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Sand in the wheels

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GLOBALIZE PEACE AND JUSTICE

Content

Endless War ?

by Walden Bello

The assault on the World Trade Center was horrific, despicable, and unpardonable, but it is important not to lose perspective, especially a historical one. For a response that is dictated primarily by fury such as that now displayed by some American politicians, while understandable, is likely to simply serve as one more proof for Santayana's dictum that those who do not remember history are bound to repeat it.

THE MORAL EQUATION

The scale and consequences of the World Trade Center attack are massive indeed, but this was not the worst act of mass terrorism in US history, as some US media are wont to claim. The over 5000 lives lost in New York are irreplaceable, but one must not forget that the atomic raids on Hiroshima and Nagasaki killed 210,000 people, most of them civilians, most perishing instantaneously. But one may object that you can't really compare the World Trade Center attack to the nuclear bombings since, after all, Hiroshima and Nagasaki were targets in a war. But why not, since the purpose of the nuclear bombings was not mainly to destroy military or infrastructural targets, but to terrorize and destroy the civilian population? Indeed, the whole allied air campaign against Germany and Japan in 1944-45, which produced the firestorms in Dresden, Hamburg, and Tokyo, that killed tens of thousands had as its central aim to kill and maim as many

civilians as possible. Similarly, during the Korean War, terror bombing of civilians was the policy of the US Air Force's Far Eastern Command, which was instructed to pulverize anything that moved in enemy territory. So successful was the policy that in the summer of 1951, the commander was able to report that "there is no structure left to be targeted."

During the Cold War, mass elimination of the enemy's civilian population, alongside the destruction of his armed forces or industry, was institutionalized in the strategy of massive nuclear retaliation that lay at the center of the doctrine of Deterrence. In Vietnam, where the US was frustrated by the fact that combatants and civilians were indistinguishable, indiscriminate killing of civilians was a central part of a "counterinsurgency war" in which 20,000 civilians were systematically assassinated under the CIA's Operation Phoenix Program in the Mekong Delta. But must not such actions against civilians be judged in the context of a broader strategic objective of sapping the enemy's will to fight and thus bring the war to a conclusion? But then how different is this justification from the terrorists' aim to change the foreign policy of the US government by eroding the support of the country's civilian population?

The point is not to engage in a "maleficent calculus," as Jeremy Bentham would have called this exercise, but to point out that the US government hardly possesses the high ground in the current moral equation. Indeed, one can say that terrorists like Osama bin Laden, an ex-CIA prot?g?, have learned their lessons on the strategic targeting of the civilian population from Washington's traditional strategy of total warfare, where damage to the civilian population is not simply seen as collateral but as essential to achieving the ends of war.

THE CLAUSEWITZIAN CALCULUS

In the aftermath of the World Trade Center assault, the perpetrators of the dastardly deed have been called "irrational" or "madmen" or people that embody evil. This is understandable as an emotional reaction but dangerous as a basis for policy. The truth is the perpetrators of the deed were very rational. If they were indeed people connected with Osama bin Laden, their goal was most likely to raise the costs to the United States of maintaining its current policies in the Middle East, which they consider unjust and inequitable, and this was their way of doing it. They very rationally picked the targets and weapons to be used, paying attention not only to maximum destruction but also to maximum symbolism. The choice of the World Trade Center towers and the Pentagon as the targets, and American Airlines and United Airlines planes as the delivery vehicles doubling as warheads, was the product of cold-blooded thinking and planning. The loss of their own lives was factored into the calculation. What we saw was a rational calculus of means to achieve a desired end. In the view of these people, terrorism, like war, is the extension of politics by other means. These are Clausewitzian minds, and the worst mistake one can make is to regard them as madmen.

PEARL HARBOR OR TET?

One metaphor that the Washington establishment has used to capture the essence of recent events is that of a second Pearl Harbor, with the implication that, like the first, the September 11 tragedy will galvanize the American people to an unprecedented level of unity to win the war against still unidentified enemies. The other side, one suspects, operates with a different metaphor, and this is that of the Tet Offensive of 1968. The objective of the Vietnamese was to launch massive simultaneous uprisings that, even if defeated separately, would nevertheless add up to a strategic victory by convincing the other side, especially its civilian base, that the war was unwinnable. The aim was to rob the US of the will to win the war, and here the Vietnamese succeeded.

The perpetrators of World Trade Center assault are operating with a similar calculus, and, despite the current jingoistic talk in Washington, it is not certain that they are wrong. Will the American people really bear any burden and pay any price in a struggle that will persist way into the future, with no assurance of victory, indeed, with no clear sense of who the enemies are and of what "victory" will consist of? The media is full of news about the creation of an alliance against terrorism, conveying the impression that coordination among key states combined with the outrage of citizens everywhere will give a Washington-led coalition an unbeatable edge. Perhaps in the short run, although even this is not certain. For the problem is that, as in guerrilla wars, this is not a war that will be won strictly or mainly by military means.

THE UNDERLYING ISSUES

If it was bin Laden's network that was responsible for the World Trade Center attack, then the underlying issues are the twin pillars of US policy in the Middle East. One is subordination of the interests of the peoples of the region to the US' untrammeled access to Middle East oil in order to maintain its petroleum-based civilization. To this end, the US overthrew the nationalist government of Mossadegh in Iran in 1953, cultivated the repressive Shah of Iran as the gendarme of the Persian Gulf, supported anti-democratic feudal regimes in the Arabian peninsula, and introduced a massive permanent military presence in Saudi Arabia, which contains some of Islam's most sacred shrines and cities.

The war against Saddam Hussein was justified as a war to beat back aggression, but everybody knew that Washington's key motivation was to ensure that the region's most massive oil reserves would remain under the control of pro-Western elites.

The other pillar is unstinting support for Israel. That Arab feelings about Israel are so elemental is not difficult to comprehend. It is hard to argue against the fact that the state of Israel was born on the basis of the massive dispossession of the Palestinian people from their country and their lands. It is impossible to deny that Israel is a European settler-state, one whose establishment was essentially a displacement from European territory of the ethno-cultural contradictions of European society. The Holocaust was an unspeakable crime against humanity, but it was utterly wrong to impose its political consequences--chief of which was the creation of Israel--on a people who had nothing to do with it.

It is hard to contradict Arab claims that it was essentially support from the United States that created the state of Israel; that it has been massive US military aid and backing that has maintained it in the last half century; and that it is deep confidence in perpetual US military and political support that enables Israel to oppose in practice the emergence of a viable Palestinian state.

Unless the US abandons these two pillars of its policies, there will always be thousands of recruits for acts of terrorism such as that which occurred last week. And while we may condemn terrorist acts- -as we must, strongly--it is another thing to expect desperate people not to adopt them, especially when they can point to the fact that it was such methods that targeted civilians as well as military personnel, combined with the Intifada, that forced Israel to agree to the 1993 Oslo Accord that led to the creation of the Palestinian entity.

Yet another reason why the strategic equation does not favor the US is that there are a great many people in the world that are ambivalent about terrorism. In contrast to Europe, there has been a relatively muted response to the World Trade Center event in the South. A survey would probably reveal that while many people in the Third World are appalled by hijackers' methods, they are not unsympathetic to their objectives. As one Chinese-Filipino entrepreneur said, "It's horrible, but on the other hand, the US had it coming." If this reaction is common among middle class people, it would not be surprising if such ambivalence towards terrorism is widespread among the 80 per cent of the world's population that are marginalized by current global political and economic arrangements.

There is simply too much distrust, dislike, or just plain hatred of a country that has become so callous in its pursuit of economic power and arrogant in its political and military relations with the rest of the world and so brazen in declaring its cultural superiority over the rest of us. As in the equation of guerrilla war, civilian ambivalence in the theater of battle translates strategically to a minus when it comes to the staying power of the authorities and a plus when it comes to that of the terrorists.

In sum, if there is one thing we can be certain of, it is that massive retaliation on the part of the US will not put an end to terrorism. It will simply amplify the upward spiral of violence, as the other side will resort to even more spectacular deeds, fed by unending waves of recruits. The September 11 tragedy is the clearest evidence of the bankruptcy of the 30-year-old policy of mailed fist, massive retaliation response to terrorism. This policy has simply resulted in the extreme professionalization of terrorism.

The only response that will really contribute to global security and peace is for Washington to address not the symptoms but the roots of terrorism. It is for the United States to reexamine and substantially change its policies in the Middle East and the Third World, supporting for a change arrangements that will not stand in the way of the achievement of equity, justice, and genuine national sovereignty for currently marginalized peoples.

Any other way leads to endless war.

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To Globalize Peace and Justice

In Washington

"To Globalize Peace and Justice" was organized to coincide with the annual meetings of the World Bank and the International Monetary Fund to create alternative spaces for dialogue and education, to bring together and strengthen the many stands of the Global Justice movement. In light of the tragic events of September 11, 2001, the Summit has adjusted to fit a changed local and global reality. We mourn the most recent victims of a global culture of violence, and pledge our efforts towards preventing the continued loss if life. We still believe Another is Possible!
Workshops September 27 and 28, 9:00 am to 06:00 pm (Luther Place Memorial Church).

In Geneva.

A coalition of organizations planed a mobilization on September 29 and 30 in front the WTO to show the relationship between IMF and WB and international trade in the trend of corporate globalization. These were changed also to match the new international situation due to the tragic events of September 11. Because we believe that global Peace is linked to Global Justice. Free Trade is not freedom, our world is not a commodity.
Conference on the 29 in the evening and actions on the 30 are planned. More information: geneve@attac.org or Suisse@attac.org

In Luxembourg.

By freezing the assets of terrorist groups, the Bush administration that withdrew from talks this spring about the regulation of tax havens, is showing that indeed they are a crucial part of the opacity of international finance. These offshore centers are the central part of laundering money from all the trafficking, not only for terrorism but also for the mafias, not only weapon and arms, but also drug, human and so on... In Luxembourg on October 6 actions will take place to denounce this (they were planed also before September 11 but are having a new importance now) and the fact that international finance and corporate globalization (the US are using tax havens to help finance exports of transnational corporations such as Microsoft, GM, GE and so on), is using them not only to evade national tax system. In that respect the role of international clearing companies such as Clearstream (Luxembourg) and Euroclear (Brussel) which are permitting such a situation to exist undercover, are one of the main tool: these companies are of course private and in their board are sitting all the major banks, insurance companies and financial companies.
For more information: http://attac.org/luxembourg or grandelessive@attac.org

Lessons from the Argentine crisis

By Michel Husson

(I am grateful to Claudio Katzand Eduardo Lucita for the information they sent me).

Default, the word is about to become part of Argentine daily vocabulary: it means "default in payment". Such is indeed the sword of Damocles threatening the Argentine economy today. Capital is fleeing the country, reserves are melting and the risk of bankruptcy is seen to be coming daily nearer. Argentina is daily living financial globalisation. Its fate is, as it were, pegged to the very high "risk country" indices attributed to the country by the mark-up agencies ,which deter investors. The inevitable end to this demented logic, where debts are incurred in order to pay interest, can only be cessation of payment and an extensive financial crisis inevitably accompanied by savage devaluation of the peso.

Always Debt

Everything starts with debt. It is not in the least irrelevant to recall the role of Videla's military dictatorship when the debt took off. At the time of the military coup d'etat in 1976 (1) debt was virtually non-existent (8 billion dollars). Seven years later it stands at 44 billion dollars. This forward leap is, as in Mexico, the result of three factors; uncontrolled recourse to running up debt, corruption and the savage and unilateral increase of interest rates, effected by the United States at the beginning of the eighties. After the fall of the dictatorship, it is the radical Alfonsin who takes over the presidency and decides to close the episode .Significantly his political choice is to blot out the dictatorship's crimes and pay the debt without discussion. It is clear that the opposits (cancelling the debt and exacting payment for

crime) was what was necessary. However , the debt is confirmed and continues to swell regularly. The economic stagnation, general in Latin America ,where the eighties are referred to as' the lost decade', takes the form in several countries of monstrous hyper-inflation. In Argentina the annual increase in consumer prices reaches a record rate of 490% in 1989 ! So that year prices rose 1.1% per day, or 38% per month. At the end of a year at this rhythm, they are multiplied fifty-fold. The currency is more than devalued and Alfonsin with it, so he has to give place to Menem.

This popularist is going to carry out a policy not devoid of success in the short term ,but catastrophic in the long term. The problem of inflation weighs heavily on the everyday life of the Argentineans, without mentioning business life. Menem's great idea for getting out of this spin is to anchor the peso resolutely to the dollar and this was done from 1991. "One for one" is the same motto as in the German unification and in both instances it is a case of affirming the preeminence of a political principle over the realities of the economy. This is the king pin built into a line of thought also to be found in Brazil and Mexico.

In its early structural adjustment plans the IMF used to recommend for preference "competitive devaluation" intended to stimulate exports to encourage the return of the foreign currency essential for paying interest on the debt. Faced with the ravages of inflation IMF philosophy was readjusted and the big Latin American countries transferred to a strong exchange policy, pegging their currency to the dollar. The benefit of such a policy is twofold; it reins in imported inflation and lightens the actual weight of debt which is of course stated in dollars. But the advantages are accompanied by a serious drawback, which is the loss of export competivity. This pattern exacerbates the lines of dependence of a country like Argentina and leads to a great expansion of the commercial deficit as soon as economic growth resumes.

How then to make ends meet as regards the balance of payments ? For covering the commercial deficit and the service on the debt there are only two options, either draw on reserves or attract capital. The first solution being available for only a limited time and inconsistent with the choice of a strong currency, there remains the call to foreign capital. This is the option that is to be chosen ; over the two years, 1992 and 1993 , 21 billion dollars will flow in, whereas only 9 came in during the course of the six preceding years.

What is the source of this renewed "enticement" ? It is very simple; Menem's policy consists in privatising everything or rather in liquidating everything. For it is a genuine clearance sale that is being held. The Argentine is without doubt the country in the world which has privatised the most. France Telecom and the Spanish company Telefonica have shared out the telephone. Vivendi distributes water and occupies prestigious headquarters in Buenos Aires. A veritable frenzy of privatisation can be said to have occurred and every bus line in the capital has become a small enterprise almost completely deregulated. Fares have risen by between 40% to 100%. The recent misadventures of Aerolineas Argentinas are quite astonishing; this company was privatised and then bought out by the Spanish state through SEPI (Spanish Association of Industrial Shareholdings). It is currently in liquidation and threatened with closure. Such a performance has robbed the case for privatisation of any semblance of legitimacy and gives cause for reflection.

The arguments employed in Argentina in favour of privatisation are however the same as those employed everywhere else -: greater efficiency, better adaptation to new technologies, lightening of the public sector load, etc. In reality it is an ill conceived policy that consists in "selling the silver" and results in exacerbating social inequalities and wrecking the public services. But to effect such operations the Argentine is surpassing the limits of what might be called coercion . The same can be said of the pension reform which is arranging a transfer, optional in theory, from a mutual-based system to a capital-based system managed by the AFJP network (Retirement and Pension Funds Associations) this provides even more scope for financial engineering and causes the costs of the transition between the two systems to weigh heavily on the State budget.

So debt has grown from 8 billion dollars in 1975 to 145 billion in 2000. It has also become an industry in itself. So the 10 principal banks (eight of which are foreign) devote 46% of their investments to financial intervention and purchasing titles to the public debt that were issued, in the final analysis, to pay the external debt. These deposits are particularly attractive since the interest on them is tax exempt (2). Nowadays debt servicing represents close to 15 billion dollars or half of exports and nearly a quarter of fiscal receipts. To offset this situation, there have been three years

of recession and social regression in particular; 37% in poverty, 30% unemployed, half the workforce with annual earnings less than 500 dollars, the virtual bankruptcy of the Social Security, etc..

The dogma of parity with the dollar

Ten years later, the trap of pegging the Argentine peso to the dollar is about to close inexorably. Of course, this policy has made it possible to reduce inflation and for quite a time this was Menem's decisive argument. The dogma of convertibility was difficult to call in question and the term 'devaluation' had been banished from the political vocabulary. But this economic clean up was at enormous cost because of the budgetary cuts and the wage freeze on which in the final analysis it rested. The worsening of living conditions, the rise in unemployment and misery associated with generalised corruption and the increase in inequalities led to the electoral defeat of Menem in December 1999.However, the hopes placed in "the Alliance", the coalition led by the new president, De La Rua, have been disappointed. In the great social-democratic tradition, the new government has in fact formally adopted Menem's liberal orientation and this oppressive heritage is resulting today in a catastrophic situation.

In the absence of a radical reorientation of economic policies the present government finds itself harshly faced with the impasse offered by neoliberalism. Since the onward flight into privatisation has run out of steam (for lack of resources) and flows of capital are drying up, it is apparent that , all considered, external debt (deuda externa) is eternal debt (deuda eterna).The crisis therefore becomes a fiscal crisis. So debt servicing is again to be found as an item of the State budget and by way of adjoining columns the external deficit changes into into a public deficit. As a last resort the State pays the debt but , in the absence of sufficient fiscal resources, it has to contract debts in order to pay the interest and this "snowball" effect quickly gets out of control and intensifies all the other devices.

Faced with this situation, the De La Rua government simply returned to the same neoliberally inspired policies; still more flexibility, called "reform"of the labour market, an increase in taxes to be paid by the middle classes and not the profiteers, a wage freeze. This policy named " zero deficit " has one clear objective; to free the means for paying the debt by reducing other budgetary items and thus to reassure international investors. It is a policy of unparalleled brutality ; increase in VAT, 13% cut in civil service salaries, 30% reduction in the administrations' budgets.

Externally, the government put in place a dubious "financial buffer", intended to provide a war chest sufficient to confront payment dates and so reassure international investors. But what was bound to happen has happened, that is to say the 40 billion dollars collected with the help of the IMF will only enable a few months respite to be gained. At the end of May, that is five months after the "buffer", a plan was launched for repackaging the debt (megacanje) This consists in exchanging debt titles that fall due within the next five years, for new titles, which is in reality a royal gift for the international or Argentinean creditors, since the interest rate attached to the new titles will be on average 15% as against approximately 9%in order to take account of the notorious "risk countries". It is also of course storing up terrible trouble for the future, delaying the payment dates, at the cost of making the debts heavier.

These successive tinkering lead to an concealed government crisis. In less than two years a third Minister of Finance was already in office. Nothing is to be expected from Domingo Cavallo, former governor of the Central Bank under the dictatorship and Menem's former Minister of the Economy except subservience to international finance rules of play even at the risk of opting for adjustment "violence" to adopt the term from the demonstrators of 7 August last. The employers' Financial daily, Ambito, went so far as to explain in its 16 July edition that such a harsh adjustment plan could not be implemented except in a state of siege. This is after a thoroughly good synthesis of an explosive situation which reveals a very profound social crisis. Even the governing classes are rived with contrary arguments and there exists a measure of agreement between investors and speculators for securing the capital sums illegally to such a point that a portion of the employers support the idea of devaluation though its disadvantages are worse than the disciplinary virtues. Furthermore, alignment with the dollar causes the Argentine to be out of step with the more empirical policy pursued in Brazil and destabilises its economy as regards its principal partner inside Mercosur.
Mercosur and the continent

The Argentine for several years has been involved in the Mercosur project whose hard core is constituted by the couple it forms with Brazil. This commercial zone has led to the progressive

integration of the region's economies. Paradoxically, and differently from Mexico, Mercosur does not entertain particularly close commercial links with the United States.At the start of 1999, the proportion of exports to the United States stands at 8% for primary products, 10% for semi-manufactured goods, and 15% for industrial goods. The proportion for Mercosur is respectively of 23%,14% and 52% and for the European Union 36%,28% and 10%.A privileged link with the dollar cannot logically to be inferred from this situation and all in all it would be better to peg the peso to the euro, an idea which has been suggested earlier. But a stabilisation complex for would come about with establishment of a coherent monetary system at Mercosur level or if monetary policies were at least coordinated. The absence of any such arrangement introduces a large element of instability which has been especially apparent since the devaluation of the Brazilian real at the beginning of 1999.

It is the peso/real rate of exchange which matters in commercial affairs inside Mercosur.

Indexation to an ever stronger dollar has worn away the competivity of the Argentine, especially in the motor industry and is tending to cause a return to specialisation in primary products. This rivalry "could well have harmful effects destabising the couple that power Mercosur integration" (3). Tensions regarding exchange also find expression in the flight of capital and show up the absurdity of monetarist dogma. Whereas parity with the dollar is sought principally because of the need to attract capital, its effect is the reverse and makes it flow out. Investors do their sums and leave the Argentine for Brazil; a year ago,' Business Week '(4) was able draw up an impressive list of groups which were decentralising, such as Delphi, Unilever, Goodyear, General Motors and Tupperware.

This situation is all the more worrying because the countries of Mercosur are incapable of adopting a common position with regard to the United States offensive in favour of a Free Exchange Zone for the Americas. Here there are two questions that must be distinguished, dollarisation and economic integration. The United States has not adopted any position of principle in favour of dollarisation
The United States are happy for their currency to be established as a reference point, but on condition that they do not incur too heavy responsibilities. Panama and Equator have made the dollar their currency, that is fine, but it must not be held to imply any responsibility attaching to the Federal Reserve as "lender of last resort". The Meltzer report (5)on the reform of the IMF, for its part, leaves open the choice between fixed or fluctuating rates of exchange (currency board, dollarisation). According to the report, experience shows that it is mixed systems, pegged or open to revision, that must be avoided because "they increase the risk of crises and the gravity of them ".

The social question

But that is not the essential point: the depth of the crisis is to be measured primarily by a strong upsurge in the class struggle. It is the emergence of " Argentina of the pickets" (Argentina piquetera). In fifteen months there have been four general strikes which have enabled the organised unemployed and the workers to show their power employing new forms of resistance, by means of transport obstruction, particularly effective given the geography of the country. (6)

This upsurge in social unrest makes it fully comprehensible that there is no technical solution to solve the questions confronting a dependent country like Argentina. This never ending dependence, both economic and political, is evidenced by the inherited debt and by the country's inability to lift itself up to the degree of hyper-competivity set as the norm by capitalist globalisation. That this problem concentrates around the exchange rate results from the fact that in such a situation there is no optimum exchange rate. To put it briefly, it needs to be low in order to be "competitive", and to be high so as to be "attractive". Everything that might enable this double constraint to be relaxed then comes up against the extraordinary rigidity of the social scheme imposed, as must never be forgotten, by one of the most cruellest dictatorships this continent has ever known. It takes a huge nerve to demand, as the ultra-liberal dogmatists do, even more flexibility from the labour market (where 15% is the official unemployment rate) and still more privatisation in the fields of health and education. In fact the scheme for property ownership and industrial reduction ,begun by the dictatorship and so completely in keeping with neoliberal requirements, rests on a foundation whose nature is more social than financial. Financial balance has not been achieved through the efforts of "productive" capitalists but by means of a quite extraordinary reduction in workers' living conditions. As Claudio Katz writes, "the victims of the scheme, these are the wage earners whose pay has gone down 0.5% for every growth

point and certainly not the capitalists who have benefited from the impermanent nature of labour contracts all through the nineties".(7)

To this reduction in the wages field have been added the effects of a radical fiscal counter-reform which brought about an enormous concentration of wealth. Four years ago an IMF delegation came to the Argentine headed by Vito Tanzi, director of the Fund's department of fiscal affairs. This is what he said at Clarins on 11 August 1997:"the current fiscal structure has enabled many people to become rich owing to the fact that they have paid no taxes, especially those who have gained a great deal from capital profits, interest and dividends. It is important to correct this situation. It is essential from the point of view of equity." To the journalist who raised the well known argument about the flight of capital, Tanzi replied that the negative effect of taxes on financial revenues is exaggerated and cited the example of Chile where profits are taxed far more than in Argentina. There should be no illusion about the equity in question here: Tanzi already had in mind the idea that without fiscal receipts the Argentine state would be in no position to honour its obligations.

The central role accorded nowadays to taxation as an adjustable variant shows that it is always the same social categories that are going to be called upon to pay. Behind the supposed imperatives of globalisation is to be found the class war. Faced with a crisis of such magnitude there can basically be only two alternatives. Either - the burden is once again imposed on the Argentine people, by force if necessary. Or,- the country engages in a double rupture process; a break with international finance, by refusing to pay the debt and a break with the privileged inside the country, by restoring the value of wages and social budgets, by holding an enquiry into the privatisation sell off and by fiscal reform that ensures the necessary transfer of wealth from the owners of capital to those who produce the wealth in question. This is the lesson that is offered us by Argentina, the IMF's model pupil, the champion of privatisation and strong currency; - the dogmatic logic of globalised capitalism leads inexorably to social disaster.

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1)Eric Toussaint, La Bourse ou la vie (Your money or your life), CADTM-Syllepse, 1998.
2)Attac-Argentina, El ABC de Attac,2000 (The ABC of Attac)
3)Frederic Dorothe and Alexis Saludjian, Le couple moteur Argentine/Bresil; cle du developpement pour le Mercosur? (Argentina/Brazil the power engine couple; key to development for Mercosur ?) working document 2001.
4)Ian Katz, "Adios Argentina", Business Week, 17 January 2000.
5) www.house.gov/jec/imf/meltzer.pdf
6) See Eduardo Lucita "Anciennes et nouvelles formes de luttes" (Ancient and modern forms of struggle) Inprecor, March 2001.
7)Claudio Katz "Crisis economica: interpretaciones y propuestas", (Economic crisis. interpretations and proposals) page 12, 6 July 2001. Article repeated by La Insignia, excellent e-review www.lainsignia.org/2001/julio/econ

Guardians of our Rights

By Kenneth Haar

The single most important difference between the WTO and earlier international trade agreements lies in the agreement on dispute settlement, or in other words in the way disputes between contracting parties are being handled and decided upon. Following the signing of this agreement a kind of court system has arisen. An international high court for trade disputes, some might say. Decisions taken by the trade bureaucrats in this system can have far reaching consequences, and should their decisions not be obeyed, trade sanctions will ensue. It is this system more than anything else that makes the WTO an institution with rules elevated above other international agreements as well as over parliaments. While for instance the multilateral environmental agreements leaves only limited possibilities for putting pressure on countries that do not respect the agreements, the WTO provides ample opportunities for punishing violators of the rules.

This feature of the WTO suits the big players in the international marketplace perfectly. Over the six years of its existence the Dispute Settlement Body (DSB) has been used to remove a great number of "trade barriers" such as - the patent laws of India that for almost three decades had provided cheap medicine in India and elsewhere, - the sanction law of the state of Massachusetts against corporations investing in Burma, - attempts to reduce the outlet of carbondioxide from cars following obligations under the Kyoto Protocol. Other examples could be given. Controversial ones too. But actually these well known cases should be seen as merely the tip of the iceberg. The largest impact of the Dispute

Settlement System is to be found in all the things that governments and parliaments choose not to do for fear of retaliation initiated by other countries and organised by the WTO.

Chiquita behind the scenes At the WTO it is the governments who act as respectively defendant and prosecutor. All member states have equal access to the system of complaints, but not the same possibilities. A number of facts tips the weight between developed and developing countries. First and foremost it should be acknowledged that to a large extent the rules of the WTO favours developed countries over developing countries. Next it has become clear that a case filed at the dispute settlement system requires considerable ressources. And finally the weapon of the system -trade sanctions- is of a lesser value to developing countries than to developed countries. Imagine an african country threatening the EU or the US with trade sanctions. It would lead to little more than a bitter laugh.

It takes extraordinary backing from other countries if a poor country is to have the necessary strength to succeed at the DSB, but an example does exist. That was when Ecuador beat the EU in the famous banana-case. Not only was the EU import system for bananas declared "illegal"; the case is being pursued vigorously. This is due to the fact that Ecuador has the backing of the USA, and the USA has an obvious interest in the case. For more than the interests of Ecuador it was the profits of the banana giant Chiquita that was on the table. Even though the EU import system was not necessarily tailored to reach a high level of fair trade, the complete implementation of the WTO-rules in this field is feared by thousands of small producers in a number of Caribbean states. When they are to compete with Chiquita on the european market on "equal terms" they will face ruin and bankruptcy.

This case is not only a good example of how the rules of the WTO favours corporations like Chiquita. It is also a good example of the direct power of Chiquita obtained thanks to the WTO. For it was not hard to see Chiquita working behind the scenes, directing the involvement of the USA thanks to the first class contacts of the corporation to the decision makers of the superpower. I remember that on a couple of occasions some of us could shake our heads in the face of the vulgar workings of power relations in the US. Imagine to let the banana giant direct the performance of the USA in important international trade negotiations. Hitherto it had escaped our attention that private companies in the EU enjoys almost direct access to the dispute settlement system. We imagined that such issues were dealt with in depth by the Council of Ministers through discussions on economic as well as political implications of a complaint. That was naïve.

Trade Barrier Regulation

Even before the ink was dry on the agreements from the Uruguay Round, and even before the WTO had started functioning, a set of rules on the use of the Dispute Settlement System was adopted by the Council of Ministers of the EU. The rules, titled Council Regulation no. 3286/94, were adopted on the 22nd of december 1994, and sets up a procedure on the way to decide to file a complaint against another country at the WTO. This regulation gives industry the possibility to use the Commission to run their errands at the DSB.

In all the areas where the EU has the formal competence -after the Treaty of Nice that's practically all issues with a few notable exceptions such as culture, health and education- the Commission is the active and organising party in the procedure. But the complaint itself can come from three different places; from a member state, from a private enterprise in the "Community", or from an industry, for instance an association or lobby group for the companies in an industry. Could be, say, the association of corporations with interests in biotechnology, Europabio.

To many it may not appear all that strange that a complaint can be sent to the Commission by an enterprise or an industry, given the fact that the first ones to discover that the "rights" of the EU under the WTO-agreements are being put aside by another country. We should not expect that neither the Commission nor the trade ministries in the member states are capable of identifying all the conflicts with the trade policy of other parties to the WTO-agreements. Therefore it's not so strange that this kind of mechanism has been set up. It is the procedure that the complaint undergoes afterwards that shows that the Commission has been assigned to guard the interests of european business in a very direct way. The road between the board room of a european corporation and a complaint at the WTO is not full of democratic or political roadblocks and hindrances, but is merely made of a brief formal evaluation of the juridical validity of the complaint.

This is no secret. All the necessary information is available on the website of Directorate General of

Trade at the Commission. At the website you can easily find the regulation 3286/94 itself, and a detailed description of the way to file a complaint to the Commission, in case you're a CEO from a a company with no experience in these matters. A number of other documents describing the rules in question, called the Trade Barrier Regulation (TBR), leaves no doubt about the intentions. In a description of the TBR we can read that the ".. TBR is a legal instrument that gives the right to Community enterprises and industries to lodge a complaint, which obliges the Commission to investigate and evaluate whether there is evidence of violation of international trade rules resulting in adverse trade effects. The result is that the procedure will lead to either a mutually agreed solution to the problem or to resort to dispute settlement" (1).

When the Commission has received a complaint, at first it has to consider if there is a valid "legal claim" behind it. In other words the Commission has to evaluate quickly whether the interests of the enterprise or industry are indeed being put aside in a way that is or may be in contradiction with the rules of the WTO. If the answer is affirmative, then the Commission sets an investigation in motion. This investigation has to be finished within five months. In principle this phase is the decisive one. For if the Commission (DG Trade to be precise) concludes that indeed there is a reason to believe that the rules of the WTO has been violated, then the case will be pursued. In article 12 of the regulation we can read that where ".. it is found (as a result of the examination procedure, unless the factual and legal situation is such that an examination procedure may not be required) that action is necessary in the interests of the Community in order to ensure the exercise of the Community's rights under international trade rules, with a view to removing the injury or the adverse trade effects resulting from obstacles to trade adopted or maintained by third countries, the appropriate measures shall be determined in accordance with the procedure set out in Article 13".

The interesting part of this excerpt is that the valuation of the Commission is solely about the legal claim and not at all about whether it is a good idea that the authorities spend their resources on defending the profits of an enterprise or an industry. It is a valuation from a strictly legal point of view, even though the consequences of a dispute settlement case in the defending country may be grave.

Before a case is brought to the WTO, however, the Commission has to consult with a committee set up for this purpose; the "TBR Committee". The people in this committee are representatives -civil servants- of the member states. The consultation can be in writing if the Commission so wishes. Should a member state insist, then the case will be brought up at a meeting. In principle the TBR Committee has no real political mandate and can only give its advice to the Commission. However a praxis has developed that gives the committee some informal powers. Even so, it is extremely difficult to stop a case from going to the WTO once the Commission has established that the rules may have been violated. Only if a qualified majority in the Committee rejects the case can it be stopped (this has never happened). In this case the "verdict" can be appealed to the Council of Ministers, where the same rule -qualified majority to reject a case- is valid again. In other words: If an enterprise or an industry has a solid case against a third country vis-a-vis the rules of the WTO, it takes very little to get the Commission to work for their interests at the WTO on behalf of the EU. All the way through, the regulation has been designed from the basic assumption that the defense of the global trade interests of the EU is a natural and apolitical endeavour. It is not untill the moment when sanctions are to be decided, i.e. after the proceedings at the DSB has finished, that the Council of Ministers are called upon to make a political decision.

Two examples

Two examples can serve as illustrations of this formal procedure of complaint. The first one is known as the "swordfish case". It became a public issue when the Commission filed a complaint at the WTO against Chile for discriminating against fishing vessels from the EU. The fishing fleet of the EU has gained world fame after a large number of examples of overfishing. Not least in the countries on the african west coast, from Marocco to Namibia, these vessels are known as a bad sign. Now, this industry is gaining a reputation in Latin America. Chile had barred fishing vessels from the EU from landing at chilean ports with the argument that these vessels were overfishing in chilean waters. Overfishing which according to the chilean authorities was hurting the swordfish stock. Chile applied the measure with reference to one of the agreements from the Rio Summit on Environment and Development in 1992, the so called United Nations Convention on the Law of the Sea (UNCLOS), and in fact Chile

filed a complaint under the UNCLOS when the EU went to the WTO.

Naturally the case at the WTO caused great commotion among environmental organisations. This was yet another example of the threat that the WTO poses to the multilateral environmental agreements, and maybe even a sign of the seriousness in the claim of the Commission that the EU is a staunch defender of the environmental agreements at the WTO. In this case as in others the claim is invalid when the "interests" of the EU is at stake. In this case it was the european industry "adversely affected" by the chilean measures that could use the TBR-rules -the direct access to complaint. Behind the complaint was an association with a rather obvious interest, namely the spanish association of fishermen, ANAP. The Commission could have chosen to consult with the TBR Committee -and go ahead to the WTO from there, not matter what reply they got. But the Commission chose a different path. Considering the political gravity of the case, it was brought up at a meeting in the Article 133 Committee which carries a bit more weight than the TBR Committee. Both committees consists of civil servants plus representatives of the Commission. This kind of consultation with the Article 133 Committee takes place only when the Commission feels the need to get political backing -it's not compulsory. At the meeting in the Committee the signal was crystal clear. Only Denmark opposed sending the case to the WTO. In the end the case ended with a negotiated settlement between Chile and the EU. Chile will allow a small number of vessels to land in chilean ports, and the two parties made a solemn promise to cooperate in an effort to save the swordfish in question from extinction.

Another example concerns one of the hottest issues at the WTO, namely medicine. Both the european and the north american pharmaceutical industry has for quite some time had their eyes on South Korea, where a number of laws has protected and promoted local production of pharmaceutical products. The dissatisfaction with South Korea owes to a number of reasons, the most important one being the fact that the laws concerning the public health sector gave preference to locally produced medicine. Second came the South Korean pricing system which according to the pharmaceutical giants do not give sufficient incentive to create new types of medicine. Finally, the pharmaceutical companies were also dissatisfied with the rules for patent- and data protection. All this prompted the pharmaceutical companies on both sides of the Atlantic to react. The US industry, organised in the notorious association PhRMA, encouraged the US Administration to put South Korea on the "Special 301" watch list -a move that could lead to trade sanctions against South Korea. The european industry chose a different option. They set the TBR-procedure in motion. In their paper with the arguments for a case against South Korea, the european pharmaceutical industries organisation, EFPIA, argues that their market share in South Korea was unnaturally low: Only 12% against the statistically expected 20%. In July 1999 the Commission started working on the case. Even before the investigation of the Commission had been finished in March 2000, many of the South Korean laws were amended in an advantageous way for the pharmaceutical companies in the EU and the US. Consequently the Commission and the EU did not have to resort to the Dispute Settlement Mechanism at the WTO. Instead the Commission announced that South Korea would be under surveillance on this issue in the future. The fact that the pharmaceutical industry has a more or less direct access to the Dispute Settlement Mechanism at the WTO could become significant in the future. For while it is true that the industry lost face during the infamous case against South Africa (on patents on HIV/AIDS medicine and other pharmaceutical products), and while it is true that the very same case has drawn attention to the grave injustices of the TRIPS Agreement on patents etc., the privileges given to the pharmaceutical giants under the agreement are intact.

As with the swordfish case and the korean medicine case, all the other complaints taken to the WTO as a result of the TBR- procedure, has been started by private enterprises og industries - not by member states. Other examples are the cases against Argentina and Brasil on textiles (complainant: Euratex -the association of the european textile industry), a case on VAT on cars against Colombia (complainant: Volkswagen), or the case against South Korea on subsidies to shipyards (complainant: CESA, the association of european shipyards).

Guardians of Our Interests

Alongside this formal system of complaint, an informal procedure has developed. Whenever this informal procedure is used, the Commission is the active and organising body (2). An enterprise or an industry can under this procedure "point out" a problem to the Commission, who in its capacity of

"Guardians of the interests of the EU" (an expression used in a letter from the Commission) can decide to proceed with a complaint. Under this informal procedure all the bureaucratic steps of the formal procedure are circumvented. There is no requirement for filling out a detailed questionnaire. In other words, the rights of industry under the formal procedure has led to an even more direct but informal access to the Commission in this area. Therefore, many of the cases that appears in the statistics as cases initiated by the Commission can very easily originate from an enterprise or an industry. Under the informal procedure the Commission can choose to consult with the Article 133 Committee, though it is being stressed in a letter from the Commission (2) that the Committee has no formal competence and that in principle the Commission can ignore any advice given.

The background for the inmense possibilities given to industry to get the Commission working is not hard to figure out. The Commission and the Council see the WTO Agreements as a set of trade deals where the EU and everyone else took and gave in a large number of just deals. At one point a new and surprising definition of "fair trade" is launched at the website of the Commission (3). For the Commission "fair trade" is quite simply the full respect for the WTO Agreements -a deal is a deal! Consequently the Commission believes that their role as the right hand of industry is fully justified. The WTO Agreements are seen as a fundamentally apolitical fact, and furthermore they put an equation between the interests of industry and the interests of the EU as such. If all these premises are accepted, then there's no reason to make a fuss of the TBR-procedures. But there are many reasons not to accept them.

First, the WTO Agreements are not crystal clear and straight forward. Important agreements such as the TRIPS Agreement on intellectual property rights and the GATS Agreement on liberalisation of trade in services are very unclear in their wording. Clarity is established by the panels at the dispute settlement body through the cases brought to them by the contracting parties. And when industry has direct access to dispute settlement it gives them the opportunity to get clear interpretations on the subjects of interest to them. In the coming years, for instance, there will be a vital debate on the extent to which patent rights must yield to concerns over public health. While it is true that the pharmaceutical giants lawsuit against the South African government over patent rights did start a long awaited debate, real changes in the agreement is not necessarily on the horizon given the resistance from the EU and the US. Maybe we won't get any further than to an agreement on a "more flexible" interpretation of the TRIPS Agreement. This may prove to be a very uncertain way to go. For in the end the DSB has the final word. And given the direct access of EFPIA and PhRMA to dispute settlement, we will almost certainly get to feel their power to twist any agreement in a way that protects their interests.

Secondly, it should be expected that a comprehensive and radical set of rules such as the WTO Agreements has unforeseen effects.

Thirdly, the political process surrounding the adoption and ratification of the WTO Agreements were not exactly characterised by either thoroughness nor democracy. It should be argued that as a consequence they should not be seen as fully legitimate agreements to be respected in every sense. In many countries the agreements were pushed through the parliamentary machinery guaranteeing the absence of through parliamentary and popular debate. In my own country the most incredible fantasies about the content was voiced during the parliamentary debate on the ratification. And it didnt take many months before the first stories appeared in the papers about politicians who were very surprised to learn about the significance of the paper they had signed.

Fourthly, the WTO Agreements are in constant development. The GATS Agreement -as many would know- could develop into a forceful weapon against the whole public sector. This may not have been on the minds of the ones who designed the TBR Regulation in the first place.

Last but not least; the interests of industry is not the same as the interests of society as a whole. So in any case it is unacceptable that industry has obtained the power they have under the TBR rules. It is of course no litigating fact that the ones who will be hurt by this power is to be found outside the EU. A dispute settlement case at the WTO is a very serious matter and should be an entirely political decision for which politicians must bear the direct responsibility. The rights of industry under the TBR should be abolished.

Our own system

It should be underlined, though, that abolishing the rights of industry would probably not in itself

give a different end result. In the swordfish case there was an overwhelming majority in favour of running the errand of the spanish fishermen, even though the move could be considered in violation of a multilateral environmental agreement. The first step to counter the TBR should rather be organising something like "The Early Warning System of Social Movements". NGO's and social movements should start working on important cases even before they make their way to the WTO. It's not hard to eye the cases at an early stage. And once detected we have networks on the WTO and globalisation in Europe that could create the public attention the case in question deserves. An important element must be to expose the central role of industry when the "Guardians of Our Interests" in the Commission set out on journeys in order to remove newly detected barriers to european industry.

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Notes:
1. "What is the TBR?", from the website of DG Trade. All necessary material on the TBR rules can be found on the website of DG Trade: http://europa.eu.int/comm/trade/policy/traderegul/index_en.htm
2. This article owes a lot to the curiousity of Michael Voss (journalist). A letter to Michael from DG Trade describes briefly both the formal and the informal procedure for complaints for EU complaints at the WTO.
3. "Ensuring Fair Trade", from the website of DG Trade

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