



More Market Access for Less Policy Space – a Bad Deal for Development

A Joint policy briefing by the World Development Movement and ActionAid

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For almost a decade, the European Union (EU) has been pressing for the creation of an international investment agreement within the WTO aimed at placing controls on the ability of governments to regulate foreign direct investment (FDI). The EU has also been pressing for greater rights for European corporations through the establishment of other new WTO rules on 'competition' and government procurement. Both ActionAid – an international development organisation working with poor people in the South – and the World Development Movement (WDM) – a UK-based organisation campaigning to change national and international policies on development – are strongly opposed to the creation of such rules.

However, despite strong and principled opposition from both civil society and from developing country governments, the issues are still on the table and a decision on whether or not to negotiate new rules is to be taken at the September 2003 WTO Ministerial in Cancun, Mexico. In exchange for developing countries agreeing to talks, which will inevitably reduce their ability to regulate investment and promote national development objectives, the EU is dangling the 'carrot' of more agricultural subsidy reform or raising the 'stick' of less reform. The pressure is already building on developing countries to agree to such a deal.

Before explaining our concerns over the possible 'agriculture for new issues' deal that will be presented in Cancun, and over the reality of the EU's policy on agricultural reform, it is first worth briefly outlining the background both to the 'new issues' in the WTO and to the breadth of opposition.

At the WTO's Singapore Ministerial Conference in 1996, the EU got an agreement from other WTO members to establish 'working groups' to study the feasibility and desirability of WTO rules on a range of issues, including investment. These issues became known as the 'Singapore issues' or the 'new issues'. At the 1999 WTO Ministerial in Seattle, the EU again attempted to push for an end to the 'working group' stage and the beginning of negotiations to establish WTO rules on the 'new issues'. The total collapse of the Seattle meeting meant no deal was struck to start such talks.

At the 2001 WTO Ministerial Conference in Doha, developing countries again came under intense pressure to agree to start negotiations. In order not to be seen as blocking the start of a 'new round'

of WTO talks to ‘kick start economic recovery’ in the aftermath of September 11th countries, many very reluctantly, signed up to a deal to discuss the ‘modalities’ (i.e. the aims and scope of a possible agreement and the type of rules it might contain) for negotiations on the ‘new issues’.

Since then, talks have been proceeding slowly. The deadline for agreement on ‘modalities’ is the WTO Ministerial Conference in Cancun in September 2003. These will be critical decisions – and probably the biggest and most contentious decisions of the Conference. This is because, in Doha, governments left open the possibility that if agreement on ‘modalities’ cannot be reached, negotiations to create new agreements will not proceed and the EU’s plan for these new binding WTO rules will once again be stalled.

Ever since the ‘new issues’ crept on to the WTO agenda, there has been strong opposition from developing country governments, and from civil society all over the world, to expanding the WTO’s rules in these areas. For example, in the run up to Doha, a report of the meeting of the G-15 summit level group (which now consists of 19 countries¹) in May 2001 stated the following: *“That the WTO should focus on accomplishing its current work programme rather than entertaining new issues which will create additional obligations on developing countries.”*¹

In August 2001, the Least Developed Countries submitted a paper to the WTO asking for the study process to continue (in other words, that these issues should not be elevated to full blown negotiations).² And in September 2001, the Africa Group of WTO members released a communiqué stating that the ‘Singapore Issues’ are: *“not within WTO competence in developing multilateral rules”*, that *“Members are not convinced that negotiations in these areas would deliver benefits to African countries”*, that *“These issues would add more burden of obligations, while the problems of implementing the Uruguay Round Agreements continue”* and that *“These issues would overload the WTO agenda.”*³

At Doha, twenty-nine developing countries explicitly mentioned the ‘new issues’ in their statements. Nineteen of these opposed their inclusion in the Doha agenda, while only two spoke in favour of their inclusion (the Republic of Korea and Venezuela). The rest did not express a clear view.

Since Doha, the opposition has continued. At a conference in March 2003, the Indian Ambassador to the WTO, said, *“we are of the view that we do not want an [investment agreement] in the WTO. The position remains as unclear today as it was in Singapore. No convincing arguments have yet been put forward.”*⁴ At the same meeting the Ambassador of Kenya to the WTO, Mrs. Amina Mohamed, stated, *“There is a lack of capacity of developing countries to negotiate these [new] issues, the Doha work programme is overwhelming, there is a lack of human resources. It’s a majority of developing countries that are opposed to the new issues.”*⁵

At the most recent meeting of the WTO’s Trade Negotiations Committee in Geneva (April 2-3, 2003), both the Africa group and the Least-Developed Countries group in the WTO reaffirmed their opposition to the launch of negotiations on these issues.

Civil society opposition has been similarly constant. Since the Organisation for Economic Cooperation and Development’s (OECD) attempt to create a Multilateral Agreement on Investment (MAI) in the mid 1990’s, public concern over creating new restrictions on governments, and new rights for companies through international investment, competition or government procurement rules has been growing. Most recently, over 60 organisations and civil society movements from all over the world signed a joint statement calling on governments to reject negotiations on investment and the other ‘new issues’ at the WTO.⁶

¹ Algeria, Argentina, Brazil, Chile, Egypt, India, Indonesia, Jamaica, Kenya, Malaysia, Mexico, Nigeria, Peru, Senegal, Sri Lanka, Venezuela, Zimbabwe, and Iran and Colombia

ActionAid and WDM oppose expanding the WTO's remit in such a way because the evidence demonstrates that new rules to reduce developing country policy space and guarantee market access for industrialised country multinationals will create development costs not benefits. Also, as yet, we have seen no evidence that the WTO is capable of producing rules and agreements that are fair for developing countries. Every time a new agreement is reached, it is skewed to benefit rich countries and their companies. And once such agreements are reached (e.g. on Trade Related Intellectual Property Rights and Trade-Related Investment Measures) it becomes virtually impossible to change them in light of experience.

However, much as we might like to think that decisions will be based on a careful examination of the evidence presented by developing country governments and civil society, the real world of WTO negotiations is based more on power politics, trade-offs and political deal-making. It is becoming increasingly clear that developing country negotiators will come under intense pressure both before and at the upcoming WTO Ministerial in Cancun to agree to negotiations on new rules.

It is also becoming clear that the principal proponent of 'new issues' – the European Union - will dangle the 'carrot' of agricultural reform (or the 'stick' of less reform) as a trade-off for negotiations in all these areas. As Pascal Lamy, EU Trade Commissioner stated in June 2002, "*EC has obviously to further open its markets to agriculture, peak industrial sectors, tariff escalation and so on. We will do so, in return for some improvements in openness from developing countries...and if our partners sign on to some rule making areas.*"⁷ A recent report in a trade journal confirms this, saying, "*The EU views the talks [on investment and other 'new' issues] as essential for securing gains in areas of economic interest to Brussels in order to balance off the concession it is expected to make in the area of agriculture.*"⁸

Given that the EU itself has linked negotiations on agriculture and the decision on 'new issues', it is worth examining what kind of deal is actually possible. Particularly in view of the fact that internal political processes in the EU have effectively ensured that there will be no significant change to the EU's Common Agricultural Policy (CAP) until at least 2013.

According to the Guardian newspaper in the UK, the French President Jacques Chirac "*stitched up a deal on the future of CAP spending at a private meeting with the German chancellor Gerhard Schröder on the eve of the summit [on EU enlargement in October 2002].*"⁹ The deal struck by the EU member states is that the overall budget for the CAP will continue to rise (albeit slowly) by 1 per cent per year until 2013.¹⁰

Even if inflation in Europe outstrips this rate of increase, any real terms decrease in this part of the CAP budget will be very modest. In any case, the so-called 'second pillar' of CAP – 'rural development' payments – falls outside of this agreed budget increase.¹¹ This means the EU has placed no budget limit on so-called 'green box' measures in the WTO Agreement on Agriculture and such flexibility could be used by the EU to accommodate the increased spending needed to satisfy the demands of the Eastern European countries acceding to the EU. While some 'green box' measures are entirely legitimate and have a relatively low impact on other producers, the 'green box' is by no means without fault. For example, a significant proportion of US support payments are green box compatible but in fact, on closer inspection, are still closely tied to production. An example would be the production flexibility contracts (which have now been replaced by direct payments in the US Farm Bill). Also, given the uncertainty over the impacts of Eastern European enlargement, it is not beyond the bounds of political possibility that the decision on the CAP budget could be revised to allow for more payments.

What the recent Franco-German deal amounts to is an admission from the EU that significant subsidy reduction is not going to happen in the near future. There could even be an increase. All

that the EU can offer both before and at Cancun is to bind the reforms it has already undertaken since the Agreement on Agriculture was created in 1995 or further juggle the way in which subsidies are provided. The European Commission's current proposal for CAP reform confirms this situation. The proposal would continue the progressive move of subsidies out of the amber box into the blue box; and ultimately (the Commission hopes), out of the blue box into the green box. But ActionAid and WDM are highly sceptical that the Commission's proposals for green box payments are any less production and trade distorting than subsidies in the amber or blue boxes (in many ways they are similar to the production flexibility contracts/direct payments in the US).

Also, developing countries should not be misled into believing that the EU's proposals for WTO agricultural reform amount to 'substantial reductions in trade-distorting domestic support' and 'reductions of, with a view to phasing out, all forms of export subsidies' as the Doha Declaration requires. The EU tabled a reduction of 45% in the value of export subsidies and a 55% reduction in its aggregate measure of support (amber box) from its final bound commitments in the Uruguay Round. Partly because the EU negotiated favourable reference years and high final bound levels during the Uruguay Round and partly because the EU juggles the way in which subsidies are provided, the EU is already at (or close to) these reductions. The EU's current proposal would in effect not commit the EU to do anything more than it is already doing. This is disingenuous because it misleads other WTO member states into believing that the 'new' reduction proposals are a commitment to further cuts in subsidies.

We believe it is time to stop putting faith in the hollow promises of agricultural reform in rich countries and stand up for the policy space countries need to pursue their economic development goals. Even if the European Union proposes to rearrange its subsidies to make them supposedly 'less trade distorting', reduce its export subsidies and provide more market access, this is simply not worth giving up future development policy options for. As one respected Harvard economist - and significant contributor to the recent report to the United Nations Development Programme on trade - concludes, "*The exchange of reduced policy autonomy in the South for improved market access in the North is a bad bargain where development is concerned.*"¹²

A recent book by Cambridge economist Ha-Joon Chang provides a timely reminder that virtually all OECD countries and newly industrialised countries used active government intervention and trade restrictions in their development process.¹³ It is hard to think of a single country that has successfully developed without such interventions. We therefore believe that no 'deal' will be acceptable.

It is also important to be aware that the EU member states are using agriculture to get as much as possible out of developing countries. Claims that, because of the 'political difficulty' in reforming the CAP, the EU must have something in return to make CAP reform acceptable to the European public are spurious. It will make little or no difference to the European public - and in particular the agricultural community - if the EU gets WTO rules on the 'new issues' that ensure extra market access for European multinationals. Arcane bits of trade law are not election issues whereas, for some countries, the concerns of farmers and the rural population certainly are. CAP reform will therefore be politically difficult for some European countries regardless of what the EU can ratchet out of the developing world in return.

In order to maintain the flexibility to effectively regulate companies and to pursue national development objectives, we believe it is critical that developing countries do not agree to negotiations on the 'new issues'. There is no way that the WTO, with its liberalisation objectives, can reach balanced agreements in these areas that protect development interests. We believe the priority is to fix the existing unfair rules rather than agree to an unwarranted extension of WTO rules into these non-trade areas.

ActionAid and WDM are campaigning in Europe to undermine the EU's arguments in favour of 'new issues' and to demonstrate public opposition to expanding the WTO's remit. And we hope that developing country governments are able to stand firm in opposing the 'new issues' in Cancun. If the grand bargain is indeed 'CAP reform for new issues', then once more developing countries will get a bad deal in the WTO, giving up their rights to regulate their economies in exchange for false promises.

¹ G15. (2001). Joint Communiqué of XI Summit Of The Heads Of State And Government Of The Group Of Fifteen, Jakarta, Indonesia, 30 - 31 May 2001.

² LDCs. (2001). *Zanzibar Declaration: Meeting Of The Ministers Responsible For Trade Of The Least Developed Countries*, Zanzibar, Tanzania, 22-24 July 2001.

³ Organisation for African Unity. (2001). *Africa's Negotiating Objectives For The Fourth Ministerial Conference Of The WTO*. OAU/African Economic Community, 4th Ordinary Session of the OAU/AEC Conference of Ministers of Trade, Committee on Trade, Customs and Immigration 19 – 23 September, 2001 Abuja, Federal Republic of Nigeria OAU/AEC/TD/MIN/Decl. 2 (IV) Rev.3.

⁴ Permanent Mission of India, Geneva. (2003). *Trade and Investment: Some Issues*. Presentation to Seminar on Trade and Investment, Geneva, March 20 2003.

⁵ Third World Network. (2003). *WTO Is The Wrong Venue For Investment Negotiations: Report of the Seminar on the Nature and Implications of a WTO Investment Agreement Held in Geneva on 20 March 2003*. Malaysia, Third World Network, 25 March 2003.

⁶ *No Investment Negotiations at the WTO*. Declaration of Non-Governmental Groups and Civil Society Movements, Geneva, Switzerland March 20 2003.

⁷ Lamy, P. (2002). *The EU Trade and Development Agenda – From Doha via Johannesburg to Cancun*. Speech by EU Trade Commissioner Pascal Lamy to All Party group on Overseas Development, London, House of Commons, 27th June 2002.

⁸ Pruzin, D. (2003). *EU Sets out Modalities Options for Discussing 'Singapore Issues'*. WTO Reporter, March 3 2003, Washington, Bureau of International Affairs.

⁹ Wintour, P & Black, I. (2002). Chirac furious after row with Blair. 29 October 2002. *The Guardian*.

¹⁰ Agra-Europe, 1 November 2002.

¹¹ Agra-Europe, 1 November 2002.

¹² Rodrik, D. (2001). *The Global Governance of Trade As If Development Really Mattered*. Background Paper. New York. United Nations Development Programme.

¹³ Chang, Ha-Joon. (2002). *Kicking Away the Ladder: Development Strategy in Historical Perspective*. London, Anthem Press.