GLOBAL CIVIL SOCIETY AND INTER-GOVERNMENTAL ORGANIZATIONS: \ THE ROLE OF NON-GOVERNMENTAL ORGANIZATIONS IN THE WORLD TRADE ORGANIZATION

Nimisha Pandey
Nimisha Pandey  
Ph.D. (Thesis Submitted)  
School of International Studies  
Jawaharlal Nehru University  
New Delhi- 110067  
India 

Research Paper 

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Abstract

Traditionally, sovereign states were the sole legitimate actors in the field of international relations. However, the end of Cold War, with increasing globalization, marked a spurt in the growth of Non-Governmental Organizations (NGOs) at international level and their increased interaction with Inter-Governmental Organizations (IGOs) that has reordered and expanded the world system from state-IGO interaction to interplay among state, IGOs and NGOs. The emergence of international activities of NGOs has challenged the monopoly of states and affected the working of international institutions, as they have started to engage in dialogue, debate, confrontation and negotiation with each other as well as with various IGOs. IGO-NGO interaction varies according to the strength of NGO concerned as well as the nature of IGO. Large numbers of NGOs are involved with the UN. Likewise, in the World Trade Organization (WTO), various types of NGOs now participate. WTO is a member based organization promoting the principle of trade liberalization; therefore, its inter-governmental nature essentially limits the formal participation of NGOs in it. Hence, while NGOs have been playing an influential role as pressure groups and as efficient delivery mechanisms; formal incorporation of NGOs on the decision making bodies of WTO has not yet taken place.

Key Words: Civil Society, Non-Governmental Organizations, Inter-Governmental Organizations, World Trade Organization, Globalization
1. Introduction

The contemporary multilateral negotiation forum draws a range of civil society actors including Non-Governmental Organizations (NGOs) as main influential players within its ambit particularly after the end of Cold War with increased importance of globalization and liberalization. Fundamental changes have taken place in the arena of international relations such as globalization of economy and means of communication, growing awareness of global nature of many social, environmental and public health problems; and emergence of Information and Communication Technology (ICT) etc. These changes provoke the outgrowth of NGOs in number and scope at the international level.

1990 onwards, Global Civil Society (GCS) – encompassing non-governmental groups, social movements and voluntary associations – established itself as a distinct phenomenon at the international level and sought to negotiate public interest issues such as labour, environment and human rights at international level. NGOs as the main component of civil society have grown not only in number but also in reach and have become prominent players in international politics. They began to engage in dialogue and debate with each other as well as with various Inter-Governmental Organizations (IGOs), thereby affect the working of IGOs as well as of states. The emergence of GCS posed a challenge to the conventionally state-centric international system. By recognizing the significance of NGOs’ expertise and knowledge and its close link with public constituency; states and international organizations initiated to engage NGOs as service providers, policy experts, and stakeholder representatives1. Thus, the present world order has moved from state-state interaction to interplay among states, IGOs and NGOs.

In the realm of international relations theory, till the post Cold War era, the state-centric Realist framework dominated, which identified international organization – whether IGOs or NGOs – as an instrument of state power. Pluralism, however considers all organized groups like NGOs, companies and IGOs as potential political actors in the international arena (Baylis and Smith 2001: 358).

The mechanisms by which NGOs participate in international organizations come in multiple forms and shapes. Currently, there are consultative arrangements for

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NGOs participation in the World Trade Organization (WTO), however, its predecessor the General Agreement on Tariffs and Trade (GATT) did not institutionalize any relationship with NGOs. On other hand, IGOs such as the UN that already offered, since its inception in 1945, consultative arrangements for NGOs have expanded them.

As IGOs are instruments of global governance, the lack of the democratic element in NGOs and questions of legitimacy and accountability raise concerns about their proactive involvement in the working of IGOs. A large number of NGOs receive funds from government, bilateral and multilateral aid agencies and foundations, which makes them less independent in their programs and operations. Hence, while NGOs are important and play a useful role as pressure groups and as an efficient delivery mechanism, the inter-governmental nature of international organizations like the WTO is essentially designed to be accessible to states alone.

2. Evolution of NGOs in the World Trading System

While NGOs involvement in the field of international trade institutionally begins since the establishment of the WTO in 1995; discussion over NGOs interaction with multilateral trading system had started since the ‘Second World War’ with the beginning of negotiation process for the establishment of International Trade Organization (ITO).

2.1 Historical Relations between NGOs and the Multilateral Trading System

Issue of NGOs participation in the world trading system can be traced back to those periods of negotiations that held decades ago to set up the ITO, an organization which failed to come into existence. The Executive Committee of the Interim Commission for the ITO (ICITO) addressed the issue of NGOs’ role in the ITO and it was decided by the Executive Committee that NGOs would have a meaningful participation in the ITO once the ITO was finalized². Underlying fact behind this was

to take full advantage of knowledge and expertise of NGOs in the working process of the ITO. Within the GATT, NGO did not have any interaction with member-states. During the Uruguay Round of Trade Negotiations (1986-1994); NGOs were denied access because of the lack of formal procedure for NGOs accreditation in it; and those NGOs that were present at the Marrakesh Ministerial meeting establishing the WTO, registered as members of the Press and for this, they had to acquire press credentials\(^3\).

Uruguay Round of the GATT broadened the international trade agenda by including new areas such as Intellectual Property Rights (IPR), services and investment; and thereby provoked wider NGO interest in the areas such as agriculture, development and food safety. Consequently, Arthur Dunkel, then Director General of the GATT, made draft known as ‘Dunkel Draft’ in December 1991. The draft contained outcome of negotiations and solutions of those issues on which negotiators failed to agree. Very soon, Dunkel Draft became a subject of popular debate not among state governments but also among NGOs, business interest groups and academic institutions. NGOs including environment, labour and farmer organizations started their campaign against the acceptance of ‘Dunkel Draft’ as the implementation of the draft would hamper the economic and social development of poor people and would destruct our ecological balance\(^4\).

International NGOs (INGOs) such as Friends of Earth International, Greenpeace, and Oxfam etc. did campaign against of the draft. INGOs strategy was to increase awareness among world people about the negative aspects of the draft. While ‘Dunkel Draft’ faced large mass movements against of it; yet draft was accepted and became a foundation of the WTO\(^5\).

### 2.2 Forms of NGO Participation in the WTO and its Legal Overview


WTO is the main international organization that deals with global trade issues, regulates economic globalization; and governs trade relations and resolves trade disputes between its member states. Since, INGOs are quite keen to be involved in the activities of WTO, they have established some provisions through which NGOs can engage with the members of the organization. Although WTO has not created any institutional mechanisms for the interactions between NGOs and the organization, there are two initiatives to promote the WTO-NGO relationship:

- The **Marrakesh Agreement Establishing the World Trade Organization** (the WTO Agreement) empowers the WTO to engage with NGOs under the Article V(2) of the WTO Agreement that provides:

  “The General Council may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO”.


Since Article V (2) does not address the issue of WTO-NGO relationship to the large extent and does not provides proper directions on how NGOs could be more actively involved in the WTO; hence 1996 Guidelines was introduced to meet this requirement. Besides this, in mid-1998, the then WTO Director-General Renato Ruggiero added some initiatives to enhance cooperation with NGOs such as “monthly listing of NGO documents received, a new section on the website devoted to NGO issues; and expanded efforts by the WTO’s ‘External Relations Division’ in order to provide briefing to NGOs”.

While the GATT failed to establish any acceptable linkage with NGOs in its forty seven year history, WTO began to clarify its relationship with NGOs by de-
restricting some documents and allowing its Secretariat to interact with NGOs in an informal manner. WTO members acknowledge the NGOs importance as service provider and efficient delivery mechanism; for instance, under the 1996 Guidelines\textsuperscript{10} -

“In deciding on these guidelines for arrangements on relations with non-governmental organizations, Members recognize the role NGOs can play to increase the awareness of the public in respect of WTO activities and agree in this regard to improve transparency and develop communication with NGOs.”

Again,

“The Secretariat should play a more active role in its direct contacts with NGOs who, as a valuable resource, can contribute to the accuracy and richness of the public debate”.

NGOs may interact with WTO members and Secretariat through various means decided under the Guidelines that are as follows\textsuperscript{11} -

- Public symposium on WTO related issues
- Consultative arrangements to access information
- Respond to requests of NGOs for general information and briefings about the WTO
- NGOs participation in discussion and meeting with the Chairpersons of the WTO Councils and Committees

However, 1996 Guidelines also made some limits over the NGO involvement. The General Council stated in the concluding paragraph of the document\textsuperscript{12}:

“As a result of extensive discussions, there is currently a broadly held view that it would not be possible for NGOs to be directly involved in the work of the WTO or its meetings.”

Further General Council added\textsuperscript{13}:

“Closer consultation and cooperation with NGOs can also be met constructively through appropriate processes at the national level where

\textsuperscript{10} Decision by the General Council, Guidelines for Arrangements on Relations with Non-Governmental Organizations, WT/L/162, dated 23 July 1996. Para VI.


\textsuperscript{12} Decision by the General Council, Guidelines for Arrangements on Relations with Non-Governmental Organizations, WT/L/162, dated 23 July 1996. Para VI.

\textsuperscript{13} Ibid, para VI.
lies primary responsibility for taking into account the different elements of public interest which are brought to bear on trade policy making.”

Here, General Council brings up an important trait of the WTO i.e. its intergovernmental nature, which is based on a binding treaty of rights and obligations among its members; and this character put restriction on NGOs to have formal and inclusive participation in the WTO. Although Article V(2) provides NGOs to comprehensively participate in the WTO activities; 1996 Guidelines preferred to transfer the primary responsibility for engaging with NGOs and taking public element into consideration to the national level14.

2.3 Principal Forms of NGOs’ Engagement with the WTO:

In practice, there are following forms of WTO-NGO relationship15:

- Attend the plenary meetings of the Ministerial Conference.
- Public symposia and forums on WTO related issues.
- Access to WTO information.
- Opportunities for information exchange.
- Informal meetings with NGOs.
- The informal NGO advisory body.
- Involvement in dispute settlement (submission of amicus curiae brief).

3.Evaluation of the Role of NGOs in the WTO Ministerial Conferences:

Role and performance of NGOs in all Ministerial Conferences have varied according to issues raised during negotiation process by member states. After adopting the 1996 Guidelines for relations with NGOs, WTO member states immediately agreed on procedures for NGOs to attend the Ministerial Conference. Till now, eight Ministerial Conferences have been held under which non-governmental groups presented either cooperation or confrontational approach. Sometimes, they participated as occasional actors like issue based participation.

15 Ibid.
This conference represented the first experience of NGOs interaction with the WTO at a major conference. One hundred and eight out of one hundred and fifty nine accredited NGOs attended the conference that included representatives from environment, development, consumer, business, trade union and farmer interests. The NGO centre was set up with all facilities such as large number of meeting rooms, computer system and documentation from the official event\textsuperscript{16}. Prior to the Ministerial Conference, \textit{Third World Network (TWN)} organized two workshops entitled “\textit{The WTO, Trade and Development}” (held in Penang on 30 November-4 December 1996) and “\textit{The WTO: Key Issues and Prospects}” (held in Singapore on 6-8 December 1996). Representatives of many NGOs and social movements from developing countries participated in these workshops in order to be prepared for the first WTO Ministerial Conference. They held discussions on important issues such as review of the Uruguay Round, problems regarding implementation of WTO Agreements faced by developing and least developed countries\textsuperscript{17}.

However, NGOs played influential role in it; they had not enjoyed equal opportunities to engage with the WTO. Business associations had usually easiest access and they showed a sixty five percent representation. Remaining part of whole percent was of trade unions, environmental NGOs; and development NGO\textsuperscript{18}. Hence, business associations rather than public interest NGOs; had more presence and influence during the Ministerial because of their large numbers and of close link to trade policy makers in their nation. National governments also included them as members in their national delegation that provide business groups a double representation- as NGOs and as part of their national government’s delegations. Subsequently, public interest NGOs’ presence had turned down.


At the Geneva Ministerial Conference, the then Director General Mr. Renato Ruggiero and several government leaders expressed a positive approach towards the increased interaction between the WTO and civil society. This conference depicted growing interests of NGOs in the working of the WTO. One hundred and fifty three NGOs were registered for the conference, but at the end one hundred and twenty eight NGOs came to Geneva. During conference, NGOs were regularly briefed by the WTO Secretariat about the development of working process of the session that was appreciated by NGOs as showing commitment and transparency of the WTO. It also ensured NGOs as significant entity. Hence, unlike Singapore Ministerial, the Geneva Ministerial was significant with regard to the NGOs’ involvement in the WTO process. NGO Centre was placed near by the Conference Press Centre. However, NGO did not have an entry to press centre and press conferences due to the lack of space available. Business organizations were well represented and to some

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20 ICTSD (1998), International Centre for Trade and Sustainable Development (Geneva), “NGO Arrangements for the Second WTO Ministerial Conference and the 50th Anniversary Celebration-
extent outstrip that of environmental NGOs. Out of the one hundred and twenty eight NGOs, forty six were business groups. In contrast, twenty two environmental NGOs attended the conference.\(^{21}\)

The NGOs’ main concerned issue areas to discuss in the Conference were lack of regulation for food security in the WTO, lack of proper implementation of commitments given by developed countries etc. However, impact of NGOs effort was not much due to their restricted access to the official delegations. There were street demonstrations and protests by few NGOs against WTO and they demanded organization’s transparency and accountability.\(^{22}\) Besides this, International Centre for Trade and Sustainable Development (ICTSD) (NGO information centre on WTO issues based in Geneva) proposed the establishment of WTO-NGO Contact Group to make closer consultative relationship between the WTO and NGOs. This idea was criticized by other NGOs as it would not have a comprehensive representation including diverse range of NGOs.\(^{23}\)

-Seattle Ministerial Conference 1999

Third Ministerial Conference was held in Seattle, Washington from 30 November to 3 December 1999. Similar to the previous conferences, accredited NGOs got access to the plenary sessions and NGO Centre was set up with all facilities. However, NGO Centre was not located in the same building where the ministerial meeting was held; but it was at a walking distance from the building. Participant NGOs were watching the whole official proceedings via closed circuit television. Due to the limited space, only four representatives per organization were accredited to attend session.\(^{24}\)

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The main goal of this conference was to launch a new round of multilateral trade negotiations following the Uruguay Round focused on agriculture, services, investment and intellectual property. NGOs challenged the launching of new round at the Conference. Demonstrations by NGOs at large scale on the streets of the Seattle hampered the pacification of negotiation process of the conference. Several NGOs were active at the international level to do campaign against the proposed new round on 15th September, which was known as the ‘International Day of Action’. On that day, NGOs did various activities to emphasize their governments to reject a new round of the WTO negotiations.

Around 1200 NGOs from seventy seven countries issued a joint statement that had a campaign slogan “No New Round, Turnaround”. Hence, NGOs opposed any new steps taken by the WTO to increase more liberalization by including new areas such as competition policy and government procurement. They demand rather a comprehensive review of the existing WTO agreements and their impact on public interest issues. In this demonstration, Southern NGOs were more active and expressive in their voice such as Third World Network, Africa Trade Network, Asia Indigenous Women's Network, Greenpeace, CUTS, South Asia Watch on Trade, Economy and Environment; and Friends of Earth. NGOs stated that “WTO is in crisis and it is undemocratic, untransparent, unjust and unbalanced organization”.

As Labour union do protest against labour standards adopted by the WTO; environmental NGOs argued that WTO and its dispute settlement body ignored the environmental concerns. However, most developing countries expressed their opposition to the NGOs protest; for example, Ernesto Zedillo, President of Mexico, called these protesters “globophobia- a curious alliance of forces from extreme left, environmentalist and other self appointed critic in a common endeavour to save people of developing countries from development”.

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reform of the WTO, World Wide Fund for Nature (WWF) called for comprehensive reform of the WTO so that it will become fair and environmental friendly.\textsuperscript{28}

On the eve of the Seattle Ministerial Conference, Seattle- NGO Symposium was organized on 29\textsuperscript{th} November, to encourage informal dialogue between WTO members and representatives of NGOs to have a negotiation on those issues that will be discussed in the forthcoming Seattle Conference. More than 700 NGOs participated in this symposium that was web cast live.

At the opening of the session, Mike Moore, WTO Director General noted that when the Uruguay Round was launched, it was met with public apathy, where as in Seattle apathy has transformed to anxiety and even anger not only locally but also worldwide.\textsuperscript{29}

Hence, Seattle is being remembered for the protests, activism and voices of hundreds of NGOs and social movements. The most striking feature of the Seattle Conference is that it marked a rise in the NGOs attendance due to the venue that attracted large numbers of US and Canadian NGOs; and the fact that a new round of the WTO were planned to be launched at Seattle.\textsuperscript{30}

\textbf{-Doha Ministerial Conference 2001}

Since Seattle Conference faced massive demonstrations from NGOs; fourth Ministerial Conference was held in Qatar, Doha from 9 to 14 November 2001 to escape from this type of demonstration. It includes several factors such as the restrictive visa regulations of Qatar government and the absence of well organized and independent NGOs in Qatar. In this Conference, WTO Secretariat imposed restrictions on NGO representation and accreditation due to the space limitations and placed a high level of security at the place.\textsuperscript{31} This resulted in a less number of NGOs participation that was highly criticized by NGOs. NGOs were disappointed because

\textsuperscript{29} IISD (1999), International Institute for Sustainable Development (Geneva), Seattle Symposium on International Trade Issues in the First Decades of the Next Century- 29\textsuperscript{th} November 1999, IISD Publications, 1 December, Vol. 34, No. 1, pp.1-6.
venue was chosen by Secretariat knowingly to keep NGOs away from the Conference and crush their protestation. According to the President of Friends of the Earth -

“The WTO’s choice of Qatar demonstrates the fallacy that the WTO is committed to transparency. We have to ask what the WTO’s real agenda is when it meets in a nation that prohibits peaceful demonstrations and hinders freedom of the Press”.

The list of accredited NGOs at Doha also drew criticism. Of the total of 647 accredited NGOs, 502 NGOs (comprising approximately 77.58%) were from developed countries such as US, European Union, Australia, Japan, Canada, Switzerland; and New Zealand. Only 145 (approx. 22.41%) NGOs were from developing countries i.e. Latin America and the Caribbean, Africa, Asia, the Middle East, and the South Pacific. Out of the 647 accredited NGOs, 366 NGOs finally came to Doha. All participant NGOs were allowed to register only one representative for Conference.

After the failure of the Seattle Ministerial Conference, fourth Ministerial Conference was successful in launching a new round - the Doha Development Agenda. The issue areas included under the Doha Agenda would likely to have an impact on communities in the following areas: agriculture, services, relationship between trade and environment; WTO subsidies; and the relationship between IPR and public health, the protection of biological diversity and traditional knowledge. Agenda was opposed not only by NGO sector but also by a group of developing

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countries and LDCs as this agenda will negatively affect the interests of their people.\footnote{WT/MIN (01)/DEC/1, Doha Ministerial Declaration- UN Documents, 14 November 2001, [Online: web] Accessed 20 March 2012 URL: http://www.un-documents.net/doha-md.htm.}

**Chart 2**

Data Source: WT/MIN(01)/INF/15/Rev.1

-Cancun Ministerial Conference 2003-

Fifth Ministerial Conference was held in Cancun from 10 to 14 September 2003 in order to make a progress in negotiations regarding the Doha Development Agenda. Out of 961 accredited NGOs, 795 NGOs participated in the Conference. NGO Centre was located about twenty minute walking distance from the main conference centre; and it was equipped with television screens for live telecast of all proceedings of conference. Due to the limited capacity of convention centre, three representatives from each NGO were allowed to participate and of which only one was allowed into the convention centre where the ministerial conference took place. While one representative of accredited NGO had a seat into main plenary and briefing rooms; they did not get entry into those areas that were reserved for national delegations. It showed lack of direct interaction between NGO and member states. NGOs group

\[\text{Doha Ministerial Conference}\]

\[\text{Participation of Developed Countries NGOs}\]

\[\text{Participation of Developing Countries NGOs}\]
criticized it by pointing WTO as undemocratic organization. According to one NGO representative, “the WTO has still not learned how to deal with the idea that when ministers make legally binding agreements with serious implications for democracy—that the public has the right to listen, engage and react”\(^{37}\).

The Cancun Ministerial too saw the dominance of US and other developed country NGOs, where out of a total of 795 NGOs, 236 (approx. 30\%) were from the US, 45 from UK, 55 from France; and 84 from Canada. In terms of developing countries’ participation, 34 NGOs came from India, 33 from Mexico (considering as Cancun, Mexico was the host city) and 18 came from Brazil. Besides this, only two NGOs came from Bangladesh while nine were there from Pakistan and one each from Senegal, Tanzania and Nigeria\(^{38}\).

The Cancun Ministerial proved to be a failure due to the lack of consensus between developed and developing countries over key negotiating issues such as the Singapore issues (investment, competition, trade facilitation and transparency)\(^{39}\). Group of NGOs viewed collapse of Cancun meeting as a failure of the WTO as well as of Mr. Pascal Lamy and his trade strategies. Corporate Europe Observatory (CEO), a Netherlands based European NGO, called for the resignation of Mr. Pascal Lamy because of his ignorance of ‘developing countries’ in the WTO talks\(^{40}\). Greenpeace who did protestation during conference argued that “the Cancun failure was the ‘expected’ end of a trade system ruled by the WTO with a single minded objective of trade liberalization”\(^{41}\). Greenpeace also suggested for the creation of an alternative trade system. Some Indian NGOs reported that after the collapse, ICFTU, Global Unions, Oxfam and Action Aid released some statements to welcome the collapse.


Similar to the previous session, the main task of Hong Kong Ministerial Conference was to address those questions related to Doha Development Agenda and finalized the agreement. A member of Leman Social Forum (which linked groups from towns and cities on Lake Leman in western Switzerland) encouraged network of NGOs to create stumbling block in the implementation of Agenda that would hurt the people interests around the world. To prevent this, Hong Kong government as the host of the WTO Sixth Ministerial Conference applied a systematic plan of action to conduct successfully Ministerial Conference. For this, Hong Kong government with the help of WTO Sixth Ministerial Conference Coordination Office (MCO) and the Hong Kong Police Force; established and maintained regular dialogue with local NGOs as well as those NGOs stationed in Geneva. This provided NGOs a great importance and thereby pacified NGOs and prevented demonstrations. Besides this, MCO held a tea reception just before the conference began for NGOs to meet representatives from the WTO Secretariat. Hence, Hong Kong government facilitated NGOs attendance in the Ministerial Conference and held an inclusive and transparent conference. Being such a controversial organization, the WTO meeting attracted not only thousands of officials and journalists but also more than 9,000 people from non-governmental groups, including farmers and trade unionists. Apart from the WTO members, about 900 NGOs took part in the meeting.

NGOs did peaceful and non-violence demonstration and several NGO events held in a festive atmosphere where they were chanting and singing inside the conference centre itself. Apart from that, some NGOs did campaigns like Target WTO, Oxfam’s Make Trade Fair Campaign, Fair Trade Fair and Symposium; and Focus on the Global South etc. Thus, Martin Khor, from the Third World Network accordingly gave a concluding remark on conference- “during the Ministerial Conference, there was quite a tumultuous week in Hong Kong as thousands of citizen

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groups held peaceful demonstrations; and hundreds of activists and farmers staged protests on the streets where the WTO held its conference.

-Geneva Ministerial Conference 2009

The Seventh Session of the WTO Ministerial Conference took place at Geneva, Switzerland from 30 November to 2 December 2009; of which the general theme was “The WTO, the Multilateral Trading System and the Current Global Economic Environment”. According to the rules of the WTO, Ministerial Conference shall be convened once in every two years. Since 2005, however, no such meeting had been held due to the lack of progress in negotiations on Doha Agenda. After the demand for next ministerial conference increased; it pressurized the WTO General Council to convene a meeting in Geneva that brought together nearly 3000 representatives from all member countries, 56 observers and around 487 accredited NGOs.

Despite this fact that the Geneva Conference was convened exactly on the tenth anniversary of the Seattle Ministerial riots; NGOs demonstration against the WTO were astonishingly not intensive in nature. However, some 3000 activists on 28 November did a protest march in the city, which includes farmer groups, labour unions and other civil society organizations and their slogan for campaign was ‘Our World Is Not for Sale’. During the Conference days, no major protest took place.

• Geneva Ministerial Conference 2011

The Eighth Ministerial Conference was held in Geneva from 15 to 17 December 2011. This conference took into consideration following themes: ‘Importance of the Multilateral Trading System and the WTO’, ‘Trade and Development’ and ‘Doha Development Agenda’. Number of accredited NGOs to attend the Conference was approximately 325 that was less than the previous Ministerial Conference. During the Conference, ICTSD had organized the Trade and Development Symposium (TDS) on the “Future of the Multilateral Trading System”, in which academicians, policy researchers and analysts, representatives from IGOs and NGOs with expertise and knowledge on development related issues were


participated\textsuperscript{47}. Since the whole plenary sessions and press conferences was webcasting, this made physical presence or participation of NGOs in the plenary sessions less significant. Although Geneva Conference did not face high level of NGOs demonstration and opposition, few incidents occurred. For instance, protestors of the \textit{Occupy Geneva} and few NGOs did campaign against the Ministerial Conference and criticized the trade liberalization policies of the WTO. During the conference, the slogan used by NGOs was “The World is not a Commodity”\textsuperscript{48}.

It has been observed that seventh and eight Ministerial Conference attracted less public attention than previous ones that raised question why did this happen? Has the image of the WTO as an important international trade entity been diminishing? Is it the lack of controversial topics (Doha Agenda) or apathy towards WTO issues due to the irregularity of trade negotiations? All these factors may have contributed to the less attention of NGOs towards the Ministerial.

Another way of looking at it could be that there is a striking shift in the opinion of the developing countries and NGOs on WTO issues. Until the Cancun Conference, the WTO was considered as an exclusive organization favouring developed countries’ interests and neglecting issues like environment, consumer interests and public health; therefore the organization was opposed by developing countries and INGOs. Since then, INGOs and developing countries’ approach has started to change gradually. INGOs consider that their substantive interaction with the WTO provide them an opportunity and international space to exercise their non-governmental activity. Countries like China, Brazil, India and Bangladesh have expressed their support to the WTO on various issues. Instead of participating in protests, NGOs from the North as well as from the South are looking forward to accreditation to the conferences and organizing several events inside and outside of the WTO\textsuperscript{49}. However, webcasting of whole conference makes NGOs’ physical participation less in numbers.


\textsuperscript{48} Available at: http://www.daylife.com/photo/01JmaLW4YP8NK?__site=daylife&q=occupy+geneva

As far as the extent of NGOs involvement in the WTO Ministerial is concerned, there has been a progressive evolution, both in numbers and in the facilities extended to NGOs. According to the WTO External Affairs Division,

“Our facilities and services for NGOs have dramatically improved and professionalized- fully operational NGO centre daily briefings, workshops and more access to negotiators, the WTO Secretariat and the media”\textsuperscript{50}.

NGOs interest has been growing in the field of international trade that enlarge their mandate and objectives over the years; and also extend their level of knowledge. This led to an effective and proficient interaction between NGOs and WTO. While the significant steps have been taken by the WTO Secretariat to facilitate interaction with NGOs at the ministerial conferences, the access of NGOs to the main negotiating corridors at the Ministerial Conferences is still restricted. The access is often limited due to the less availability of space, strict visa requirements etc. The NGO community is not satisfied with this type of interaction and the limited access granted to them as they would like more magnified and meaningful interaction within WTO\textsuperscript{51}.

\textbf{Chart 3: NGOs’ Participation in the WTO Ministerial Conferences}

\begin{figure}
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\includegraphics[width=\textwidth]{chart.png}
\end{figure}

Data Source: \url{http://www.wto.org/english/forums_e/ngo_e/ngo_e.htm}


The nature and pattern of NGO interaction with the WTO through various modes like Ministerial Conferences remains most crucial. Evaluation of NGOs participation in all Ministerial Conferences can be seen as a zigzag graph. While NGOs performance and influence in Singapore Ministerial was at average level; NGOs proved to be effective at Seattle as they succeeded into the collapse of launching new trade round through their street demonstrations. Consequently, NGOs activities were further blocked at Doha and to some extent at Cancun by the WTO Secretariat to prevent any protestation and violence. This led to the reduction in NGOs influence and performance. However, Hong Kong and Geneva Ministerial Conference again increased NGOs presence and importance as it established a comprehensive and active participation with NGOs. Thus, there has been improvement in NGOs approach towards the WTO from confrontational to co-operative.

4. NGOs in the WTO’s Dispute Settlement Mechanism

As Chakravarthi Raghavan (2000) commented-

“The Dispute Settlement Understanding (DSU) has been the flagship of the WTO and proclaimed as the most important pillar of the rules-based WTO system”.

This is an important feature of the WTO that differentiates it from the GATT. DSU has quasi-judicial status and enforcement mechanism through which WTO upholds its trade regime and principles; and enforce governments either to coordinate or to adjust their respective policies to the WTO policies.

Brandstetter (2003) described that there are three main ways through which NGOs might participate- as a party, as an intervener; and as an amicus curiae. Involvement as a party and as an intervener implies the direct presence of NGOs before the adjudicating bodies. If NGOs are allowed to act as amicus curiae, there is no need of direct participation. Inclusive participation of NGOs in the dispute settlement system could not take place because of the inter-governmental nature of the WTO. The DSU is an integral part of the WTO Agreement and has a quasi-judicial status in it as

“Article 3(2) of the DSU reinforces the view of the WTO as an exclusively inter-governmental forum; stating that the dispute settlement system of the
WTO is a central element in providing security and predictability to the multilateral trading system”\(^{52}\).

Increasingly, DSU has come under scrutiny from the NGO community because of its exclusivity. NGOs did not get any involvement in the dispute settlement system just after the establishment and official commencement of the WTO. NGOs’ role in the dispute settlement process was first established in 1998; when the Appellate Body, in the Shrimp-Turtle case (related to trade and environment issue), decided to accept amicus curiae (Friends of Court) briefs submitted by NGOs and considered it valid to accept such unsolicited briefs under the Article 13 (right to seek information) of the DSU. The Appellate Body in its report stated that “the panel has the discretionary authority to accept and consider or to reject information and advice submitted to it, whether requested by the panel or not”\(^{53}\). Consequently, it transformed the Panel’s decision under which it did not find it suitable to consider or accept ‘non-requested briefs’ from non-governmental entity as it was incompatible with the provisions of the DSU. Hence, ruling of Appellate Body in the Shrimp-Turtle case proved to be a milestone for NGOs to set their role in dispute settlement proceedings\(^{54}\).

In the dispute settlement body, the submission of amicus curiae briefs by NGOs is mostly observed in the disputes related to non-trade issues such as environment, health etc. The environmental NGOs have been at the forefront of such submissions. According to environmental NGOs, “since WTO champions the cause of free trade at the cost of environment and health; NGOs have used this as a channel to impress upon these concerns”\(^{55}\). It has been observed that NGOs’ right to submit briefs does not establish their greater role in the DSU because panel or appellate body has discretionary power over the acceptance/non-acceptance of briefs. Still, NGOs can challenge the member states through presenting their views in briefs. Currently, the

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Appellate Body allows NGOs to submit amicus curiae briefs based on the requirement of the case.\textsuperscript{56}

5. Arguments in Favour of/ Against NGOs Participation in the WTO

Whether NGOs should inclusively or exclusively participate in the WTO system has recently become one of the most contentious issues among WTO members and IR scholars. Till now, analysis of NGOs role and activities in the WTO shows that NGOs performed both co-operative as well as confrontational role during the course of their involvement in the WTO. Hence, NGOs may prove to be both fruitful and unfruitful for the WTO policy and activities. So that, there is need to review NGOs role as co-operators and competitors with governments at the WTO.\textsuperscript{57} The potential benefits in case of the NGOs inclusive role in the working of the WTO, are as follows -

- NGOs’ information and advice based on data and analysis could assist the WTO in its policy formulation, implementation and review especially in those non-trade issue areas that have an impact on its trade regime.\textsuperscript{58}

- NGOs can offer alternative perspectives, methodologies and proposals to have a comprehensive discussion among WTO members on trade policy and programs. This helps WTO officials to better evaluate the political sustainability of proposed programs.\textsuperscript{59}

- NGOs’ cooperative role would improve the ratification and implementation of WTO sponsored trade agreements; and thereby enhances the respect accorded to the WTO as democratic legitimate organization.\textsuperscript{60}


\textsuperscript{59} Hocking, Brian and McGuire Steven (2004), Trade Politics, Routledge, USA.

\textsuperscript{60} He, Baogang and Murphy, Hannah (2007), “Global Social Justice at the WTO? The Role of NGOs in Constructing Global Social Contracts”, International Affairs, Vol. 83, No.4, July, pp. 706-728.
• “Civil society bodies can serve as important agents of civic education, increasing public understanding of the WTO and its policies. Many civic associations have in this vein prepared handbooks and information kits, organized workshops, circulated newsletters, written press articles, maintained internet sites; and developed curricular material for schools, and so on”⁶¹.

Thus, NGOs can serve as policy experts and service providers. They may mobilize public opinion and protect the right of the people if government harms it. They can act as a mediator between government and people; and by linking the local politics with global politics; they also bridge the gap between international institutions and individuals⁶². Currently, WTO is facing number of institutional and policy based challenges (such as the issue of democratic deficit) that could be limited by the constructive relationship with NGOs. Proponents of NGOs major involvement in the WTO such as Steve Charnovitz (2000; 2002; 2004) and Daniel C. Esty (1998; 2002) described NGOs as ‘democratizing agents’ that have a capacity to rectify the WTO’s democratic deficits.

Thus, there is a need of the WTO to create connectivity with people around the world by establishing healthy interaction with NGOs in their working procedures. Member-states represent public opinion through their national delegations in Geneva officially⁶³. However, they do not adequately represent due to the domination of majority that ignore the minority demands. Also, national representatives do not have a direct link with public concerns. In this case, NGOs seeking to pursue public interests assist the WTO to listen unrepresented or under-represented voices. At present, several international NGOs such as Amnesty International and Worldwide Fund for Nature (WWF) as transnational advocacy network, unite the people across the world sharing common interests⁶⁴. In this respect, Daniel C. Esty (1998) observed—

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⁶¹ Hocking, Brian and McGuire Steven (2004), Trade Politics, Routledge, USA
“An inclusive approach to NGOs at the WTO also offers important advances from the perspective of the political economy of trade liberalization. Notably, if environmental groups (especially those in North America) and others who have felt excluded from trade policy making, perceive themselves as included in the process and are given a fair opportunity to shape decisions; they are much less likely to obstruct trade liberalization efforts”.

Regular flow of information from NGOs to WTO would strengthen organization’s decision making capacity and base of analysis. NGOs expertise and knowledge would also assist WTO to get better understanding in those policy issue areas that exists outside of its own sphere of expertise; such as ‘trade and environment’ and ‘trade and public health’⁶⁵. For example, environmental NGOs can provide a scientific and other valuable knowledge, based on data and facts that will help WTO to make a reasonable decision to prevent market failures as well as protect environment⁶⁶. NGOs may also act as watchdogs of national governments to report on their accountability and transparency like whether they are fulfilling their obligations under the international economic system or not⁶⁷.

Despite the advantages, many in the trade community such as business groups and also some developing countries express their desire to restrict the NGOs increasing involvement in the WTO proceedings. Reasons behind the exclusion of NGOs from the WTO are described by J A Scholte (1998) in following points -

- Since NGOs do not adequately represent interest of various public constituencies, this could develop inequalities and special privileges to any specific nation, class, gender etc. during their participation in the WTO.
- WTO-NGO relationship would increase the involvement of the organizations into domestic and local politics, which does not comes under its zone of work and would undermine its democratic working procedures.
- Comprehensive relationship of NGOs with the WTO may block the path of the WTO to reach its final goal; that is to uphold the principle of trade liberalization and free trade because mostly NGOs are opposing its principles.

Increased presence of NGOs in the WTO bodies would lead to some kind of decentralization that creates ambiguity and vagueness in the working procedure of the WTO. Also, NGOs could not have inclusive interaction with the WTO as they lack legitimacy and accountability.

NGOs involvement creates a trend of lobbying in the WTO that will have a disproportionate impact on policy outcomes because NGOs act with special interests and manipulate the WTO outcomes. This is called by Daniel C. Esty (1998) ‘Special Interest Manipulation’. Hence, the presence of non-governmental entities led to lobbying of WTO officials and governmental representatives that eventually slowed down the decision making process (Spiro 1996: 958). “Another major argument against an expanded role of NGO in the international trading regime derives from the belief that WTO should be an inter-governmental body. According to this view, the trade policy process works best when governments clearly speak to each other without a cacophony of other voices”68. Thus, according to some observers, international institution consists of sovereign states as sole members and are having relations among these states; so that, presence of NGOs complicates state to state relations. Concerns about the role of NGOs in the WTO also relates to their representativeness and accountability. Who do NGOs represent themselves in WTO and to whom should they be accountable? These questions arise because of increased claims by NGOs leaders and supporters69.

In summary, relations between NGOs and the WTO can have far-reaching consequences—positive or negative—in the design and operation of the global trade regime. This is to say that along with the time, WTO-NGO relations have been evolving and not declining. Therefore, the challenges before the WTO and NGOs are to handle this in ways that “minimizes the pitfalls and maximizes the benefits outlined above”70.

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6. Conclusion
The expansion of global trade through WTO law and explosion in the number of NGOs at the international level are two simultaneously occurring events because of which WTO-NGO interaction has become a notable feature. Since 1990, a vast number of NGOs developed interest in the activities and decision making process of the WTO and they have sought to reshape or replace the established rules of world trade. NGOs do this by either playing the role of co-operator or as confrontational. Whatever be the avenues of participation for NGOs in the WTO such as attending plenary session of Ministerial Conference, symposia and workshop, informal meetings etc., they establish their presence at the international landscape. However, NGOs have not yet fully institutionalized their relationship with the WTO due to the lack of establishment of formal advisory body and formal rules for NGOs accreditation. Member states, especially the developing countries, oppose the deeper involvement of NGOs as they consider NGOs as a stumbling block in the path of successful implementation of WTO Agreements.

The pattern of NGO participation in Ministerial Conferences needs to be analyzed as it depicts the overwhelming participation of business groups over public interest NGOs in term of their numbers and influence. This is because of business groups’ close alignment with the basic trade principles of the WTO (Srivastava 2005: 53). However, this undermines the democracy of the WTO and raises questions over the method and procedure of NGO involvement in the WTO and whether it varies for public interest NGOs and business groups in the WTO.

NGOs performances are mostly seen as confrontational rather than co-operational since the “Battle of Seattle”. However, analysis of NGOs participation in the Hong Kong (2005) and Geneva (2009, 2011) shows a changing role of NGOs in the WTO from confrontational to co-operative. NGOs are now seen the WTO as international forum to exert their influence on concerned issue areas. Since 2005, the WTO Secretariat and External Relations Division initiated to make some new arrangements to interact with several NGOs such as WTO Geneva Week and Open Days etc. This shows that there has been improvement in WTO-NGO interaction.

There is a debate among IR Scholars whether NGOs should have a formal/inclusive involvement in the WTO or not. The formal involvement of NGOs in the WTO bodies could not be implemented because it would dilute the basic trait of NGOs (non-governmental) as well as of the WTO (inter-governmental). It is unlikely
that NGOs will be allowed a formal status in the WTO because it would create ambiguity, trend of lobbying and thereby slow the decision making process. Since, at present NGOs are growing rapidly in numbers having several branches around the world, this is not easy in order to provide enough space to each and every NGO in the WTO. In this situation, WTO might face criticism from deprived NGOs. According to some observers, NGOs inclusive involvement in the WTO decision making body would not develop quality of arguments but quantity of noise by a particular section. Apart from that, it is also important to address the question of accountability and legitimacy of NGOs themselves.

Analysis of NGO activity in the international trade negotiation forum mainly demonstrate this idea how NGOs become significant actors in the WTO. NGOs have expertise and knowledge in those public interest issue areas where the WTO system does not. NGOs real responsibility and role lies in dissemination information, mobilizing public opinion, challenge the dominance of corporations and influence the states and working of the WTO. In a cooperative role, NGOs can facilitate flow of information to and from people across the world and enhance the information base of WTO decision making bodies that would reduce its democratic deficit. The WTO should use the opportunity represented by an active role of NGOs to minimize market failures. Hence, instead of focussing on NGOs formal involvement in the WTO, there is a need to develop meaningful interaction between WTO and NGOs.
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