

The Cunning Bully - EU Bribery and Arm-twisting at the WTO

SUMMARY - by Corporate Europe Observatory (CEO)

“Both the United States and European Communities trade negotiators take us to the slaughter house at the end of the day, the latter might be more subtle and polite about it, however the end result is the same...we get slaughtered. I do prefer dealing with the US...at least you know exactly where you stand with them...”

A Geneva-based Southern delegate, July 2003

Fatoumata Jawara’s paper “The Cunning Bully - EU Bribery and Arm-twisting at the WTO” demonstrates in detail how the EU uses a range of inappropriate tactics to pursue its self-centred agenda inside the World Trade Organisation (WTO), in stark contrast to the EU’s promotion of itself as an enlightened trade superpower. In Cancun, the EU will undoubtedly crow about its supposedly “pro-development” policies. Yet, as Fatoumata Jawara’s paper shows, the recent history of EU behaviour in and around the WTO shows that the EU is all too willing to use its economic and political weight to expedite its trade and investment ambitions against the interests of the WTO’s developing country membership.

This summary attempts to communicate the essence of Fatoumata Jawara’s paper. We encourage readers to take the time to read the full text of “The Cunning Bully”, which is available from:-

EC? EU? European Commission?

The EU is represented in WTO negotiations by the European Commission, which acts as a single voice for the 15 EU member states; this willingness to speak with one voice is from where the EU derives its considerable economic and political power. Throughout the full paper, “EC” refers not to the European Commission, but to European Communities, which (for legal reasons) is how the EU is referred to inside the WTO; here, for the sake of simplicity, we write EU rather than EC.

<http://www.corporateeurope.org/cunningbully/index.html>

Cunning power politics

In attempting to impose its will on the wider WTO membership, the EU has a somewhat different style to that of its fellow WTO superpower, the United States (US). US-style WTO bullying has been written about at length because the US is both extreme in its tactics (e.g. threatening to economically blacklist WTO members that do not toe the US line, and demanding the withdrawal of non-cooperative negotiators) and fairly open about deploying them. In comparison, it can be tempting to conclude that the EU is a much “fairer player”, because it is

rarely detected indulging in such overtly aggressive tactics. However, this is to underestimate the considerable potency of the EU's more subtle "carrot and stick" style, which – as we highlight in this summary – is in many ways just as much an abuse of power as naked US aggression. (One must not forget, however, that when the US advances its agenda through overt bullying, the EU is frequently a beneficiary also: - the EU often does not *need* to deploy US-style tactics because it can "piggy-back" on the results of the US' own handiwork.)

It is important, also, to remember that the EU strives to portray its trade policies as being motivated by the pursuit of global poverty alleviation and sustainable development. Thus, if EU negotiating strategies are to match EU rhetoric, then one would expect the EU to adopt a more pro-actively progressive WTO stance than basic, self-serving mercantilism. Failure to aspire to these higher standards must therefore be interpreted not as acceptable passivity, but as an attempt to deliberately deceive the wider public with layers of cynical, unsubstantiated "feel good" rhetoric.

The abuse of WTO "process"

"...power is best exercised in a situation of uncertainty and flexibility, that is why process issues are so vague in the WTO." **Developing country delegate**

For a contemporary multilateral organization, the internal rules and procedures of the WTO are notoriously antiquated. As "The Cunning Bully" points out, the failure of the WTO to develop formal, transparent and accountable internal procedures creates an environment conducive to the deployment of power politics. "The Cunning Bully" outlines some of the most egregious examples of unclear internal processes. These include the use of "mini-ministerials", which are completely unofficial meetings of between fifteen and thirty WTO members, arranged (presumably) by the most powerful WTO members – but often also attended by the supposedly "neutral" WTO Secretariat - to "pre-cook" a consensus which can later be hoisted onto the 100+ WTO members excluded from the process.

Another infamous example documented was the spontaneous, unplanned and illegal extension of the 4th WTO Ministerial Conference (in Doha, in November 2001) by an extra day, which worked indisputably in favour of the WTO's power players with their large and well-financed negotiating teams. (Whereas many developing countries only had a handful of delegates each at Doha, the combined number of EC delegates was 508, far more even than the 51 US delegates and 159 Japanese delegates.) Indeed, some of the WTO's developing country delegates had already flown home on pre-arranged flights. This extra day witnessed a marathon 36-hour meeting from which the vast majority of the WTO's membership was excluded.

Further, beyond these two examples, “The Cunning Bully” points to a wide array of systemic WTO process deficiencies which, with the implicit support of the WTO Secretariat, frequently contribute to the silencing and marginalization of views which are not synchronized with the views of the Quad (US, EU, Japan and Canada) and other powerful WTO players. The mysterious appointment of six strongly pro-Quad “facilitators” at the Doha conference remains a particularly sore point for the bulk of the WTO membership.

Indeed, there are strong movements both within the WTO (i.e. member states) and outside it (i.e. civil society groups) pushing for these most basic procedural flaws to be addressed. That some developing country WTO members have felt it necessary in the run up to Cancun to make official submissions asking for officials to be elected rather than appointed, and for the views of all members to be taken into account when formulating negotiating texts, shows how serious the situation is.

What is the EU’s role in all of this? The EU is a major beneficiary of the WTO’s underdeveloped internal structure, as documented both in “The Cunning Bully” and in books such as *“Behind the Scenes at the WTO: the real world of international trade negotiations”*, by Jawara and Kwa (Zed Books 2003). Yet the EU makes little serious effort to address these issues. Pascal Lamy, the EU’s lead negotiator, has said that, *“We must look for flexible instruments that can facilitate the formation of consensus without diminishing the role of the formal decision-making bodies.”* The first part of this is key; “flexibility” is the euphemism used by WTO members who have a vested interest in preserving the flawed, ill-defined internal processes of the WTO. As mentioned at the outset of this summary, the absence of meaningful, pro-active attempts to remedy such obvious democratic deficits cannot be described as acceptable indifference or passivity; it is tantamount to conscious, deliberate blocking tactics to preserve existing power dynamics within the WTO.

Hard-line tactics

The watchword of EU power politics may be subtlety, but this is not always the case. “The Cunning Bully” highlights a number of instances where the EU has clearly acted unreasonably. One example was the EU’s use of brinkmanship at Doha; as “The Cunning Bully” comments, *“...Lamy kept asking his negotiating team to stand firm, believing a crisis was needed if the talks were to get anywhere.”* A hard-line negotiating stance may, at first glance, seem a reasonable negotiating tactic. But the EU can only play this card because of the asymmetry in power between itself and the bulk of the remaining WTO members, a theme that runs throughout “The Cunning Bully”. The EU can in some sense afford to push the WTO to the brink of collapse because, owing to its economic and political weight, it could still thrive in a rule-less global trading environment. This is not an option many WTO members have, and so the EU (in common with other powerful WTO members) plays on the fear of “trade anarchy” in a WTO-

free world to mercilessly extract concessions from countries, from within the WTO's institutionalized framework.

"The Cunning Bully" also explains the EU's unpleasant role in the "EU-ACP / Cotonou waiver" episode during Doha. This episode, which highlights the reality of institutionalized WTO power dynamics, and the tendency for "the consensus of power" to be used against developing countries, showed the EU deploying a number of malevolent tricks to push its agenda. To explain, the EU and African, Caribbean, Pacific (ACP) bloc of countries have a preferential trading agreement which exists outside the WTO, and because it allows for preferential treatment (thus running against the WTO's "level playing field" mantra) it needs authorization from the WTO i.e. a waiver, known as the "Cotonou waiver."

"The Cunning Bully" comments how the EU used this waiver, and the threat of non-renewal if the EU did not actively defend it, to secure the support of many ACP countries for the EU's narrowly unsuccessful push at Doha to launch negotiations on four new unpopular and potentially highly damaging agreements called the "Singapore Issues" or "New Issues". As "The Cunning Bully" comments, *"...the EC was able to use the Cotonou waiver as an artificial bargaining chip at the last minute in return for their support on the new issues."*

The "trick" was that the waiver issue had been left languishing at the WTO all year; with enough political will from the EU it could, and should, have been dealt with long before Doha. This is another example of the EU using inaction as a potent weapon in its armoury.

The EU-ACP waiver episode also demonstrated the EU resorting to more US-style tactics; the EU put extreme pressure on non-ACP member Bolivia (including the threatened withdrawal of its preferential trading links with the EU) as part of this process.

The problem with the EU-ACP affair, as discussed more generally in the following sections, was that it was an abuse of power on several levels. Firstly, the waiver was only on the Doha agenda because of deliberate EU inaction. Secondly, the waiver saw the EU exploiting the dependency (real or imagined) of the ACP countries on their preferential trading agreement with the EU. Thirdly, the EU engaged in a type of "divide and rule" with developing countries:- to secure the waiver the EU entered into an alliance with the US through which non-ACP countries unhappy with the waiver were bullied and bribed into silence. Fourthly, the EU's "deal" with the EU-ACP did not have a neutral outcome; the "Singapore Issues" were, and still are, considered profoundly hostile to the interests of developing countries. In other words, the EU's rather cynical negotiating logic in this episode fell a long way short of its enlightened, "pro-development" self-image.

Consensus of power

As discussed in “The Cunning Bully”, the WTO’s super powers are not sufficiently powerful to unilaterally impose their will on other WTO members. However, once a number of powerful WTO members start working together inside the WTO, it becomes progressively more difficult for the majority of the WTO’s membership to resist the will of this “consensus of power.” For this reason, the EU and US often strive to develop a common negotiating agenda prior to ministerial conferences, to create the kernel of this power axis.

US-EU synchronization was certainly the case prior to Doha: “a carefully pre-scripted co-operation” as the Financial Times described it. As “The Cunning Bully” shows, the US and EU moved towards accommodating each other in Doha to secure the conditions necessary for the launch of a new round. In the aforementioned EU-ACP waiver episode, for example, the US switched from an initial position of opposing the waiver, to a position of supporting it, crushing dissent from countries that it had previously supported. Indeed, it is common practice for the EU and US to come to “arrangements” whereby both their individual interests are accommodated, invariably at the expense of developing country members. For example, commenting on the final agreement that emerged from the Doha meeting, one observer commented that:-

“The EC and US made a deal on environment and anti-dumping. The environment text was essentially written by the US delegation and inserted in the Declaration at the last minute – and, of course, the anti-dumping issue was emasculated by the US.”

Securing negotiations on “environment” – which, despite its pleasant-sounding title was opposed, for a variety of reasons, by many developing country WTO members and Northern environmental groups – was a preoccupation of the EU. Avoiding critical language on its repeated abuse of “anti-dumping” mechanisms was a key goal of the US, hence its “emasculatation” of the language on anti-dumping.

The US and the EU seek to impose their will upon weaker WTO members by progressively expanding what “The Cunning Bully” calls “circles of power”. With US-EU cooperation secure, the next step is to involve the remaining Quad members (Canada and Japan) and, from that point onwards, more and more countries are (by a variety of methods) sucked into this centre of power making it harder and harder for others to resist.

The EU is highly culpable in all of this. Contrary to its pro-development rhetoric, and attempts to cultivate friends by disingenuously “bad-mouthing” the US in private (as mentioned in “The Cunning Bully”), the EU is quick to pool its power with other leading industrialized nations inside the WTO. This is because, at the end of the day, many of the richest, most industrialized WTO members have

agendas which are broadly similar, and which have little to do with accommodating the needs of the organisation's poorer members.

Perhaps it is naïve to expect the WTO's superpowers to pull in different directions inside the WTO. But, given the reality of WTO negotiations as power-driven, then the EU in particular should desist from pretending that the WTO is some great leveler which protects the weak from the strong.

The reality of power, and EU-style persuasion

Commentators sometimes forget this, but in its current form the WTO can never be a "level playing field" because beyond the WTO, its members exist within a complex web of political and economic dependencies. When the EU sits at the table to negotiate at the WTO, the chances are that many of the WTO members it faces will (rightly or wrongly) feel dependent on the EU in some way, and thus be put at an automatic negotiating disadvantage. The EU exploits these relationships in a number of ways.

At the most general level, the EU and its member states (along with other leading WTO powers) is well placed to use financial incentives and "sweeteners" to both soften opposition and cultivate support for its agenda. "The Cunning Bully" mentions a number of these; offers of development aid, technical assistance and IMF/World Bank-sanctioned debt relief are just three examples. That such inducements have nothing to do with the content of WTO negotiations (and thus cannot reasonably be seen as legitimate negotiating tokens) is not the only reason why such tactics are unacceptable.

These tactics are fundamentally unreasonable because they prey on the desperate vulnerability of many developing countries, encouraging them to sacrifice their longer-term interests (such as standing firm in unison with other developing countries to secure meaningful change in the WTO) in the name of securing short-term, country-specific benefits, which may be largely illusory in nature and come with considerable strings attached. As "The Cunning Bully" explains, a clear motivation for powerful WTO members to disburse "technical assistance" and "capacity building" funds, for example, is to simultaneously build support for, and undermine opposition to, their agendas.

Needless to say these exploitative, divide-and-rule tactics are not what one might expect from a self-declared enlightened trade superpower. If the EU was true to its rhetoric it would de-politicise the various financial disbursements mentioned above and not use them as negotiating chips at WTO meetings.

Beyond "tried-and-tested" mechanisms such as financial incentives, the EU has a particularly nuanced way of exploiting power relations. Closest to home, the EU can count on the loyalty of countries seeking accession to the EU; this example shows that the EU's exploitation of power asymmetries does not exclusively flow

North-South. "The Cunning Bully" also documents how the EU applies straightforward pressure to the weakest WTO members, citing Pascal Lamy's presence and activities at the Least Developed Countries III conference in May 2001 (only months before Doha), where certain trade ministers were "gently reminded" about the benefits of trade and economic co-operation with the EU.

More generally, "The Cunning Bully" notes how a key EU tactic is to cultivate what might be called "EU proxies" amongst the WTO membership. These "proxies", which are often middle-income developing countries, then take the EU agenda forward (or at least an agenda not obstructive to the EU) and attempt to persuade other countries to adopt a stance more amenable to EU ambitions, allowing the EU to remain (relatively) hidden from the limelight. "The Cunning Bully" mentions that, at the time of Doha, South Africa, Mexico and Chile fitted into such a category. Such "middle-ranking" countries do not simply "join the EU bandwagon" as a consequence of Pascal Lamy's tireless globetrotting and capital visits. Rather, they come on board because they think they can gain something from the EU. In this context "The Cunning Bully" mentions both the ever-elusive promise of EU agricultural reform (with which the EU has extracted countless concessions over the years, only to repeatedly renege on its promises) and the leverage that the EU enjoys as a consequence of its growing web of bilateral and regional trade agreements outside the WTO.

It is important to say a word about these bilateral and regional trade agreements. Despite being a proselytizer of multilateralism, the EU continues (with much less fanfare than the US) expanding the range of trade agreements to which it is party outside the WTO. It remains a stark fact that both existing extra-WTO agreements (such as the "Cotonou" agreement, EU-Mexico and EU-Chile) and forthcoming agreements (e.g. EU-Mercosur) alter the balance of power between the EU and the countries in question. Rightly or wrongly, preferential access to EU markets (in a bilateral or regional context) is seen as something worth fighting for by many developing countries, even if it entails making heavy sacrifices and (as a result of the inherent divisiveness of negotiating bilateral agreements) undermining the prospect of a more structural, united challenge to global wealth and power inequalities.

To this extent, the EU's growing range of trade activities beyond the WTO can be seen as an attempt to entrench its power inside the WTO. Whatever the EU's intentions, it remains a fact that EU bilateralism reinforces the EU's WTO arsenal. If the EU is sincere about its pursuit of development-friendly WTO trade policies, the current trajectory of its overall trade policy (with its increasingly numerous bilateral and regional components) is puzzling.

Indeed, as "The Cunning Bully" points out, the fact that the EU is due to renegotiate its Generalised System of Preferences (GSP) schemes in 2004 - i.e. the WTO mechanism which allows certain preferential trading arrangements to co-exist with the WTO - could well be a bargaining chip for the EU in Cancun.

While on the topic of Cancun, it is worth noting that, according to delegates, the EU has started telephoning the capitals of developing countries to explain the EU Cancun position and remind these countries of the 'benefits' they derive from preferential trade agreements with the EU. Further, "The Cunning Bully" notes how, in a typically "EU-style" attempt to advance its agenda, the EU recently tried to persuade the ACP countries to issue a joint EU-ACP declaration regarding Cancun. The declaration, which (amongst other things) would have effectively neutralized ACP opposition to the "Singapore Issues", was fortunately resisted by the ACP countries, who have now issued their own statement – complete with opposition to the Singapore Issues.

Conclusion

"The Cunning Bully" concludes by noting that, in light of recent WTO history, *"Cancun could well become an arm-twisting and dirty tricks cesspit."*, and that developing countries must try to stand united against the inevitable barrage.

More generally, it finishes by focusing once again on the unacceptable process deficiencies within the WTO, which are the foundation of WTO power politics.

Given its status, the EU is highly culpable for the continuation of this democratic deficit within the WTO. As this summary highlights, the EU's selective inaction and passivity in light of this is completely unacceptable. Moreover, the EU unreasonably promotes its agenda with a cocktail of inducements, subtle (and not so subtle) arm-twisting, divide-and-rule tactics and exploitation of its political and economic power. "The Cunning Bully" exposes the EU's pro-development rhetoric – which we will inevitably hear again in Cancun – for the fallacy it is.

"One disheartened least developed country (LDC) delegate said after Doha that the developing countries should have demanded the removal of all references to development interests of LDCs in the Doha Declaration. This he said would have made no practical difference, but would have prevented the powerful countries from cynically using the declaration to trumpet their supposed commitment to development to the public and to trade ministers unfamiliar with WTO technicalities and politics." **Extract from "The Cunning Bully"**