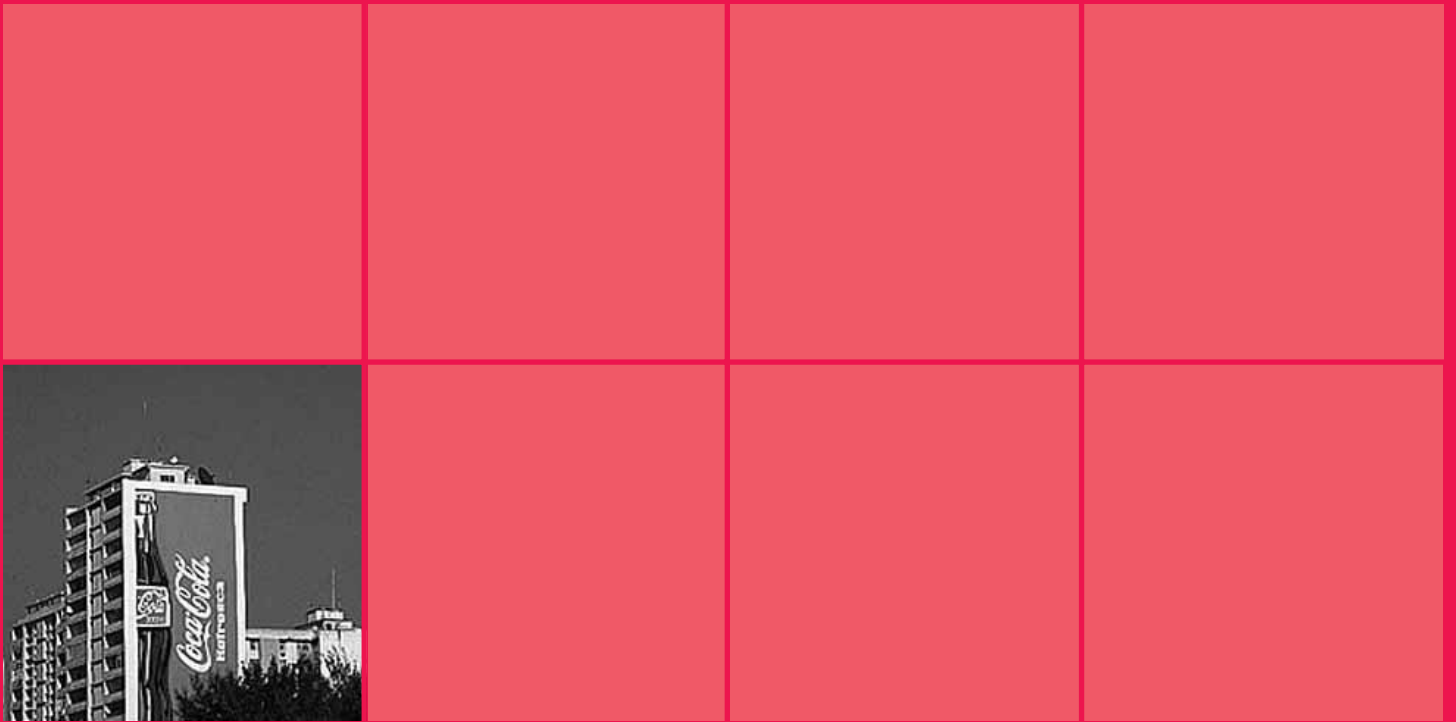


# The WTO Agreement on Investment



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## Summary

ActionAid is concerned that an investment agreement at the World Trade Organisation (WTO) could inflict lasting damage on the livelihoods of poor people in developing countries. Through working with local communities in over thirty-five countries, ActionAid understands the benefits that foreign investment can bring poor people. However, there are fears that a WTO agreement could result in new sectors being opened to investment, including agriculture, and that this could threaten the food and land rights of poor people. Governments have an obligation to uphold these rights and to ensure that poor people are protected from any threat posed by new international agreements.

Most developing countries welcome foreign investment, particularly foreign direct investment (FDI), and actively encourage investment through liberalising their investment regimes and providing a variety of incentives. Indeed, FDI has become an important source of capital for poorer countries at a time when official aid flows have fallen into long-term decline.

Clearly FDI can bring genuine benefits to developing country economies and to some of the poorest communities in those countries. Notwithstanding concerns about the need to improve labour conditions, foreign investment in the clothing industry, horticulture and manufacturing in countries such as China, Bangladesh, Indonesia, Cambodia, Kenya and Lesotho has provided new jobs for hundreds of thousands of workers, a large proportion of whom have been women from poorer families. And well-managed FDI can bring wider benefits through creation of linkages with domestic enterprises and the transfer of new technology and skills.

However, because not all forms of foreign investment bring benefits, many countries have

retained controls in order to protect sensitive sectors from liberalisation. In sectors which have been opened to foreign investment, they have retained the right to regulate investors in order to maximise the positive benefits to their economies and their people.

It is precisely these measures that are threatened by the proposed WTO investment agreement.

ActionAid believes that developing countries should reject the call for negotiations on a WTO investment agreement to begin after the Cancún Ministerial Conference. Instead of expanding its already overcrowded agenda to include investment and the other contentious 'new issues'<sup>1</sup>, ActionAid believes the WTO should focus on resolving those existing issues where reforms will deliver real benefits to developing countries.

Furthermore, ActionAid calls on the EU and others to respect the lack of consensus amongst WTO members on this issue and drop their insistence on negotiations. The EU's stubborn pursuit of an investment agreement at the WTO poses a severe threat to progress on international trade rules at a time when the Doha Round of trade negotiations is already on the brink of collapse.

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<sup>1</sup> Also known as the Singapore Issues – investment, competition policy, government procurement and trade facilitation

## Is anyone listening? Developing country opposition disregarded

The 5th WTO Ministerial, scheduled to take place in Cancún in September 2003, will see a showdown regarding the introduction of the 'new issues', including investment. The drive to negotiate an investment agreement at the WTO comes from only a small handful of members. The EU has led the call for negotiations and Japan and South Korea have been vocal supporters.

Since the issue was first raised at the WTO Ministerial in Singapore in 1996, most developing countries have opposed the introduction of negotiations on investment at the WTO. Developing countries believe an agreement could undermine their domestic development policies without delivering significant increases in investment, and simultaneously place unrealistic demands on their over-stretched ministries and WTO delegations.

Opposition to a WTO investment agreement was evident prior to and during the 4th WTO Ministerial held in Doha in November 2001. In the two years before Doha at least 60 developing country WTO members expressed a strong desire not to begin negotiations on the 'new issues'. Despite the fact that these countries constituted over 40% of the WTO's membership, their views were ignored as the EU pushed ahead with its agenda to commence talks on 'modalities' for negotiations on an agreement.

Controversially, the Doha Ministerial Declaration stated that negotiations on investment would take place after the next WTO Ministerial (Cancún) but only on the basis of a decision to be taken there 'by explicit consensus' on the modalities of the negotiations.

Since this statement seemed to fly in the face of developing country opposition and the very notion of consensus in WTO decision-making, before the end of the final plenary session in Doha, the Chair, at the insistence of several developing countries, provided the following clarification of the wording of the Declaration before submitting it for approval:

"In my view, this would give each member the right to take a position on modalities that would prevent negotiations from proceeding after the Fifth Session of the Ministerial Conference until that member is prepared to join in an explicit consensus."<sup>2</sup>

It was only on this basis that WTO members were able to agree the Doha Declaration, which postponed the decision on whether to start negotiations on investment and the other 'new issues' until the 5th Ministerial.

Since Doha, a wide range of developing countries have reiterated their opposition to the negotiations. Countries such as Brazil, Indonesia, the Philippines, Egypt, Venezuela, Malaysia, Thailand, Kenya, Cuba and Jamaica have questioned whether the WTO is an appropriate forum for an investment agreement and argued that it would threaten their economic development. China has consistently argued against US proposals to include foreign portfolio investment<sup>3</sup> in an agreement and maintains that the scope of investment negotiations must be absolutely clear in advance of any decisions being made. India believes that the WTO should drop the investment issue altogether. Recently, the 49 least developed countries confirmed their opposition to a WTO investment agreement at their meeting in Dhaka, stating that they believed the WTO should not embark on negotiations but should examine instead whether any such agreement would actually facilitate flows of FDI or improve its quality in the world's poorest countries.<sup>4</sup> Similar opposition was confirmed at the meeting of African Trade Ministers in June

<sup>2</sup> Introduction to the Ministerial declarations and decision in the closing session of the Doha Ministerial Conference by Qatari Finance, Economy and Trade Minister, Youssef Hussain Kamal, 14 November 2001, [http://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/min01\\_chair\\_speaking\\_e.htm#clarification](http://www.wto.org/english/thewto_e/minist_e/min01_e/min01_chair_speaking_e.htm#clarification).

<sup>3</sup> Foreign Portfolio Investment describes investment instruments that are more easily traded, may be less permanent, and do not represent a controlling stake in an enterprise. These include investments via equity instruments (stocks) or debt (bonds) of a foreign enterprise which does not necessarily represent a long-term interest.

<sup>4</sup> See text of the Dhaka Declaration adopted in June 2003 by trade ministers from the 49 least developed countries (LDCs)

2003, where ministers indicated their stand that the forthcoming Cancún Ministerial should address the African countries' existing developmental concerns (such as in agriculture, industrial products, intellectual property, special and differential treatment and implementation issues), instead of starting negotiations for new agreements on the 'new issues'.

Despite the clear opposition of developing countries, fears remain that the EU, US and Japan will try to bypass developing country resistance by submitting their own text for inclusion in the draft Cancún Declaration.

## Who is being listened to? The big business lobby

The international business community has made clear that it wishes to see an agreement on investment negotiated at the WTO. The world's most powerful corporate lobby groups have made several statements during 2003 calling for negotiations to be launched at the Cancún Ministerial. These statements also reveal the strong interest that multinational corporations have in expanding the terms of a WTO investment agreement if negotiations are started.

Two key statements come from the International Chamber of Commerce (ICC) and the European employers' federation UNICE (the self-styled 'Voice of Business in Europe'). Between them, these two groups exert significant influence over the negotiating agenda of the US, EU and other developed country governments. Both are calling for a broad and ambitious WTO investment agreement, providing maximum 'added value' for business. In particular, UNICE and the ICC want a WTO investment agreement to empower multinational corporations to challenge governments' investment policies directly, as in the investor-state dispute settlement provisions of the North American Free

Trade Agreement (NAFTA). They are also calling for multinational corporations to be granted freedom to repatriate all funds without delay or restriction from the country in which they are investing, thereby directly challenging developing countries' attempts to regulate foreign capital flows.<sup>5</sup>

It should be noted, however, that the corporate lobby groups' proposals are too ambitious even for some of their own members. In particular, the Indian chapter of the ICC has publicly dissociated itself from the international ICC position, noting that, "there is no evidence that the pattern and flow of investment will change in any significant way with multilateral rules on investment". Similarly, ICC Thailand has registered its own disagreement with the ICC proposals.

It is widely acknowledged that corporate lobby groups were directly responsible for introducing the new issues of services (GATS) and intellectual property rights (TRIPS) to the WTO during the Uruguay Round. Given the influence that the

"ICC strongly believes that only by providing high standards of market access and investment protection will a WTO agreement on investment offer an added value to companies."

– **ICC policy statement, March 2003**

"UNICE attaches great significance to the negotiations... to establish a multilateral framework on investment which is liberal, transparent, non-discriminatory and stable and which will produce real added value for companies."

– **UNICE policy position, May 2003**

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<sup>5</sup> Other corporate lobby groups which have publicly called for investment negotiations to start after the Cancún Ministerial include the Transatlantic Business Dialogue, the European Services Forum, the Business and Industry Advisory Committee to the OECD, and national business groups in countries such as Germany, Canada and the UK. The Japanese business federation Nippon Keidanren has published its own Model WTO Investment Agreement containing the 'provisions which Japanese business wishes to see contained in a WTO Investment Framework'.

corporate lobby groups have over the WTO, there is a danger that the massive opposition to an investment agreement from developing country governments and civil society organisations across the world will be ignored at Cancún.

In public, developed countries have tried to talk up the Doha Round of WTO negotiations as a 'Development Round' – even though their refusal to move forward on key issues such as intellectual property rights, agriculture and special and differential treatment for developing countries has exposed their development-friendly language as hollow rhetoric. With no sense of irony, the EU has now taken this rhetoric one stage further by calling its proposed WTO investment agreement an 'Investment for Development Framework'.

In private, however, government officials of EU member states acknowledge that the main aim of introducing an investment agreement at the WTO is not to help developing countries but to secure improved rights and greater protection for their own multinationals. This candid admission echoes the publicly stated aim of the EU in the current WTO negotiations on investment in services where EU officials have made it clear that their agenda is dictated by the interests of European companies wishing to invest in foreign markets, not the needs of developing countries or poor communities.

## The proposed Investment Agreement: key principles

The proposed WTO investment agreement requires member states to adopt a range of new obligations in their treatment of foreign investors. As well as increasing the transparency of investment regimes so as to make it easier for foreign investors to assess the investment climate in any particular country, WTO member countries would be called upon to apply the WTO's two core principles of non-discrimination:

### Why investment should not be part of the WTO agenda

An investment agreement at the WTO would put developing country governments under ever greater pressure to open up more sectors of their economies to multinational corporations. The consequences of such liberalisation could cause irreparable damage to local communities. As noted by India's Ambassador to the WTO, KM Chandrasekhar, speaking in Geneva in March 2003, "to make further commitments towards negotiating a WTO investment agreement could prove to be disastrous for developing countries... India has a large number of small-scale and cottage industries, using very little capital, employing large numbers and contributing to balanced regional growth and distributive justice. A large-scale foreign investment which displaced existing production in this sector by cornering the market would have disastrous human and social consequences".

- a most favoured nation treatment (MFN)**, which would require the host country to provide equal treatment to investors from all foreign countries, rather than favouring investors from those countries with which it had agreed a preferential investment treaty, or those that have a good reputation for cooperating and engaging positively with domestic development agendas; and
- b national treatment**, which would require the host country to treat foreign investors at least as well as it treats its own domestic firms. This is the most contentious element of the EU's investment agenda since it threatens to expose developing countries' industrial and agricultural sectors to direct competition from the world's most powerful multinationals – a level of competition which few domestic producers are able to survive.

In view of the clear resistance from developing countries, the EU has adopted a cautious approach to the issue of national treatment. While it proposes that the principle should apply to all foreign investments once they have been established in the host country, the EU has suggested that countries could still determine which sectors they wish to open and under which conditions, by committing sectors to national treatment on an opt-in basis. This 'positive list' approach is already familiar to WTO member countries from the WTO's General Agreement on Trade in Services (GATS), under which countries commit their service sectors to progressively higher levels of liberalisation through successive rounds of market access negotiations at the WTO.

There is little doubt that the EU sees this approach as a first step towards more extensive regulations on investment at the WTO. For its part, the US has stated publicly that it would only be interested in a stronger agreement with more far-reaching rights for multinational corporations along the lines called for by corporate lobby groups. The US is also keen to see any WTO investment agreement cover not only FDI but also foreign portfolio investment.

### The problems with a 'positive list' approach

The EU's proposal that any WTO investment agreement should be partly based on an opt-in or 'positive list' approach is intended to persuade developing countries that they would retain the flexibility they need to protect their industrial and agricultural sectors from multinational corporations, since no country would be forced to commit a sector unless it chose to do so. The EU also argues that developing countries would be able to maintain existing conditions and requirements on those foreign investors that are allowed entry into individual sectors, since such conditions could be registered as 'limitations' to the liberalisation commitments taken by WTO members in their national schedules.

However, developing countries already have a good understanding of how this 'positive list' approach works from experience of the GATS negotiations at the WTO. This experience is particularly relevant since the Doha Ministerial Declaration explicitly mentions the GATS approach as a model for pre-establishment commitments in any WTO investment agreement.

The first lesson that developing countries have noted in the GATS negotiations is that they can indeed be forced to open up new markets to foreign investors, even when it is not in their own interest to do so. Developing countries come under overwhelming pressure to give in to the demands of more powerful WTO members and delegates find themselves exposed to the full range of threats and pressures which the multilateral system of the WTO was supposed to avoid.<sup>6</sup> In such an unfair contest, developing countries can often find themselves unable to resist the liberalisation demands of more powerful states.

The second lesson that GATS has taught is that even though WTO members may try to protect key development policies by registering them as limitations to their liberalisation commitments, those policies are then targeted for removal by other countries in negotiations at the WTO. In the GATS negotiations, the EU has targeted key development policies for removal in many developing countries including joint venture requirements and equity caps in countries such as Indonesia, Pakistan, Thailand, China, Cuba, the Philippines, Egypt and India. These countries are now struggling to defend their own pro-development policies from EU assault.

Thirdly, and perhaps most importantly, a WTO investment agreement would close down the option of introducing or reintroducing such policies in the future. As with GATS, a WTO investment agreement would be binding on WTO member countries with penalties for any country wishing to modify or withdraw liberalisation commitments in the future. Under GATS, the penalties for any country wishing to take back a commitment are so punitive that WTO

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<sup>6</sup> Jawara, F. and Kwa, A. (2003) Behind the Scenes at the WTO: The real world of international trade negotiations. Zed Books, London (August 2003).

officials have themselves acknowledged GATS commitments to be effectively “irreversible”.

Binding liberalisation measures may offer foreign investors an extra layer of predictability and security, but by the same token they expose the people of developing countries to greater risk. Any country wishing to introduce policies to regulate the activities of foreign investors in the future must have registered those policies as limitations to its investment liberalisation commitments in advance. In reality, this is simply not practical, since no government can predict what measures might be required to regulate foreign investors in years to come, especially given changing circumstances in the global economy.

EU officials have tried to play down these threats, but the experience of GATS demonstrates that developing countries risk exposing their economies and their most vulnerable communities to overwhelming competition and exploitation in any WTO investment agreement.

## Trade-offs: the need for caution

Past experience has shown that WTO trade-offs with the EU and US are not in the interest of developing countries. The EU is playing politics with its aggressive agenda at the WTO, holding out the prospect of EU ‘concessions’ in areas of interest to developing countries, especially agriculture, only if developing countries agree to negotiations on investment and the other new issues at Cancún. Developing countries were offered precisely this trade-off at Doha – and in the previous Uruguay Round, when developed countries managed to expand the WTO agenda to include services and intellectual property rights on the understanding that they would reduce their own protectionism and agricultural subsidies in return. Unfortunately, the promised returns in agriculture are just as remote as they were ten years ago.

Trade-offs likely to be offered by the EU are particularly suspect. EU negotiators have explicitly said that the EU will make concessions in agriculture only if it is guaranteed greater market access for its exports to developing countries and if its demands for a WTO investment agreement are met. Yet internal political processes within the EU have already ensured that there can be no significant change to the EU’s Common Agricultural Policy until at least 2013 – and nothing approaching the level of reductions in export subsidies and domestic support stipulated in the Doha Ministerial Declaration.<sup>7</sup> All that the EU can offer at Cancún is to bind the reforms it has already undertaken since the Agreement on Agriculture was adopted in 1995, or further juggle the way in which subsidies are provided, but not reduce them.<sup>8</sup>

## Outcomes from a multilateral agreement on investment at the WTO

...the proposed investment agreement will not increase foreign investment flows

In fact, global investment flows have been increasing rapidly in the absence of a comprehensive framework on investment promotion and protection. Singh notes, “Action at the national, bilateral and regional level has created a patchwork of rules that demonstrate a good deal of convergence of policy thinking and that seem to provide adequate reassurance to investors”.<sup>9</sup>

This conclusion supports evidence already gathered in relation to foreign investment arising from GATS. Foreign investment in services accounts for around 50% of total world FDI flows. When GATS was being introduced, developing countries were assured that making GATS commitments would increase the level of FDI they would receive in future. Yet, as UNCTAD has concluded, “There is no empirical evidence to

<sup>7</sup> For further information see accompanying briefing paper: Failing Farmers: the WTO’s Agreement on Agriculture, ActionAid, 2003.

<sup>8</sup> Hardstaff, P. and Rice, T. (2003) The ‘agriculture-new issues trade-off’ – a bad deal for development. World Development Movement and ActionAid, London.

<sup>9</sup> Singh, Professor Ajit (2001) Foreign Direct Investment And International Agreements: A South Perspective, Trade-Related Agenda, Development And Equity (T.R.A.D.E.) Occasional Papers 6, South Centre, October

link any significant increase in FDI flows to developing countries with the conclusion of GATS".<sup>10</sup>

### ...the proposed investment agreement will not increase investment flows to the poorest countries

A common argument put forward for an investment agreement at the WTO is that the extra security it would bring foreign investors could persuade them to invest more in those marginalised countries which currently receive little or no FDI. None of the evidence collected over the past decade supports this argument.

Extensive literature from the United Nations and other research bodies indicates that a WTO investment agreement would not lead to increased FDI flows to the poorest countries.<sup>11</sup> Even the World Bank, which supports a WTO investment agreement, has conceded that any new investment resulting from such an agreement would be "virtually nonexistent for low-income developing countries".<sup>12</sup>

The fundamental problems faced by the poorer developing countries in attracting FDI will not be addressed by an investment agreement at the WTO.

### ...the non-discrimination principle will undermine domestic development strategies

Whether immediately or as a result of progressive liberalisation, a WTO investment agreement will rule out developing countries giving access to foreign investors on a discriminatory basis. Not only could this prevent preferential cooperation between developing countries, it would also prohibit the use of positive discrimination policies in order to support and protect specific domestic producers from foreign competition. Thus, the proposed WTO investment agreement would expose the industrial and

agricultural sectors of developing countries to the threat of direct competition from the world's most powerful multinationals.

Both developed and developing countries continue to protect those sectors of their economies that are viewed as too sensitive to be opened up to foreign competition. In addition to the defence and cultural sectors, which are safeguarded in most countries, developing countries often protect a range of other sectors from penetration by multinationals – in just the same way that in the past, the industrialised countries protected their economies in order to promote development.<sup>13</sup>

India, for example, continues to protect its all-important agricultural sector from foreign investment, despite having dramatically liberalised its investment regime in most other sectors over the past 12 years. Similarly, Ethiopia's 1996 investment code still reserves sensitive sectors such as retail, tanning and milling for domestic investors only, as well as the export trade in key goods such as raw coffee, oilseeds, pulses, hides, skins and livestock. The Foreign Business Act which came into effect in Thailand in March 2000, while opening a range of sectors to increased foreign ownership, actually further restricted foreign investment in agriculture.

Even in sectors where foreign investment is permitted, many developing countries require foreign investors to seek approval before new investment can go ahead. Prior approval enables the host country to screen proposed investments and assess their potential impact before granting permission to invest – a procedure which allows for consultation with local communities should their rights be threatened. Yet these important controls could be targeted for removal under a WTO investment agreement, just as many are already under attack in the GATS negotiations currently taking place at the WTO.

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<sup>10</sup> UNCTAD (2000) *A Positive Agenda for Developing Countries: Issues for Future Trade Negotiations*. United Nations, New York and Geneva.

<sup>11</sup> For a summary of this evidence, see UNCTAD (1999) *World Investment Report 1999: Foreign Direct Investment and the Challenge of Development*. United Nations, New York and Geneva and UNCTAD (2000a) *Least Developed Countries Report 2000 – Aid, Private Capital Flows and External Debt: The Challenge of Financing Development in the LDCs*. United Nations, New York and Geneva.

<sup>12</sup> World Bank (2003) *Global Economic Prospects and the Developing Countries 2003: Investing to Unlock Global Opportunities*. World Bank, Washington DC.

<sup>13</sup> Chang, H.-J. (2002) *Kicking Away the Ladder: Development Strategy in Historical Perspective*. Anthem Press, London.

...the agreement will undermine many pro-development policies which enable countries to manage foreign investment to the maximum benefit of their economies

From a development perspective, the quality of investment is of far greater importance than the raw quantity. As noted above, the most development-friendly foreign investment tends to create greater linkages with the local economy and transfer higher levels of skills and technology to domestic enterprises. Many developing countries encourage these positive aspects of foreign investment through tax incentives and other subsidies.

But developing countries also rely on standard regulatory policies in order to maximise the benefits of FDI. These include access conditions and performance requirements. The former bring foreign investors into partnership with domestic enterprises through joint ventures or equity caps on foreign capital participation. The latter maximise the spill-over effects of FDI through 'local content' or 'local employment' requirements or via requirements that a percentage of profits from FDI are not repatriated immediately.

These policies have played a central role in several of the economies which have been most successful in using FDI for development purposes, such as China, Malaysia and Thailand and they remain important elements of many other developing country investment regimes.

As a result of incessant corporate and industry lobbying, such pro-development policies have increasingly been identified as 'trade-restrictive' at the WTO and will be under threat from the non-discrimination disciplines of any WTO investment agreement.

...the proposed agreement would increase the rights of investors but not their responsibilities

A multilateral investment agreement would provide new rights to investors without any parallel disciplines that would increase their responsibilities. At the same time a new set of obligations would be placed on host countries, with no parallel responsibilities placed on the home countries of the investor.

Poorly-regulated foreign investment can have extremely damaging effects on both local communities and national economies. There is nothing in the proposed WTO investment agreement that would correct this imbalance or address the negative impacts on vulnerable communities and developing country economies.

In an attempt to correct this imbalance, in November 2002 the delegations of China, Cuba, India, Kenya, Pakistan and Zimbabwe presented a joint communication to the WTO<sup>14</sup> pointing out that all existing codes of conduct governing the activities of multinational corporations are of a voluntary nature, and that there is now an urgent need to institute binding and legally enforceable rules on investors. The importance of this issue has been highlighted by the cases of corporate fraud and corruption in large multinationals such as Enron and WorldCom, increasing evidence of tax evasion<sup>15</sup>, and the involvement of multinationals in cartels that have cost developing countries millions of dollars.<sup>16</sup>

<sup>14</sup> Communication from China, Cuba, India, Kenya, Pakistan and Zimbabwe, (2002), Investors' and Home Governments' Obligations, WT/WGTI/W/152, WTO, Geneva, November

<sup>15</sup> Oxfam estimates that developing countries as a whole may be foregoing annual tax revenues of at least US\$50 billion as a result of tax competition and the use of tax havens. Recouping just some of this revenue could have enormous implications for development in poorer countries. Oxfam, (2000) Tax Havens: Releasing the hidden billions for poverty eradication, Oxfam Policy Paper 6/00, Oxford, UK

<sup>16</sup> Research by Jenny has uncovered the operation of at least six international cartels, three of which had serious implications for developing countries. For example, an international heavy electrical equipment cartel involving EU, US and Japanese firms undertook price fixing for all procurement outside of the EC and the US. Most exports were to developing countries with little or no domestic manufacturing capacity. Collusive tendering is estimated to have raised prices by 15-25% above the competitive rate. If this rate were implied in all sales made, the overcharges would range from US\$300-500 million per year. Jenny, Professor Frederik, (2002), A Tale of Three Cartels, Paper for the WTO Regional Seminar on Trade and Competition Policy, Port Louis, Mauritius

New research undertaken by ActionAid has shown how foreign investment can also cause great damage to the rights and livelihoods of vulnerable communities. For example:

- Plachimada, in the Indian state of Kerala, was a thriving agricultural community in which a wide variety of crops had been grown for centuries – until Coca Cola set up a bottling plant there in 1998. Where thousands of local people once worked the land for a living, just 134 are now employed at the plant, with another 250 as casual labourers. Coca Cola's extraction of huge amounts of water has severely depleted the community's water table, leaving villagers with acute shortages and environmental contamination. Local villagers and supporters from across India protested against Coca Cola's intensive exploitation of this common resource.
- Brazil's dairy sector was opened up to foreign investment at the beginning of the 1990s. By 1996 the top two foreign companies – Nestlé and Parmalat – had gained control of more than 50% of the sector, taking over many of the cooperatives which had previously processed the milk collected from local farmers. These foreign investors have used their market power to pay

farmers less and less for their milk, resulting in large numbers of producers being forced out of the market altogether. Between 1996 and 2002, Nestlé dispensed with 32,000 of their producers, while Parmalat dispensed with 23,200.

Renato Adilson Hildt has a family farm in Rio Grande do Sul state in Brazil. He has two children and the income from his dairy farming is vital to support his family's basic needs. Renato sold produce from his farm to Parmalat for two years, but the prices Parmalat offered were constantly being reduced. As Renato said, "Parmalat punished us for two years, paying lower and lower prices for our milk, so we had less and less to pay our bills". Five months ago he felt he had no choice but to sell to a local cooperative instead.

The Brazilian dairy sector offers just one example of how foreign investment can jeopardise the security of workers in domestic sectors which are opened up to competition – especially when that competition comes from the world's most powerful multinational corporations. The vastly superior size and strength of these multinationals often prove too much for local competitors, who are simply forced out of business. Overwhelming competition of this kind can have devastating effects on local employment, as domestic enterprises shed jobs and ultimately have to close down altogether.

Far from addressing these concerns, there is a growing fear that corporate rights could be expanded well beyond current proposals if negotiations towards a WTO investment agreement begin. The US announced to other WTO members in April 2003 that it did not see the elements of an investment agreement included in the Doha Ministerial Declaration as the whole story, but that as a result of consultations with "key stakeholders", the US would be developing further proposals to be included in the investment negotiations once they start.

There are fears that this expansion of the agenda could even include the introduction of investor-state dispute settlement in a WTO investment agreement, as called for by "key stakeholders" - powerful corporate lobby groups. There is already extensive evidence of the threat which investor-state dispute settlement brings from the context of the North American Free Trade Agreement (NAFTA), which exists between Canada, Mexico and the USA. Allowing investors to take governments to court under WTO investment rules could undermine crucial policies which governments around the world use to protect vulnerable communities, local economies and the environment, further unbalancing the rights of investors and host countries.

## ActionAid's recommendations

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- ActionAid calls on WTO member countries to reject the launch of new investment negotiations at the Cancún Ministerial Conference. ActionAid believes that the WTO is not an appropriate forum for an investment agreement and calls on WTO members to remove mention of new investment negotiations from the organisation's work programme.
- In particular, ActionAid calls on the chief proponents of a WTO investment agreement – especially the EU, Japan and South Korea – to drop their insistence on negotiations towards such an agreement given the clear lack of consensus amongst WTO members.
- Learning from the past history of 'trade-offs', any deal put forward at Cancún that promises agricultural concessions in return for negotiations on the new issues should be rejected. Because of Common Agricultural Policy commitments, the EU will not be able to deliver genuine subsidy reductions until at least 2013.
- ActionAid calls on WTO member countries to initiate a comprehensive review of the development impacts of all existing WTO investment-related Agreements, including the TRIMS and TRIPS Agreements, GATS and the Agreement on Subsidies and Countervailing Measures. These Agreements must be revised wherever they are found to act against pro-development policies in developing countries' investment regimes.

ActionAid and Azione Aiuto are members of the ActionAid Alliance, a network of non-governmental development organisations working together to promote structural changes to eradicate injustice and poverty in the world. ActionAid Alliance members are ActionAid (UK), ActionAid Hellas (Greece), ActionAid Ireland (Ireland), Aide et Action (France), Ayuda en Accion (Spain) and Azione Aiuto (Italy). ActionAid Alliance's members have the regular and active support of more than 600,000 EU citizens, and its programmes reach over 9 million people in more than 40 countries in Africa, Asia, Latin America and the Caribbean.

The Food Rights Campaign is an ActionAid initiative that works with women and men to secure their right to food at local, national, regional and international levels. The campaign works in sixteen countries across Asia, Africa, Latin America and Europe.

**ActionAid is a unique partnership of people who are fighting for a better world – a world without poverty.**

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