


Trade Agreement Impacts on Precautionary Policies



Saerom Park

Public Citizen's Global Trade Watch

June 10, 2006

WTO

World Trade Organization

- Founded in 1995
- 149 member countries
- Uruguay Round Agreements Act (Public Law 103-465). DECEMBER 8, 1994.
- **Trade is only a small element of the WTO!**

WTO

Houses the 17 original “Uruguay Round” agreements, including:

- The General Agreement on Tariffs and Trade (GATT)
- The Sanitary and Phytosanitary Agreement (SPS)
- The General Agreement on Trade in Services (GATS)
- The Agreement on Government Procurement (GPA)
- The Agreement on Agriculture (AoA)

WTO Enforcement

- “State-State” dispute resolution
- Closed-door trade tribunal located in Geneva, with no public access to proceedings
- Federal government argues the case, no role for states
- Losing country must change their laws or face automatic, punitive trade sanctions
- Federal government must use all “constitutionally available” means to force state compliance with ruling

GMO Case

1. EU's hold on new approvals of GMOs constituted "undue delay"
 2. EU Member States' restrictions on import, use and marketing of certain GMOs violated the SPS Agreement
 3. WTO does not have to consider UN treaties
-

SPS Agreement

The Sanitary and Phytosanitary
Agreement

Article 2.2

“based on scientific principles and is not maintained without sufficient scientific evidence...”

Article 3.3

“measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification...”

Article 5.1

“shall ensure that...measures are based on an assessment...of the risks to human, animal or plant life or health, taking into account risk assessment techniques...”

Article 5.3

“shall take into account as relevant economic factors”

Trade Agreement Impacts

1. Narrows the basis of decision-making
 2. Limits opportunities for innovation, alternatives, and prevention opportunities
 3. Limits ability of nations to go beyond international standards
-

GPA

Agreement on Government
Procurement

Vulnerable State Policies

- Anti-offshoring policies
 - Policies targeting companies' human rights, environmental or labor conduct (such as sweat-free purchasing rules)
 - Prevailing wage, living wage and project-labor agreements
 - Green procurement policies
 - Policies targeting countries' human rights, labor rights, other conduct
-

GATS

General Agreement on Trade in
Services

U.S. Service Sector Commitments

- Health Care & Hospitals
- Land Use
- Gambling
- Libraries & Museums
- Communications, Media and Culture
- Construction
- Transportation
- Energy Distribution

Professional Services,
including:

- Lawyers
 - Accountants
 - Architects
 - Engineers
 - Urban Planners
 - Tax Preparers
-

New GATS Talks

- Higher Education
 - Energy trading
 - Pipelines
 - Cross-border financial service transactions
 - New “disciplines on domestic regulation”
-

Doha Round

The WTO attempts to expand its scope and coverage through periodic new “rounds” of negotiation:

- Millennium Round, which failed to launch in Seattle, Washington in 1999
 - Current Doha Round, initiated in Doha, Qatar in 2002 and slated to conclude in 2006
-

Fast Track

- Congress cedes to the President its Constitutional authority to negotiate the terms of trade.
 - Congress cedes the authority to write the implementing legislation.
 - Congress is only permitted a “yes” or “no” vote with no amendments and limited debate.
-

Where do we go from here?

- A “Bottom-Up” Solution
States have a choice in procurement
- “Top-Down” Solution
Replace Fast Track with a better alternative

2005 Attorneys General Letter

“...it is vital to maintain the principle that the federal government may request, but not require, states to alter their regulatory regimes in areas over which the states hold constitutional authority... In order to fully evaluate the new GATS commitments USTR is proposing to offer, and to give prior informed consent, states must receive more detailed and frank information from your office... It is also important that your correspondence with state officials not dismiss out of hand legitimate concerns about the restrictions that today’s trade agreements place on domestic policymaking. Rather, an acknowledgement of the trade-offs states face when committing to abide by trade agreement terms is

Learn more:

- Public Citizen's Global Trade Watch
www.tradewatch.org
- Citizens Trade Campaign
www.citizenstrade.org