



WDM briefing for the 5th WTO Ministerial meeting

The real development agenda

Defining a pro-poor outcome for Cancun

4 September 2003

Introduction

Two years after the collapse of WTO talks in Seattle, governments agreed to launch a round of trade negotiations at the November 2001 WTO Ministerial conference in Doha. A central theme of the round was supposed to be making the trade system fairer for developing countries. However, two years later, in the run up to the WTO's fifth Ministerial Conference in Cancun, the prospect for such an outcome looks bleak.

Developing countries have attempted to work within the WTO system. Over the past two years, developing countries have been actively engaging, clubbing together to form joint positions and setting out firm negotiating demands. In short, exactly what rich countries, like the UK, have been telling them to do to 'reap the benefits' of their membership of the WTO. Unfortunately, because many of their proposals are at odds with the agenda of developed country governments and big business, the strategy of the very same rich countries has been to ignore, oppose, sideline, postpone, fudge or do anything they can to prevent meaningful reform.

The past two years have been characterised by a series of missed deadlines and broken promises. Areas of key interest to developing countries – such as access to medicines, agricultural reform, meaningful rules to allow greater flexibility for poor countries (known as 'special and differential treatment'), assessment of services liberalisation, and reform of WTO negotiating procedures – have fallen foul of rich country intransigence.

Cancun should provide an opportunity to review the negotiations and provide political direction. It should provide an opportunity to stimulate a process aimed at remedying the current problems by reforming the trade system to achieve sustainable

development. Instead, the indications are that the major trading powers such as the EU and the USA seem hell-bent on opposing reform and pushing to expand the WTO's remit with ever-more stringent free-market rules. This relapse into business as usual power politics by the EU and USA is crushing the prospects for a fairer trade system. Their actions threaten to undermine multilateral co-operation.

It is time for the two 'elephants' of international trade to stop trampling on poor countries and agree a more progressive agenda. What follows are the outcomes WDM would like to see in relation to some key areas of decision-making in Cancun.

1) No Expansion of WTO rules

The European Union (EU) and some other industrialised countries are keen to add four new agreements to the WTO and expand its remit into even more areas of policy. These four issues, known as the 'Singapore issues' or the 'new issues', are investment (in manufacturing and primary sectors), competition policy, transparency in government procurement and trade facilitation. A decision is to be taken at Cancun, by 'explicit consensus', on whether or not to launch negotiations on each of the Singapore issues.

However, these proposed agreements have nothing to do with poverty eradication and everything to do with benefits for big business. Not only is the likely content of the proposed agreements bad for development, the addition of four more negotiations to the already large agenda will undermine the ability of poor countries to achieve more development-friendly outcomes in areas of real importance.

Not surprisingly, the majority of developing countries in the WTO are opposed to starting negotiations on these issues at Cancun for a range of substantive reasons as well as for fear that adding more issues to the agenda will reduce their negotiating capacity. Over the past few months Ministers from the Least Developed Countries (LDCs), the Africa Group and the African, Caribbean and Pacific (ACP) countries have all made statements opposing the launch of negotiations on the Singapore issues at Cancun.¹ A group of African countries has recently tabled a paper at the WTO to the same effect.² In its own recent 'European Council Conclusions', the EU simply ignores this opposition and calls for full steam ahead on all four issues.³

Over the past few years, the UK Government has played a key role in the European Union in pushing for the expansion of WTO rules to cover the Singapore issues. More recently, the UK Government has claimed that these issues are not a high priority although, as can be seen from the EU's hard-line Cancun position, this has not translated into any change of EU policy.

However, the EU has not been able to get its own way entirely. Due to the strong resistance of developing countries, the draft Cancun text does at least give Ministers the option of not launching talks and it does treat each of the four issues separately (rather than as a bundle on which a single decision can be taken).⁴ That said, the second option – to launch talks – is based entirely on the position of the EU and Japan, with no reflection of other countries' positions.

WDM supports having global rules to regulate trade. It is not a question of rules or no rules, it is a question of whose rules rule. The current trade system prioritises

liberalisation and the interests of big business over and above the achievement of sustainable development. The coverage of WTO rules has already expanded well beyond trade into other areas of government policy-making, such as intellectual property rights and services investment. The priority is therefore to radically reform the existing unfair WTO rules. WDM calls on Ministers to take a decision in Cancun not to expand the WTO's mandate, and to drop the new issues from the agenda.

2) Radical Reform of existing rules

Services (GATS)

The EU's General Agreement on Trade in Services (GATS) agenda for Cancun is to seek new legally binding and effectively irreversible commitments to liberalisation from poor countries. The EU would like to see Ministers agree at Cancun to increase the number and range of GATS commitments. Those countries that have not currently made any liberalisation 'offers' in the current process (mainly poor countries with limited capacity to engage and limited interest in services trade) will be pushed to get on with it. The EU would also like to see timetables set for the completion of talks on the creation of new rules on 'domestic regulation' and 'government procurement' of services. In other words, the EU would like a Cancun agreement that can be used as a 'stick' with which to prod poor countries into more binding liberalisation and more stringent rules. This political reality belies the claim that GATS is 'flexible' and that countries are free not to undertake further liberalisation commitments.

The GATS has rightly come under massive public scrutiny over the past few years. Its rules impinge on new areas of government policy that, before the creation of the WTO in 1995, were not seen as 'trade' issues. The GATS is an investment agreement covering the services sector and creates similar problems for poor countries as the proposed WTO investment agreement in the primary and manufacturing sectors.

In Autumn 2002, a group of 8 developing countries submitted a proposal on services suggesting that Cancun could initiate a 'stock-take' of the GATS talks including assessing the development implications of the current liberalisation requests.⁵ The response from rich countries was to ignore it. Since then, three other developing country proposals⁶ and two Ministerial-level statements (made by the LDCs and the ACP countries) calling for services assessment have met a similar fate. The Cancun draft text does not even mention assessment, instead calling on WTO members to make more and deeper liberalisation commitments.⁷ This is despite the fact that Article XIX of GATS calls on countries to undertake assessment in the first stages of negotiations.

In light of the uncertainty over the meaning and implication of GATS rules, the uncertainty over the benefits of investment liberalisation, and the drawbacks of 'locking-in' policy so that it cannot be changed in future, WDM calls on Ministers to agree in Cancun to halt the current negotiations. Instead, WTO members should undertake a process of assessment of the impacts of GATS rules on the ability of governments to regulate effectively and the impacts of services investment liberalisation on development.

Access to Medicines

At the fourth WTO Ministerial Conference in Doha, Ministers clarified that the current text of the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement allowed poor countries the flexibility to use compulsory licenses to address health emergencies. In other words, they could license a domestic company to produce generic medicines for the domestic market, thus bypassing the patents of the big drug companies making health costs much cheaper. However, this did not solve the problem for the many countries that lack the domestic capacity to produce cheap medicines and who need to import them. Ministers therefore agreed to find a solution to this problem.

Two years later and what was left on the table was a big fudge. All the major powers have opposed a direct, simple change to the relevant 20-word clause of the TRIPs Agreement. A compromise deal, involving a temporary waiver and possibly a future amendment to TRIPs, comes to seven pages and is riddled with clauses that will make it difficult to implement in practise. Even this fudge, which was reluctantly accepted by developing countries in late 2002, was opposed all the way by the US Government.

More recently, the US Government effectively handed the negotiating baton to 'big pharma' asking other WTO members to negotiate directly with the companies to 'find a solution'. Although the WTO is a government-to-government organisation, it is well known that some of its agreements, such as GATS, have been heavily influenced by business and, in the case of TRIPs, were practically written by corporations. With access to medicines, the US has decided to openly accept that its policy is exactly the same as the corporate interest and cut out the middleman (i.e. the US administration).

The last minute pre-Cancun deal announced on 30th August involves even more caveats to appease big pharma and the US Government. In practise the agreement sets up enough hurdles for poor countries to jump over that it will not create the needed inter-developing country market in cheap medicines. Although the 'deal' has been hailed as an important breakthrough, this is only because some sort of agreement has been reached, not because it will actually help poor people get access to medicines. It is a classic WTO case of the existence of a deal being more important than its content.

WDM calls on Ministers to agree a permanent change to the TRIPs Agreement ensuring that all developing countries without a domestic manufacturing capacity should be able to import generic medicines from other developing countries. It should be left to the countries themselves to determine what is a national health emergency. There should be no limitation on the number of developing countries to whom these rules apply or on the number of diseases covered. The agreement should aim at creating an effective inter-developing country market in cheap medicines to ensure the poorest get what they need. WDM also supports dealing more fundamentally with the inequities of TRIPs, such as changes to rules on life-form patenting.

Special and Differential Treatment

Special and Differential Treatment (S&DT) is WTO-speak for treating developing and least developed countries differently in WTO rules. However, up to now, S&DT has tended to take the form of arbitrary extended periods for implementing new agreements and non-binding ‘best endeavour’ commitments by the industrialised world to provide technical assistance, capacity building and technology transfer.

A key priority for developing countries has been to review existing rules and agree a range of reforms aimed at making the rules more development-friendly. In Doha, Ministers agreed to strengthen S&DT provisions in WTO Agreements with a view to “*making them more precise, effective and operational.*” Over the past four years, developing countries have submitted over 80 specific proposals and argued that addressing these issues is a priority before then going on to discuss more general principles of how to apply S&DT in the current talks.ⁱ

Examples of specific proposals include, ensuring that rich countries give poor countries more notification and time to adjust when setting new standards for imported products; giving developing or least developed countries more, or unlimited time to adjust to intellectual property (TRIPs) or trade-related investment measure (TRIMs) rules; clarifying that all living organisms shall not be granted patents; requiring developed countries to make more meaningful textile quota reforms earlier as part of the Agreement on Textiles and Clothing; giving developing countries greater flexibility to use trade-related investment measures as part of their industrial policies; making technology transfer and technical assistance commitments binding and having greater flexibility in relation to industrial policy and tariff reductions.^{8, 9}

S&DT was supposed to form part of the ‘early harvest’ in the ‘development round’; in other words, a demonstration of commitment by rich countries to addressing the needs of poor countries. Agreement was supposed to have been reached by July 2002, was then extended until 31 December 2002 and then missed. Little movement on these issues has been registered since, primarily due to opposition from industrialised countries.

In contrast to most other issues, the Cancun draft text does not even label S&DT as a ‘negotiation’ any more – a potentially significant downplaying of its status in the round – and although it contains a list of potential areas for agreement, few if any of these will provide meaningful S&DT.¹⁰

Special and Differential Treatment (S&DT) is a litmus test for the commitment of industrialised countries to a ‘development round’. A fairer trade system requires different rules for countries at different stages of development; an un-level playing field weighted in favour of the poor. WDM calls on Ministers to end the four years of procrastination and commit to meaningful S&DT provisions across the range of existing WTO agreements and ensure that S&DT is a central feature of those under

ⁱ Note: the specific reform proposals made by developing countries are also known in the WTO as ‘implementation issues’. A commitment was made in Doha to deal with ‘implementation issues’ as well as S&DT but, over the past two years, these issues have tended to converge under the heading of S&DT.

negotiation. It is up to industrialised countries to make good on their 'development round' rhetoric and accept the reforms proposed.

Agriculture

The major powers essentially want a deal on agriculture that requires modest changes at modest political cost. For example, current proposals by the EU do not seek to eliminate export subsidies and supported prices but instead seek to re-categorise the subsidies the EU provides. It is not clear that this will significantly reduce the adverse impacts of the CAP on developing country farmers.

Developing countries have worked hard to get development issues considered with proposals on a so-called 'development box' that would allow poor countries greater policy flexibility and proposals on 'special product exemptions' that would allow developing countries to exempt important staple crops from liberalisation measures. However, in their latest joint paper, the EU and US give no indication that they have taken any of these proposals on board and that they are prepared to accept developing countries having more leeway to protect their small farmers and important staple food crops.¹¹ This flexibility finds little more reflection in the Cancun draft text.¹²

WDM believes Ministers in Cancun should agree a major overhaul of subsidy systems aimed at rapidly phasing out those subsidies (e.g. export subsidies and production-linked subsidies) that have the most adverse impacts on poor farmers. Ministers should also aim to more clearly define 'legitimate' subsidies as those with minimal or no impact on farmers in poor countries that are aimed at achieving social and environmental objectives.

A second priority is the elimination of industrialised country tariff escalation (i.e. placing higher tariffs on processed products) as well as market access for poor countries in key products of export interest, such as cotton, rice and sugar.

Agricultural liberalisation, often through IMF and World Bank structural adjustment, has had devastating impacts on poor farmers across the world. Just as important as rich-country reform, therefore, is the need to ensure that poor countries are able to use tariffs and quotas in order to achieve domestic development objectives such as food security and the maintenance of rural livelihoods. WDM calls on Ministers to ensure that a new agriculture agreement will be designed to allow poor countries more, not less flexibility than they currently have.

Industrial tariffs

Industrial development in rich countries has been pursued using a variety of policies aimed at protecting domestic companies until they are able to compete on international markets. Yet those same countries are now seeking to prevent developing countries from going through the same process. They want major liberalisation in countries where this has yet to take place and they want to 'lock-in' trade liberalisation in those countries that have undergone structural adjustment.

This is despite evidence that structural adjustment has not worked. For example, in a paper submitted to the current WTO negotiations, Ghana, Kenya, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe point out that, subsequent to IMF and World Bank structural adjustment, including unilateral trade liberalisation, *“the broad-based development that was expected to ensue has remained elusive...Indeed, empirical studies show that industrial growth has fallen behind GDP growth in Sub-Saharan Africa since the 1980s with de-industrialization in a number of African countries being associated with trade liberalisation.”*¹³

The paper goes on to say, *“Taking into account the dismal experience of liberalisation measures taken earlier by African countries, any further liberalisation including reduction commitment should be left to be determined by them...The modalities to be established must allow developing country members to use measures aimed at assisting infant industries to compete with well established enterprises in the international market. Members should therefore, view trade liberalisation as supportive of and not a substitute for trade and industrial policy.”*¹⁴

Unfortunately, such proposals have been ignored. The latest joint paper on ‘non-agricultural market access’ (NAMA) by the EU, USA and Canada does not acknowledge the adverse experience of liberalisation in, and the ongoing problems faced by, these countries and, for example, pays little or no heed to such requests for flexibility or the need to eliminate industrialised country tariff escalation.

WDM believes development is a complex process and there is no one ‘right’ way to achieve it making flexibility to use a wide range of policies a critical issue. WDM calls on Ministers in Cancun to ensure that developing countries have greater flexibility than at present to use tariffs and quotas to pursue industrial policies.

3) Reforming an unbalanced and undemocratic process

Negotiating and decision-making procedures

The big powers want no change to WTO procedures. They like the fact that the current system has democratic window dressing (e.g. in theory, decisions are taken by consensus) but inside the building they have lots of opportunity to exercise political muscle (e.g. in reality it is only the major trade powers that are able to exercise any power of ‘veto’).

In spring 2002, a group of developing countries submitted a joint paper to the WTO outlining a range of reforms to make decision-making more transparent and inclusive.¹⁵ The response from rich countries was to ignore the detail and make dismissive general remarks about wanting to retain ‘flexibility’ and ‘efficiency’. In August 2003, fearing that they will be sidelined in Cancun by non-inclusive procedures, a group of African countries tabled a paper making many of the same proposals.¹⁶ Again, it looks like this is simply being ignored by the industrialised world. There is a real danger that Cancun will represent yet another low water-mark for the WTO in democratic decision-making.

Seven UK-based NGOsⁱⁱ, including WDM, have sent a letter to UK Secretary of State for Trade and Industry, Patricia Hewitt, challenging the UK Government to support twelve basic reforms to WTO procedures to make them more transparent and inclusive. However, the initial response from UK civil servants dismissed NGO proposals - such as producing a daily calendar of meetings including necessary information such as the room, the chair and the issues to be covered - as not being 'practical'.¹⁷

WDM calls on Ministers to adopt developing country proposals on process reform as a first step towards making trade policy decision-making fairer and more transparent. If Cancun is to have any chance of achieving more legitimate outcomes, there must be immediate changes to the way WTO Ministerial Conferences are run, including abandoning exclusive 'green room' meetings, ensuring the draft text for Cancun is formally agreed for submission to the Ministerial Conference by all members, announcing meetings well in advance so that all countries know they are taking place, clearly indicating which WTO members have made proposals to change texts and ensuring all members are involved in any decision to change the Ministerial process (e.g. extending the duration of the conference).

It is also critical that, on each of the 'Singapore issues', a decision on whether to launch negotiations is taken by 'explicit consensus', as required by the Doha Ministerial Declaration. This means that all countries have to explicitly approve, in contrast to the normal WTO 'implicit consensus' procedure of agreement if nobody specifically objects.

Conclusion

WDM believes Cancun should be used to kick-start a major reform programme in the WTO. The remedy for the global trading system has got to be based on rules aimed at achieving sustainable development rather than the blind pursuit of liberalisation at all costs.

Without such a change in direction, Cancun will simply relapse into the bad old ways of the rich dictating terms to the poor and calling it a 'development round'. While this may achieve the goals of the corporate lobby and the industrialised world in the short term, it will further marginalize the poorest countries and surely lead to a breakdown of multilateral co-operation in the long run.

WDM in Cancun

WDM staff will be in Cancun for the WTO ministerial from 6 to 16 September.

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WDM position statements, analysis and policy plus all press releases and comment published during the ministerial will available on WDM's Cancun website
<http://www.wdm.org.uk/campaign/cancun03/cancun.htm>

ⁱⁱ The six other NGOs are: ActionAid, Christian Aid, Friends of the Earth, Royal Society for the Protection of Birds, Scottish Catholic International Aid Fund & WWF-UK.

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