

**Informal hearings of civil society on financing for development
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Trade and Development: Current Issues and Suggestions

Discussion paper by the Third World Network*

A. INTRODUCTION

The Monterrey Consensus recognises the strong links between trade, finance and development issues. The challenge is to make trade, trade policy and trade rules work for development. This is a big challenge because many trade rules, for example in the WTO, and many trade policies, for example in structural adjustment conditionalities, are not yet aligned with development needs in the South.

It is now widely recognised that trade rules and policies at the international level have to be reformed or at least re-aligned to meet development needs. The events at the World Trade Organisation's Cancun Ministerial Conference in September 2003 provide an opportunity for rethinking the outcome of the Doha work programme and the future role of the WTO and the trading system.

At Cancun, the developing countries were better able to organise themselves and articulate their interests. They expect that the developed countries will honour the Doha Declaration principle that the interests of developing countries would be at the centre of the work programme.

Following Cancun, there has been a period of reflection and informal consultations. Formal negotiations will only begin again in the second half of March. This is thus a good time to put forward suggestions on how trade negotiations should proceed. The following is a brief summary of the key issues and proposals for the way forward.

B. AGRICULTURE

There is a wide impasse in the agriculture negotiations. Many developing countries believe the major countries (EU and US) are not able or willing to fulfil the Doha mandate on agriculture that obliges the developed countries to reduce and phase out export subsidies, substantially reduce domestic support and substantially improve market access.

The draft Cancun Ministerial text (known as the Derbez text) which was introduced on almost the last day at Cancun and which was not adopted but which is used as a reference point in the present negotiations, contains many imbalances and problems in relation to agriculture. It would allow the developed countries to maintain or even increase domestic support (by shifting subsidies from the amber box to the blue box and green box subsidies) and elude elimination of

* This paper was prepared for the Third World Network by Martin Khor with the assistance of Goh Chien Yen. They can be contacted at twnet@po.jaring.my.

export subsidies and credits, whilst imposing even steeper tariff cuts on developing countries and providing less S and D aspects to them.

The EU-US joint paper of August 2003 (which is to a large extent retained in the Derbez text at Cancun) contains a blended formula for tariff cuts for all countries. Preliminary studies by some developing show that such a blended formula would disadvantage developing countries as they would be subjected to much deeper tariff cuts than developed countries, due to their different tariff profiles. A preliminary estimate is that developed countries would be subjected to 25-30 percent average tariff reduction, whilst the developing countries would have average reduction of 30-70 per cent.

Such a formula would thus further reduce the ability of developing countries to defend the interests of their small farmers. Since developing countries have little or no capacity to provide subsidies, this serious erosion of their ability to use tariffs to protect farmers against imports will have severe adverse implications on rural livelihoods and poverty eradication objectives.

It would be most unfair because many developing countries are already suffering from increases of agricultural imports (artificially cheapened by subsidies) and the only tool they have (i.e. tariffs) to counter unfair competition from the rich nations is being removed very significantly through the Draft.

There is also inadequate treatment of Special products (SPs) and Special safeguard mechanisms (SSM) in the draft. More than 30 developing countries had formed an Alliance for SPs and SSM in Cancun to press their case for strong SP and SSM mechanisms, in which they can self-select certain products as SPs which would not be subjected to tariff cuts, and in which an SSM can be used in a simple and effective way to counter import surges (reflected in an increase in import volume, and/or a decrease in import prices). The developing countries argued that these two instruments are required to protect their farmers' livelihoods and food security. The draft mentions these two concepts in a very inadequate way. SPs are only mentioned in para. 2.6 (i) where the following restrictions apply: (a) they can only be selected from one category of products in the blended approach; (b) there will be conditions attached, which are to be determined. On SSM, there is only a mention that its establishment will be subject to conditions and for products to be determined. This opens the road for so many conditions and so few products to qualify that in the end the mechanism will have limited use.

Proposals

1. There should be higher ambition in eliminating the Amber and Blue Box domestic support measures of the developed countries and to review the Green Box measures, with the view of reclassifying some of them as Amber Box subsidies (to be subjected to reduction and elimination), and capping and reducing the rest.
2. On market access, the developed countries should commit to meaningfully reducing tariff peaks and escalation of products of interest to developing countries. The blended formula should

not serve as an escape scheme from this commitment. There should be a high average reduction for developed countries.

3. The developing countries should not be asked to commit to make more tariff reductions of a significant kind. This is especially in view of the great likelihood that protection will remain high in the developed countries, especially in view of domestic concerns in the major countries.
4. The blended formula as proposed in the Derbez text is unsuitable for developing countries and should not be accepted. Moreover the Special Products category should be given more prominence and importance in the aspect of market access.

Thus for developing countries there could be a two-tier system:

Category 1 where no reduction commitments apply. This can comprise special products (products related to rural livelihoods, food security and significant contribution to economy, etc) and other products which are vulnerable to further tariff reductions (for example because the tariffs are already very low).

Category 2 with average overall reduction target of a certain percentage. This percentage should be lower than that for developed countries and not higher than the Uruguay Round. The calculation of the average percent shall be based on tariff lines in Category 2.

5. The concept of Special Products should be applied not only in market access but also to domestic support and export competition. Special products should also have additional flexibility in relation to the reduction commitments in these two areas.
6. Para. 2.8 on Special Safeguard Mechanism for developing countries should be strengthened to ensure that all products that are affected by import surge or price decline etc are covered, that the injury test is not required, and that the mechanism is easy to use. The conditions for use must not be cumbersome as to render the mechanism of little utility. A simple set of trigger points should be established which are easy to calculate and to use.

C. NON AGRICULTURE MARKET ACCESS (NAMA)

Again, the Derbez Text is being used as the main reference point in the present negotiations on industrial products, known as NAMA. However there are many problems in the Derbez text for developing countries, many of which have expressed their strong reservations or objections. These are the most serious or contentious issues as contained in the Derbez text's Annex B on NAMA:

- **Para 3** retains the directive that the negotiating group continue work on a **non-linear formula applied on a line-by-line basis**. This formula dictates that there be steeper and steeper percentage tariff cuts, the higher are the tariffs. Many developing countries have and require higher tariffs to protect their small industries. The non linear formula will drastically reduce their tariffs and threaten their domestic industries.

- **Para 4** tiret 2 dictates that unbound tariff lines shall also be subjected to the non-linear approach, after they are bound at (twice) the applied rate. This would have very serious implications for many countries. It would mean that after the exercise, (a) the presently unbound tariff lines will be bound, and (b) in many cases the new tariff rates would be below (and in some cases significantly below) the present applied rate. The flexibility for raising applied rates would be eroded.
- **Para 6** on the "sectoral tariff component" (i.e. accelerated tariff reduction eventually to zero) retains its controversial line that "participation by all participants will be important", implying it will be mandatory. This is against the demand by most developing countries that such a scheme should only be voluntary. If adopted, the draft would commit developing countries to eliminate tariffs on seven sectors or more, many of which contain local industries whose survival would be seriously threatened. (Annex B does not state which sectors are involved, and thus the door is open to cover even more than the 7 sectors mentioned in the proposal of the Chairman of the NAMA Group in Geneva).

Domestic industries in many developing countries are already facing problems including closure and loss of jobs due to tariff reductions. There is an additional problem of loss of government revenue.

The Derbez text contains elements as stated above that will worsen the situation as it would oblige developing countries to bind almost all their presently unbound tariffs, and subject the tariffs to steep cuts through the non-linear and sectoral approaches. For many countries, an implementation of the Derbez text will mean further de-industrialisation with little or no hope of ever developing an industrial base for development.

Proposals

The Derbez text should not be the basis for future negotiations. At best it should only be one of the reference points.

It is especially important that developing countries not be subjected to the "non-linear" and sectoral approaches.

- (1) Developing countries should be given the flexibility to determine their own rate of tariff reduction. This could be similar to the Uruguay Round approach, in which developing countries were given a target of average overall reduction of 27%, with the flexibility to choose the rates of each tariff line. Moreover, products and industries that are sensitive or important need not have any tariff reduction.
- (2) Developing countries also had the option in the Uruguay Round of choosing the scope of binding. This flexibility should also be retained, as was the case in all previous Rounds.
- (3) The sectoral approach should not be applied to developing countries.

- (4) LDCs should be exempted from further tariff reduction obligations.
- (5) There are however many developing countries that are not LDCs but with characteristics similar to LDCs in relation to the poor state of their domestic industries. Thus flexibility should be given to developing countries, not only LDCs.

D. THE SINGAPORE ISSUES

Some developed countries have for years been championing the introduction of new issues as subjects of new agreements in the WTO. These are known as the Singapore Issues (investment, competition, transparency in government procurement and trade facilitation) as they were first introduced at the Singapore Ministerial in 1996.

Most developing countries have never been comfortable with these issues, even as subjects of discussions. The developed countries however wanted these issues upgraded from discussion issues to negotiation issues towards legally binding agreements. This upgrading was resisted by many developing countries. At Cancun, about 90 developing countries (including ACP, Africa and LDC countries and many Asian countries) made clear they were not prepared to begin negotiations on any of the Singapore issues, and they would at best be prepared to further clarify the issues. It was clear there was no consensus to begin negotiations on any of the issues.

On the final day, at the "Green Room" meeting, the EC said it was prepared to drop two issues (investment, competition) and possibly a third (i.e. transparency in government procurement) from the WTO agenda altogether. The implication of "dropping from the WTO agenda" meant that the issues would no longer be discussed, even at the working group level.

However, the EC has indicated it would like to keep its options open. It says it is willing to drop some of the issues "from the single undertaking". But what this means is unclear. It implies that on some of the issues, the EC would still try for starting multilateral negotiations and to be part of the single undertaking. On other issues, which are "removed from the single undertaking", it could still want discussions to carry on at the working groups, which could lead to multilateral rules at a future date (not necessarily to be established when negotiations end on other topics such as agriculture), or to plurilateral negotiations and rules negotiations. Among the possibilities it has raised is to retain some of the issues (investment, competition) as discussion issues with the option of plurilateral agreements, whilst having other issues go into the negotiating mode. This seems at present to be the EC's preferred option. These present options are not the same as the Lamy offer to drop three issues from the WTO altogether. They represent an attempt to salvage the situation for the EU, retreat from Mr. Lamy's Cancun offer and to keep the all the issues still alive, so that there remains a possibility that all these issues can still be the subjects of WTO agreements in the future.

Most of the developing countries do not want negotiations to start on any of the issues. Many of them also think it would be futile to resume discussions at the working groups in a "business as usual" way, when the EC had already indicated in Cancun that it was willing to drop two or three of the issues. It would be best for them if the Singapore issues were removed from the Doha work programme, and that the WTO focus on trade issues.

At the General Council meeting of 15 December 2003, 45 developing countries (including Bangladesh (on behalf of the LDC Group), Botswana, China, Cuba, Egypt, India, Indonesia, Kenya, Malaysia, Nigeria, Philippines, Tanzania, Uganda, Venezuela, Zambia and Zimbabwe) issued an important joint communication on Singapore Issues: The Way Forward (WTO 2003).

The paper states: “The co-sponsors of this paper, therefore, are of the view that all further work on Trade and Investment, Trade and Competition Policy and Transparency in Government Procurement should be dropped.” This indicates the view that the issues be dropped completely from the WTO, implying that there be no further discussions, even at the level of working groups. On the fourth issue (trade facilitation), they asked that only further discussions and clarifications be continued (i.e. there be no start of negotiations). They also made it clear that they are “against the efforts for the adoption of a plurilateral approach in respect of any multilateral issues because such an approach is systemically unsuitable for a consensus-based multilateral organisation like the WTO. A plurilateral approach could lead to a two-tier system of membership, which would be contrary to the basic character of the WTO.”

At a press conference on 15 December 2003, the alliance of three major developing-country groupings (African Union, LDCs and ACP), comprising about 90 countries, the Botswana Ambassador, Charles Ntwaagae (coordinator of the ACP Group in WTO), stated: “Our alliance has long proclaimed that the Singapore Issues are not priority issues for us. Ideally our position is that all these issues should be dropped completely from the WTO agenda. We form a majority of the membership. If it happens, it will demonstrate a very important principle regarding respect for the will of the majority, given that the WTO is a member-driven organisation.” He also rejected a plurilateral approach or an opt-in opt-out approach which he said would undermine the multilateral trading system and create a two tier system.

At the WTO’s first General Council meeting of the year on 11 February 2004, the Members did not appoint Chairpersons for the working groups on three of the Singapore, i.e. investment, competition and transparency in government procurement. The implication is that these working groups will not be meeting, at least for the time being.

The implication is that although the working groups would not be meeting (at least for the present), the Singapore issues would still be discussed at the level of the General Council, and would be the subject of informal consultations under the direction of the General Council chairperson. Although there is an appearance that the issues are downgraded, they are likely to revive (and perhaps with considerable force) at a future date, and especially as the next Ministerial Conference approaches.

Proposals

Most developing countries have not been in favour of having the four Singapore issues enter the WTO, and especially not as the subjects of legally binding rules, as they fear these rules would restrict their development policy space and also incur costs. At Cancun, they were able to make their concerns noticed.

Before and at Cancun, the developing countries took the position that there was no consensus on modalities and thus no basis to commence negotiations on any of the Singapore issues, and that thus the process of clarification of issues should continue.

However, on the last day in Cancun, EC showed that it was ready to drop two or even three of the issues altogether from the WTO agenda. It also indicated at the end of the Cancun meeting that it would retain this position.

In the new situation at and after Cancun, many developing countries have taken the position that at least three of the Singapore issues should be dropped from the WTO agenda altogether. There need not be any further discussion at the working group level as well. This is a sound position, as new agreements on these issues in the form envisaged by the proponent countries could have serious adverse effects on the development prospects of developing countries.

In particular, an investment agreement in WTO could have restricted the policy space to governments to regulate the entry and conditions of operations of foreign investors, which would also have been given “national treatment.” Performance requirements such as equity requirements and technology transfer could have been prohibited. There would be freedom for foreign investors for the transfer of funds. The definition of foreign investor was in dispute during the working group discussions, with the US insisting that it include portfolio investors and investments. If this had been accepted, there would have been serious implications for financial stability as governments would then find it difficult or impossible to control the inflow and outflow of funds.

Dropping the issues would also avoid further tensions as to whether there can be an explicit consensus on modalities, and whether negotiations on the issues can be launched, and if so when, etc. The WTO would then not be further burdened with issues that have divided the membership for so many years, and it would be more free to carry on its real work of trade negotiations.

E. SPECIAL AND DIFFERENTIAL TREATMENT (SDT) AND IMPLEMENTATION ISSUES

SDT and Implementation are currently known as the “development issues” in the WTO. Developing countries negotiated hard and successfully to give these two issues high priority status as negotiating issues (and as part of the single undertaking) in Doha Declaration and the Doha work programme.

The negotiations on SDT involve strengthening existing SDT provisions in the WTO rules. They are also to include the establishment of new SDT provisions where required, and to develop a whole framework for SDT, but these two aspects have yet to start. On “implementation issues”, the developing countries had put forward more than a hundred proposals for clarifying or improving the WTO rules on various topics, in order to iron out problems of implementing the WTO agreements.

However, after Doha, the developing countries were very disappointed that these issues were not taken seriously by the developed countries. On SDT, a decision was taken on several issues, but they were mostly issues of less importance, whereas on issues of major importance, there was no agreement. On implementation, the issues were widely dispersed among several subsidiary bodies of the WTO and it has become difficult for Members to follow the progress of the negotiations, or the lack of it.

The marginalisation of these two issues continued after Cancun when they were not included in the issues selected by the Chairman of the General Council for informal consultations.

Proposal

The issues of S and D and implementation should be restored as among the most important issues in the Doha work programme. Proper institutional mechanisms should be established to ensure that they be actively pursued and resolved, with a proper time schedule and within special negotiating committees or sessions.

F. DECISION-MAKING PROCESS

The failure of the Cancun meeting to get a decision was significantly due to the WTO's flawed processes of decision-making at three levels: generally, in preparations for Ministerial Conferences and at the Ministerial Conferences themselves. The WTO has not yet made the journey from being an exclusive club of GATT where decisions are made by a few and mostly in informal ways, to a multilateral and democratic system of 130 over members, most of which are developing countries.

Unlike most other multilateral organizations (e.g. the UN excepting the Security Council), which are more open and participatory, most important decisions at the WTO are made in informal mode, and involving a few members, with the rest expected to agree. Minutes are not kept of the informal meetings, and drafts of texts are increasingly written by the Chairperson, assisted by the Secretariat. Drafts do not reflect the diversity of views, but usually contain "clean texts", and members are expected to negotiate with the Chair instead of among themselves. In these circumstances, it is no wonder that when drafts appear at the last hour, it is anyone's guess whether they will be accepted or rejected by some members. At Cancun, the "clean draft" produced on 13 September lunchtime was heavily criticized by many members at an informal meeting on 13 September night, and there was no possibility that the divisions could be bridged by the next day (the final day of the conference).

In the post-Cancun Geneva process, once again the Chair of the General Council was holding his own consultations with various members, and sometimes with groupings of 30 delegations. Many delegations have been in the dark and do not know what is happening and have complained that they and their views are not represented at the Green Room meetings. Many also request that they can talk face to face with other delegations instead of each Member negotiating with the Chair. The failure after Cancun to get real negotiations going again, and the

failure to be closer to a successful outcome, are signs that the untransparent and non-inclusive process of Green Rom meetings do not work.

Proposal

Several NGOs before Cancun issued a joint Memo on The Need to Improve Internal Transparency and Participation in the WTO (TWN et al 2003). They correctly predicted that Cancun and other Ministerials stand a high chance of ending in failure, if current practices continue. The WTO has a record of two failures in the last three Ministerial Conferences. There is also discontent with the day-to-day functioning.

Thus a reform of the decision-making process, to make it more participatory, is urgently required. For a start, the proposals contained in the Joint NGO Memo should be carefully considered by the WTO members. It is important that any reform process makes the system more transparent and participatory, instead of its ending up less transparent and participatory.

G. TRADE ISSUES IN BRETTON WOODS INSTITUTIONS

Trade policy at the international level is also being made through the Bretton Woods institutions. They provide advice through their research papers covering trade issues. More importantly, trade issues are also part of loan conditionality.

Some studies (for example by the FAO) have shown that many developing countries have reduced their applied tariffs to levels far below their bound rates, and that this has led to import surges which in some cases had adverse effects on the local products in agriculture and industry.

Some developing countries were not able to exercise the flexibilities available to them in the WTO rules because of the conditionalities in structural adjustment programmes.

Proposal

The Bretton Woods institutions should take a more realistic perspective on trade policies, especially in loan conditionalities. The developing countries should be allowed to exercise the flexibilities available to them under WTO rules, and this should not be constrained by loan conditionalities. A review of the conditionalities relating to trade issues should be made to ascertain their appropriateness in relation to development requirements.

H. TRADE-FINANCE COHERANCE

There are increasing concerns that there should be better coherence between trade and finance policies and between institutions dealing with trade and finance issues.

Indeed, such coherence is important, so that gains in one field are not cancelled out by policies in another field.

However, the key question is the basis for the coherence. If coherence is achieved on the basis of inappropriate assumptions and policies, then the situation may be even worse.

Any attempt at coherence should thus be based on appropriate assumptions and policies, and with the main objective of achieving development and meeting the development needs of people in developing countries.

Thus a framework for achieving this kind of coherence should first be established.