

**BEYOND CANCUN:  
Key issues facing the multilateral trading system**

[http://www.wto.org/english/forums\\_e/ngo\\_e/pospap\\_e.htm](http://www.wto.org/english/forums_e/ngo_e/pospap_e.htm)

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## Executive Summary

After the failure of the 5<sup>th</sup> Ministerial meeting in Cancún, the WTO stands at a threshold. To move forward, there is a need to compromise, build trust and seek to understand the viewpoints and legitimate limitations of others. At this critical juncture, attempts by the EU and US to apportion blame elsewhere while refusing to move from established positions will achieve nothing.

Immediately after the collapse of the Cancún Ministerial, both the EU and US indicated that in future they might place greater emphasis on bilateral and regional trade agreements. ActionAid considers this to be a short-sighted approach. In an increasingly globalised and interdependent world, multilateral institutions offer the best means of achieving common goals and containing common threats. Developed nations need to commit themselves to a multilateral approach, show leadership in this matter, and demonstrate a greater willingness to compromise on short term national interests in favour of the long term benefits that will accrue to all if a genuine development agenda is pursued.

ActionAid believes that trade, like any other area of a free market, needs to be managed if it is to deliver public goods and development for all. At stake are the economic prospects of three-quarters of the world's population. The focus of WTO Members should change from achieving trade liberalisation for its own sake, to increasing trade in order to achieve development. To this end the Doha Round must fundamentally change the imbalance in benefits between the developed and developing world that resulted from the Uruguay Round.

However, progress in negotiations at the WTO is unlikely to succeed unless agreement is reached on how the institution should conduct its business. Developed countries need to recognise the new geo-political dynamics within the WTO: it will no longer survive as an institution run primarily by the richest nations.

The WTO should adopt a range of reforms that ensure a more inclusive approach, clarify procedures and protocols, and increase transparency and accountability in all areas of its work. Rapid and thorough reforms will be essential if the WTO is to address its crisis of legitimacy as an international negotiating body and establish itself as a truly democratic multilateral institution. This is not only important for improving democratic relationship between governments but for ensuring that governments can be held accountable by their own citizens.

Lack of transparency on trade negotiations combined with the shift towards bilateral and plurilateral deals is an invitation to arm twisting and bully boy tactics so harmful to the interests of the poor.

The WTO General Council meeting in December 2003 provides an opportunity for all Members to demonstrate their political will to re-start negotiations and allow the multilateral trading system to move forward. It is important that these negotiations are not postponed because forthcoming US elections and the installation of a new European Commission may otherwise mean that significant movement is delayed until 2005.

However, divergent views remain and constructive engagement will be required for progress to be made.

To achieve this, *"the time has come to prioritize the negotiating process and separate the issues that make for genuine trade liberalization and deliver development from the rest."*<sup>1</sup>

ActionAid believes that, in order to foster mutual confidence, the negotiations should focus on the core development issues of agriculture, textiles, GATS Mode 4, non agricultural market access, special and differential treatment and implementation. At this critical stage, rather than trying to force the Singapore Issues onto the agenda against the wish of the majority of WTO Members, they should be put to one side.

## **Actionaid's Recommendations**

### ***Process Issues***

- WTO Members should commit themselves to reinvigorating the multilateral trading system. While WTO outcomes have been far from perfect in the past, multilateralism remains the best hope for a more balanced trade regime that is managed to address the interest of the poor.
- Institutional reform of the WTO should take place as a matter of urgency, in line with the recommendations put forward by developing countries in April 2002. Such reforms should address issues of democracy, inclusion, transparency and accountability and clarify procedures and protocols so that the rights of all Members to participate and be heard are recognised.
- Before it can be used as the basis for future negotiations, the Derbez text needs to be revised to include the complete range of proposals made by WTO Members immediately prior to and during the 5th Ministerial, and to clearly indicate through the use of square brackets, areas where there are clear areas of disagreement.

### ***Substantive Issues***

On agriculture:

- ActionAid supports developing country proposals for the amber box to be phased out, the blue box eliminated and the green box capped and the criteria for green box eligibility should be reviewed and tightened. ActionAid believes that to overcome the current impasse in negotiations on green box subsidies, WTO Members should consider proposing a cap on direct farm payments limiting the amount of subsidy paid to any single farm in any single year.
- Caution should be exercised in relation to the proposals in Section 2.2 of Annex A of the Derbez text that offers a favourable 'loophole' to developed countries to limit tariff reductions in response to 'non-trade concerns'.
- Developed countries should adopt policies to tackle the global commodity crisis, including cotton. Eliminating trade distorting subsidies (including export refunds) will go some way to address the devastating impacts of agricultural support in the North on key products in the developing countries such as cotton, dairy and meat products, rice and sugar.
- ActionAid believes that all export subsidies (refunds) are potentially damaging to developing countries in that they all depress world prices, resulting in dumping and displacement of developing country exports in third markets. Therefore, ActionAid supports calls for the complete and immediate elimination of all export subsidies.
- Developing countries should resist the EC proposal to exclude the 'most advanced' developing countries. The latter would almost certainly include India, China and Brazil and would fail to recognise that these countries are home to millions of very poor farmers.
- ActionAid supports the Alliance call that SPs should be designated to deal with concerns regarding food and livelihood security and rural development problems, as well as ensuring the survival of small, vulnerable and resource poor farmers. These SPs should be self-selected and exempt from tariff reduction commitments and, in addition, an SSM should be available for all products, while the special safeguard (SSG) that is currently used by the developed world should be discontinued.
- Regarding market access into developing country markets, ActionAid supports the position of the G20+ that a Uruguay type formula should be applicable to developing countries but with flexibilities for special products and a special safeguard mechanism (SSM). The new SSM should be simplified so that developing countries would be able to use it more easily.
- The Peace Clause should not be extended. Developing and developed countries have the right to challenge subsidies that they believe contravene WTO rules and WTO commitments to a development agenda in relation to agricultural trade.

On the Singapore issues, ActionAid opposes any attempt to introduce plurilateral negotiations. The EU and others should respect the consensus principle at the WTO and drop all four new issues from the WTO agenda and work programme in order to focus on existing agreements and progressing the development agenda.

ActionAid believes that modalities for NAMA should be re-designed to ensure that they meet development objectives and to implement the principle of less than full reciprocity. The current text of Annex B, which is highly biased in favour of rich countries and dismissive of the legitimate concerns of the developing world, should be rejected.

## **BEYOND CANCÚN: Key issues facing the multilateral trading system**

### **Introduction**

After the failure of the 5<sup>th</sup> Ministerial meeting in Cancún, the WTO stands at a threshold. Commitment to multilateralism appears to be wavering in some quarters – with moves that indicate a readiness to withdraw into regionalism, bilateralism or even unilateralism in an attempt to force through narrow one-sided agendas.

Unaccustomed to having their plans thwarted, the richest and most powerful nations, seem tempted to focus their efforts elsewhere, unless they are given what they want. Developing nations are equally determined not to give in to demands and agreements continue the imbalances created in the Uruguay Round and further increase the gap between rich and poor countries.

In the WTO, the rhetoric of trade liberalisation claims precedence over the need to defend national interests. Yet some level of protection appears to be desired by all WTO Members.<sup>2</sup> Thus, while all nations value increased market access for their exports, they remain fearful of the impact of imports on their local economies.

However, due to the power imbalances between developed and developing countries, and the lack of democracy within the WTO, the rich countries have been able to impose unfair trade rules. This has allowed them to keep high levels of domestic support and protectionism, while at the same time imposing accelerated liberalisation on developing countries. This is the case for the EU and the US, where protective tariffs, farm subsidies and much else still undermine their professed commitment to free trade. Therefore the first step towards ensuring that the poor receive the potential benefits of a multilateral trade system, is to address this historical gap through the implementation of a truly development agenda at WTO.

In addition to addressing this gap, WTO members should admit that a collective will to abandon all national interests in favour of total liberalisation does not exist. And that it does not exist for a very good reason. Domestic imperatives demand that governments respond to the concerns of their citizens. *“Like their developed country counterparts, developing country Governments have to factor in political, social and economic interests and considerations involving their people and constituencies, as well as critical development and survival issues. The more prominent role and interest of Northern and Southern civil society and private sector organizations, as well as Parliamentarians, have to be seen in this context.”*<sup>3</sup>

ActionAid believes that trade, like any other area of a free market, needs to be managed if it is to deliver public goods and development for all. The sooner that WTO Members openly acknowledge this fact in their negotiations, the less future talks will be marred by mistrust. The focus of WTO Members should change from achieving trade liberalisation for its own sake, to increasing trade in order to achieve development. Developed nations need to show leadership in this matter, and a willingness to go further than they did at Cancún. To date both the EU and US have failed in this respect: the US has been almost silent and the latest EU proposal lacks ambition in agriculture (and cotton) while its proposals on the Singapore issues are likely to harm relations with developing countries and severely jeopardise attempts to revive the stalled trade round.

## THE FUTURE OF THE MULTILATERAL TRADING SYSTEM

ActionAid believes that multilateral economic cooperation is essential to rebalance international trade rules in favour of developing countries and poor people.

Immediately after the collapse of the Cancún Ministerial, both the EU and US indicated that in the future they might place greater emphasis on bilateral and regional trade agreements. US Trade Representative, Robert Zoellick, openly criticised the multilateral system and, in a reprimanding message to developing country WTO Members, he threatened that the United States would "move on multiple fronts" to open up developing country markets through bilateral and regional avenues, adding *"We are going to open markets one way or another."*<sup>4</sup>

Zoellick is a passionate supporter of bilateral agreements, arguing that they lead to competitive liberalisation which he claims will benefit multilateral liberalisation over time. As Bhagwati points out, his belief in this outcome is not shared by the majority of serious international economists: *"As the bilaterals multiply, especially when one's main markets are taken care of and preferences granted to oneself, the willingness to invest more lobbying effort into pushing the multilateral envelope begins to weaken."*<sup>5</sup>

Although tempers have cooled since Cancún, and Pascal Lamy, the EC trade commissioner recently wrote that "half the world's economists" were opposed to the epidemic of bilateral free trade agreements<sup>6</sup>, apprehensions regarding EU and US moves to focus on bilateral and regional agreements remain. At a recent UNCTAD meeting, concern was expressed that *"the Cancun setback could undermine commitment to multilateralism and play into the hands of protectionist and partisan interests. It could also speed up the vigorous pursuit of unilateralism, bilateralism and regionalism."*<sup>7</sup>

At this critical juncture, attempts by the EU and US to apportion blame elsewhere while refusing to move from established positions will achieve nothing. Rather, to move forward, there is a need to compromise, build trust and seek to understand the viewpoints and legitimate limitations of others.

In addition, if there is a genuine commitment to development and poverty reduction, over and above national interests, all Members need to reflect on how best they can contribute to achieving these objectives.

ActionAid believes that a move away from multilateralism towards bilateral or plurilateral agreements would be detrimental to development. Under bilateral agreements, the most powerful countries are able to extract even more favourable terms from developing countries than they can under the multilateral system. For plurilateral agreements, the danger is that although developing countries may not have been involved in negotiations to establish the rules, they will be pressured on a one-to-one basis to sign on to these rules at a later date.

### ***Imbalances in Recent Bilateral Agreements***

Some recent regional and bilateral negotiations between the EU and US and developing countries highlight the structural imbalances that impact on such agreements.

In the EU's recent bilateral trade agreement with South Africa, the EU has protected its heavily subsidised farm sector by demanding more than full reciprocity in terms of trade with South African agricultural produce. As Eurostep notes: *"While the vast majority of EU agricultural products are 'back-loaded', with tariffs only being eliminated towards the end of the 10-year phase-in period and only on 62% of South African agricultural exports to the EU, South Africa will eliminate tariffs on 81% of EU agricultural exports to South Africa within 12 years, but on 46% within five years."*<sup>8</sup>

Meanwhile, the EU is beginning to push the Singapore issues agenda within negotiations for Economic Partnership Agreements under the Cotonou Agreement.<sup>9</sup> Similarly, in negotiations on Free Trade Agreement of the Americas (FTAA) and the US-Central America Free Trade Agreement (CAFTA), as well as in bilateral agreements, the US is pushing for the adoption of rules that have been rejected in Cancún, including investment, government procurement, and competition policies. At the same time, the United

States is promoting stricter intellectual property rules, which seem to ignore the Doha agreements on access to medicines, while simultaneously refusing to address the issue of its own subsidies and domestic supports for agriculture.<sup>10</sup>

### ***The impact of bilateralism on the multilateral trading system***

As Bhagwati and Panagariya demonstrate, bilateral agreements threaten the multilateral trade system in a number of ways.

First, bilateral trade deals undermine an essential principle of the World Trade Organisation that the lowest tariff applicable to one member must be extended to all Members (the most favoured nation, or MFN rule). When the architects of the WTO General Agreement on Tariffs and Trade exempted free trade areas from the MFN rule, they cannot have foreseen that a proliferation of agreements would fragment the trading system. By the end of 2002, 250 FTAs had been notified to the WTO. If those currently under negotiation are concluded, that number will approach 300. "The result is a "spaghetti bowl" of rules, arbitrary definitions of which product comes from where and a multiplicity of tariffs depending on source."<sup>11</sup>

Secondly, bilateral FTAs establish 'templates' that economically powerful nations and their domestic interest groups then try to extend to multilateral negotiations and agreements. "Since, in many cases, it is the developing countries who hesitate and oppose these lobby demands at the multilateral talks, and since bilaterals with the developing countries are used to create the templates, the process has also been described realistically, perhaps cynically, as an application of the Leninist policy of "divide and rule": the lobbies use the strategy to break up the coalitions of the developing countries against their lobbying demands."<sup>12</sup>

Thirdly, bilateral deals have the potential to fragment the coalitions of developing countries. When individual countries have accepted the inclusion of extraneous issues in bilateral trade treaties, how can those countries seek to exclude them in WTO negotiations?

Fourthly, developing countries that sign bilateral trade agreements with powerful economies must commit to reciprocal obligations, including trade preferences, in exchange for preferential access to the developed country's markets. These obligations reduce the benefits that smaller countries potentially could have enjoyed under MFN tariff reductions negotiated at the WTO. But, more importantly, because the preferential market access to developed country markets gained in bilateral deals erodes as the WTO MFN tariffs are reduced, developing countries may oppose generalised MFN tariff reductions in order to maintain their preferences. This phenomenon has already been seen in relation to textiles and agriculture.<sup>13</sup>

#### **The US – Chile Free Trade Agreement (FTA)**

The US-Chile FTA goes beyond WTO disciplines by including investment, relaxation of capital controls, government procurement, environment and labour standards. It also broadens the scope of intellectual property rights and services, amongst other features. The agreement's coverage of government procurement is extensive. It includes not only procurement of most central government agencies but also of 13 regional governments, 10 ports, all state-run airports, and over 350 Chilean cities. In all these cases, granting preference to Chilean companies over US ones is forbidden for government procurement that exceeds specified amounts.

In relationship to investment, all forms of US investment in Chile are protected by the FTA, including companies, debts, concessions, contracts and intellectual property. In almost all circumstances, US investors gained the right to establish, purchase and operate enterprises in Chile on equal terms with Chilean investors. Local content restrictions on US investors were removed and prohibited, and a conflict resolution mechanism was established between investors and the state, which allows the former to appeal to international arbitration above the host country's legislation and judicial system. Under the FTA capital controls can only be used with the greatest difficulty and capital control provisions were extended to all kinds of "investments", including "futures, options and derivatives", instead of being confined to direct foreign investment. Furthermore, the traditional protections built in for "balance of payments" situations have been removed and been replaced by a separate Dispute Settlement mechanism when capital controls are invoked.

Needless to say, areas that are "sensitive" to the US such as anti-dumping and anti-subsidy legislation, free circulation of labour and protection policies for the agricultural sector were not included.<sup>1</sup>

Despite the fact that bilateral trade agreements impact negatively on the multilateral trading system, and despite the fact that the EU and US profess support for multilateralism, they are actively pursuing bilaterals in which they pressurise poor countries on a one to one basis.

ActionAid believes that this would be a short-sighted approach. Over the last few decades, it has become increasingly obvious that, however powerful, neither single nations nor regional groups are able to deal effectively with the challenges posed by an increasingly interdependent world. Whether the issue is international security, environmental protection, disease control, or the global economy, the problems and their solutions transcend national boundaries.

According to Caporaso, multilateralism is based largely upon the principle of diffuse reciprocity. Nations cooperate because they will benefit in the aggregate, not in every transaction. Developed nations need to accept that while on some issues, less developed nations will appear to be given a competitive advantage in the short term, in the long term all nations will benefit: *"multilateral cooperation, which can appear to require developed nations to compromise their national interests, in fact allows such nations to protect their own future interests, with the added benefit of potential short run gains along the way."*<sup>14</sup>

However, multilateralism, given the number of actors and the high stakes involved, is not a simple system for international cooperation. Rather it is one of the most demanding, requiring as it does that states resist the temptation to gratify immediate national interests. Multilateralism also requires compromise and this will be needed for negotiations to continue at the WTO.

Such a compromise must address the current unfair trade rules as well as democratically reforming the WTO. Without this the multilateral trade system cannot work to benefit the poor.

Developing countries need to ensure through their positive engagement in the negotiations that they make the most of their opportunities. As the WTO's Director General has argued: *"It is not so much a question of what developing countries can expect from the Round but what all partners in it can jointly achieve based on workable proposals and multilateral approaches. A strengthened multilateral trading system is in the interest of every country."*<sup>15</sup>

However, compromise does not mean that the world's poorest countries should give up their development aspirations. To date the WTO has failed to deliver to developing countries a fair share of the benefits of increased global trade, notwithstanding the fact that they have undertaken significant liberalization unilaterally, regionally, multilaterally and through structural adjustment programmes. If rich countries are to fulfil their commitment to development and make the Doha development agenda a reality, it is they who should be prepared to use the flexibility granted by their huge economic power to achieve this long term aim. As Powell argues, *"Multilateral cooperation allows developed nations, if they are truly serious about their commitment to development, to work toward that end in a much more efficient, predictable, and ultimately more cost-effective manner than would a series of disjointed, bilateral agreements."*<sup>16</sup>

ActionAid believes that multilateralism is the form of international cooperation and decision-making that allows more balanced results in favour of the less powerful players. Multilateral institutions are among the very few forums in which developing countries potentially can have an equal voice. Because developing countries greatly outnumber developed countries in a one-country-one-vote framework, they have the opportunity (at least in theory) to exert an influence as great, if not greater, than their developed counterparts. Thus, multilateralism in general, and multilateral institutions in particular, provide a more democratic means of determining how states should address global issues.<sup>17</sup>

Moving the Doha round forward to a successful conclusion will be far from easy. Nevertheless, there is reason for optimism. The majority of WTO Members seem to agree that a multilateral trade system is the most likely to deliver an open, equitable, rule-based and predictable environment for delivery trade arrangements that will foster global economic growth alongside development and poverty eradication.

At stake are the development prospects of three-quarters of the world's population. The developing countries, which form the overwhelming majority of the World Trade Organization's Members, will be hard to satisfy. And developed country Members will need to focus on mutually beneficial trade-offs between themselves and developing states, and recognise the benefits to be gained from a more tempered,

egalitarian, and sustainable future. As Forman states succinctly, “*in this age of accelerated globalisation, multilateralism offers the most effective means to realize common goals and contain common threats.*”<sup>18</sup>

## **WTO REFORM**

Progress in negotiations at the WTO is unlikely to succeed unless agreement is reached on how the institution should conduct its business. The lack of transparency and the democratic deficit in the decision making process was no doubt partly responsible for the collapse of the Cancún Ministerial. Transparent procedures and protocols need to be in place if the institution is to survive.

In addition to providing a better framework to advance multilateral trade talks, WTO reforms are key to ensuring that the WTO and individual governments can be held accountable to their citizens.

In April 2002, a number of developing countries put forward recommendations for WTO reform, with the aim of making both Geneva negotiations and Ministerials “transparent, inclusive and predictable”.<sup>19</sup> These recommendations are strongly supported by ActionAid and other civil society organisations in developed and developing other countries, and have been restated in the form of a ‘WTO Democracy Challenge’<sup>20</sup>.

The recommendations for work in Geneva were basically aimed at ensuring that there was sufficient time for delegations to consult with national capitals, that the Secretariat should remain impartial regarding specific issues, and that draft Ministerial declarations should be clear and unambiguous and based upon consensus. “Where this is not possible, such differences should be fully and appropriately reflected in the draft ministerial declaration”. Furthermore, in order to avoid overloading the agenda at Ministerial meetings with issues on which there is no consensus, the group recommends that “work on the declaration should be completed in Geneva to the maximum extent possible. Only those issues, which are reflected either as options or where the chairperson has reflected different positions should be left for the ministers to deliberate and decide at the ministerial conference.”

Regrettably these proposals were not implemented before the 5<sup>th</sup> Ministerial. As UNCTAD has concluded “*The Cancun agenda also appeared to have been overloaded with expectations of a result involving a positive sum agreement on all accounts. The linkages, balances, sequencing and perceived costs and benefits were rather too complex to handle. A manageable agenda based on what could be realistically achieved and what the WTO membership felt comfortable with would have been more appropriate.*”<sup>21</sup>

Developing countries voiced considerable anger over the lack of transparency at the Cancún Ministerial. The most glaring instance of this was in the process for drafting the second revised (Derbez) text which came out on 13<sup>th</sup> September. There was outrage when it was discovered that the new draft had completely disregarded a great many developing countries’ positions, and anger at the process by which the text had been created.

The tendency to ignore completely developing country viewpoints when producing texts – both at the WTO in Geneva and during Ministerial meetings - is deplorable in what is supposed to be a democratic institution. Three examples illustrate this point.

Firstly, on the Singapore Issues, developing country opposition could not have been clearer. In the three months prior to Cancún, 101 developing countries signed public statements that they did not want to begin negotiations on investment and competition policy. At Cancún itself, more than 70 developing country WTO Members reaffirmed their opposition. Yet the second draft declaration (Derbez text) still stated that “*modalities that will allow negotiations on a multilateral investment framework to start shall be adopted by the General Council no later than [date].*”

Secondly, in relation to non agricultural market access (NAMA), developing countries had made clear their opposition to the proposed formula and inclusion of sectoral liberalisation during deliberations in Geneva, and again during the first three days of negotiations in Cancún. But the Derbez text failed to acknowledge the wide differences that remained between Members. Thus on liberalization of specific sectors it says

simply: *“We recognize that a sectoral tariff component, aiming at elimination or harmonization is another key element...with regard to the reduction or elimination of tariffs, in particular on products of export interest to developing countries. We recognise that participation by all participants will be important to that effect. We therefore instruct the Negotiating Group to pursue its discussions on such a component, with a view to defining product coverage, participation, and adequate provisions of flexibility for developing-country participants.”*

Thirdly, in agriculture, the Derbez draft was very much closer to the EU/US joint proposals than it was to those made by developing countries including, for example, the G20+ proposal and that made by the Alliance for Strategic Products and Special Safeguard Mechanism in Cancún. Indeed, the text was so biased that it stated that *“The Peace Clause will be extended by [...] Months”*, something that was opposed by a large number of both developed and developing countries.

For ActionAid, the failure of the Derbez text to reflect the proposals and concerns of developing countries means that its proposed status as the document on which further negotiations should be based is another example of flawed democracy at the WTO. At minimum, the text should be revised to incorporate alternative proposals made by developing countries and to represent in square brackets areas where there is clear disagreement.

Surprisingly, there seem to be no official protocols defining who can, and cannot, be involved in drafting Ministerial texts, nor how differences between Members should be recorded. While the distribution of texts in Cancún was vastly improved from, for example, Seattle – where only a privileged few knew when revised texts had been produced, and where these might be found – a serious lack of transparency remains regarding the drafting of Ministerial texts. This needs to be remedied urgently if future Ministerials are not to fail.

The role played by WTO Chairs in writing and submitting texts ‘under their own responsibility’ – for example, the Chair of the Ministerial, the Chairs (or facilitators) of the Working Groups and the Chair of the Special Session of the Committee on Agriculture (pre- Cancún) – has become a critical issue. The draft modalities for agriculture and NAMA were both prepared by Chairs and, alongside the Secretariat, Chairs appear to have been involved in drafting Ministerial texts at Cancún. Many developing countries voiced their unhappiness with this process. The difficulty here is that the process is Chair-driven and not Member-driven; instead of Members negotiating with one another, they have to negotiate with the Chairs. This led to confusion as to who said what to the Chairs and a breakdown in trust when the Ministerial drafts continued to reflect developed country positions.

Since the role of Chairs has become increasingly important, there is growing concern about how these Chairs (facilitators/friends of the Chair) are appointed, especially in relation to Ministerial meetings. For example, in Cancún, Pierre Pettigrew from Canada was appointed Chair of the Singapore Issues working group for the second Ministerial running. This was despite the strongly partisan position adopted by Canada in favour of launching negotiations. Little wonder that developing countries were angry at the pro-developed country positions in the Derbez text.

A recent UNCTAD discussion of WTO processes sums up these problems: *“Process-related difficulties included assessments about the timing of issues and their maturity for resolution, procedures relating to keeping and dissemination of records and the preparation and transmission of texts, when and how to reflect alternative views of members, how to select officers, and how to ensure the inclusiveness of the process at all times.”*<sup>22</sup>

ActionAid believes that urgent reforms are required to correct problems with the negotiating process, the lack of transparent procedures and the lack of democracy at the WTO. The outcome of Cancún provides an opportunity for change. WTO Members and the secretariat need to use the post Cancún period for reflection, review and reform.

The EC appears to agree. In a recent statement it noted that, *“The EU should now put forward a number of improvements, notably to improve the preparation and management of ministerial conferences, with the aim of facilitating more efficient negotiations and decision making amongst an ever-growing membership..... it should be possible to agree in the short term to a better definition of the role of the host of Ministerial conferences, or on the need to appoint “facilitators” at Ministerial level earlier in the*

*process... The EU should raise the above mentioned proposals in the WTO in the coming weeks so as to ensure that the necessary changes in organisation and procedure are put in place in good time and actually facilitate the building of consensus, rather than hinder it.*"<sup>23</sup>

ActionAid welcomes moves to improve the working practices of the WTO and trusts that this means that there are no grounds for fears that the EU and others might try to change the current 'one Member, one vote' basis on which consensus decisions are made, thereby further undermining WTO democracy.

For ActionAid, the failure of the Cancún Ministerial, once again reveals the on-going crisis in the working of the WTO. This is not the GATT of old. The institution now has 148 Members from a wide range of developing and developed countries. Developed countries have to face up to the new geo-political dynamics within the WTO, it is no longer an institution run primarily by and for the richest nations, it is a democratic forum where all Members have equal rights to participate and be heard.

There will always be an imbalance in power relations within international institutions, and the WTO is not the only global organisation facing the challenge of balancing the needs of the most and least powerful Members. Yet ActionAid believes that these imbalances could be addressed if the WTO adopted a range of procedures that ensured a more inclusive approach, clarified procedures and protocols, and increased transparency and accountability in all areas of its work. Rapid and thorough reforms will be essential if the WTO is to survive its crisis of legitimacy as an international negotiating body and establish itself as a truly democratic multilateral institution.

## **SUBSTANTIVE ISSUES IN THE NEGOTIATIONS**

The WTO General Council meeting in December 2003 provides an opportunity for all Members to demonstrate their political will to re-start negotiations and allow the multi-lateral trading system to move forward.

However, divergent views remain and compromise and constructive engagement will be required for progress to be made. Mutual trust needs to be re-built and this will not happen unless the key actors involved demonstrate flexibility regarding the positions they adopted in Cancún and recognize the majority will of WTO Members. Future negotiations will have to take into account the interests and concerns of all Members, regardless of their level of development, size or share of world trade.

According to UNCTAD<sup>24</sup>: *"the time has come to prioritize the negotiating process and separate the issues that make for genuine trade liberalization and deliver development from the rest."* ActionAid agrees and believes that, given the controversy and ill-feeling that they have generated, it would be wise for the EU, US, Japan, Korea and others to respond positively to the legitimate concerns of developing countries regarding the introduction of the Singapore Issues. At this critical stage, rather than trying to force them onto the agenda against the wish of the majority of Members, these new and highly complicated issues should be put to one side.

It would be more appropriate to foster confidence by focusing on the core agenda that attracted consensus in the Doha Declaration including agriculture, non agricultural market access (NAMA), textiles, GATS Mode 4, special and differential treatment and implementation.<sup>25</sup> In addition, there is an urgent need to turn the abstract development objectives that were set out in Doha, into practical, operational and mandatory measures.

### **Agriculture**

Despite some over-optimistic and poorly informed claims regarding convergence on reforms to the Agreement on Agriculture, at the end of negotiations in Cancún stark differences remained. The developed and developing nations still need to resolve divergent views regarding subsidies, market access, cotton, export competition, special and differential treatment and the peace clause. Little progress is

likely unless the US, EU, Japan and others demonstrate a willingness to reform their highly protectionist agricultural policies and thereby create the basis for fair trade in agricultural produce.

### ***Domestic Support***

ActionAid supports the positions put forward by developing countries prior to and during the Cancún Ministerial. Amber box subsidies should be phased out (and developed countries should conduct urgent consultations with developing countries regarding the erosion of preferences), the blue box should be eliminated immediately and the green box payments should be capped and the criteria for green box eligibility should be reviewed and tightened.

In Cancún, some progress was made on domestic subsidies, but developing countries remain critical of EU and US strategies that involve (re)designing the majority of support payments so that they fit within green box disciplines. Without significant reductions in overall subsidy levels, regardless of categories, there will be little, if any, impact on production, prices and trade.

While, the proposal to review the green box was widely welcomed, it is by no means certain that the EC will agree to this going ahead. A review would go to heart of the subsidy debate<sup>26</sup> as it would allow for an evidence based reflection on whether decoupled payments impact on production and trade, and is likely to result in tightening the criteria for green box payments. ActionAid has argued consistently that it is naive to believe that the huge payments made to agriculture through the green box have no influence on production or pricing and trade. As green box payments in the US illustrate, this is because:

- Guaranteed payments are a reliable annual income flow that the farmer may offset against investments in farm operations, potentially increasing production.
- Any income that reduces income variability – and thus risk – will tend to increase output.
- Farmers may feel compelled to keep production and acreage high in case the base reference for direct payments changes to a more recent year.
- Payments are not totally decoupled because farmers are not allowed to grow certain crops – such as fruit and vegetables – on the land. The farmer thus has an incentive to keep growing the crops that are eligible for the programme.

However, in Cancún the insistence of the EU and US that green box ‘decoupled’ subsidies do not distort production or trade meant that the G20+ and G90 proposals that green box payments should be capped were omitted from the Derbez text (Cancún Ministerial second draft declaration).

A recent statement from the EC re-states its position that green box subsidies should be completely excluded from the negotiations: <sup>27</sup> *“On domestic support ..... support with no or little trade effects, that addresses key policy goals crucial to the sovereign rights of Members, as is the case for green box support, cannot be subject to any capping or reduction. The notion that we or others should reduce green box support is unacceptable. This would amount to putting external constraints on internal policies having no trade distorting impact.”*

However, as AgraEurope observes: *“The EU is effectively asking developing countries to accept that the 30 billion euros or so which the EU is proposing to pour into the [decoupled] Single Farm Payment scheme every year... will have no real influence on agricultural production and trade. At the very least, the question could be asked whether the level of EU farm production would be affected in any way if these subsidies were no longer paid (the answer of course is that it would be decimated – thus instantly challenging the assumption that they are production neutral.)”* <sup>28</sup>

ActionAid believes that one way to overcome the current impasse could be to cap the amount of subsidy under the green box (and any subsidies that continue under the blue box) that could be paid to any single farm in any single year. Such a proposal was put forward by the European Commission in its proposed reforms of the Common Agricultural Policy in early 2003.

This would have the potential to limit the overall amount of subsidies as well as redistributing those that remain from large to small scale farmers. Although politicians in developed countries like to portray agricultural subsidies as essential to protect small, family farms, the reality is that it is the largest farms, owned either by corporations or wealthy individuals, that attract the most domestic support. The top 25% of US farmers receive 90% of total subsidies; the top 25% of EU farmers receive 75% of subsidies. Thus, “Rather than protecting small farmers, the countryside and landscape, subsidies are more like a form of corporate welfare.”<sup>29</sup>

### **Cotton Subsidies**

- In 2001/02 US cotton farmers received subsidies amounting to \$3.9bn, more than three times the US foreign assistance to Africa's 500 million people.
- The largest enterprises benefited most. Some 75 percent of subsidies went to the top 10 percent of US cotton agro-businesses, with the largest ten businesses receiving over \$17m in direct payments, not taking into account a range of indirect payments.

Source: Watkins, Kevin and Jung-ui Sul, Cultivating Poverty: the impact of US cotton subsidies on Africa, Oxfam Briefing Paper No 30, Oxfam International, 2002

Capping single direct farm payments under the green box, and establishing criteria that make it mandatory for subsidies to be spent on public goals – promoting food security, sustainable agriculture, conserving the environment, enhancing rural development and supporting small scale producers - would automatically reduce the overall volume of EU and US subsidies, while continuing to provide support to those small producers who need it most. This would not only create a fairer basis for agricultural trade but would also benefit consumers and tax payers in the developed world.

However, instead of adequately dealing with the green box, the EC proposes a 5% cap on the blue box, substantial reductions in the amber box, and reductions in the *de minimis* threshold so as to keep it as a real exception.

Unfortunately, the proposal to cap the blue box at 5% of the total value of agricultural production will not have any significant effect on the overall volume of subsidies in the EU and US. Currently, the US does not use the blue box. And, it is estimated that as a result of the 2003 agreement on CAP reform, the EU will shift some 75% of current blue box subsidies into the green box.<sup>30</sup> Thus the volume of EU blue box subsidies, amounting to some 29.4 billion euros,<sup>31</sup> will fall automatically to around 7.3 billion euros, well within the capped limit of 5% (or 13.75 billion euros).

ActionAid welcomes the acceptance in the recent EC statement<sup>32</sup> that developing countries should have more flexibility to address their developmental needs, including the needs of poor farmers and the right to continue to sustain sound rural, agricultural and food policies. However the EC statement continues: *“while the EU has always supported special treatment for developing countries in the area of domestic support, it considers that such treatment should be targeted particularly to the poorer, less competitive developing countries as opposed to the most advanced. This appears to us the most appropriate means to fulfil the development objectives of the Doha declaration.”*<sup>33</sup>

It is not clear whether the EC wants to see special treatment in the provision of domestic support restricted to Least Developed Countries, and exclude all developing countries, or whether it is seeking to identify a new category of ‘most advanced’ developing countries. The latter would almost certainly include India, China and Brazil and would fail to recognise that these countries are home to millions of very poor farmers.

ActionAid believes that the EU’s attempt to confine the use of agricultural subsidies to the poorest developing countries – many of whom are unable to finance such payments – is hypocritical. If it has genuine concerns about the use of subsidies, the EU should focus on reforming its own domestic support payments. These currently amount to about 100 billion euros annually and the vast majority is spent on rich, large scale farming enterprises in the most prosperous parts of the EU (France, Germany and the UK).

## **Cotton**

- The US is the second largest producer of cotton after China. In most years more than 40 per cent of total output is exported.
- US cotton subsidies have had a devastating impact on West African cotton farmers as well as other cotton producing nations. Lower export prices associated with American subsidies are thought to have cost eight developing countries around \$333 million, not counting losses in market share.<sup>34</sup>

In Cancún the cotton initiative replaced TRIPs and Public Health as the symbol of developed countries' lack of commitment to addressing the legitimate development concerns. Despite overwhelming support amongst the WTO membership that cotton subsidies should be eliminated worldwide to safeguard the survival of the cotton sector in West and Central Africa, the US flatly refused to discuss reductions in its cotton subsidies, suggesting instead that Members find a solution within the textiles and fibres sector more generally.<sup>35</sup> The Derbez text closely reflected the US position resulting in widespread anger and disappointment amongst Members.

Following on from Cancún, informal talks in Geneva have not led to much progress. The US is maintaining its initial position, which included efforts to help African cotton producers diversify their economies. While still standing firm in their demand for the phase-out of cotton subsidies, African countries have reportedly given up the idea of obtaining compensation for the losses they have incurred already as a result of cotton subsidies in rich countries.<sup>36</sup>

According to the EC's latest statement<sup>37</sup>, the EU believes that an initiative on cotton should contain three key elements: an explicit commitment to grant duty free and quota free market access for cotton exports from least developed countries; substantial reductions of the most trade-distorting forms of domestic support; and elimination of export subsidies within a stated timeframe. For its part, it believes that EU reforms already in progress should be enough to deal with cotton subsidies. In addition, the EC intends to include cotton amongst products of interest to developing countries in the list for which EU export subsidies would be eliminated.

## **Export Subsidies**

The second revised Ministerial draft calls for export subsidies on some products which are of particular interest to developing countries to be eliminated. This wording is particularly vague and it is not clear how the list would be established. One suggestion was that the list would be proposed by developing countries and then open to negotiation. ActionAid believes that all export subsidies are of interest to developing countries in that they all depress world prices, result in dumping and displace developing country exports in third markets.

The latest statement from the EC on this issue argues that "all forms of export competition need to be addressed in a strict, parallel manner."<sup>38</sup> Expressing clear frustration with the attitude of other OECD WTO Members, the EC states: *"Other Members, however, have tried to ignore the Doha Declaration by trying to exempt their own export competition instruments from significant, binding disciplines. Rather than attempting to re-write the Doha Declaration, other Members should respond positively to EU initiatives, including the offer regarding export subsidies."*<sup>39</sup>

ActionAid welcomes the more explicit wording in the Derbez text (second draft declaration), that an end-date for all export subsidies remains under negotiation but regrets that this falls short of the G20+ position. ActionAid calls for the complete and immediate elimination of all export subsidies.

## **Market Access into Developing Country Markets**

The Derbez text demanded onerous tariff reduction commitments from developing countries, calling on them to use a blended formula, similar to that of developed countries (but with slightly lower tariff

reductions and longer implementation periods). Under this text, developing countries would have to submit some of their product lines to the Swiss formula, which would result in these nations substantially increasing access for (subsidised) products from the developed world. India has argued that a study it had conducted reveals that using the banded approach proposed in the Derbez draft would cut developed country tariffs only by an average of 30 percent, whereas developing countries would need to bring down their tariffs by 30 to 70 percent.<sup>40</sup>

ActionAid supports the position of the G20+ that a Uruguay type formula should be applicable to developing countries but with flexibilities for special products and a special safeguard mechanism as outlined below.

Market access under the current rules of the AoA has decimated rural and farming communities across the South due to import surges and dumping. The Derbez text does not address adequately the issue of Special and Differential Treatment (S&DT) to counter these impacts.

The latest statement from the EC recognises that most WTO Members have particular sensitivities in some sectors but states nevertheless that *“a mixed Uruguay/Swiss formula approach constitutes the right compromise on tariff cuts, (which should be made starting from bound levels of tariffs).”*<sup>41</sup> In addition, it argues that the special safeguard (SSG) should be retained for use by both developing and developed countries alike. This approach in no way meets the needs and aspirations of developing countries.

### ***Strategic/Special Products and the Special Safeguard Mechanism***

In Cancún, developing countries demanded that Strategic or Special Products (SPs) should be self-selected and exempt from reduction commitments, but the Derbez text continues to call for a (smaller) cut in tariffs on items designated as special products.

Strategic/Special Products and a Special Safeguard Measure are important priorities for the G33, G90 and the Alliance for Strategic Products and Special Safeguard Mechanism.<sup>42</sup> These coalitions account for the vast majority of developing countries within the WTO.

ActionAid supports the Alliance call that SPs should be designated to deal with concerns regarding food and livelihood security and rural development problems, as well as ensuring the survival of small, vulnerable and resource poor farmers. These SPs should be self-selected and exempt from tariff reduction commitments and, in addition, an SSM should be available for all products, while the special safeguard (SSG) that is currently used by the developed world should be discontinued.

The Derbez text on Special Safeguard Mechanisms (SSM) is very weak. It ignores the G20+ call for current WTO Special Safeguards to be eliminated and a new, simpler mechanism established. Instead it states that establishing the right of developing countries to use the existing SSGs provisions will be only on the basis of specific conditions and negotiations regarding the specific products to be included. This opens the door for developed countries to severely restrict the number of products that would be eligible.

ActionAid believes that it is important to simplify the new SSM so that developing countries would be able to use it more easily.<sup>43</sup> One consequence of this is that developing countries may use such a mechanism in cases where the imports are coming from other developing countries. Concerns have been raised regarding the impact on South-South trade, but ActionAid believes that special safeguards should be seen as a legitimate means to protect agricultural sectors in developing countries from a high degree of market volatility, particularly where there are no other mechanisms such as social safety nets or government support to offset the threat posed by import surges or sudden price drops. The access to an effective safeguard tool is an essential element of a fair development-oriented trading system for all countries.

### **Non-trade concerns: special products for developed countries?**

Section 2.2, Annex A of the Derbez text offers a favourable 'loophole' to developed countries regarding tariff reductions if they can demonstrate that high tariffs are in place in response to 'non trade concerns'.

This part of the text is full of brackets, and details still need to be negotiated. But the call for developed country Members to reduce tariff lines that exceed a maximum (not yet established) to that maximum, also says that developed countries shall have flexibility to limit their tariff reductions if these are in place to meet 'non trade' concerns, for example, environment, animal welfare and food safety concerns.

This could mean that where tariffs are currently very high – for example in the sugar, dairy and meat sectors in the EU and the rice sector in Japan - they may remain high. These sectors are of particular interest to developing countries, resulting in 'non trade concern' measures being dubbed 'special products for developed countries' by some NGOs.

### ***Extension of the Peace Clause***

Despite strong objections from developing countries, the Derbez draft includes a proposal to extend the Peace Clause when it expires at the end of 2003.

The latest EC statement appears to accept that, in lieu of the failure to reach agreement in Cancún, the Peace Clause will expire at the end of 2003. However, it states that: *"comprehensive negotiations on agriculture, resulting in an agreement acceptable to all Members, risks being undermined if Members use litigation in an attempt to challenge subsidies granted consistently with the Agreement on Agriculture. Protection for such subsidies must be maintained."* Furthermore, the EC issues a scarcely veiled threat to anyone thinking about challenging their subsidy regime: *"a strategic choice has to be made by Members, and in particular by the export oriented Members, between two alternative routes that are largely mutually exclusive: either they believe that multilateral negotiations are the way forward to a fair and market oriented trading system, or they believe WTO litigation is the way forward."*<sup>44</sup>

ActionAid believes that it would be wrong to extend the Peace Clause. Developing countries have the right to challenge subsidies that they believe contravene WTO rules, and WTO commitments to a development agenda in relation to agricultural trade. Developed nations could prevent many challenges to their subsidy regimes if they would agree to phase out the amber box subsidies, eliminate blue box payments and export subsidies, agree to some kind of cap of the green box and to review and tighten the eligibility of green box payments.

### **Singapore Issues**

*"The EU wants rules on investment, competition policy, government purchases and customs clearance. It seems to envision the WTO as a world investment, competition and procurement organisation not just a world trade organisation. Some of the proposed rules make sense on their own terms (who could be against swift customs clearance or transparency in government procurement?) but they would be costly for poor countries to implement and monitor. Worse, if poor countries signed up to new obligations, then failed to fulfil them, they would be vulnerable to trade sanctions. [Yet] the EU is insisting they start talking about the Singapore issues as a quid pro quo for liberalising agriculture."*

The Economist, 13 September 2003

As ActionAid predicted, the Ministerial Conference in Cancún saw a showdown over the four Singapore issues of investment, competition policy, transparency in government procurement and trade facilitation. The concerted attempt by the EU and other rich countries to launch negotiations on these issues, and their intransigence on agricultural reform, was the primary cause of the Cancún Ministerial's collapse.

At a recent UNCTAD meeting, many participants confirmed their opposition to the Singapore issues and suggested that: *“In the interest of manageability and prioritization in the Doha Work Programme, it might be better to concentrate on substantive and core trade issues for the present”* while others went further and argued that *“it would be timely to drop these issues from the WTO work programme.”*<sup>45</sup>

ActionAid has written at length as to why the four new issues should not be part of the WTO programme and will not repeat these arguments here.<sup>46</sup>

The EC, however, has a different approach to dealing with the fact that the vast majority of WTO Members are opposed to the Singapore issues. *“In seeking to build a practical foundation for WTO work on the Singapore issues, the EU should start therefore from the premise that it remains desirable to pursue the four Singapore issues within the single undertaking. Yet if, as appears likely, agreement on modalities within a single undertaking remains elusive, then the WTO must find a way to handle these matters on some other basis. The EU should therefore explore with an open mind the possibility that the wish of some WTO members to participate in negotiations on Singapore issues could still be accommodated, while accepting that others do not take part in or even explicitly exclude themselves from the negotiations.”*<sup>47</sup>

Many of the pre-Cancún arguments against a multilateral investment agreement at the WTO<sup>48</sup> are equally relevant to this proposal for a plurilateral agreement:

- A new set of complex negotiations would add to the overloaded Doha agenda and thus effectively exclude many developing countries from being full participants in the negotiations.
- A plurilateral investment agreement would not increase FDI flows to the poorest countries
- A plurilateral investment agreement at the WTO would not balance rights and responsibilities of host countries, home countries and investors
- A plurilateral investment agreement would not see the end of bilateral investment treaties<sup>49</sup>
- Non-discrimination is not a successful development strategy

Furthermore, *“The plurilateral proposal leaves developing countries with an unenviable choice: take part in negotiations that the majority of WTO members have made clear they do not want, or risk being forced at a later stage, whether by bilateral, multilateral or investor pressure, to sign up to an agreement they have had no part in negotiating.”*<sup>50</sup> Acceding countries, most of whom are developing countries, will be particularly vulnerable to pressure, even if in theory the agreement is a voluntary one. Between 1995 and 2002, fourteen of the fifteen countries that acceded to the WTO, (Ecuador being the exception), signed up to the plurilateral Agreement on Government Procurement.<sup>51</sup>

ActionAid opposes any attempt to introduce plurilateral negotiations on the Singapore issues. Prior to Cancún, developing countries had already rejected a proposal from the EC for a plurilateral option. And since Cancún, the plurilateral option has received a 'cool reception' in Geneva from many developing countries as well as Canada.<sup>52</sup> If the WTO's consensus principle is to mean anything, such a glaring lack of consensus must be accepted by the EC and the other Members that support the commencement on negotiations on the Singapore issues. For this reason, the Singapore issues should be dropped from the WTO (this would include winding-up the working groups) and Members should focus on those issues that really matter in achieving the WTO's development objectives.

## **Non Agricultural Market Access**

The Derbez text on non agricultural market access (NAMA) angered developing countries as it ignored the concerns they had raised prior to and during Cancún and appeared to be based on the US, EU and Canadian Joint Paper of 20<sup>th</sup> August. Developing countries' main concerns surrounded negotiations on paragraph 3 of Annex B (the definition of a formula and whether it should be linear or non-linear) and paragraph 6 (a voluntary or mandatory approach to the sectoral elimination of tariffs).

Paragraph 3 proposes a non-linear formula which implies very steep cuts in tariffs at the higher end and also steep cuts in tariff lines in the middle. Such a formula would much higher tariff reductions for developing countries than would be demanded from developed countries.

In addition, the proposals in the Derbez text would lead to the erosion in the flexibilities that developing countries have to bind or cut tariffs (one option in the text is to restrict bindings or cuts up to a maximum 5 per cent of tariff lines provided they do not exceed 5 per cent of the total value of a Members' imports).

The text is vague on the issue of non tariff barriers (NTBs), despite the fact that these are becoming critical obstacles to exports from developing countries. In addition, there it does not deal adequately with the issue of tariff escalation. China, India and Kenya have also stressed the need for special and differential treatment for developing countries, as high tariffs on value added goods have the greatest impact on poorer countries with weak industrial bases. Furthermore, the proposal for access for exports from LDCs remains voluntary and do not deal adequately with the issue of origin. These areas of the agreement must be addressed if there is to be genuine progress on the development agenda.

The Derbez text also proposes tariff elimination in sectors of export interest to developing countries (seven sectors were originally proposed in the paper of 16<sup>th</sup> May 2003 from the Chair of the Negotiating Group on NAMA<sup>53</sup> namely, leather goods, footwear, textiles and clothing, stones, gems and precious metals, motor vehicle parts and components, electrical and electronic goods, and fish and fish products). Only LDCs would be exempt. Again, developing countries oppose this proposal - some would consider it only on a voluntary basis, while others want it removed altogether.

The opposition of developing countries to the NAMA proposal has been on three grounds.

- Extensive non-agricultural trade liberalisation in the South would expose the industries of the developing countries to giant corporations of the rich countries in an unequal competition (this may also result in greater proportional increases in their imports leading to serious balance of payments crisis). This has the potential to undermine local industry and compound the 'deindustrialisation of the South'.<sup>54</sup>
- There will be huge loss of revenue to developing countries' governments many of whom heavily depend on custom duty for their revenue earning (the loss could be as high as 30% in some countries) thereby potentially resulting in cuts in state-run social service and welfare programmes.<sup>55</sup>
- The proposals in the second revised draft violate the commitment made in the Doha declaration on 'less than full reciprocity' for developing countries.

The EC rejects the proposals put forward by developing countries prior to and during the 5th Ministerial, stating that: *"modalities of the type on offer at Cancun – but not accepted by Members - cannot constitute a balanced basis for progress when negotiations resume. We, and many others, will have difficulty in moving to a final phase of the negotiations on non-agricultural market access that does not hold out real prospects of effective improvements in market access for our exports, in terms of reductions in both bound and applied rates and strict disciplines on non tariff measures."*<sup>56</sup>

Arguing that "less than full reciprocity" should not equate to non participation of developing countries, the EU believes that modalities should reflect the genuine capacity of Members at different levels of development to contribute. However, it then goes on to say, *"This approach should remain anchored to a simple, single, non linear tariff reduction formula applied to all tariff lines, and result inter alia in the elimination of tariff peaks and significant improvements in tariff bindings."*<sup>57</sup> This would seem to undermine its earlier recognition that reductions should be in line with the different capacities of Members.

The EC also remains firm regarding sectoral negotiations, over and above the formula approach, for products of *"special interest to developing countries, as well as on other products of particular EU interest."* and proposes negotiations to reduce textile and clothing tariffs to as close to zero as possible, on a reciprocal basis.<sup>58</sup>

ActionAid regards the text of Annex B as highly biased in favour of rich countries and dismissive of the legitimate concerns of the developing world. It believes that modalities for NAMA should be re-designed to ensure that they meet development objectives and to implement the principle of less than full reciprocity.<sup>59</sup>

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<sup>1</sup> Review Of Developments And Issues In The Post-Doha Work Programme of Particular Concern to Developing Countries: the Outcome of the Fifth WTO Ministerial Conference, Chairperson's Summary, UNCTAD, Trade and Development Board, Fiftieth session, 6–17 October 2003, Geneva, TD/B/50/L.7

<sup>2</sup> According to Barral, protectionism is the use of State measures envisaging trade advantages for national producers. Under this concept, protectionism is opposed to trade liberalization, which is grounded on the idea of efficient and competitive market, capable of promoting economic growth and social welfare. Barral, Welber, *The Rise of Protectionism and the Future of Multilateralism*, Universidade Federal de Santa Catarina, 2003, Brazil

<sup>3</sup> Review Of Developments And Issues In The Post-Doha Work Programme of Particular Concern to Developing Countries: the Outcome of the Fifth WTO Ministerial Conference, Chairperson's Summary, UNCTAD, Trade and Development Board, Fiftieth session, 6–17 October 2003, Geneva, TD/B/50/L.7

<sup>4</sup> Sharma, Shefali, *Wake Up Call for the WTO: 5th WTO Ministerial Conference Ends in Collapse*, Trade Information Project, IATP, 15 September 2003, Geneva

<sup>5</sup> Bhagwati, Jagdish, Testimony Subcommittee on Domestic and International Monetary Policy, Trade and Technology, U.S. House of Representatives Committee on Financial Services, 1st April 2003, <http://financialservices.house.gov/media/pdf/040103jb.pdf>

<sup>6</sup> Quoted in Bhagwati, Jagdish and Panagariya, Arvind, *Bilateral Trade Treaties Are a Sham*, *Financial Times*, 13 July 2003, London

<sup>7</sup> Review Of Developments And Issues In The Post-Doha Work Programme of Particular Concern to Developing Countries: the Outcome of the Fifth WTO Ministerial Conference, Chairperson's Summary, UNCTAD, Trade and Development Board, Fiftieth session, 6–17 October 2003, Geneva, TD/B/50/L.7

<sup>8</sup> The EU-South Africa Trade, Development and Co-operation Agreement: An analysis of its implications in Southern Africa: An *Eurostep* Briefing Paper. <http://www.eurostep.org/pubs/position/trade/eusouth.htm>

<sup>9</sup> Traidcraft, *Economic partnership Agreements: The EU's New Trade Battleground*, September 2003. [http://www.traidcraft.co.uk/PDFs/EPAs\\_the%20EUs%20new%20trade%20battleground.pdf](http://www.traidcraft.co.uk/PDFs/EPAs_the%20EUs%20new%20trade%20battleground.pdf)

<sup>10</sup> Oxfam International, *From Cancun to Miami*, Oxfam Briefing Note, November 2003

<sup>11</sup> Bhagwati, Jagdish and Panagariya, Arvind, *Bilateral Trade Treaties Are a Sham*, *Financial Times*, 13 July 2003, London

<sup>12</sup> Bhagwati, Jagdish, Testimony Subcommittee on Domestic and International Monetary Policy, Trade and Technology, U.S. House of Representatives Committee on Financial Services, 1st April 2003, <http://financialservices.house.gov/media/pdf/040103jb.pdf>

<sup>13</sup> Bhagwati, Jagdish, Testimony Subcommittee on Domestic and International Monetary Policy, op cit

<sup>14</sup> Caporaso, James. "International Relations Theory and Multilateralism: The Search for Foundations." *International Organization*, 46, 3 (Summer, 1992),

<sup>15</sup> Dr. Supachai Panitchpakdi *Multilateralism: The Only Sustainable Way To Global Future*, speech at the High-Level Special Roundtable on The Future of Multilateralism, WSSD Johannesburg Summit, 3 September 2002

<sup>16</sup> Lindsey Powell, "In Defense of Multilateralism" paper prepared for Global Environmental Governance: the Post-Johannesburg Agenda 23-25 October 2003 Yale Center for Environmental Law and Policy, New Haven, Connecticut, USA

<sup>17</sup> Lindsey Powell, "In Defense of Multilateralism" paper prepared for Global Environmental Governance: the Post-Johannesburg Agenda, 23-25 October 2003, Yale Center for Environmental Law and Policy, New Haven, USA;

Miles Kahler, "Multilateralism with Small and Large Numbers." *International Organization*, 46, 3, Summer 1992; Shepard Forman "Multilateralism as a Matter of Fact: U.S. Leadership and the Management of the International Public Sector." *Multilateralism & U.S. Foreign Policy: Ambivalent Engagement*. Stewart Patrick and Shepard Forman, eds. Lynne Rienner Publishers, 2002, USA

<sup>18</sup> Forman, Shepard, *Multilateralism as a Matter of Fact: U.S. Leadership and the Management of the International Public Sector in Multilateralism & U.S. Foreign Policy: Ambivalent Engagement*. Patrick, Stewart and Forman, Shepard, eds. Lynne Rienner Publishers, 2002, USA

<sup>19</sup> Preparatory Process In Geneva And Negotiating Procedure at the Ministerial Conferences, Communication From Cuba, Dominican Republic, Egypt, Honduras, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Pakistan, Sri Lanka, Tanzania, Uganda, And Zimbabwe, WTO, WT/GC/W/471, 24 April 2002, Geneva

<sup>20</sup> See <http://www.focusweb.org/civil-society-call/>

<sup>21</sup> Review Of Developments And Issues In The Post-Doha Work Programme of Particular Concern to Developing Countries: the Outcome of the Fifth WTO Ministerial Conference, Chairperson's Summary, UNCTAD, Trade and Development Board, Fiftieth session, 6–17 October 2003, Geneva, TD/B/50/L.7

<sup>22</sup> Review Of Developments And Issues In The Post-Doha Work Programme of Particular Concern to Developing Countries: the Outcome of the Fifth WTO Ministerial Conference, Chairperson's Summary, UNCTAD, Trade and Development Board, Fiftieth session, 6–17 October 2003, Geneva, TD/B/50/L.7

<sup>23</sup> Reviving the DDA Negotiations – the EU Perspective; Communication from the Commission to the Council, to the European Parliament, and to the Economic And Social Committee, Commission Of The European Communities, 26 November 2003, Brussels

<sup>24</sup> Review Of Developments And Issues In The Post-Doha Work Programme of Particular Concern to Developing Countries: the Outcome of the Fifth WTO Ministerial Conference, Chairperson's Summary, UNCTAD, Trade and Development Board, Fiftieth session, 6–17 October 2003, Geneva, TD/B/50/L.7

- <sup>25</sup> For participants in the 50th Session of the UNCTAD Trade and Development Board, there is also need to address “coherence and consistency between trade, financial, monetary and technological policies in support of development; taking into account the implications for the multiple issues that operate in the interface of trade, development and globalization such as TRIPS and public health (through an amendment of the TRIPS Agreement to provide a more secure solution), poverty, environment, health, culture, gender, migration, food security and rural development, competition, technology, enterprise, employment and public interest.” Review Of Developments And Issues In The Post-Doha Work Programme of Particular Concern to Developing Countries: the Outcome of the Fifth WTO Ministerial Conference, Chairperson’s Summary, UNCTAD, Trade and Development Board, Fiftieth session, 6–17 October 2003, Geneva, TD/B/50/L.7
- <sup>26</sup> ActionAid has consistently challenge the assertion that decoupled payments – as implemented in the US and proposed in the EU – are not trade distorting. Some of these arguments are given in Alam et al, 2003 ‘[6 ways to make a new Agreement on Agriculture work for development](http://www.cafod.org.uk/policy/ngobriefingaoa200308.doc)’ (see <http://www.cafod.org.uk/policy/ngobriefingaoa200308.doc>). ActionAid has long proposed that all links to production – historical or otherwise – should be broken and subsidies only given on the delivery of public goods; conserving the environment, supporting small-scale farmers, enhancing rural development and promoting sustainable agriculture.
- <sup>27</sup> Reviving the DDA Negotiations – the EU Perspective; Communication of the Commission to the Council, to the European Parliament, and to the Economic And Social Committee, Commission Of The European Communities, 26 November 2003, Brussels
- <sup>28</sup> AgraEurope, 2003b. Lessons to be learnt from Cancun. 26<sup>th</sup> September 2003.
- <sup>29</sup> Palley, Thomas I., After Cancun: Possibilities for a New North-South Grand Bargain on Trade Foreign Policy in Focus, November 2003
- <sup>30</sup> AgraEurope, 2003b. A CAP reform agreement that – just about - delivers. 27<sup>th</sup> June.
- <sup>31</sup> European Parliament, 2003. Report on the proposal for a Council Regulation on Establishing Common Rules for Direct Support Schemes under the CAP and Support Schemes for producers of certain Crops. May. Rapporteur, Arlindo Cunha. <http://www2.europarl.eu.int/omk/sipade2?L=EN&OBJID=15479&LEVEL=3&MODE=SIP&NAV=X&LSTDOC=N>
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