**Letter from Global Civil Society about the Agenda of the WTO**

**Towards the 11th Ministerial**

October 2017

Dear Members of the World Trade Organization (WTO),

We are writing as hundreds of member organizations of global civil society from more than 50 countries, representing tens of millions of people from around the world, regarding the ongoing negotiations on the World Trade Organization (WTO) towards the 11th Ministerial meeting (MC11) in Buenos Aires, December 10-13, 2017.

We are increasingly concerned about press reports indicating that some WTO members are pushing a dangerous and inappropriate new agenda under the disguising rubric of “e-commerce,” even though there was no consensus to introduce this new issue during or since the Nairobi Ministerial. In addition, we are deeply disturbed by reports that the urgent need to change existing WTO rules which are constraining governments’ policy space for job creation and development, including achievement of the Sustainable Development Goals (SDGs), is becoming further blocked in the lead-up to the 11th Ministerial.

Citizens around the world have given clear messages to governments that the current rules of the global economy, including global trade rules, have exacerbated inequality and left far too many impoverished. Thus, we urge WTO members to reflect on this dynamic and to take decisions that will allow the global trading system to contribute to, rather than constrain, shared prosperity and development.

Below we outline our concerns regarding the following issues that are being, or should be, discussed in WTO:

* Proposals regarding e-commerce and their impact on national laws and regulations;
* Proposals to limit the scope and effects of public interest regulation;
* Fish subsidy disciplines that discourage overfishing by rich countries but still allow poor countries to grow;
* The time has come to fix bad existing WTO rules, not to expand them;
* Agricultural rules must prioritize food security and food sovereignty;
* There is a need for more flexibility for development policies.

**Wrong Agenda: E-commerce**

A number of new e-commerce proposals have been made at the WTO in the last year. Proponents often disguise their proposals under the rubric of e-commerce as being necessary to unleash development through the power of small- and medium-sized enterprises (SMEs). But SMEs are the least likely to be able to compete with giant transnational corporations, which enjoy the benefits of scale, historic subsidies, technological advances, strong state-sponsored infrastructure, tax avoidance strategies,and a system of trade rules written for them and by their lawyers.

Key provisions of the proposals include prohibiting requirements to hold data locally; to have a local presence in the country; no border taxes on digital products; prohibitions on regulating cross-border data transfers; and even prohibitions on requiring open source software in government procurement contracts. There is no economic rationale as to why digitally traded goods should not have to contribute to the national tax base, while traditionally traded goods usually do. Data is now the most valuable resource; furthermore, privacy and data protection are fundamental human rights and they cannot be abandoned in the interests of trade. Locking in rules in the WTO to allow corporations to transfer data around the world without restrictions would forever deny the right of countries and citizens to benefit from their own data and intelligence in the future, and it would restrict the ability of countries to implement appropriate data privacy and consumer protection measures. What e-commerce proposal proponents call “localization barriers” are actually the tools that countries use to ensure that they can benefit from the presence of transnational corporations to advance their own development and the economic, social, and political rights of their citizens.

We need trade rules that allow for the creation of decent jobs, including in the technology sector. But the hallmarks of companies like Amazon, Facebook, Google, and Uber include dislocation of local businesses and labor markets, and increasing precariousness of work. These would accelerate if e-commerce proposals were accepted in the WTO. Existing technology giants would be able to further consolidate their monopoly power. Their infamous tax optimization (which is tantamount to evasion), including base erosion and profit shifting, would be facilitated by a binding international treaty, and it would be nearly impossible to rein in the political instability engendered by the economic and financial consequences of such a scenario.

WTO members do not currently have a mandate to negotiate new global rules on “e-commerce,” and they should not obtain one in Buenos Aires. All of the issues proposed for the e-commerce agenda have either already been discussed and resolved, or are currently being discussed, in other forums, most of which are more responsive and accountable to public interest concerns than the WTO. E-commerce is already flourishing and SMEs can already sell their products online without new WTO rules. Of course, e-commerce can be a force for job creation and development, and certainly has the power to expand innovation, increase consumer choice, and connect remote producers and consumers. But supporting e-commerce is not the same as having binding global rules that would primarily benefit U.S.-based high-tech corporations, at the expense of public interest regulation to protect consumers and promote development. While we support efforts by developing countries to address the digital divide, transfer technology, and obtain financing for infrastructure and information and communications technologies (ICTs), the WTO is not the properforum to negotiate these issues; similar to the way other development issues have been treated in the WTO, they will not become binding obligations, while the agenda of the high-tech corporations will be binding. ***There should absolutely be no new mandate on e-commerce in MC11****.*

**Threats to Public Interest Regulation**

The SDGs recently agreed by all WTO members include a focus on expanding access to and quality of many public services, as well as key services often operated by the private sector such as financial services and telecommunications. Unfortunately, much like the e-commerce agenda, a similar corporate agenda is behind the effort to have new rules limiting domestic regulation of services. The proposed rules on Domestic Regulation in the services negotiations in the WTO seek to ensure that three kinds of regulation - qualification requirements and procedures, licensing requirements and procedures, and technical standards - meet vague and open-ended standards that would severely undermine the regulatory sovereignty of countries.

These are open-ended terms designed to minimize regulation and maximize the lobbying power of transnational corporations over sovereign governments. Giving the WTO jurisdiction to adjudicate whether a regulation was “reasonable,” “objective,” “transparent,” and “not more burdensome than necessary to ensure the quality of the service,” and further that a technical standard was developed in an “open and transparent process” would put the interests of foreign services providers above governments’ obligation to ensure that services are operated in the public interest. It is not the WTO that should decide whether the administration of labor, tax, environmental or safety laws affecting foreign services firms is “reasonable.” The WTO should not be given authority to decide if the local zoning commission’s agreement with local objections to place a big box store near a historic site is “objective.” If a state decides to accept an environmental review’s recommendation to ban fracking as a method of mining gas, a WTO panel should not have the jurisdiction to decide if that is “too burdensome.” Local governments – not trade panels - should have the ultimate authority to decide community issues that are inherently subjective because they involve important judgment calls. And foreign companies should not have “rights” to comment or input on measures proposed by local or national authorities before they are decided domestically.

Members did agree years ago to develop any necessary disciplines on these measures – but there has never been an agreement whether such rules are “necessary,” which they obviously are not. ***Thus, no disciplines should be agreed on domestic regulation in Buenos Aires.***

**Fishing: Subsidizing the Poor or the Rich?**

The other big ‘deliverable’ being pushed for Buenos Aires is a way to tackle the problem of overfishing by negotiating limits to the subsidies that governments provide to fisheries. There is a clear mandate for a pro-development and pro-environment outcome; but this cannot be lost due to the insistence of existing industrial fishing nations on rules that undermine the future developmental aspirations of developing countries. Despite the use of subsidies to build their industrial fishing capacity, those very same nations are attempting to prevent other developing countries from also building their domestic capacity, undermining development and doing little to prevent illegal, unreported and unregulated (IUU) fishing as well as over-fishing. For many developing countries, fisheries are at the heart of their economic and developmental aspirations. Protecting the policy space of developing countries and the ability to support small-scale and artisanal fishers must be at the heart of any outcome, along with effective, binding prohibitions on subsidies. ***The developmental and economic policy space of developing countries must be maintained whilst those nations that have contributed most to the problem of IUU and overfishing must agree to eliminate harmful subsidies. The management of fisheries resources must be maintained outside of the WTO.***

**What Should Be on the Agenda: Fixing Bad Existing Rules Not Expanding Them**

Both e-commerce rules and domestic regulation disciplines would amount to an expansion of the WTO. But the vast majority of WTO members have argued that existing unfair and damaging rules must be fixed before the WTO can be expanded. This fight was at the heart of the last Ministerial in Nairobi, which concluded with ambiguous language acknowledging that some countries wanted to bring in other issues, while others (the overwhelming majority) want to continue with the unfinished development agenda that had been the reason they had agreed to the Doha Round.

Unfortunately, some WTO members are obstinately refusing to move forward on what should be the core agenda: to fix the unjust rules that hinder global efforts to ensure true food security, sustainable development, access to affordable healthcare and medicines, and global financial stability, outlined in the [Turnaround Statement](http://www.ourworldisnotforsale.org/en/signon/wto-turnaround-2013-food-jobs-and-sustainable-development-first-statement) of the global Our World Is Not for Sale (OWINFS) network, endorsed by hundreds of civil society groups from around the world. At a minimum, in Buenos Aires, WTO members should focus on transforming the global agriculture rules that restrict developing countries from ensuring food security for their populations (while allowing big agribusiness nearly limitless public subsidies) and increasing flexibilities for developing countries to be able use trade for their own development.

**Agricultural Rules Must Prioritize Food Security and Food Sovereignty**

The top priority for a genuine development agenda would be transforming the current rules on agriculture. Unbelievably, it is the rich countries, not the poor, which are currently allowed to subsidize agriculture under WTO rules – even in ways that distort trade and harm other countries’ domestic producers. The tens of billions of dollars of subsidies allowed in developed countries per annum encourage overproduction and artificially depress world prices, wiping out farmers’ livelihoods in countries that should be benefitting from global agricultural trade or production for domestic consumption. ***Thus, a major outcome in Buenos Aires should be to reduce the amount of subsidies under the “domestic support” negotiations – including subsidies in the so-called “Green Box” category of subsidies when these actually have trade-distorting impacts.***

Given the existing subsidies, developing countries should also be able to increase tariffs to protect domestic production when faced with import surges. Unfortunately, some countries are opposing negotiations towards a workable “Special Safeguard Mechanism (SSM)” for developing countries. ***An outcome on SSM – unconditioned on further tariff cuts – at the upcoming Ministerial would greatly enhance developing countries’ ability to achieve food security, promote rural development and safeguard farmers’ livelihoods – and would be a step towards removing WTO constraints on Food Sovereignty.***

By contrast, most developing countries are only allowed miniscule subsidies. But the SDGs entreat countries to increase investment in sustainable agriculture. Also, there is growing acceptance of the “right to food” as a human right. One of the international best practices for supporting farmers’ livelihoods, ensuring food security, and promoting rural development is “public stockholding,” in which governments guarantee farmers a minimum price for their production, and distribute that food to hungry people within their own borders. But these programs, implemented in dozens developing countries, often run afoul of WTO rules – even though the agriculture supported is not traded in global markets.

The majority of WTO members have agreed that domestic public stockholding programs should not be constrained by antiquated WTO rules. But the changes have been steadfastly blocked by the United States, the EU, Australia and other big agribusiness exporters. And now reality is being turned on its head as China and India are being accused of being the biggest subsidizers, when their payments per farmer on a per capita basis remain miniscule – only a few hundred dollars per farmer, as compared to tens of thousands for the United States.

WTO members agreed to find a permanent solution to the public stockholding programs by December of this year. Unfortunately the positions of countries representing big agribusiness exporters have remained entrenched. ***In Buenos Aires WTO members must deliver* *a positive resolution on the public stockholding issue that allows all developing countries to implement food security programs without onerous restrictions that are not even demanded of developed countries’ trade distorting subsidies.***

**More Flexibility for Development Policies**

Along with transforming the global rules governing agricultural trade, developing countries have long advocated for other changes to the existing WTO to increase flexibility for them to enable them to enact policies that would promote their own development.

The group of 90 developing countries has made concrete proposals for changes to existing WTO rules that would remove some WTO constraints on national pro-development policies. Many of them are updated versions of the “Implementation Agenda” that have formed the basis of developing country critiques of the existing WTO since the time of its foundation. These include, for example, changes to allow developing countries to promote domestic manufacturing capabilities, stimulate the transfer of technology, promote access to affordable medicines, and safeguard regional integration. Many of these proposals parallel the civil society demands encompassed in the OWINFS [Turnaround Statement](http://www.ourworldisnotforsale.org/en/signon/wto-turnaround-2013-food-jobs-and-sustainable-development-first-statement). ***The G90 proposals should be accepted in the Buenos Aires Ministerial as proposed – without being conditioned on further market access concessions from developing countries.***

Even in an area that all WTO members should be able to agree on – ensuring benefits for Least Developed Countries (LDCs) – there is no consensus yet. Although it was a priority mandate, the small LDC package agreed in the WTO Ministerial in Bali in 2013 is not yet operationalized. This includes ensuring 100 percent Duty Free, Quota Free market access for LDCs’ exports; simplification of the Rules of Origin that define how much of the value of a product has to be produced in the country to qualify for reduced-tariff benefits; and providing actual binding commitments for the LDC services waiver (which allows developed countries to provide market access in services for LDCs without offering reciprocal access to other countries – a “flexibility” which has proven almost impossible to utilize). It also includes mandated reductions in the subsidies that the US and the EU provide to cotton producers – which enrich a few thousand there, but that have unfairly decimated production of hundreds of thousands of cotton farmers in Africa. ***This modest LDC package must be strengthened and made operational by the time of MC11.***

Much is at stake this December in Buenos Aires. We believe in a democratic, transparent, and sustainable multilateral trading system, and do not want to see the WTO depart even further from that ideal. The secretive and anti-democratic practice of negotiating behind closed doors with only certain powerful members, and then bringing massive pressure to bear on developing countries to accept another bad deal, which has characterized the WTO since its inception but has become even more pronounced in the last two Ministerials, must be abandoned in favor of a transparent and member-driven process that leads to outcomes that are consistent with the multilaterally-agreed Sustainable Development Goals.

Will members agree to a harmful new mandate on e-commerce and new rules limiting the democratic oversight over services regulations? And new rules on fishing subsidies which end up harming poor fisherfolk? Or will members act in the interest of their citizens and change course at the WTO, removing WTO constraints over domestic policies that promote food security and development, and supporting LDCs in their efforts to increase their share of global trade?

We urge you to make the right decision for a positive outcome at the upcoming MC11 in Buenos Aires.

Sincerely,

Initial Endorsers:

*International and Regional Networks*

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|  | Arab NGO Network for Development (ANND) | ANND is a regional network, working in 12 Arab countries with seven national networks (with an extended membership of 200 CSOs from different backgrounds) and 23 NGO members. |
|  | International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) | The IUF is currently composed of 385 trade unions in 123 countries representing a combined representational membership of over 12 million workers (including a financial membership of 2.6 million). |
|  | Pacific Network on Globalization (PANG) | The Pacific Network on Globalisation is a regional network focused on promoting economic self-determination and justice in the Pacific Islands. |
|  | Third World Network (TWN) | TWN is an independent non-profit international network of organisations and individuals involved in issues relating to development, developing countries and North-South affairs. |
|  | UNI Americas | WIDE+ is a European network on trade, development and gender justice with feminist experts, women's human rights and development associations across Europe. |

*National Organizations*

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|  | Federación Argentina de Empleados de Comercio y Servicios (FAECYS) | Argentina |
|  | Fundación Vía Libre | Argentina |
|  | World Labour Institute Julio Godio | Argentina |
|  | 11.11.11 | Belgium |
|  | Rede Brasileira Pela Integração dos Povos (REBRIP) | Brazil |
|  | SOL | France |
|  | Naturefriends | Greece |
|  | IT for Change | India |
|  | Fairwatch | Italy |
|  | Policy Analysis and Research Institute of Lesotho (PARIL) | Lesotho |
|  | Bia´lii, Asesoría e Investigación, A.C. | Mexico |
|  | Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS) | Philippines |
|  | Philippine Alliance of Human Rights Advocates (PAHRA) | Philippines |
|  | Alliance Sud | Switzerland |
|  | Association for Proper Internet Governance | Switzerland |
|  | Public Eye | Switzerland |
|  | Southern and Eastern African Trade Information and Negotiations Institute (SEATINI) | Uganda |
|  | Instituto del tercer Mundo | Uruguay |