

Looking Back at Cancun and Forward to Hong Kong

By Sharon Hom and Jennifer Rockwitz

HRIC representatives Sharon Hom and Jennifer Rockwitz attended the WTO Ministerial Conference in Cancun in September to monitor and highlight multilateral trade and labor issues relevant to China.

WTO TRENDS AND CHINA

As a newly admitted World Trade Organization (WTO) member (December, 2001), China attended its first WTO Ministerial Conference, the Fifth WTO Ministerial held in Cancun from September 10-14, 2003. The Ministerial Conference, held at least every two years, is the highest decision-making body of the WTO. China's 15-year bid and final accession to this global body was accompanied by hopeful expectations regarding the impact of membership in a multilateral rules-based system on greater transparency, openness and accountability in China's emerging legal system. As China nears its second year of WTO membership, assessments of its progress in implementing its WTO commitments reflect the complexity of the challenges and suggest mixed success.

However, in addition to assessing the WTO's impact on China, the importance of monitoring and assessing China's impact on these multilateral fora is also becoming increasingly clear. In light of the progressive expansion in the scope of the WTO, the inclusion of "non-trade" concerns and the greater inclusion of non-governmental organizations (NGOs) and other civil society stakeholders, it is important to ensure that China does not use its substantial economic and political power as a negative influence on these debates and decision-making processes. Guided by core principles of non-discrimination, transparency and rule of law, the international trade regime that makes up the WTO has expanded from its original focus on tariffs and trade in goods to now including rules on trade in services and intellectual property. At the same time,

"non-trade" concerns and issues such as sustainable development, environment and poverty alleviation have been incorporated into the WTO's agenda, negotiations and discussions.

These developments have not been without controversy, and debates continue regarding their appropriateness and scope. Governments from developing countries point to the need for trade policies to be responsive to the needs of all the WTO members, and not just the narrow economic interests of the developed countries. They have largely opposed the investment agenda ("Singapore issues" – investment, competition, government procurement and trade facilitation) pushed by the EU, Canada, Japan and the U.S.

Human rights, labor and environmental NGOs argue that trade is not an end in itself but a tool for sustainable and equitable development, and that these goals must be operationalized and factored into economic and trade policies. Sustainable and equitable trade policies must take into account the human rights-related impacts of trade policies because failure to do so results in incomplete and irrational policies.

HRIC AT THE FIFTH MINISTERIAL CONFERENCE

Beginning in 1996, WTO members agreed to expanded guidelines permitting NGOs to attend Ministerial Conferences and participate in issue-specific symposia, facilitating day-to-day contact between the WTO Secretariat and NGOs, and launching a range of specific initiatives designed to improve dialogue between the WTO and civil society. In order to receive accreditation for the Ministerial Conferences, NGOs have to demonstrate that their work is "concerned with matters related to those of the WTO." In August 2003 HRIC applied for and received accreditation as an NGO observer to the Fifth Ministerial in Cancun.

As part of HRIC's five-year research, monitoring and advocacy strategy, Incorporating Responsibility 2008, HRIC's WTO intervention aimed to raise specific human rights and trade issues in the context of China, and broader issues of NGO and civil society participation in WTO bodies and processes. As an independent Chinese human rights organization, HRIC is particularly concerned with issues that

present challenges for the implementation of WTO obligations and their impact on sustainable development, poverty alleviation and rule of law. As part of its research and advocacy work, HRIC carefully monitors the legal reforms necessary for compliance with WTO accession protocols that promote the WTO goals of transparency and non-discrimination. HRIC also viewed attendance at the WTO Ministerial as an opportunity to observe the Ministerial Conference and develop greater technical understanding of WTO processes, member obligations and the role of NGOs and civil society actors.

In addition to attending a wide range of briefings by NGOs, the WTO Secretariat and country delegations, HRIC and Fédération Internationale des ligues des Droits de l'homme (FIDH) co-convened a "China and the WTO" roundtable, which engaged human rights and trade experts from legal, academic and non-governmental organizations. The roundtable examined the impact of China's first year implementation of WTO obligations on sustainable and equitable development, and explored the serious social and human rights problems in China that have been exacerbated or created by China's accession to the WTO. The roundtable focused on agriculture, human rights and business in China, labor rights, corporate responsibility and legal reforms. The participants included moderator Sharon Hom, Executive Director of HRIC; Marie Guirard and Antoine Madelin from FIDH; Stuart Clark, Senior Policy Advisor at the Canadian Foodgrains Bank; Neil Kearney of the International Confederation of Free Trade Unions; David Petrasek, Senior Policy Advisor at Amnesty International; and Mattheo Bushehri, Professor of Law at Hong Kong University.

Approximately 20 people from a broad range of constituencies attended the roundtable, including a Senior Policy Advisor of the Trade Union Advisory Committee to the OECD; press; human rights NGOs, including Rights and Democracy, Amnesty International and the World Organization Against Torture; a delegate from the Canadian Pork Council; and a delegate from the Turkish Business Association. With a view towards promoting an expanded role for NGOs at the WTO, FIDH circulated a proposal in Cancun advocating NGO consultative status for general interest NGOs in formal WTO processes,

arguing that UN bodies, the OECD and the ILO have already acknowledged the expert role of NGOs in consultative mechanisms.

In addition to the roundtable, HRIC also participated in the emerging NGO human rights caucus, which included representatives from FIDH, Amnesty International, Rights and Democracy, International NGO Committee on Human Rights in Trade & Investment (INCHRITI), World Organization Against Torture, the Argentina-based Center for Human Rights and Environment and the Canadian Environmental Law Association. After extensive discussions, the Caucus issued a strong statement underscoring the critical human right to adequate food.

HRIC also attended multiple NGO briefings to learn about other organizations' strategies in attacking human rights issues in the trade arena. The key briefings HRIC attended included a teach-in co-convened by INCHRITI and the Lutheran World Federation; a panel organized by Rights and Democracy, whose key speakers included former High Commissioner for Human Rights Mary Robinson and Paul Hunt, the Special Rapporteur on the Right to Health; and an Oxfam-sponsored briefing by two mainland Chinese researchers, who focused on the effects of accession to the WTO on China's sugar and automobile industries.

HRIC representatives also made an hour-long trip, maneuvering Mexican security barriers along the way, to downtown Cancun to participate in a candlelight vigil organized by the colleagues of Kun Hai Lee, a North Korean farmer who committed suicide on the opening day of the Ministerial. Beyond the wire-mesh fences and armed police rimming the hotel zone, a few hundred Via Campesina supporters, NGOs, local citizens and the press joined the vigil, calling for greater accountability in the WTO to ensure sustainable and equitable development in poor countries. As each person reached the barricades, he or she silently placed a white flower into the wire openings, creating a wall of white blossoms lit by candles placed atop the fences. The security forces peered from behind riot equipment on the other side of the concrete barriers. It was a powerful statement about inclusion and exclusion.

The Cancun negotiations dramatically collapsed when developed countries

refused to make concessions on agricultural subsidies, and developing countries from the African, Caribbean and Pacific regions rejected a call from the EU, Japan and others for new rules on the Singapore issues.

LOOKING AHEAD TO 2005

On October 21, 2003, the WTO members accepted Hong Kong's offer to host the Sixth Ministerial Conference. While members postponed a decision on the date, the next Conference will have to take place before the end of 2005 according to requirements in the founding charter, the WTO Agreement, that Ministerial Conferences be held at least once every two years.

While China retained a relatively low profile at its first WTO Ministerial, it will move center stage when Hong Kong hosts the Sixth Ministerial in 2005. Although as a Special Administrative Region Hong Kong is technically a separate trade territory, China will undoubtedly be exerting its influence on security measures, access and visa arrangements and NGO accreditation. In light of China's past record on these issues, it is very important for NGOs, the media and civil society actors to monitor and participate in the planning processes to ensure full access and transparency.

According to the WTO Web site, the Fifth Ministerial attracted a record number of NGO participants, with nearly 800 organizations and 1,600 of their representatives taking part, an almost eightfold jump since the first Ministerial in 1996 with just 235 registered participants. However, NGOs had to grapple with a number of procedural constraints and logistical difficulties. Due to the massive number of applications for NGO accreditation, the WTO decided to place limits on both the numbers of representatives an NGO could register (a maximum of three) and the number of people from the NGO who could have access to the Cancun Convention Center where formal trade negotiations took place (only one representative at a time). Because only accredited NGOs could access the NGO Center, non-accredited NGOs were prohibited from participating in NGO roundtables, discussions and briefings unless specific exceptions were made.

The logistical difficulties in Cancun were further exacerbated by the lack of materials available to NGOs in a timely manner.

Government delegations did not consistently post briefing times or hold regular briefings in areas readily accessible to all groups. Part of this can be attributed to the unequal resources of government delegations. For example, the U.S. delegation listed almost 200 members while some poor countries sent only a single delegate.

As the planning and negotiations for the next Ministerial move forward, it is important for NGOs to pay close attention to:

Accreditation and access: In light of China's attitude toward individuals or groups it views as critical of its policies or practices, attention must be given to possible politicization of the accreditation and visa issuance process. The process for review of NGO observer applications needs to be fully transparent. Any objections by any WTO member to the approval of any particular applicant, as well as the reasons for objections, should be disclosed to the affected NGO and also posted on the WTO Web site.

Security Measures: Security arrangements for the Hong Kong Ministerial must be carefully reviewed to ensure that an appropriate balance is struck between security concerns and access by civil society stakeholders. Furthermore, the level of security and the role and authority of security forces need to be carefully delineated in advance and monitored during the Ministerial. The authorities must not be allowed to use security concerns as a pretext for suppressing legitimate free expression and the exercise of other fundamental human rights.

The WTO has been progressively opening up to allow greater inclusion of civil society stakeholders and greater transparency in its decision-making processes. Hong Kong 2005 will be a test of the WTO's commitments to even more rational and inclusive processes. It will also be a test of the kind of citizen China will choose to be as it increasingly integrates into the global community.