials, corporations and their lobbyists are pushing governments to open up markets and introduce strong intellectual property rules in developing countries through the WTO.

The kind of policies that helped developed countries to build their economies – for example, import taxes, controls on foreign investors and flexible intellectual property rules – restrict the

³³ For examples, see Caulkin, S & Collins, J (2003) 'The private life of public affairs', London: Green Alliance; Sustainability (2000) 'Politics and persuasion: corporate influence on sustainable development policy', London: Sustainability; Friends of the Earth (2005) 'Hidden voices: the CBI, corporate lobbying and sustainability', London: Friends of the Earth. ³⁴ *ibid*; Caulkin, S & Collins, J (2003) 'The private life of public affairs', London: Green Alliance. ³⁵ SustainAbility and WWF (2005) 'Influencing power: reviewing the conduct and content of corporate lobbying', London: SustainAbility and World Wildlife Fund (WWF). ³⁶ Corporate Europe Observatory (2005) 'Lobby planet guide: Brussels – the EU quarter', Amsterdam: CEO. ³⁷ Kwa, A (2005) 'How much access do corporations have in Geneva?', ActionAid background paper, London: ActionAid International.

multinationals' access to markets in developing countries and must be dismantled, according to corporate pressure groups that lobby the WTO. As this report shows, governments have integrated business lobbyists into the heart of the trade policy-making process and, keen to further the interests of their major corporations, often act on their behalf in WTO negotiations.

The benefits of trade liberalisation for big business

It is no surprise that corporations seek to influence the WTO. Its primary aim – to reduce barriers to international trade – offers huge opportunities for multinational companies. By expanding their reach into developing country markets, increasing the number of potential suppliers and bringing local producers in different parts of the world into intense competition with each other, trade liberalisation substantially increases the multinationals' power to bear down on commodity prices, wages and labour standards by playing off producers and workers in one country against producers and workers in another.³⁸

In the agricultural, garments and toy trades, for example, recent research shows how big brand retailers such as Wal-Mart, Tesco and Disney use their bargaining power to pressure local producers into delivering goods faster and more cheaply. Producers pass on these pressures to workers, the majority of whom are women, in the form of poverty wages and poor labour conditions.³⁹

More power to the WTO and to corporations

The WTO has also increased the multinationals' power over national governments. Important policies previously decided at the national level – for example, on agricultural trade, intellectual property rights and state subsidies – are now taken at the WTO. At the same time, many of the WTO's founding principles and its agreements benefit multinational companies while transferring power away from national governments.

For example, the WTO's core principle of 'national treatment' means WTO member countries must not use policies that would give local companies any advantages over foreign firms.⁴⁰ This undermines the right of developing countries to nurture their

fledgling industries and maximise the benefits of foreign investment in the same way that rich countries did in the past.⁴¹

Also, countries in the WTO must abide by all its major agreements. These are enforced by a dispute settlement mechanism, and WTO agreements are effectively irreversible. This gives businesses greater certainty about their access to overseas markets. But it also erodes developing countries' right to make vital changes to their trade policies – for example, raising tariffs when cheap imports flood in – according to national development needs.⁴²

Multinational companies and WTO rules on intellectual property

Multinational companies have a long and successful history of shaping WTO agreements to their benefit. Oxfam, for example, points out that corporate fingerprints are visible, to varying degrees, on almost every agreement signed at the WTO's predecessor organisation, the General Agreement on Tariffs and Trade.⁴³

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the 'TRIPS' Agreement) is a prime example. Policies on intellectual property rights were previously decided at the national level. But using their influence as senior trade advisers to the US government, chief executive officers from the multinationals Pfizer, IBM and DuPont ensured that intellectual property rights were brought onto the global trade agenda in the late 1980s.⁴⁴

Senior officials from these companies, along with business leaders from other corporations – including General Motors, Hewlett-Packard, Monsanto and Warner Communications – drafted a policy framework with the EU business lobby group UNICE and its Japanese counterpart, Keidanren. This formed the basis of the WTO TRIPS Agreement, which came into force in 1995.⁴⁵

The TRIPS Agreement was a huge victory for multinational companies, giving them an unprecedented degree of intellectual property protection in developing countries. Around 97% of all patents are held in rich countries, and according to a South Centre report, 90% of patents are held by corporate interests.⁴⁶

³⁸ Kaplinsky, R (2000) 'Globalisation and unequalisation: what can be learned from value chain analysis?', Journal of Development Studies 37, (2); Dolan C & Sorby, K (2003) 'Gender and employment in high-value agriculture industries', Washington DC: World Bank; United Nations Economic and Social Council (2000), 'Globalization and its impact on the full enjoyment of human rights', Geneva: UNESCO; Wall Street Journal, 'Globalization is Greenspan's final frontier', 9 January 2006; Oxfam (2004) 'Trading away our rights: women working in global supply chains', Oxford: Oxfam. ³⁹ *ibid*; Crabbé, C & Delforge, I (2002) *Jouets de la mondialisation dans le monde désenchanté de Walt Disney*, Brussels: Editions Vista and Magasins du Monde Oxfam. ⁴⁰ For example, providing tax incentives, targeted subsidies and purchasing contracts from local industries so that they can compete against foreign companies. ⁴¹ Hilary, J (2002) 'Foreign investment in services: the threat of GATS 2000 negotiations', background paper for presentation to WTO symposium, 30 April 2002. ⁴² United Nations Development Programme (2003) 'Making global trade work for people', New York: Earthscan. ⁴³ Dhanarajan, S (2002) 'Corporate influence at the WTO', background paper, Oxford: Oxfam. ⁴⁴ Drahos, P (2002) *Information feudalism*, London: Earthscan. ⁴⁵ *ibid*. ⁴⁶ Someshwar, S (2002) 'Setting right the wrongs of TRIPS', South Centre Bulletin 01, 15 November 2002: Geneva, South Centre.

Conservative estimates suggest TRIPS is transferring \$41 billion a year from poor countries directly to multinational business elites.⁴⁷ In the case of prescription drugs, patents typically add 300-400% or more to the price of medicines.⁴⁸ According to Columbia

University professor Jagdish Bhagwati, the Agreement primarily benefits big business: "TRIPS does not involve mutual gain; rather, it positions the WTO primarily as a collector of intellectual property-related rents on behalf of multinational corporations."⁴⁹

Box 3: Trade liberalisation and the market-distorting monopolies

The so-called 'level playing field' demanded by corporate interests is really one of vastly uneven resources and power. Ironically, because multinational companies are so big and powerful, increasing their access to developing economies often leads to uncompetitive markets – a direct contradiction of one of the WTO's principal aims of increasing open competition.

Trade liberalisation can lead to 'corporate concentration' in markets, a situation where a small number of companies dominate a particular industry.⁵⁰ Concentrated markets tend to result in a more unequal distribution of wealth in society by transferring resources from people and smaller businesses to the companies that dominate a market.⁵¹ Multinational companies in particular, with access to superior financial, technological and human resources, are better equipped than smaller companies to take advantage of new market openings arising from trade liberalisation – another factor that can drive corporate concentration.⁵²

Research commissioned by the UK's Department for International Development (DFID) warns that a global wave of mergers and acquisitions has increased the multinationals' monopoly power, and that this is a 'special problem' for poor countries: "Developing countries find it more difficult than developed countries to deal with multinationals, and to regulate the unequal competition between multinationals and domestic companies...The direct price effects are that poor households could face higher consumer prices, which might be especially important in the case of food, and that monopsonistic⁵³ buying will drive down the prices of exports."⁵⁴

In agricultural markets, for example, analysts show that existing high levels of corporate concentration mean most of the benefits of further trade liberalisation will be captured by multinational food giants such as Cargill, Nestlé and Wal-Mart rather than by farmers and exporters in developing countries,⁵⁵ and that increasing levels of corporate concentration in the food industry are already destroying poor farmers' livelihoods in developing countries.⁵⁶ Yet these issues are largely ignored by policy-makers, economists and corporate lobbyists when they forecast the effects of trade liberalisation.

1.4 The impacts of a pro-corporate WTO agenda

*"Global institutions have forced the poorest countries to open their markets to Western business before local producers had the capacity to compete. The poor bore the brunt. So we must reject the path of forcing liberalisation on developing nations."*⁵⁷

UK secretary of state for trade Alan Johnson, 2005

*"Liberalization can also be captured by the powerful, perpetuating inequitable and inefficient economic structures – and risking political and social backlash to market-oriented reforms."*⁵⁸

The World Bank, 2005

The policies currently being pushed at the WTO by business lobby groups are designed to increase corporate profits and access to markets, not to reduce poverty. Corporate lobbyists are pushing

47 RIS policy brief 19, 'Doha round's development impacts: shrinking gains and real costs', Research and Information Service for Developing Countries, November 2005. 48 Weisbrot, M & Baker, D (2002) 'The relative impact of trade liberalization on developing countries', Washington DC: Center for Economic and Policy Research. 49 Bhagwati, J (2000) 'What it will take to get developing countries into a new round of multilateral trade negotiations', New York: Columbia University. 50 Professor John Sutton, head of the economics department at the London School of Economics, argues that as national markets are joined through free trade into a single global market, competition intensifies and margins fall. The result is a pattern of firms exit and consolidation, leading to a more concentrated global market. Sutton, R (2003) 'Understanding the rise in global concentration in the agri-food sector: a background paper', Conference on Changing Dimensions of the Food Economy, 6-7 February 2003, The Hague, Netherlands. 51 Robins, N (2003) 'Downsizing the corporation: the return of "big is best"', in Simms, A (2003) Return to scale, London: New Economics Foundation. 52 UNCTAD (2002) 'Diversification of production and exports in commodity dependent countries, including single commodity exporters, for industrialization and development, taking into account the special needs of LDCs', Geneva: UNCTAD; Vorley, B (2002) 'The chains of agriculture: sustainability and the restructuring of agri-food markets' London: International Institute for Environment and Development. 53 Markets are said to be 'monopsonistic' when a small number of companies buy goods from a large number of producers – also known as a buyer's market. 54 Centre for Economic Policy Research (2001) 'Trade liberalization and poverty: a handbook', London: CEPR. 55 Sexton, R et al (2004) 'Analyzing vertical market structure and its implications for agricultural trade liberalization', Davis: University of California. 56 Vorley, B (2004) 'Food, Inc.: corporate concentration from farm to consumer', London: UK Food Group. 57 Speech by UK Secretary of State for Trade and Industry Alan Johnson at the UK Labour Party's annual conference, Brighton, 26 September 2005. 58 World Development Report 2006, 'Equity and development', Washington DC: World Bank.

for a rapid and radical market opening in developing countries, arguing it will benefit poor people by lowering prices for goods through cheaper imports, transferring technology to developing countries and increasing economic efficiency (table 3).

But the business lobby's claims fly in the face of hard evidence and the lessons of economic history. 'Big bang' liberalisation policies have been imposed on poor countries for more than two decades. They have allowed cheap imports to flood markets in developing countries, leaving farmers unable to sell their crops and forcing local factories to close with job losses on a massive scale.⁵⁹

After studying the impact of trade liberalisation in 36 poor countries during the 1990s, the UN's trade division – the United Nations Conference on Trade and Development (UNCTAD) – recently concluded that: "the incidence of poverty increased unambiguously in those economies that adopted the most open trade regimes...from this evidence there is no basis for concluding that trade liberalisation, in the short run, reduces poverty or leads to a more virtuous trade-poverty relationship."⁶⁰

Trade liberalisation has failed to strengthen poor countries' manufacturing base and, in many cases, has stripped it away. A recent UNCTAD study concludes that: "The process of trade liberalization in the LDCs [least developed countries] has reinforced specialization in commodity exports rather than promoting a shift to manufactured exports."⁶¹ Another study of 40 developing countries found that half of the countries lost manufacturing capacity after trade liberalisation. These include countries with low levels of industrial development such as Ghana, Guatemala, Peru, Zimbabwe and Haiti, as well as countries with a bigger industrial base such as Brazil, Chile, the Philippines and Venezuela.⁶²

Tariff cuts brought about by trade liberalisation have reduced developing countries' income from import taxes by up to \$60 billion per year, according to UNCTAD.⁶³ Liberalisation was meant to ensure these losses were compensated by generating an increase in export earnings for developing countries. But research by the IMF shows that middle income developing countries have recovered only 35 to 55 cents for each dollar of trade tax revenue they have lost through trade liberalisation. Disastrously, the same research shows that the poorest countries have recovered nothing.⁶⁴

Case study 1: The impact of agricultural trade liberalisation on people's rights in Kenya

"Before the collapse, it was easy to pay school fees and lease tracts of land for farming. It is not so now. It has become a daily struggle to survive," says 40-year-old Sarah Arum, a sugar farmer from Miwani in Kenya, speaking about the closure of the local sugar factory. She adds: *"We have no health centre. In an emergency, we have to walk to a clinic 3 kilometres away and it is expensive. We lack clean water for drinking, so many get sick from typhoid, cholera and malaria and many die."*

Ms Arum's story shows the radical trade liberalisation policies advocated by business lobbyists can have devastating impacts on poor communities. The Miwani sugar factory that Ms Arum used to supply with her cane crop once supported 10,000 farmers. But local livelihoods were ruined when it closed in March 2001 after Kenya rapidly liberalised its sugar market under pressure from the World Bank and IMF.

The factory could produce over 80,000 tonnes of sugar per year and contributed over \$20 million to the Kenyan economy. But local markets became flooded with sugar imports from neighbouring countries as well as from the EU, Brazil and Thailand after Kenya opened up its sugar industry to global competition. The influx of cheap imports was a key reason behind the factory's demise.

Local schools recorded a big reduction in pupils following the factory's closure. Nearby Karunga primary school used to have over 300 pupils; now it has only 60. *"Many parents moved away taking their children with them because they had no means to support them,"* says Julius Owino, the school's headteacher. *"We lack teachers, desks, water and proper sanitation. Even now some children sit on the mud floors to study."*

Local farmers held a protest at the factory gates in May 2005, appealing for a halt to the imports that destroyed their livelihoods.

⁵⁹ For examples see ActionAid (2005) 'Trade invaders: the WTO and developing countries' right to protect', Islamabad: ActionAid International; SAPRIN (2004) Structural adjustment: the policy roots of economic crisis, poverty and inequality, London: Zed Books; Food and Agriculture Organization of the UN, Committee on Commodity Problems, 'Some trade policy issues relating to trends in agricultural imports in the context of food security', 64th session, Rome, 18-21 March 2003; CIDSE (2001) 'The impact of trade liberalisation on food security in the South', Brussels: Coopération Internationale pour le Développement et la Solidarité (CIDSE). ⁶⁰ UNCTAD (2004) 'The least developed countries report 2004: linking international trade with poverty reduction', New York and Geneva: UNCTAD. ⁶¹ *ibid.* ⁶² Shafaeddin, M (2005) 'Trade policy at the crossroads: the recent experience of developing countries', New York: Palgrave MacMillan. ⁶³ Quoted in RIS policy brief 19, 'Doha round's development impacts: shrinking gains and real costs', November 2005. ⁶⁴ Baunsgaard, T & Keen, M (2004) 'Tax revenue and (or?) trade liberalization', Washington DC: International Monetary Fund (draft).

Business lobby groups also suffer from historical amnesia when they call for drastic and indiscriminate liberalisation through the WTO. Developing country economies grew twice as fast during the 1960s and 1970s when they had greater freedom to decide their own trade policies.⁶⁵ None of the world's rich countries – except for Hong Kong – developed without using selective and often heavy government intervention in trade, including the US and countries in the EU.⁶⁶ Many of the business groups lobbying the WTO therefore seek to outlaw the controls on trade that helped their members become powerful players in the global economy.

The UK prime minister Tony Blair's Commission for Africa report concluded that: "Forcing poor countries to liberalise through trade agreements is the wrong approach to achieving growth and poverty reduction in Africa, and elsewhere." Even the economists Adam Smith and David Ricardo, the godfathers of free trade theory, were against rapid trade liberalisation.⁶⁷ But despite the fact that, after a quarter of a century of experimenting with trade liberalisation, poor countries remain locked in a poverty trap, rich countries continue to push developing countries to liberalise trade through global institutions such as the WTO.

Table 3: Business lobby demands in current WTO negotiations

WTO negotiations	Business demands and statements
All negotiations	<p>'Special and differential treatment and less than full reciprocity are not the solution to development' – Union of Industrial and Employers Confederations of Europe⁶⁸</p> <p>'Substantial reduction and eventual elimination of all tariffs and tariff-rate quotas on agricultural, consumer and industrial goods [in the WTO]' – National Retail Federation and EuroCommerce joint statement⁶⁹</p>
Agriculture	<p>'No product should be exempt from liberalisation' – Food Trade Alliance⁷⁰</p> <p>'The purpose should be to limit the access advanced developing countries have to SDT [special and differential treatment] in all of its various forms.' – Cargill Incorporated⁷¹</p>
Industrial goods	<p>'The ICC urges WTO members to...eliminate or substantially reduce tariffs for all products with no <i>a priori</i> exclusions' – International Chamber of Commerce⁷²</p> <p>'[WTO members should] progressively eliminate tariffs on industrial goods by 2020' – National Foreign Trade Council⁷³</p>
Services	<p>'The EU should insist on services being liberalised' – European Services Forum⁷⁴</p> <p>'Negotiators must urgently agree on complementary efforts to achieve meaningful progress, including the application of agreed upon benchmarks [ie compulsory liberalisation] in certain areas' – World Business Leaders for Growth⁷⁵</p>
Intellectual property	<p>'More flexibility in TRIPS would be disastrous' – International Federation of Pharmaceutical Manufacturers and Associations⁷⁶</p>

65 Milanovic, B (2003) 'The two faces of globalization: against globalization as we know it', Washington DC: World Bank; Rodrik, D (2001) 'The global governance of trade as if development really mattered', New York: UNDP. 66 Shafaeddin, M (2000) 'What did Frederick List actually say? Some clarifications on the infant industry argument', Geneva: UNCTAD. 67 *ibid.* 68 Speech by UNICE secretary-general Philippe de Buck, 'Hong Kong must be a success to save the DDA round,' DDA hearing of the International Trade Committee of the European Parliament, 11 October 2005. 69 National Retail Federation and EuroCommerce joint policy statement, 'High-Level EU-US commerce group in Geneva', 28 April 2005. 70 Food Trade Alliance policy statement, 'Food Trade Alliance calls US agriculture proposals "positive and necessary step forward"', 13 October 2005. 71 Cargill, 'Submission to the Office of the US Trade Representative regarding the World Trade Organization Doha agricultural negotiations', 31 January 2005. 72 International Chamber of Commerce policy statement, 'ICC policy recommendations for the Sixth Ministerial Conference of the World Trade Organization Hong Kong, 13 13-18 December 2005', 5 April 2005. 73 National Foreign Trade Council (2002) 'Vision 2005: free trade and beyond', Washington DC: National Foreign Trade Council. 74 European Services Forum, press release, 'European services industry leaders insist that substantial services liberalisation is essential to a successful Doha round', 31 May 2005. 75 World business leaders for growth, policy statement, 'Advancing the promise of Doha', undated. 76 Reuters, 'Drug companies warn AIDS research could dry up', 19 September 2001.

2. Undue corporate influence over WTO policy-making: evidence and impacts

"The policies of the international economic institutions are all too often closely aligned with the commercial and financial interests of those in the advanced industrial economies."⁷⁷

Joseph Stiglitz, former chief economist and senior vice president of the World Bank

"We had to start paying higher amounts for water, and if you did not pay them they would disconnect you."⁷⁹

Henry Nkuna from Kanyamazane, South Africa, on his family's experience after water services were liberalised in his township

Corporate lobbying evokes images of deals struck over dinner or a quiet word said on the golf course. This kind of informal persuading will always take place, but in recent years the channels of political influence available to corporations have widened dramatically, and governments have established structures and practices that give business lobbyists privileged access to trade policy-makers. But like the brief exchange in a corporate hospitality tent, these intimate arrangements are devoid of transparency and accountability and are off limits to public interest groups.

ActionAid's research has found that multinational companies and their lobbyists are:

- **given privileged access to the WTO policy-making process** that is denied to poor people and public interest groups
- **having undue influence over WTO policies**, with damaging impacts on poor communities
- **setting up global networks of influence** to shape developing countries' WTO positions and national laws
- **funding think-tanks and front groups** that advocate trade policies harmful to poor communities.

2.1 Privileged corporate access to WTO policy-making

"You are the driving force of the consultation system which we have established; my door is open for any matters of concern...I am in your hand to listen what are your objectives, [sic] your priorities for liberalisation."⁷⁸

Leon Brittan while he was EU trade commissioner, on the role of corporate lobbyists ESF

Privileged corporate access to US trade policy-making⁸⁰

The United States Trade Representative (USTR), a branch of the Executive Office of the President, is the agency tasked with developing US policy positions at the WTO. Under current structures within USTR, corporate lobbyists are given a free rein to influence US trade policy while public interest groups are all but excluded.

According to US law, USTR is required to consult with private sector and civil society representatives on its trade negotiations with other countries. An important mechanism for these consultations is the Trade Advisory Committee system, made up of 26 expert committees on labour, environmental, industrial and agricultural issues.

The transparency of these committees is virtually non-existent. Over 700 people participate in Trade Advisory Committees as 'cleared advisers'. These advisers have access to confidential negotiating documents and attend meetings with US trade negotiators and other government officials. They are, however, legally barred from disclosing any detailed information about the issues being discussed in the committees.

⁷⁷ Stiglitz, J (2002) Globalization and its discontents, London: Penguin Books. ⁷⁸ Leon Brittan, speech to the European Service Leader's Group, 26 January 1999. ⁷⁹ Quoted in ActionAid (2005) 'Down the plughole: why bringing water into WTO services negotiations would unleash a development disaster', London: ActionAid International. ⁸⁰ This sub-section draws on Hansen-Kuhn, K (2005) 'Corporate influence on US trade policy', ActionAid background paper, Washington DC: ActionAid International.

Despite a legal requirement that the committees reflect a balance of views from various sectors, 93% of the advisers on Trade Advisory Committees (690 out of 742) currently represent corporations or business associations. Of the 52 advisers who do not represent corporate interests, some 28 are members of the Labour Advisory Committee (which is made up only of trade unions), and 10 are environmentalists on the Trade and Environment Policy Advisory Committee. This leaves a total of seven advisers who do not represent corporations on the remaining 24 committees.

Box 4: Composition of USTR's agricultural Trade Advisory Committees

Corporations represented:

Altria, Archer Daniels Midland, Blue Diamond Growers, Burger King, Campbell Soup, Cargill, ConAgra, General Mills, Hershey Foods, HJ Heinz, Land O'Lakes, Louis Dreyfus, McDonalds, Monsanto, Sunkist Growers, Sun-Maid Growers, Wal-Mart, Yum! Restaurants

Public interest group represented:

Campaign for Tobacco Free Kids

Probably the most important committee within the Trade Advisory Committee system is the Advisory Committee for Trade Policy and Negotiations (ACTPN). According to the law establishing the committee, it shall be "composed of not more than 45 individuals and shall include representatives of non-federal governments, labour, industry, agriculture, small businesses, services industries, retailers, non-governmental environmental and conservation organizations and consumer interests."

But despite its legal obligation to ensure representation from a wide range of groups, the Bush administration purged the ACTPN of all labour, environmental and consumer groups in 2002.

After US labour unions threatened to bring legal action to force broader participation in the ACTPN, James Hoffa, president of the US Teamsters Union, was appointed to the Committee in early 2003. Mr Hoffa resigned in June 2004, mainly because of the ACTPN's support for the US-Central America Free Trade Agreement. In his letter of resignation, he said: "By seeking to

impose one-size-fits-all rules designed by and for the largest corporate interests – to the detriment of workers and farmers all over the world – we only alienate the citizenries of our trading partners."⁸¹

In August 2005, the USTR announced new appointments to the seven committees that advise its policy-makers on agricultural trade issues. While it included a representative from the Campaign for Tobacco Free Kids on one of the committees, it has ignored requests by public interest groups for representation on others. It did find space, however, for representatives from Cargill – a commodity trader with operations in more than 160 countries and one of the biggest privately-owned companies in the world – on five of the seven agricultural advisory committees.

Box 5: Cargill's anti-development proposals for the WTO agriculture negotiations

Cargill, the giant agricultural trading multinational, has put forward a number of policy recommendations to USTR for the WTO agriculture negotiations.⁸² ActionAid believes many of the policies advocated by Cargill would have negative impacts on farmers in poor countries, including its proposals for the US to:

- devise programmes that would shift a greater proportion of its massive agricultural subsidies into the 'green box', and at a faster rate. Subsidies in the green box are least likely to be reduced through WTO negotiations
- hold back on targeting specific commodities for special attention, including cotton
- attempt to limit 'special and differential treatment'⁸³ measures for the 'advanced' developing countries
- reject demands from developing countries to strengthen special and differential treatment measures.

Privileged corporate access to EU trade policy-making

The European Commission (EC) is responsible for developing the EU's trade policy. It negotiates on behalf of all 25 EU member states at the WTO, in consultation with a special committee made up of officials from EU member states known as the 'Article 133 Committee'.

⁸¹ James Hoffa, letter to US President George W. Bush, 24 June 2004. ⁸² Cargill, 'Submission to the Office of the US Trade Representative regarding the World Trade Organization Doha agricultural negotiations', 31 January 2005. ⁸³ Special and differential treatment refers to the provisions in WTO agreements that give developing countries a limited amount of flexibility and assistance to implement the agreements – for example, longer time periods and technical support.

The European Parliament is charged with scrutinising the EC's trade policies, while the European Council of Ministers gives the EC its negotiating mandate and approves final trade deals. But overall, the EC has by far the greatest powers to design and decide the rules that govern how the EU trades with the rest of the world.

With an expanding institutional and geographical remit, EU institutions generate a huge number of preparatory meetings, hearings, consultative procedures and task forces, with up to 150 official sessions held every working day.⁸⁴

This has created a high demand for outside expertise to inform EU policy-making in Brussels, and the 15,000-odd lobbyists based in the city have become an integral part of the EU's bureaucratic machinery. Outside consultants take part at all levels of the policy process, from lobbying on the 'nitty gritty' detail of technical consultations, to advising the EU's upper echelons on issues of high political importance. Observers say this 'supportive environment' provided by external consultants – at least 70% of whom are in the pay of private sector interests – is biased towards business.⁸⁵

The imbalance towards business lobbyists in Brussels appears to be reflected in the EC's schedule of external engagements. Over a period of ten weeks in the summer of 2005, almost 80% of the EC's 306 scheduled meetings listed by its press office were with business lobbyists or events organised by business groups, while meetings with public interest organisations represented only 11% of the total.⁸⁶

Institutional procedures in the EC routinely prioritise private sector lobbyists. EC officials often bring business representatives into meetings at an early stage of trade policy development and well before the proposals are passed through the European Parliament for public scrutiny.⁸⁷ Procedures to develop the EC's list of 'requests-and-offers' and its proposals for mandatory liberalisation through WTO negotiations on trade in services, both of which are explained in more detail below, illustrate this point.

Privileged access to EC policy-makers for service corporations

"Certainly not! Why should it have privileged access?"⁸⁸

Roger Liddle, senior cabinet adviser to EC trade commissioner Peter Mandelson, on being asked if the European Services Forum has privileged access to EC officials

"We have regular emails with officials, we have telephone calls, we go to their meetings, they come to our meetings, we invite them, they invite us."⁸⁹

Pascal Kerneis, managing director of European Services Forum, on its access to EC officials

Services corporations enjoy a particularly intimate relationship with EU trade policy-makers, having established exclusive, opaque and frequently-used channels of influence connected to the highest levels of policy-making in the EU.

In 1998, Leon Brittan, then EU trade commissioner, asked the chairman of Barclays Bank to form a European lobby group for services companies specifically to influence the WTO negotiations on services, known as the General Agreement on Trade in Services (GATS).⁹⁰ The European Services Forum (ESF) was launched in January 1999 as a consequence, and its members now include Accenture, British Telecom, DHL, Goldman Sachs, IBM, Lloyds, and Royal Ahold.

In a statement to mark ESF's inception, commissioner Brittan made clear the role he saw for it: "You are the driving force of the consultation system which we have established; my door is open for any matters of concern...I am in your hand to listen what are your objectives, [sic] your priorities for liberalisation...I count on your support and input...so that we can refine our strategy and set clear priority negotiating objectives which will make a difference in the international expansion of service business."⁹¹

84 Claassen, H (2005) 'Influencing EU trade policy: a private public partnership', ActionAid background paper, Brussels: ActionAid International. 85 Seattle to Brussels Network (2005) 'The EU corporate trade agenda: the role and interests of corporations and their lobby groups in trade policy-making in the European Union', Brussels and Berlin: Seattle to Brussels Network. 86 Claassen, H (2005) 'Influencing EU trade policy: a private public partnership', ActionAid background paper, Brussels: ActionAid International. Figures cover a total of 10 weeks in the months of June, July and September 2005. 87 *ibid.* 88 BBC Radio 4 transcript of File on 4 programme 'Lobbyists', transmitted 22 November 2005. 89 *ibid.* 90 GATS covers international trade in services such as water, education, banking, tourism, telecommunications, retailing, energy and information technology. 91 Leon Brittan, speech to the European Service Leaders Group, 26 January 1999.

Speaking at a business conference the following September, Robert Madelin, a senior EC trade official, stated: “The European Commission is convinced of the need not only to work with the member states’ experts but directly with European industry. We are going to rely heavily on the European Services Forum... We are going to rely on it just as heavily as on member states’ direct advice in trying to formulate our objectives.”⁹²

The ESF has privileged access to the EC’s trade policy department, the Directorate-General for Trade (DG Trade). For example, DG Trade created the ‘Services Information System’, a confidential email list through which it distributes draft EU negotiating proposals for WTO negotiations on services to solicit comments and suggestions from business lobbyists.⁹³

Copies of emails obtained by civil society campaigners under the EU Freedom of Information Act confirm DG Trade officials regularly attend ESF policy committee meetings to report on details and strategies related to the EU’s ongoing WTO negotiations, and that DG Trade maintains frequent and close contact with ESF in general.⁹⁴

For example, one email shows that Anders Jessen, a deputy head of unit at DG Trade, invited ESF officials to a meeting in March 2004 to find out details of a lobby mission ESF had carried out to the WTO headquarters in Geneva.⁹⁵ Another set of emails show ESF sent lists of its priority countries for services liberalisation, as well as an assessment of 10 GATS offers made by WTO members, to guide which countries the EC should target for liberalisation. The names of the individual countries are blacked out, however.⁹⁶

Pascal Kerneis, managing director of ESF, described his lobby group’s intimate relationship with DG Trade officials in an interview for BBC Radio 4’s File on 4 programme, broadcast in November 2005: “We have regular emails with officials, we have telephone calls, we go to their meetings, they come to our meetings, we invite them, they invite us.”⁹⁷

Easy corporate access to the EU’s 133 Committee

“I have absolutely no idea what you are talking about... This idea that the European Services Forum has privileged access to the 133 Committee in my view is nonsense! End of story. Nonsense.”⁹⁸

Roger Liddle, senior cabinet adviser to EU trade commissioner Peter Mandelson

Investigations show corporate lobbyists including ESF have privileged access to the ‘Article 133 Committee’, a powerful but secretive trade policy body made up of EC officials and trade experts from EU member country governments. The 133 Committee works with the EC to formulate and decide EU trade policies including for WTO negotiations, and is the most important source of guidance on trade issues for policy-makers in the EU.

The 133 Committee agrees EU trade policy positions in principle, which are passed on for formal approval in the Council of Ministers. However, this approval usually comes in the form of a written ‘A point’, which means the policies are endorsed without discussion at the Council level.⁹⁹ According to close observers, the 133 Committee is dominated by the EC, and decisions are made in the Committee by what is known as a ‘gentlemen’s agreement’; a consensus between those attending the meetings, rather than by a voted majority.¹⁰⁰

After the ESF’s launch in 1999, Robert Madelin attended a 133 Committee meeting to give a presentation on the lobby group’s role in the WTO GATS negotiations. In a letter to Andrew Buxton, the former head of ESF (known then by its original name the European Services Network, or ESN), he reported that 133 Committee members were “all very positive about ESN... there was some interest on the part of some Member State delegates for a more direct dialogue with ESN.”

⁹² Friends of the Earth International (2003) ‘Tidal wave in the WTO: global water industry plans to submerge national interests’, Amsterdam: Friends of the Earth International. ⁹³ Corporate Europe Observer, ‘GATS: undermining public services worldwide,’ Issue 9, June 2001. ⁹⁴ Seattle to Brussels Network (2005) ‘The EU corporate trade agenda: the role and interests of corporations and their lobby groups in trade policy-making in the European Union’, Brussels and Berlin: Seattle to Brussels Network; Corporate Europe Observatory; personal communication, 8 December 2005. ⁹⁵ Corporate Europe Observatory, personal communication, 4 November 2005. ⁹⁶ Corporate Europe Observatory, personal communication, 4 November 2005. ⁹⁷ BBC Radio 4 transcript of File on 4 programme ‘Lobbyists’, transmitted 22 November 2005. ⁹⁸ *ibid.* ⁹⁹ Open Europe (2005) ‘Open up: why the EU must reform to survive’, London: Open Europe. ¹⁰⁰ *ibid.*; BBC Radio 4 transcript of File on 4 programme ‘Lobbyists’, transmitted 22 November 2005.

According to ESF's website, delegations from its policy committee met with the 133 Committee to discuss services trade issues in 2000, 2001 and 2002. Although the website shows no meetings were scheduled with the 133 Committee after 2002, ESF met with 133 Committee members at ESF's premises in November 2003. Committee members were also invited to a cocktail party organised by ESF following the meeting.¹⁰¹

More recently, ESF's managing director Pascal Kerneis confirmed in a September 2005 interview that his lobby group continues to meet with the 133 Committee on a regular basis.¹⁰² A letter sent by Mr Kerneis to members of the 133 Committee in late 2005 provides further confirmation of the ESF's continuing close relationship with the Committee. The letter was leaked to civil society groups and refers to a meeting between ESF and members of the 133 Committee held on 17 October 2005. The EC's negotiating strategies were discussed in the meeting, and the ESF repeated its demand that WTO members should be forced to open up a minimum number of their service sectors through GATS.¹⁰³

During his November 2005 interview with BBC radio's File on 4, Pascal Kerneis gave an insight into the nature of ESF's meetings with the 133 Committee and made it clear he found access to the Committee useful: "We do value these meetings and these contacts. It's a meeting we have with our members – we invite some of the members – and with the European Commission and the presidency and those who are willing to come. So depending on the meeting sometimes we'll have four persons, sometimes we'll have thirty of them."¹⁰⁴

Documents gathered by the Brussels watchdog group Corporate Europe Observatory show that members of the influential UK business pressure group Liberalisation of Trade in Services (LOTIS) have also been provided with regular updates on developments in the 133 Committee, including internal papers to comment on, and have attended meetings between the Committee and ESF.¹⁰⁵

After leaving his job as EU commissioner for trade, Leon Brittan went on to chair LOTIS's High-Level Group, which is made up of chairmen or chief executives from the banking, insurance, law, accountancy, information technology and shipping industries. Unusually for a corporate lobbying outfit, the High-Level LOTIS Group includes senior UK government officials from the Department for Trade and Industry, the Treasury and the Foreign Office.¹⁰⁶

LOTIS is part of International Financial Services London (IFSL), a corporate pressure group that pushes to liberalise global trade in services. IFSL's members include the banking and financial services companies Barclays Bank, Citigroup, Goldman Sachs, Lloyds, Merrill Lynch and PriceWaterhouseCoopers. Similar to LOTIS, the IFSL's board includes directors from the UK government's Department for Trade and Industry, the Treasury and the Foreign Office.

Box 6: Through the GATS revolving door

David Hartridge, former director of the **WTO services division**, is now a director and senior WTO counsellor at Geneva-based law firm **White & Case**. White & Case is an influential member of corporate lobby group the **European Services Forum** (ESF) and its US counterpart, the **Coalition of Services Industries** (CSI). The express delivery corporation **DHL** is a member of ESF. White & Case represented DHL in its lobbying campaign to liberalise express delivery services through the WTO.

While he was EU commissioner for trade, **Leon Brittan** set up the ESF then went on to chair its sister lobby organisation the **High-Level LOTIS Group**. **Peter Sutherland**, former director-general of the WTO, is now chairman of investment bank **Goldman Sachs**, an influential member of LOTIS and ESF. Peter Sutherland has access to the ESF through his position as non-executive director of the **Royal Bank of Scotland** (RBS), which is a key ESF member. RBS vice-chairman **Ian Vallance** has been ESF's chairman since 2003.

Restricted public access to the 133 Committee

The service lobby's access to the 133 Committee contrasts sharply with that given to the public, MPs from EU member states and Members of the European Parliament (MEPs). The 133 Committee deliberates in secret and produces no minutes. Records of how decisions are taken by the Committee are not made available to the public, and no lists of officials attending meetings are published.¹⁰⁷

¹⁰¹ Corporate Europe Observatory, personal communication, 4 November 2005. ¹⁰² Interview with reporter from German development magazine, Zeitschrift Entwicklungspolitik, 21 September 2005. ¹⁰³ Personal communication, Institute for Agriculture and Trade Policy, 29 November 2005. ¹⁰⁴ BBC Radio 4 transcript of File on 4 programme 'Lobbyists', transmitted 22 November 2005. ¹⁰⁵ Wesselius, E (2001) 'Liberalisation of trade in services: corporate power at work', Amsterdam: CEO. ¹⁰⁶ Wesselius, E (2001) 'Liberalisation of trade in services: corporate power at work', Amsterdam: CEO. ¹⁰⁷ Open Europe (2005) 'Open up: why the EU must reform to survive', London: Open Europe; BBC Radio 4 transcript of File on 4 programme 'Lobbyists', transmitted 22 November 2005.

Copies of 'outcomes of meetings' can be requested by members of the public, but they take several weeks to arrive and are usually so heavily censored as to be meaningless. For example, around two-thirds of the text is often deleted and all references to the positions taken by participants are blacked out.¹⁰⁸

Attempts to use the EU's Freedom of Information Act to increase transparency in the 133 Committee have been dismissed. A group of Irish MPs and civil society groups recently made 32 written requests submitted under the Act to find out information about the 133 Committee and the Irish representatives on it, but 31 of the requests were refused.¹⁰⁹

Restricted public access to the GATS 'request-and-offer' process

*"The Commission...covered nearly everything we wanted."*¹¹⁰

Pascal Kerneis, managing director, European Services Forum, on the GATS 'request-and-offer' process

*"When the new requests are being drafted, we receive a phone call from DG Trade asking us what our priorities are."*¹¹¹

Brussels-based corporate lobbyist, 2005

The development of the EU's 'request-and-offer' lists for the GATS negotiations also highlights the contrast between the access granted to service industry lobbyists and the exclusion of civil society representatives from GATS policy-making. Request-and-offer lists allow WTO members to ask other members to liberalise key service sectors, including water, education, tourism and banking.

Trade campaigners have documented how service corporations collaborated with the EC to draw up the lists. For example, the EC wrote to ESF managing director Pascal Kerneis in October 2001 asking for the ESF's help to develop its requests: "We would very much welcome industry's input to this exercise, both in terms of

finding out where the problems currently lie and in making specific requests. Without ESF input the exercise risks becoming a purely intellectual one."¹¹²

Prior to the EC's letter, senior EC trade official Robert Madelin told a conference of business officials how they could help the EC draw up a 'shopping list' of requests, as well as how they could get involved in formulating policy objectives in WTO negotiations.¹¹³

Parliaments and civil society groups, meanwhile, were excluded from the request-and-offer process. The EC intended to keep the list of requests secret, even after approval by EU member states in the 133 Committee, but the documents were leaked in spring 2002. They revealed detailed EC demands to 29 WTO members, including Colombia, Indonesia and the Philippines, to open up markets in the water, energy, transport, tourism and retailing industries.¹¹⁴

One current procedure designed to restrict MEPs' access to information about the EC's GATS request lists borders on farce. The lists can be viewed by only one MEP at a time in a secured room under surveillance. No photocopying is permitted, and MEPs are not allowed to bring an assistant to help them work through the huge volume of documents.¹¹⁵

Privileged corporate access to WTO agriculture negotiations in Geneva

ActionAid's research found that the US government recently brought private sector lobbyists onto its delegations and into its discussions with developing country officials at the WTO in Geneva. USTR set up the meetings between itself, business lobbyists and developing country delegates with the aim of promoting the US's agriculture negotiating positions in the run-up to the Hong Kong ministerial, many of which undermine the rights of poor communities in developing countries. These bilateral meetings usually take place between governments only. While they are not part of the official schedule of WTO talks, they are an important part of the day-to-day negotiating process in Geneva.

Food aid negotiations

In WTO negotiations on agriculture, for example, a Washington-based trade official, speaking on condition of anonymity, told

¹⁰⁸ Open Europe (2005) 'Open up: why the EU must reform to survive', London: Open Europe. ¹⁰⁹ Open letter from Irish MPs to the Irish government, 17 February 2004. ¹¹⁰ BBC Radio 4 transcript of File on 4 programme 'Lobbyists', transmitted 22 November 2005. ¹¹¹ Quoted in Seattle to Brussels Network (2005) 'The EU corporate trade agenda: the role and interests of corporations and their lobby groups in trade policy-making in the European Union', Brussels and Berlin: Seattle to Brussels Network. ¹¹² Joao Aguiar Machado, head of DG trade unit D2 (trade in services), letter to Pascal Kerneis, 22 October 2001. ¹¹³ Dhanarajan, S (2002) 'Corporate influence at the WTO', background paper, Oxford: Oxfam. ¹¹⁴ World Development Movement, 'A preliminary analysis of the EU's leaked GATS requests to 109 WTO member states', media briefing, 25 February 2003. ¹¹⁵ Claassen, H (2005) 'Influencing EU trade policy: a private public partnership', ActionAid background paper, Brussels: ActionAid International.

ActionAid that USTR organised a series of meetings in Geneva between itself, WTO officials from food aid recipient countries and private sector companies.¹¹⁶ Food aid has become a major issue in the WTO's agriculture negotiations, with the EU calling for disciplines on in-kind food aid, arguing that it is a form of agricultural 'dumping' – a practice that undermines farming livelihoods in developing countries.¹¹⁷

US agribusiness and shipping companies benefit from delivering food aid, and the US government has been lobbying hard to counter the EU's proposals. At least 50 cents of every dollar spent on in-kind food aid goes on transport, storage and administrative costs. Just four US companies, including the agribusiness multinationals Archer Daniels Midland and Cargill, sold over half of the \$700 million in food aid provided by the US in 2004. In the same year, five shipping companies received over half of the \$300 million spent to ship US food aid.¹¹⁸ As one WTO negotiator from a developing country put it, food aid is "tied to the foreign policy objectives of the US as well as the business policy of the US."¹¹⁹

Food aid recipient countries, meanwhile, find themselves caught in the crossfire between the US and EU with their interests sidelined. One source from a food aid recipient country told ActionAid in September 2005: "There is a lot of lobbying. The US wants to ensure that food aid continues. The EU wants to ensure that they discipline food aid... We are caught between the two."¹²⁰

Cotton negotiations

WTO negotiators say the US also included business lobbyists in its discussions with developing countries on cotton issues at the WTO headquarters in Geneva. "It is likely that the West African Ministers have been consulted by the lobbyists through the US delegation. There are members of these lobbyists in the US delegation," another WTO delegate told ActionAid. The source, who asked not to be named, went on to state that developing countries also include private sector lobbyists on their delegations: "Similarly, the West Africans also have national producers of cotton on their delegation. This is a traditional habit."¹²¹

The strong influence of US cotton lobbyists such as the National Cotton Council ensured that US delegates "were not prepared to negotiate" on agriculture at the last WTO ministerial in 2003,

according to a WTO ambassador of one 'G-20'¹²² country.¹²³

Similarly, the US's rejection of West African calls to eliminate US cotton subsidies at the 2003 summit stemmed directly from US concern not to provoke its powerful cotton lobby, which includes the agribusiness heavyweights Cargill and Delta & Pine Land.¹²⁴

It was only at the Hong Kong ministerial, two years after the West African countries voiced their concerns, that the US began to act on cotton subsidies. Yet there is still little comfort for cotton producers in Africa. The ministerial declaration offers to get rid of export subsidies for cotton in 2006. But export subsidies constitute only a small portion of the almost \$4 billion-worth of subsidies the US gives to its cotton farmers each year overall.¹²⁵

According to one staff member of the WTO secretariat: "Cotton is a good example where there is open lobbying. We know that the industry has lobbied the US strongly not to move an inch. How far the lobbying goes, god knows. There are calls being made."¹²⁶

Instead of fully addressing cotton subsidies, a host of US companies and official aid donors have descended on West African countries offering financial assistance and advice on how to run local cotton industries more efficiently. One WTO delegate told ActionAid: "The lobbyists, when they arrive in Geneva to attend the agriculture session, they schedule bilateral consultations with the West African delegates. They tell them: 'We are available to work with you to improve this sector.'¹²⁷

The US cotton industry lobby, collectively known as 'King Cotton', has ensured that the annual subsidy of almost \$4 billion shared between just 25,000 farmers in the US continues to take precedence over the livelihoods of more than 10 million African farmers.

Privileged corporate access to the WTO NAMA negotiations in Geneva

Many developing countries are under intense pressure to lower their trade barriers to manufactured and industrial products through WTO negotiations on 'non-agricultural market access' (NAMA). The EU and US are pushing an aggressive agenda to open markets in developing countries that threatens the jobs of thousands of workers in fledgling industries and traditional sectors of employment.¹²⁸

116 Kwa, A (2005) 'How much access do corporations have in Geneva?', ActionAid background paper, London: ActionAid International. 117 The term 'dumping' refers to the sale of goods on world markets at less than the cost of production in the exporting country. 118 Barrett, C & Maxwell, D (2005) Food aid after fifty years: recasting its role, London: Routledge; New York Times, 'African food for Africa's starving is roadblocked in Congress', 12 October 2005. 119 Kwa, A (2005) 'How much access do corporations have in Geneva?', ActionAid background paper, London: ActionAid International. 120 *ibid.* 121 *ibid.* 122 The G-20 is a group of developing country WTO members that focuses on agricultural trade. 123 ActionAid (2004) 'Divide and rule: the EU and US response to developing country alliances at the WTO', London: ActionAid International. 124 *ibid.* 125 Third World Network's TWN Info Service on WTO and Trade Issues, 'WTO ministerial outcome imbalanced against developing countries', 5 December 2005. 126 Kwa, A (2005) 'How much access do corporations have in Geneva?', ActionAid background paper, London: ActionAid International. 127 *ibid.* 128 Chang, H-J (2005) 'Why developing countries need tariffs: how WTO NAMA negotiations could deny developing countries' right to a future', Geneva: South Centre; ActionAid (2005) 'Bound and tied: the developmental impacts of industrial trade liberalization negotiations at the World Trade Organisation', London: ActionAid International.

US corporate lobby groups including the National Association of Manufacturers, the National Foreign Trade Council and the National Retail Federation, as well as EU business lobbyists such as UNICE and EuroCommerce, have lobbied forcefully for increased access to markets for manufactured goods in developing countries.

A paper submitted to the WTO secretariat in September 2005 by South Korea for the NAMA negotiations shows that corporate lobbyists from the US-based Information Technology Industry Council (ITI) and Japan's Electronics and Information Technology Industries (JEITA) took part in 'plurilateral'¹²⁹ meetings with WTO member governments.

ITI, a pro-free market lobby group, represents high-tech multinationals including Apple, Hewlett-Packard, IBM, Microsoft, Panasonic, Sony Electronics and Time Warner, while JEITA lobbies on behalf of corporations such as Canon, Hitachi, Sanyo and Sharp. The industry advocates met with 10 WTO members in Geneva, including Canada, the EU, Japan, Mexico, Thailand and the US in June 2005.

This raises serious concerns. First, plurilateral meetings have a direct input into high-level WTO negotiations in the Negotiating Group on Market Access. Public interest organisations are not given access to this level of negotiations, nor are they allowed to see full details about the advice given to WTO delegates by business lobbyists.

Second, the paper indicates that ITI and JEITA asked WTO delegates to remove 'non-tariff barriers'¹³⁰ to trade. While non-tariff barriers can be unfair policies designed to protect vested interests, many in developing countries are also important measures used to protect the environment and fledgling industries that business groups have publicly stated they want swept aside.¹³¹

Environmental groups have identified 212 national environmental laws that are under threat from the current NAMA negotiations, including regulations to restrict the use of heavy metals such as cadmium, lead and chromium in the production of electronic appliances. Other laws to promote the labelling of genetically modified products, energy efficiency and forest conservation, and to restrict trade in wild animals and ozone-depleting substances, for example, are also identified as being under threat from the NAMA negotiations.¹³²

Case study 2: The impact of industrial trade liberalisation on people's rights in India

"I feel sad about the future filled with more deaths and everyone suffering," says Vishambar, a 35-year-old former silk weaver from Varanasi, India. "There is no work. I am just sitting and begging... I want work for myself and for other people in the village."

More than 500,000 silk weavers live in and around Varanasi in India, weaving saris mainly for the domestic market. But Indian silk tariffs have been reduced over the past 15 years, allowing imports of silk fabric to more than double, and handloom artisans have seen their markets vanish.

As a result of the downturn in the weaving sector, Vishambar lost his job and his silk looms. He became destitute and his family started to suffer from hunger and malnutrition. In April 2005 his wife died from a hunger-related illness and days later, his daughter also passed away. In May 2005, his two-month old son died from hunger and malnutrition.

Over the past 15 years, India has gradually lowered its trade barriers at its own pace. Economic growth rates and industries such as IT and services have done well under these policies, but thousands of workers like Vishambar in sectors such as textiles and leather have suffered.

Yet current proposals under the WTO NAMA negotiations threaten to expose traditional manufacturing sectors in India and other developing countries to even harsher competition, as well as threatening to restrict developing countries' right to use tariffs to protect workers against floods of non-agricultural imports in future.

One WTO negotiator from an EU country told ActionAid they did not believe the EU's position on the NAMA negotiations was driven by the business lobby: "There are consultations with stakeholders, so the answer is no, not purely. The US position is much more driven by corporate interests."¹³³ But anti-poverty campaigners War on Want point out that the EU adopted industry demands on

¹²⁹ Plurilateral meetings are meetings held between a group of WTO members interested in the particular issue under discussion. ¹³⁰ Non-tariff barriers are government measures other than tariffs that restrict trade flows. These include limits on the quantity of a particular good imported, as well as standards on health and safety, labour conditions and environmental issues that may bar products from being imported. ¹³¹ For example, see European Information, Communications and Consumer Electronics Technology Industry Association, policy statement, 'Position on the principles of the market access negotiations for digital technology', 9 September 2005; Confederation of European Paper Industries, policy statement, 'The European paper industry reaffirms support for free trade and fair competition', 1 July 2005; International Council of Chemical Associations, policy statement, 'Making Hong Kong a success: the view of the chemical industry', May 2005. ¹³² Friends of the Earth (2005) 'Summary of analysis of notifications of non-tariff measures (NTMs) in non-agricultural market access (NAMA) negotiations of the World Trade Organization', Amsterdam: Friends of the Earth. ¹³³ Kwa, A (2005) 'How much access do corporations have in Geneva?', ActionAid background paper, London: ActionAid International.

behalf of the business lobby group UNICE as its official WTO negotiating position, asking for all tariffs covered by the NAMA negotiations to be reduced to a maximum of 15%, including for developing countries.¹³⁴

2.2 Undue corporate influence in WTO negotiations

It is clear that business lobbyists enjoy easy and privileged access to trade policy-makers, and that this level of access is denied to public interest groups. But to what effect? The following examples provide a snapshot of how private sector lobbyists use their special access to decision-makers to influence the direction of WTO policies, with potentially harmful impacts on the rights of poor and excluded communities in developing countries.

Undue corporate influence in the WTO GATS negotiations¹³⁵

"I want my negotiators – I say my negotiators because I think they negotiate for us – to try to do the utmost to open up the services trade market all over the world."¹³⁶

Pascal Kerneis, managing director, European Services Forum

Pascal Kerneis, managing director of the European Services Forum, recently stated that the EC "covered nearly everything we wanted" after his corporate lobby group was asked to help develop the EC's GATS request lists.¹³⁷ Through its proposal to force WTO members into liberalising their service sectors, the EC has once again covered almost everything the ESF wants in the current WTO negotiations on services.

In a letter sent to the EU's trade commissioner Peter Mandelson in April 2005, Iain Vallance, chairman of ESF, thanked Mr Mandelson for "pressing hard in Geneva and elsewhere for movement on services", but also stated that "the level of progress so far has been very disappointing."¹³⁸

The letter demanded "substantial results" in the GATS negotiations, and made it clear ESF believes the request-and-offer system

currently used in the negotiations will not achieve this goal. The request-and-offer approach in theory allows developing countries to open up services markets voluntarily, at their own pace and according to their development needs.

But according to ESF's letter, "offers which go beyond the binding of existing practice and open new trading possibilities" are needed for the GATS negotiations. "It is not enough just to maintain existing levels of market access; and most current offers fall short of even that," the letter added.

Later on in May 2005, Mr Mandelson met with a high-level delegation of European business leaders led by ESF in Brussels to discuss the introduction of new methods of negotiation to the GATS talks. The corporate lobbyists wanted the EU to "insist on services being liberalised" and included senior officials from the multinationals British Telecom, Goldman Sachs, IBM and PriceWaterhouseCoopers, as well as representatives from the business pressure groups LOTIS and UNICE.¹³⁹

Soon after its meeting with the ESF delegation, the EC floated ideas for compulsory liberalisation under the GATS negotiating framework at an informal meeting it hosted on 24 June in Geneva. The EC met with a select group of 10 other WTO members interested in liberalising service markets, including Australia, Canada, Hong Kong, India, Japan, Switzerland and the US.¹⁴⁰

The following month Alejandro Jara, chair of the WTO council for trade in services at the time, reported it was "widely acknowledged that the overall quality of initial and revised offers is unsatisfactory and that few, if any, new commercial opportunities would ensue for service suppliers."¹⁴¹

Mr Jara's statement was included in the opening section of an informal EU 'non-paper'¹⁴² submission for the GATS negotiations, tabled on 22 September.¹⁴³ It proposed that poor countries should liberalise a mandatory and minimum number of service sectors, and called for the introduction of 'qualitative targets'¹⁴⁴ that would open the way for increased pressure to deepen services liberalisation in developing countries.

The EU's submission also called for a new 'plurilateral' approach to the GATS negotiations. Under this proposal, individual WTO

134 Hilary, J (2005) 'The Doha de-industrialisation agenda: non-agricultural market access negotiations at the WTO', London: War on Want. 135 This sub-section draws on Claassen, H (2005) 'Influencing EU trade policy: a private public partnership', ActionAid background paper, Brussels: ActionAid International. 136 BBC Radio 4 transcript of File on 4 programme 'Lobbyists', transmitted 22 November 2005. 137 *ibid.* 138 Iain Vallance, chairman of European Services Forum, letter to EU trade commissioner Peter Mandelson, 7 April 2005. 139 European Services Forum, press release, 'European services industry leaders insist that substantial services liberalisation is essential to a successful Doha round', 31 May 2005. 140 TWN Info Service on Trade and WTO Issues, 'Services negotiations resume, with corridor talk on "benchmarking"', 28 June 2005. 141 World Trade Organization, special session of the council for trade in services, report by the chairman to the trade negotiations committee, July 2005, (TN/S/20). 142 Non-papers are informal negotiating texts put forward by a country or group of countries that could be a basis for discussions and negotiations, with countries open to change both the content and the wording. 143 European Commission, 'Non paper on complementary methods for the services negotiations'. See: <http://www.attac.de/gats/non-paper0509.pdf>. 144 Qualitative targets would detail the extent and nature of a country's liberalisation commitments. For example, the level of foreign equity participation allowed in investment projects, the level of restrictions on types of investment (eg requiring joint ventures with local companies), and whether or not an economic impact assessment will be carried out.

members would be compelled to enter into unbalanced negotiations with powerful groups of services-exporting countries interested in opening up markets for specific sectors such as retailing, tourism or banking. According to the EU's non-paper, plurilateral negotiations would aim to secure deeper liberalisation than could be achieved through the wider multilateral GATS negotiations.

Armed with the EU's submission, a large delegation of service industry lobby groups from Australia, the EU, Hong Kong, India, Japan and the US, including ESF, descended on Geneva on 27 and 28 September to urge the case amongst WTO delegates for compulsory services liberalisation, including the introduction of a plurilateral approach to the GATS negotiations.¹⁴⁵

The EC's formal proposals to force services liberalisation in developing countries were leaked in October 2005. They included a 'Draft Ministerial Text on Services' that calls for developing

countries to liberalise a minimum and mandatory number of service sectors, and a proposal setting out what qualitative targets it wants. The leaked documents show the EC wants developing countries to liberalise 93 of the 163 service sectors listed in the GATS negotiations, and that they should be forced to take part in plurilateral negotiations.¹⁴⁶

Despite massive opposition from a large number of developing countries throughout the six day Hong Kong summit, the EC and ESF eventually got almost everything they wanted into the services text of the ministerial declaration. Developing countries now face increased pressure to aim for new qualitative targets and to take part in plurilateral negotiations, which are in danger of replacing rather than 'complementing' the voluntary request-and-offer process. While its proposal for countries to liberalise a mandatory number of service sectors was discarded, the EC has indicated it will try to re-inject it into the GATS negotiations.¹⁴⁷

Case study 3: The impact of services liberalisation on people's rights in South Africa

South Africa's government has pursued water liberalisation strategies since 1996, after taking advice from the World Bank and the IMF. The UK-based water company Biwater struck a 30-year public-private deal with Kanyamazane's local authority to supply water. After Biwater installed new water meters in 2001, household water bills rose dramatically from a previous flat rate of 7 Rand to 300 Rand a month – a rise of 4,185%. Many poor residents soon found themselves in arrears and were disconnected.

"We had to start paying higher amounts for water, and if you did not pay then they would disconnect you," says Henry Nkuna, a 36-year resident of Kanyamazane in South Africa's Mpumalanga province. *"They did not even consider whether the person was working or not."*

"If there is no water then our flush toilets will not work and people must go and relieve themselves nearby," says Mr Nkuna. *"People are afraid to go into the bush because of crime, so they will relieve themselves very close to their houses – this makes it easy for people to pick up diseases."*

A cholera outbreak was reported in nearby Matsulu township, also covered by Biwater, in January 2004 after a shortage of water forced poor families to draw water from the local river. Dr Bright Mabaso, a local medical practitioner, treated many of the sufferers and confirms that the outbreak occurred because residents were cut off from their regular water supply and used water from contaminated streams and rivers.

"I attended to a number of children who were brought to me with severe cases of diarrhoea, vomiting and gastroenteritis," Dr Mabaso says. *"On this occasion the numbers per day were averaging between five and ten – that by definition is an outbreak... Diarrhoea is a serious problem when it affects children – it can be fatal within hours. From those who were referred to hospital, the number who died were two or three."*

South Africa liberalised its water sector voluntarily, but other developing countries will be forced to open up their service sectors if the EU and ESF get their way in the GATS negotiations, with potentially damaging impacts on poor communities.

¹⁴⁵ Global Services Coalition, press release, 'Global services leaders urge a realignment of priorities in the Doha round', 28 September 2005. ¹⁴⁶ World Development Movement, press release, 'Leaked documents reveal EU plans to force open developing country service markets', 28 October 2005. ¹⁴⁷ TWN Briefings 2, Third World Network for Hong Kong, 'Comment on services issue in the HK ministerial draft' (undated).

According to a *Guardian* newspaper article, the EC's demands on services were helped through with some 'arm-twisting' by Peter Mandelson, who reportedly told a group of ministers representing 30 least developed countries (which are exempt from services liberalisation) not to support other developing countries' opposition to the EC's proposals or they would lose duty-free and quota-free access for their exports to European markets.¹⁴⁸

If adopted, the services text would represent a huge victory for service corporations, who would stand to capture a large slice of the developing countries' service markets. The proposed new methods of negotiation would dismantle safeguards – albeit relatively weak ones – built into GATS that allow developing countries to liberalise only in sectors they choose, and to the extent they decide upon.

Essential public services including water are being targeted by rich countries on behalf of their multinational companies and many could be privatised if they get their way. In the water sector alone, the EU has asked 72 WTO members, including developing countries, to commit to liberalising water delivery services.

Services liberalisation can have damaging impacts on national economies and on poor communities in developing countries, as case study 3 shows. It can expose developing countries to significant economic instability, and the benefits may only be realised if conditions in the country receiving the investment are appropriate.¹⁴⁹ Despite this, the EC approaches services negotiations according to the needs of corporations rather than the needs of developing countries, and has stated publicly that GATS is "first and foremost an instrument for the benefit of business."¹⁵⁰

Express delivery multinationals and GATS¹⁵¹

*"We are going to rely heavily on the European Services Forum... We are going to rely on it just as heavily as on member states' direct advice in trying to formulate our objectives."*¹⁵²

Robert Madelin, senior EC trade official

The express delivery corporations DHL, FedEx and UPS have lobbied the US government to push for wider access to overseas markets through the WTO GATS negotiations. But the express delivery sector is not clearly indicated in the present classification of services under GATS, and the companies wanted an explicit reference to the express delivery sector in the negotiations, as defined by themselves.

The US government submitted a proposal on the companies' behalf, specifically on express delivery and in accordance with the companies' definition of the sector, asking for full market access and national treatment. The US Trade Representative pushed the companies' agenda in high-level meetings with WTO members in the run-up to the Hong Kong ministerial, and also in the US's bilateral request-and-offer discussions with WTO members.

DHL and FedEx hired Geneva law firms White & Case and Baker & Mackenzie to represent their interests in 'friendly' private meetings with WTO member delegations. David Hartridge, former director of the WTO services division, went from his WTO post to become a director and senior WTO counsellor at White & Case.

According to a developing country delegate who met DHL and FedEx's legal advisers: "Usually, you meet with fellow negotiators. In this case, it has been the most obvious case of lobbying. You are a government official accommodating a request from a private MNC [multinational corporation]."¹⁵³

Undue corporate influence in the WTO TRIPS negotiations

*"The letter to the minister was signed by Harvey Bale. He is the spokesman for Big Pharma. They were after my neck."*¹⁵⁴

WTO negotiator from a developing country

*"US negotiators were physically accompanied by US business representatives. They sat with members of the US negotiating team and passed messages to them at crucial stages."*¹⁵⁵

EU trade official, describing the WTO TRIPS negotiations

¹⁴⁸ The Guardian, 'Developing states defy EU push to open up services', December 16 2005. ¹⁴⁹ UNCTAD (2004) 'World investment report 2004: the shift towards services,' New York and Geneva: UNCTAD. ¹⁵⁰ This statement was posted on the European Commission's website but has been removed. It has been quoted in numerous articles, including South Centre Bulletin 15, 'Trading health away? – GATS, public services and privatisation', 30 June 2001. ¹⁵¹ This sub-section draws on Kwa, A (2005) 'How much access do corporations have in Geneva?', ActionAid background paper, London: ActionAid International. ¹⁵² Quoted in Wesselius, E (2002) 'Behind GATS 2000: corporate power at work', Amsterdam: Transnational Institute. ¹⁵³ *ibid.* ¹⁵⁴ Kwa, A (2005) 'How much access do corporations have in Geneva?', ActionAid background paper, London: ActionAid International. ¹⁵⁵ Quoted in Drahos, P (2002) *Information feudalism*, London: Earthscan.

Perhaps the clearest example of undue and excessive influence exerted by big business over WTO policy-making is provided by the Agreement on Trade-Related Aspects of Intellectual Property Rights (the 'TRIPS' Agreement).

A senior US trade negotiator once remarked that "probably less than 50 people were responsible for TRIPS." This elite group included chief executive officers from the multinational companies Pfizer, IBM and DuPont, who played a leading role in making TRIPS a reality.¹⁵⁶ By contrast, the 40 million people living with HIV and AIDS in developing countries had no influence over the Agreement's design, yet it directly affects their lives – and deaths.

Of the 6.5 million people living with HIV and AIDS who urgently need antiretroviral (ARV)¹⁵⁷ drugs today, including many who are facing imminent death, only 15% (970,000) have access to them – though this is a great improvement on the situation even three years ago.¹⁵⁸ One of the major barriers to a rapid increase in people's access to AIDS treatment has been the high price of patented brand-name ARV drugs.

Prices for ARV drugs have dropped dramatically over the past five years, from over \$10,000 per person per year to around \$150 a year.¹⁵⁹ Market analysts say prices came down precisely because of the competition from cheaper copies, which are also known as 'generic' drugs. As a result, AIDS drugs became accessible to many more people in developing countries. But major pharmaceutical companies view the competition from generic drugs as a direct threat to their profits, and the industry has fought to suppress their production by pressing for strict rules on intellectual property in the WTO.

At the beginning of the current 'Doha' round of WTO negotiations in 2001,¹⁶⁰ developing countries wanted to ensure the TRIPS Agreement would be flexible enough to allow them to override patents and import cheaper generic drugs to tackle public health emergencies, including the HIV and AIDS pandemic. Under the developing countries' proposal, governments would be able to force patent holders to allow another company to manufacture a cheaper copy of a patented drug – a process known as 'compulsory licensing'.

In recognition of developing countries' needs, the WTO's 2001 Doha declaration pledged to ensure that the TRIPS Agreement "does not and should not prevent members from taking measures

to protect public health," and that it "can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all."¹⁶¹

Fearing a potential loss of markets and a reduction in profit margins, multinational drug manufacturers and their industry representatives lobbied relentlessly to block the developing countries' proposals. The US government dutifully pressured the WTO TRIPS Council and, on behalf of the drug multinationals, blocked the solution that was favoured by all other WTO members.¹⁶²

The deadlock in negotiations on TRIPS lasted many months, and was only broken when the pharmaceutical industry directed its lobbying campaign towards the highest levels of US government. According to a *Guardian* newspaper report, US vice-president Dick Cheney "seized the reins" from US trade representative Robert Zoellick in the TRIPS negotiations after pharmaceutical firms lobbied the White House directly in late 2002. The US negotiating strategy then came "straight from the White House", according to the article.¹⁶³

The role of the drug multinationals in the actual negotiations, in particular Pfizer, the biggest pharmaceutical company in the world, has been widely documented. Close observers report Pfizer negotiated directly with the WTO secretariat and member states to find a text acceptable to the drug industry and the US government, and news accounts refer to countries holding talks on the 'Pfizer proposal'.¹⁶⁴

During the 2003 World Economic Forum, Pfizer CEO Henry McKinnell was candid about his company's role in the TRIPS negotiations. Mr McKinnell stated he was involved in talks with WTO director-general Supachai Panitchpakdi: "When we talk to each other, we in principle agree. The problem is to reduce that to writing." Mr McKinnell added that he and Mr Panitchpakdi were "fairly close to agreement".¹⁶⁵

A WTO delegate from a developing country told ActionAid about being on the receiving end of lobbying by the US and its drug industry during the TRIPS deadlock: "In that process they lobbied my government. My minister asked me to have a lower profile, but we continued to rally from the margins." At the end of August 2003, the delegate's presidential office received a call from US

156 *ibid.* 157 Antiretroviral drugs are treatments that suppress or stop the human immunodeficiency virus (HIV) that causes AIDS. 158 World Health Organization, coverage and need for antiretroviral treatment, situation as of June 2005. 159 Médecins Sans Frontières, 'Untangling the web of price reductions: a pricing guide for the purchase of ARVs for developing countries', 8th edition, June 2005. 160 The current round of WTO negotiations were launched in Doha in 2001. 161 Declaration on the TRIPS Agreement and public health, adopted 14 November 2001. 162 ActionAid (2005) 'Case study: Big Pharma's lobbying on TRIPS and access to antiretroviral drugs', background paper, London: ActionAid International. 163 The Guardian, 'Prescription for world's poorest stays unwritten', 20 February 2003. 164 ActionAid (2005) 'Case study: Big Pharma's lobbying on TRIPS and access to antiretroviral drugs', background paper, London: ActionAid International. 165 *ibid.*

officials in Washington: “It then filtered down to here and we were instructed to change our position and to read out something which was drafted obviously by Washington.”¹⁶⁶

After a change of ministers back in the delegate’s capital, the drug companies “sent a series of letters to the new minister, stabbing me in the back – your man in Geneva is doing this, that, trying to alter the records,” says the delegate, who spoke on condition of anonymity. “I got a letter from my minister asking me to explain myself. The letter to the minister was signed by Harvey Bale. He is the spokesman for Big Pharma. They were after my neck.”¹⁶⁷

Box 7: Through the TRIPS revolving door

Harvey Bale, currently director-general of industry pressure group the **International Federation of Pharmaceutical Manufacturers and Associations**, used to be a high-level TRIPS negotiator for **USTR**, where he worked for 12 years. After leaving USTR, Bale went on to become senior vice-president of the industry association **Pharmaceutical Research and Manufacturers of America** (PhRMA).

Deborah Steelman lobbied the US government on behalf of PhRMA while she was already serving in the US administration as senior healthcare adviser to **US president George Bush**. PhRMA paid her consultancy firm \$200,000 in 1997-98, which also collected \$240,000 in lobbying fees from another of its drug industry clients **Pfizer** during that time. While he was chief executive officer for Pfizer, **Edmund Pratt** chaired USTR’s **Advisory Committee on Trade Negotiations** and played a pivotal role in bringing TRIPS onto the WTO’s agenda. After officially retiring from Pfizer but remaining its ‘chairman emeritus’, Mr Pratt took a post as special adviser to USTR.

The WTO General Council finally announced an agreement on TRIPS and access to medicines in August 2003. Far from being the solution developing countries had hoped for, it contained the language the drug companies wanted.

Although the agreement allowed countries to import generic drugs during public health crises, the process is so complex and restrictive that European generic producers have deemed it virtually unworkable: “procedures are complicated, the terms under which new producers must operate are very restrictive, and the various measures proposed are ambiguous.”¹⁶⁸

As a result, two years on from the WTO agreement on access to medicines, no developing country has successfully used provisions under TRIPS to allow them to import cheaper generic drugs during health emergencies.¹⁶⁹

Developing countries had to become fully compliant with TRIPS by 1 January 2005. This means countries that have the capacity to manufacture generic drugs – such as Brazil, India and Thailand – are only permitted to copy patent-protected drugs if a compulsory license has been issued. Only 49 of the poorest countries have been, in theory, exempted from the TRIPS Agreement until 2016, but in practice many of these countries have already adopted TRIPS-compliant legislation under pressure from the US and the EU.¹⁷⁰

TRIPS also allows the pharmaceutical industry to have patents that last for 20 years on any new drugs developed. This is a particular concern to those currently fighting the AIDS epidemic and working to achieve the G8’s recent commitment to universal access to AIDS treatment by 2010. There is a desperate need to increase the supply of newer ‘second-line’ AIDS drugs that patients need when their first-line drugs stop working.

But in practice TRIPS means that nearly all of these drugs are now under patent, and they will remain protected by patents for 20 years. Second-line drugs cost up to ten times the price of first-line treatments, meaning they are likely to remain out of reach for the vast majority of people living with HIV and AIDS in the developing world, making universal access impossible.

¹⁶⁶ Kwa, A (2005) ‘How much access do corporations have in Geneva?’, ActionAid background paper, London: ActionAid International. ¹⁶⁷ *ibid.* ¹⁶⁸ European Generic Medicines Association, position statement, ‘Proposal for a regulation of the European Parliament and of the Council on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems’, March 2005. ¹⁶⁹ Médecins Sans Frontières, press release, ‘MSF to WTO: re-think access to life-saving drugs now’, 25 October 2005. ¹⁷⁰ World Trade Organization, ‘TRIPS: review of the implementing legislation’: See: http://www.wto.org/english/tratop_e/trips_e/intel8_e.htm.

2.3 Global networks of corporate influence

"Jamaica had no intellectual property law, but they wrote one with our help. Similarly the Dominican Republic. I sat down with their lawyer and together we wrote their copyright law."¹⁷¹

US corporate lobbyist

Corporate influence over trade policy does not stop at EU or US borders, or at the WTO headquarters in Geneva. Multinational companies have set up global networks of influence and use them to help shape developing countries' negotiating positions at the WTO. Corporations also use WTO rules to support their lobbying campaigns in developing countries to re-write national laws and to ensure that they are drawn up in their interests.

US Section 301 watch lists

The US Trade Representative acts as the drug industry's *de facto* lobbyist in foreign countries. At the drug industry's behest, USTR punishes countries through measures taken under 'Section 301' watch lists. The product of a joint venture between USTR and PhRMA, Section 301 of the US Tariff and Trade Act allows US private sector companies to monitor other countries' compliance with trade agreements.

Under the terms of Section 301, USTR has to identify countries that deny 'adequate and effective protection' of intellectual property rights, or that deny 'fair and equitable market access' for US companies.¹⁷² If the US feels a country does not meet these criteria, it is obliged to issue a warning to it, advise on a plan for progress or apply trade sanctions, depending on the perceived damage to US business interests.¹⁷³

The Section 301 process relies on surveillance carried out by multinational companies and their representative groups. For instance, PhRMA files reports to USTR recommending how countries should be categorised and what actions should be taken to punish those it considers are not complying with trade rules.¹⁷⁴

In lobbying for sanctions, PhRMA adopts a narrow interpretation of TRIPS that leaves little room for developing countries to define their policies according to public health needs. Analysts point out that the wording used by USTR in its reports on actions to be taken against countries under Section 301 is suspiciously similar to the wording used in PhRMA's recommendations.¹⁷⁵

Drug corporations and the Indian Patents Act

Perhaps the global drug industry's biggest victory so far under the new WTO TRIPS regime came when India enacted a new patent law in spring 2005. The TRIPS Agreement requires governments to align their national policies with WTO rules by January 2005. The pharmaceutical giants wanted India's 30-year old Patent Act consigned to history, and to use the opportunity of new national legislation to limit some of the flexibilities built into TRIPS that they had not managed to block at the WTO level.

The old law allowed Indian companies to manufacture brand name drugs, keeping prices substantially lower than in the developed countries, and it led to the rise of a strong local generic drug industry. By the 1990s, the Indian pharmaceutical industry had become a world leader, supplying life-saving medicines to African countries battling the AIDS epidemic at a very low cost. Indian drug companies are widely credited for lowering the prices of ARV drugs in Africa from more than \$10,000 to about \$300 per person each year.¹⁷⁶

Even though India had 10 years to comply with the TRIPS Agreement after its introduction in 1995, pharmaceutical firms wanted India to guarantee them stronger intellectual property protection in a shorter timeframe. On behalf of its pharmaceutical industry, the US kept up the pressure on India by filing a complaint to the WTO in 1997, stating that India was failing to comply with its obligations under the TRIPS Agreement. The US also kept India on its Section 301 list and threatened the country with trade sanctions.

Senior US officials were adept at pulling strings in New Delhi on behalf of the industry, and PhRMA acknowledged their support in a Section 301 petition, submitted to USTR in 2004: "[The] high-level Indo-US dialogue on intellectual property issues has helped to improve the patent climate in India... In particular, PhRMA

¹⁷¹ Quoted in Drahos, P (2002) *Information feudalism*, London: Earthscan. ¹⁷² *ibid.* ¹⁷³ Dhanarajan, S (2002) 'Corporate influence at the WTO', background paper, Oxford: Oxfam. ¹⁷⁴ *ibid.* ¹⁷⁵ *ibid.* ¹⁷⁶ Fleshman, M (2005) 'Global AIDS treatment drive takes off: rapid increase in number of people receiving ARV medicines', *Africa Renewal* 19 (1); Médecins Sans Frontières, press release, 'Of the six million people on the verge of dying from AIDS, only 12% have access to treatment', 2 February 2005.

members would like to commend Under Secretary of Commerce Kenneth Juster and the Indo-US High Technology Cooperation Group (HTCG), as well as the efforts of Assistant USTR Ashley Wills and the US Embassy in New Delhi. We appreciate continuing efforts to ensure that Indian law is fully compliant with TRIPS obligations by January 1, 2005.¹⁷⁷

The drug companies themselves waged a comprehensive lobbying campaign to change the Indian patent law. Industry representatives lobbied the Indian prime minister's office and used their easy access to the US-India High Technology Cooperation Group (HTCG), an inter-governmental body set up to facilitate cooperation between businesses in the two countries, to put pressure on the Indian government. Ken Juster, one of the US officials PhRMA thanked in its 2004 Section 301 report, is a co-chair of the HTGC and Susan Finston, PhRMA's associate vice president for intellectual property, attended an HTCG meeting.¹⁷⁸

In response to pressure from the US and its drug companies, as well as lobbying from Indian business groups and elements within the Indian government, the Indian parliament amended India's patent law in March 2005. The new Indian Patents Act does not make maximum use of flexibilities in the TRIPS Agreement, and actually contains stronger intellectual property protection than the WTO requires, known as 'TRIPS-plus' provisions.¹⁷⁹ In other words, the Act was used by the US and the pharmaceutical industry to regain ground they had been forced to give to developing countries in the WTO.

Developing country governments, civil society groups and patients' rights organisations, as well as the Indian generic drug industry, have warned that the new Act could have devastating effects on India's five million HIV patients and on people living with HIV in other poor countries. Critics say the new law will:

- severely limit the ability of the Indian generic drug industry to produce the next generations of ARVs, making them prohibitively expensive

- deprive patients in other developing countries of low-cost drugs.

Multinational drug companies are now lobbying through PhRMA for a further amendment to India's patent law to include 'data exclusivity'. This would mean generic drug firms are denied access to information needed to make drugs, further crippling their ability to produce cheaper products. According to Dr Vineeta Gupta, an Indian physician and human rights lawyer: "Data exclusivity, in combination with [the] new Patents Act, can result in absolute monopoly in pharmaceuticals which would further affect the production of generic medicines."¹⁸⁰

A clear picture has yet to emerge of the impact of the new Indian legislation on patients' rights to medicine. However, the news has generated fear in other developing countries, especially in Africa, where many people are likely to be affected by it. News accounts report there were public protests against the Indian laws in countries that rely on Indian generic drugs, including in Kenya, Tanzania and Uganda.¹⁸¹

According to the aid group Médecins Sans Frontières, an estimated 350,000 people on AIDS treatment depend on Indian generic production worldwide – around half of all people on ARVs in developing countries.¹⁸² A recent study by Médecins Sans Frontières predicted that the new generation of anti-AIDS drugs could cost up to 12 times more in sub-Saharan Africa, and cited a lack of competition and the new India Patents Act as reasons for the projected price differences between the first- and second-generation line of ARV drugs.¹⁸³

Dr Y K Hamied, the chairman of Cipla – one of India's biggest generics firms – told the *Hindustan Times* that he was saddened by the haste with which the Patents Amendment Bill was passed by Parliament: "We have passed a Bill which will affect the lives of over a billion people in half a day without any debate."¹⁸⁴

¹⁷⁷ From PhRMA's petition to USTR for the 2004 Section 301 list. ¹⁷⁸ ActionAid (2005) 'Case study: Big Pharma's lobbying on TRIPS and access to antiretroviral drugs', background paper, London: ActionAid International. ¹⁷⁹ 'TRIPS plus' is the term used for stronger intellectual property protections, which go beyond the WTO TRIPS Agreement. The US, Japan and some EU countries are currently pursuing these stronger protections through bilateral and regional free trade agreements. As Brook K. Baker, a law professor at Northeastern University in the US points out, the Indian Patent Act allows companies to patent not just new chemical entities, but also "certain new uses, formulations, delivery systems, combinations of existing products, and minor variations of existing chemical entities." This is not required by the WTO TRIPS Agreement. Furthermore, the new Indian Patents Act makes compulsory licensing very difficult and requires applicants to wait for at least three years for a license to be granted. It also allows exclusivity for patent applications "between the publication and approval of the patent, deterring generic entry even in cases where the patent application may later be denied," according to Anand Grover, project director of the Lawyers Collective HIV/AIDS unit. ¹⁸⁰ ActionAid (2005) 'Case study: Big Pharma's lobbying on TRIPS and access to antiretroviral drugs', background paper, London: ActionAid International. ¹⁸¹ BBC News Online 'HIV Kenya protest at patent law', 18 March 2005. ¹⁸² Médecins Sans Frontières, Ideas and Opinions from MSF, 'Prognosis: short-term relief, long-term pain – the future of generic medicines made in India', April 2005. ¹⁸³ Médecins Sans Frontières (2005) 'Untangling the web of price reductions: a pricing guide for the purchase of ARVs for developing countries', Geneva: MSF. ¹⁸⁴ *Hindustan Times*, 'Patents law will lead to MNC monopoly', March 29 2005.

Box 8: The Yum! coalition

Major US food corporations have set up new global lobbying networks to influence the WTO's agriculture negotiations. Yum! Brands – a group of US fast food chains including KFC, Pizza Hut and Taco Bell – has spent \$3.4 million lobbying on international trade issues since 2000. Yum! formed the Food Trade Alliance of restaurants and food distribution companies in January 2005 to push the US government to open up agricultural markets through the WTO, including in developing countries.

The Alliance is made up of trade associations whose members include the global fast food chains Burger King, Dominos, Dunkin' Donuts, McDonald's and Starbucks. It is also connected to the highest levels of US government through the former US trade representative and agriculture secretary Clayton Yeutter, who is a senior adviser and spokesperson for the coalition: "The Food Trade Alliance will be a strong, unified voice for consumers and consuming industries in the upcoming trade policy debates in Washington and capitals around the world," says Mr Yeutter.¹⁸⁵

The Food Trade Alliance also heads the Global Alliance for Liberalized Trade in Food and Agriculture, which is made up of member coalitions from 15 agricultural exporting countries including Australia, Brazil, Canada, Japan, New Zealand and Uruguay, as well as the US. Members of the Global Alliance are calling on their respective governments to push for wider access to agricultural markets across the world by making deep tariff cuts through the WTO.¹⁸⁶

The new Alliance's interests lie in obtaining the cheapest prices for farmers' goods and the broadest market access possible. While their formal agenda includes allowances in WTO rules for developing countries to protect food crops that are essential for food security and farming communities' livelihoods, recent press statements indicate the Alliance does not want these measures put in place: "One of the key barriers to free trade," Mr Yeutter says, "is the category of 'sensitive products',¹⁸⁷ which the US proposal rightly seeks to limit. No product should be exempt from liberalization."¹⁸⁸

ICONE and Brazil's position on WTO agriculture negotiations¹⁸⁹

In Brazil, perhaps the single most influential organisation outside government in agricultural trade policy is the Institute for the Study of Trade and International Negotiations (ICONE). The majority of the research on which Brazil's agricultural trade policies are based comes from this institute.

ICONE receives funding indirectly from agribusiness corporations including Archer Daniels Midland (ADM), Cargill and Bunge. Researchers from the institute advocate for heavy cuts of up to 90% in agricultural tariffs for developing countries that would benefit its corporate backers.¹⁹⁰ Brazil is a major player in WTO talks on agriculture, and ICONE's advice is reflected in its strategy for the negotiations.

ICONE is funded by various industry associations, including the Brazilian Oilseeds Association (ABIOVE), as well as sugar and livestock industry groups, and its board of directors is made up of representatives from these associations. ABIOVE, in turn, is

funded directly by the Brazilian affiliates of the agribusiness giants ADM, Bunge, Cargill and Louis-Dreyfus..

The Brazilian Agribusiness Association (ABAG) played a key role in creating ICONE, and it continues to provide institutional support. ABAG is also funded by Cargill and ADM, as well as many other corporations including Bayer, Monsanto and Pioneer Hi-Bred. Carlo Lovatelli, president of both ABIOVE and ABAG, is the director of Bunge in Brazil. ICONE also claims as its partners Brazil's pro-agribusiness Ministry of Agriculture and Food Supply, as well as other university research groups dedicated to promoting agribusiness issues.

According to one ICONE researcher, agribusiness interests commission studies that are given to the Brazilian government only after passing the companies' approval via their industry associations. ICONE's research programme focuses on increasing agribusiness companies' access to markets and boosting the flow of farm exports around the world. Issues such as protecting food security and poor farmers' livelihoods are not on its agenda.

¹⁸⁵ Food Trade Alliance, press release, 'New "Food Trade Alliance" to press for global trade reforms benefiting consumers, producers', 11 January 2005. ¹⁸⁶ Global Alliance for Liberalized Trade in Food and Agriculture, press release, 'Farmers, producers and consumers unite to press for major food trade reform', 19 April 2005. ¹⁸⁷ The term 'sensitive products' is used to describe a category of agricultural goods countries wish to reserve for more lenient tariff cuts than required for the majority of agricultural goods under WTO rules. ¹⁸⁸ Food Trade Alliance, press release, 'Food Trade Alliance calls US agriculture proposals "positive and necessary step forward"', 13 October 2005. ¹⁸⁹ This section is based on research by Emelie Peine, Department of Rural Sociology, Cornell University, US. ¹⁹⁰ International Food & Agricultural Trade Policy Council, Issue Brief, 'Building on the July Framework agreement: options for agriculture', June 2005.

Brazil leads the influential 'G-20' group of WTO members from developing countries, including China, India and South Africa, which focuses on agricultural trade. Even though the G-20 advocates measures that would allow developing countries to protect farmers' livelihoods from being undermined by floods of agricultural imports, ICONE has not lent technical support to these issues.

"There exists a certain division of labour in the G-20", says an ICONE researcher. "Brazil has done all the technical work about the issues of market access and domestic subsidies. And everything related to special and differential treatment,¹⁹¹ food security, livelihood needs, food sovereignty...the countries that are interested in this need to do the work."¹⁹²

Brazilian groups with an interest in these issues, including the landless labourers' movement, small farmers' organisations and the Ministry of Agrarian Development, lack both the resources and the access to trade ministers and senior negotiators to push them up the Brazilian government's WTO agenda.

ICONE is also affiliated with the International Agriculture and Trade Policy Council (IPC), an international coalition of agribusiness executives, public officials and economists based in Washington DC. The IPC is dedicated to developing and advocating policies that promote agricultural trade liberalisation.

IPC is funded by the food and agriculture multinationals ADM, Altria, Bunge, Kraft, Monsanto, Nestlé and Syngenta, and senior officials from these companies are IPC members. Other IPC members include former agriculture ministers, World Bank officials and senior government trade advisers from agricultural exporting countries across the world. Pedro Camargo, former secretary of production and trade in Brazil's Ministry of Agriculture, Livestock and Food Supply, recently joined IPC's board.

It is no surprise that ICONE focuses its attention on prising open agricultural markets given its ties to global advocacy networks backed by agribusiness multinationals. According to one official at the Ministry of Foreign Relations, the Brazilian government recognises that promoting market access could cause problems for the integrity of the G-20 coalition. But it also anticipates that "if there is a critical mass of agreement, the others will fall into line."¹⁹³ As such, there is a danger that the G-20 could become a platform for promoting the type of trade liberalisation sought by multinational agribusiness interests.

2.4 Corporate-funded think-tanks and front groups

Corporations also spend millions of dollars in developed countries funding think-tanks, research projects and supposedly 'grassroots' public campaigns to influence debate on trade policies. Many corporate-funded think-tanks advocate a hardline free-market agenda and strong intellectual property protection for the multinationals' patented drugs in developing countries. Yet a lack of transparency around funding for these groups allows corporations to influence decision-makers by stealth, and undermines the democratic process in public policy-making.

Think-tanks and front groups in the EU

A large number of hardline pro-business think-tanks are gaining an increasingly influential voice in EU policy debates. Corporate donations are a major factor behind the rapid expansion of these groups, but almost all of them failed to disclose their funding sources in a recent survey.

These institutes include:

- Centre for a New Europe
- The Edmund Burke Foundation
- The European Enterprise Institute
- Health Consumer Powerhouse
- Institut Hayek
- Institut Thomas Moore Brussels
- Tech Central Station
- The International Council for Capital Formation
- The International Policy Network
- The Lisbon Council for Economic Competitiveness
- The Stockholm Network.

These groups typically advocate a radical free-market agenda and – somewhat contradictorily – strong intellectual property protection for pharmaceutical corporations in developing countries, as well as for the removal of important social and environmental protections. Although they are less influential than their counterpart think-tanks in the US, the new breed of EU research institutes are well funded, well connected and the fastest growing segment of the think-tank sector within the EU.¹⁹⁴

¹⁹¹ 'Special and differential treatment' refers to the provisions in WTO agreements that give developing countries a limited amount of flexibility – for example, longer time periods and technical assistance – to implement the agreements. ¹⁹² Quoted from an interview conducted at ICONE offices in São Paulo, Brazil, 7 December 2004. ¹⁹³ Quoted from an interview conducted at the Ministério de Relações Exteriores, Brasília, Brazil, 22 June 2005. ¹⁹⁴ Corporate Europe Observatory, 'Transparency unthinkable? Financial secrecy common among EU think-tanks', July 2005.

Concerns are growing that these organisations receive generous financial support from corporate backers that want to create a more favourable intellectual climate for the interests of big business. A recent survey by Corporate Europe Observatory found the radical think-tanks consistently fail to disclose their funding sources, which gives scope for companies to present an ethical agenda in public while covertly supporting projects that contradict their 'corporate social responsibility' policies.¹⁹⁵

Under current EU regulations, think-tanks are not obliged to disclose information about their sources of finance, and corporations are not obliged to publish details of which organisations they fund. This lack of transparency obscures the interests behind supposedly independent research aimed at influencing the direction of EU and international trade policies.

A recent investigation found that Dutch think-tank the Edmund Burke Foundation received \$470,000 from Pfizer between 2001 and 2005 on condition that the think-tank would promote free-market healthcare policies. During that time the Edmund Burke Foundation stated its opposition to a proposal from Argentina, Bolivia and Brazil that would give developing countries more flexibility to protect public health under global intellectual property rules.¹⁹⁶ Pfizer's director of international affairs Catherine Windels confirmed the company's financial support for the Foundation in October 2005.¹⁹⁷

The Centre for a New Europe (CNE) is another vociferous proponent of strong intellectual property rights in developing countries and a critic of civil society groups that promote poor people's access to generic drugs. Pfizer's vice president for corporate affairs in Europe, Mike Hodin, played an active role in creating the CNE, which accepts funding from corporations for specific projects. Pfizer's Catherine Windels is a member of CNE's board.¹⁹⁸ At a seminar on 'How to grow a think-tank' held in February 2003, Ms Windels spoke on the theme 'What do business sponsors look for from think-tanks?'¹⁹⁹

The International Policy Network (IPN), a UK-based think-tank, is closely linked to CNE. It produces and promotes reports and articles that defend the drug multinationals' positions on intellectual property rights in developing countries, including against importing cheaper generic drugs into developing countries to alleviate

suffering in public health emergencies.²⁰⁰ The IPN sponsors the Campaign for Fighting Diseases, a group of doctors and public health academics who are calling for stronger intellectual property protection for multinationals in poor countries.

The IPN decided not to disclose its funding sources when asked to do so for a recent survey.²⁰¹ However, the think-tank conceded it has received financial support from the drug corporations Pfizer and Merck, which have bought tables at an annual dinner held by IPN, as well as funding from the oil company ExxonMobil that was earmarked for research on climate change issues.²⁰²

A network of public health advocacy groups based in the Netherlands, Health Action International, has observed a number of what it calls 'disturbing tactics' used by pharmaceutical companies that are aimed at ensuring EU policy-makers accept their agenda. A key method employed by the drug industry is to fund grassroots patients' groups to 'front' corporate messages.

Research by Health Action International found that drug companies including Merck, Novartis and Pfizer, as well as the corporate pressure group the European Federation of Pharmaceutical Industries and Associations, are closely linked with and have lent financial support to the European Patients' Forum, a pan-European patients' group. The Forum develops positions on health policy issues on behalf of its members and enjoys privileged access to decision-makers in the EU.²⁰³

Think-tanks and front groups in the US

The pharmaceutical industry group PhRMA is more transparent about its links to patients' groups and 'grassroots' campaigns in the US. PhRMA's 2001-02 annual report revealed that it built and maintained relationships with more than 300 local health advocacy organisations, including patients' groups. It organised grassroots campaigns in 18 congressional districts that generated 800,000 letters and 400,000 phone calls, as well as letters to newspapers. PhRMA also arranged 50 district meetings with politicians and their constituents and sponsored more than 30 public events and media tours in priority states on key health issues.

The US drug industry also supports free-market institutes and publications that shape opinions and frame public debate. It has

195 *ibid.* 196 International Policy Network, press release, 'Experts from across the world call on WIPO general assembly to reject dangerous "development agenda" proposal', 2 December 2005.

197 De Groene Amsterdammer, 'Hoe Pfizer en Microsoft Nederland beïnvloeden – de Amerikaanse lobby', 14 October 2005. 198 Corporate Europe Observatory, 'Covert industry funding fuels the expansion of radical rightwing EU think-tanks', July 2005. 199 Stockholm Network 'know how' seminar, 'How to grow a think-tank', 7 February 2003. 200 For example, see International Policy Network, 'TRIPS and healthcare: rethinking the debate,' 14 July 2001; Morris, J et al (2002) 'Ideal matter: globalisation and the intellectual property debate', Brussels: Centre for a New Europe; International Policy Network, 'Does IP legislation prevent access to essential medicines?', (undated). 201 Corporate Europe Observatory, 'Transparency unthinkable? Financial secrecy common among EU think-tanks', July 2005. 202 Letter to the Times from Julian Morris, executive director of IPN, 21 December 2005. 203 Health Action International Europe (2005) 'Does the European Patients' Forum represent patient or industry interests? A case study in the need for mandatory financial disclosure', Amsterdam: HAI.

funded think-tanks such as the Cato Institute and the American Enterprise Institute that oppose regulation of the industry.²⁰⁴ PhRMA funds Tech Central Station, a 'journo-lobbyist's' website featuring columns by radically pro-business writers.²⁰⁵ Tech Central Station is funded by the Republican lobbying firm, DCI Group, as well as major corporations including ExxonMobil, McDonalds and Microsoft.

3. Curbing undue corporate influence in the WTO

*"Institutions for governance today – whether national or international – do not adequately meet the new demands of people and countries for representation and voice."*²⁰⁶

International Labour Organization, 2003

*"The enormous potential for lobbying to influence the world is not balanced by ways in which the practice can be held to account."*²⁰⁷

AccountAbility, 2005

Undue corporate influence in the WTO further distorts its anti-democratic policy-making process and contributes to trade policies that promote the interests of big business at the expense of poor people's rights. Despite the rhetoric that the current round of WTO trade negotiations is a 'development' round, promoting the interests of business is at the heart of the rich countries' trade agenda. Instead of setting limits to corporate power over trade policy-making, governments have established structures and practices that make global business elites priority stakeholders in WTO talks.

WTO member states must take urgent action to strengthen participatory rights and increase transparency and accountability in the trade policy-making process. Unlike corporate lobbyists, poor people are denied their right to participate adequately in the

development of trade policies and are frequently denied their right to access information about trade policy issues, even though decisions taken at the WTO often prevent them from claiming other fundamental human rights.

Box 9: Participatory rights in trade policy-making

States have an obligation under international human rights law to ensure citizens have the right to take part in the conduct of public affairs. This includes participation in the formulation and implementation of international trade policies.

States also have an obligation under human rights law to ensure that citizens have access to information about policies that affect the enjoyment of human rights, including trade policies.

Under the 1966 International Covenant on Civil and Political Rights, states are required to:

- ensure participation in the conduct of public affairs in "all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels" (Article 25)
- ensure the freedom to seek, receive and impart information (Article 19)²⁰⁸

Pressure for new legislation to improve lobbying transparency and accountability is mounting. ActionAid is a member of the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU), a coalition of 140 civil society organisations calling for a mandatory electronic system of registering and reporting for EU lobby groups, and for an end to the privileged access granted to corporate lobbyists in the EU.²⁰⁹

In the US, the Revolving Door Working Group, a coalition of civil society organisations including the campaign group Public Citizen, is also calling for a comprehensive set of reforms to improve lobbying disclosure in the US, as well as measures to slow the 'revolving door'.²¹⁰ Furthermore, the USTR must re-balance the structure of its Trade Advisory Committee system to ensure broader and fair representation of public interest groups.

²⁰⁴ ActionAid (2005) 'Case study: Big Pharma's lobbying on TRIPS and access to antiretroviral drugs', background paper, London: ActionAid International. ²⁰⁵ See: <http://www.techcentralstation.com>.

²⁰⁶ International Labour Organization (2004) 'A fair globalization: creating opportunities for all', Geneva: ILO. ²⁰⁷ AccountAbility (2005) 'Towards responsible lobbying: leadership and public policy', London: AccountAbility. ²⁰⁸ Office of the United Nations High Commissioner for Human Rights, International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by UN General Assembly resolution 2200A (XXI) of 16 December 1966. ²⁰⁹ For more information, see: <http://www.alter-eu.org>. ²¹⁰ For more information, see: <http://www.revolvingdoor.info/about.html>, and: <http://www.lobbyinginfo.org/reform/>.

ActionAid also believes mandatory frameworks are needed to ensure major corporations report on their human rights, environmental and economic impacts.²¹¹ While the details of such frameworks have yet to be fully defined, mandatory reporting should include a requirement for companies to report on their lobbying activities.

These measures would not always stop companies from advocating policies that damage human rights and the environment, or from blocking legislation designed to protect the same. But they would enhance democratic scrutiny of the policy-making process, reduce the corporate sector's excessive influence over the design of trade policies and improve the quality of decision-making at the WTO.

3.1 Recommendations

ActionAid calls on WTO members to put the needs of poor people above those of multinational corporations, and calls on the EU and US to stop pushing for poor countries to open their markets to foreign multinationals through WTO negotiations.

If the final trade deal is anything like the declaration that came out of the Hong Kong ministerial, ActionAid believes developing countries should reject it.

The WTO secretariat and its member states must also take action to increase transparency and put an end to corporate privileges in the trade policy-making process, as well as address the WTO's anti-democratic negotiating procedures as a matter of urgency.

The WTO secretariat and WTO member states should:

- strengthen people's right to participate in the trade policy-making process. The WTO should develop and disseminate best practice guidelines for national consultation with civil society, and the WTO Trade Policy Review mechanism should include an evaluation of how trade policy is formulated at the national and regional level
- de-restrict access to all WTO documents, unless there are good reasons for maintaining confidentiality. Criteria should be established to determine when confidentiality is justified
- disclose all written advice and payments received from non-state actors in relation to WTO negotiations

- introduce mandatory frameworks for social and environmental reporting for corporations, including information on lobbying activities, expenditure and positions.

The EU should:

- introduce lobbying disclosure legislation, including a mandatory system of electronic registration and reporting for all lobbyists with a significant annual lobbying budget
- terminate cases of privileged access granted to corporate lobbyists, such as the European Services Forum
- introduce an improved code of conduct for EC officials, including recording of formal and informal meetings between EC officials and lobbyists, and an extended 'cooling off' period before former senior EC officials can start working for lobby groups
- develop a code of conduct for EU think-tanks to increase financial transparency. This could be linked to the proposed EU lobbying disclosure and ethics rules.

The US government should:

- re-balance the structure of the USTR Trade Advisory Committees to ensure broader and fair representation of public interest groups
- require lobbying firms receiving or spending \$20,000 or more per quarter to file comprehensive reports into a publicly available internet database
- extend the revolving door 'cooling off' period to two years and include a prohibition on all lobbying activity during that period
- require trade associations and other coalitions involved in lobbying and campaigns on public policy to disclose their membership and sources of funding. Disclosure should also be required of corporate contributions to trade associations in countries outside the US.

Corporations should:

- disclose lobbying positions on key public policy issues, as well as membership and funding of trade associations, think-tanks and campaigns to influence public policy
- leave, or speak out against, their industry representative bodies when their positions on key social and environmental issues differ significantly.

²¹¹ For example, see the UK CORE Coalition's website: <http://www.corporate-responsibility.org>.

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ActionAid works in Africa, Asia, Europe and the Americas to fight global poverty and tackle the injustice and inequity that cause it. ActionAid has written this report because we are concerned that the excessive influence of business lobbyists is ensuring that trade negotiations are often conducted in such a way as to benefit business interests at the expense of poor and excluded people. This report, like all the work we do, has been undertaken to fulfil our charitable objectives.

ActionAid International is a unique partnership of people who are fighting for a better world – a world without poverty.

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