

The 5th Ministerial Conference of the WTO Cancun, Mexico 10-14 September 2003

The 5th WTO Ministerial Conference set to take place in Cancun, Mexico from 10 to 14 September 2003 is a midway point between the Doha round of trade talks and the end date for negotiations for the round.

Although the Doha round has been coined as a “Development Round”, the current state of negotiations ominously signifies that it is unlikely to deliver anything for development. Instead, we are witnessing increased agricultural protectionism by industrialized countries, the US attack on the EU’s *de facto* moratorium on genetically modified organisms (GMOs), seemingly intractable deadlocks on critical issues and stalled progress. This is exemplified by the US holding back on agreement on access to medicines for developing countries under the Trade Related Intellectual Property (TRIPS) agreement. Under heavy fire from its pharmaceutical lobby, which stands to lose billions of dollars in profits, the US is now renegeing on the commitments it undertook in Doha.

At the same time, some developed countries continue to demand rapid liberalization in new sectors such as investment, despite strong resistance by most developing countries. It seems entirely inappropriate to launch negotiations to liberalise new sectors, given the already existing negative effects of international trade on the environment and natural resources. The WTO must first live up to its mandate of its founding chapter¹ to use natural resources in accordance with the objective of sustainable development, before extending its reach. The US case against the EU is a stark example of the conflict between trade and environmental policy, which makes it clear that reconciling the two, is a goal that has yet to be achieved.

Free trade, forced trade – reject the US case on GMOs:

The launch by the US of its case against the EU’s *de facto* moratorium on genetically engineered (GE) foods is a blow to the WTO, which is already suffering from lack of legitimacy. This case highlights the extent to which the free trade agenda takes primacy over other critical policy concerns, including human health, consumer rights and environmental protection. It also starkly highlights the power of the corporate lobby within the WTO context, with the US and other GMO exporting countries aggressively pursuing new markets for the agro-chemical/genetic engineering industry.

In the midst of the WTO dispute, the Cartagena Protocol on Biosafety received its fiftieth ratification by Palau on 13 June 2003, thereby bringing it into force on the 11 September 2003. The Protocol is the first legally binding global agreement that reaffirms the sovereign right of countries to reject GMOs on the basis of the precautionary principle. The WTO cannot be used to undermine this, or any other environmental accord, particularly in a situation where there is a notable lack of conclusive research on the safety of GMOs.

The WTO challenge poses grave threats that extend way beyond the context of the dispute itself. It is in direct opposition to the rights and interests of consumers and farmers worldwide, as well as to environmental sustainability. The case also threatens to render the Biosafety Protocol irrelevant, a ploy by the US and other GMO-exporting nations. Furthermore, the precautionary principle, which is enshrined in the Protocol, must take precedence over the narrow interests of the agro-chemical/genetic engineering industry. Governments must be able to maintain the flexibility to adopt the strictest possible restrictions on GMOs, including labeling and traceability

¹ Uruguay Round Agreement, Preambular paragraph 1.

for food and feed, coexistence and especially ensure close-to-zero contamination thresholds for seeds.

This trade dispute is a clear example of why there is a need for reorientation of the global trade system towards sustainable development. **Greenpeace urges countries to denounce this attempt by the US to force GM foods on the rest of the world, and instead, to ratify and implement the Cartagena Protocol on Biosafety immediately if not already done.**

No New Issues:

Given the systemic flaws inherent in the WTO, Greenpeace is calling on WTO members to explicitly reject the launch of negotiations on investment and the other Singapore Issues at the 5th Ministerial Conference. Countries need to take a hard look at the implications of proceeding on these issues, rather than being coerced into ill-fated negotiations.

Greenpeace is against the launch of negotiations on New Issues because:

- The WTO is not a suitable forum for rule setting for international trade: it is biased in favour of liberalisation at all cost, and protecting corporate interests/investor rights over development priorities
- An investment agreement of the type proposed will not benefit development: it will inhibit building up local ownership and capacity, and minimise the rights and policy space of governments and developing countries
- An investment agreement will most likely benefit industrialised countries that are home states to most foreign investors and multinationals. The type of rules proposed are designed to maximise the rights of foreign investors, without the concurrent obligations, thereby acting like a “corporate bill of rights” with no accountability or liability mechanisms
- Foreign direct investment can have negative environmental consequences, particularly in the natural resource/extractive sectors that form the largest proportion of investment flows to developing countries. Evidence also suggests that companies tend to locate in countries with low environmental safeguards, which could create a chilling effect or relaxation of environmental standards. Investment liberalisation (like trade) must be oriented to promote sustainable development, not liberalisation as an end goal.

GREENPEACE POSITION OF ISSUES ON THE TABLE

Trade and environment:

Multilateral environmental agreements (MEAs) cannot be superseded by the WTO. WTO rules and decisions must support and not interfere with the objectives and effectiveness of MEAs. The Doha mandate, far from meeting the expectations of the environmental community, instead aims to negotiate the relationship between trade rules and MEAs in a narrow and tightly prescribed fashion. For instance, paragraph 31 and 32 are ambiguous, as the chapeau paragraph states that the negotiations will not be “prejudged;” yet in the second paragraph, that is exactly what is being done, by restricting the scope of negotiations. Additional language was inserted into the Doha text to further narrow the scope of these negotiations, including narrowing the scope to “existing” WTO rules, including only specific trade obligations (STOs) in the analysis, and affecting only Parties to a MEA.

Compounding this is the US case against the EU on GMOs, signifying a frightening trend towards the use of the WTO to erode environmental and public health and safety, as well as consumer rights. The launch of this case by the US indicates exactly why the WTO is the wrong forum to handle negotiations on the issue of MEAs and trade rules.

Given the clear bias within the WTO in favour of trade liberalisation over other legitimate policy goals, Greenpeace calls on WTO members to move these discussions to a neutral

forum – preferably the UN – which is better placed to address all three pillars of sustainable development in a balanced fashion.

Greenpeace strongly cautions WTO members to refrain from broadening the scope of the negotiations under paragraph 31 of the Doha Ministerial Declaration, as this will provide a risky opening for the subordination of MEAs to trade rules.

Agriculture and the WTO:

The promotion of sustainable agriculture – the kind of farming that does promote equity and food sovereignty – poses fundamental challenges to the WTO system. For many farmers in the developed and developing world, sustainable farming practices are simply incompatible with the kind of trade in bulk commodities and global food market that is propped up by the WTO process. The number of examples of sustainable agricultural is enormous, while the practice of sustainable farming – in the detail of application at least – is fundamentally local in nature.² Whether it is the increase of potato yields in Bolivia, the promotion of strategic rice intensification (without GM varieties or increases in chemical or water use) or even sustainable cotton farming in Texas, USA, the value of global agricultural markets is challenged by the success of sustainable farming options.

The move towards local food production and with it-food sovereignty-is increasingly hampered by the centralization of control of food supply by a handful of global corporations. Seed suppliers have merged with agro-chemical companies, effectively dominating the world food system. Instead of using the WTO, as is currently the case, to expand the reach of agribusiness, **international trade rules on agriculture must be re-oriented towards fulfilling the tenets of sustainable agriculture and enhancing the rights and livelihoods of local communities engaged in food production.**

Specifically, developing countries, least developed countries and countries with economies in transition must be given the flexibility to define agricultural food policies that are in keeping with their particular level of development and policy objectives. They would be allowed for instance, to maintain appropriate levels of tariff protection in order to support local production; have recourse to swift and simple safeguard provisions; and be able to utilize quantitative restrictions and countervailing duties, including against subsidies imports.

Services:

The General Agreement on Trade in Services (GATS) extends way beyond mere rules about trade in services. Some seventy per cent of foreign direct investment is already run under GATS, making it effectively a multilateral investment agreement, covering a vast array of service delivery.

Liberalisation of critical public interest service sectors, such as utilities, health care, environmental services, culture, and education is disquieting. Liberalisation in these sensitive sectors creates a massive risk of eliminating local and national decision-making powers regarding the provision of these services. This is particularly alarming if areas such as oil drilling, toxic waste disposal, incineration and mining are incorporated into the GATS agreement.

The liberalization of water delivery (including drinking water) and waste water management will mean the imposition of WTO disciplines on water supply and thereby effectively privatizing the sector and close off other modes of service delivery, such as co-operative or participatory models. This approach will open up new developing country markets for European and other water multinationals, but will do little to aid the world's poorest countries, many of which still maintain public monopolies in this sector. It will also sharply curtail governmental decision-making power in these sectors, such as the right to control price increases, or to demand socially

² A range of examples from all over the world can be found at: www.farmingsolutions.org

responsible pricing systems to ensure access to clean drinking water. This approach is neither rooted in the principle of sustainable development, nor is it democratic. In sectors such as water delivery, the point of departure should be about contribution of the service to poverty reduction and sustainability, rather than about private sector facilitation.

As with the WTO trade rules more broadly, there needs to be a complete independent review, and sustainability impact assessment of the GATS agreement. Until such time, Greenpeace calls for a complete moratorium on the GATS negotiations.

TRIPS, CBD and the International Treaty

Many developing countries perceive a conflict between TRIPS and the rights and obligations they previously acquired under the Convention on Biological Diversity (CBD). The CBD supports collective rights (like the rights and knowledge of indigenous and local communities and the so-called "farmers' rights") and the principle of benefit sharing³ whereas TRIPS supports the entire privatisation of genetic resources through patents. The "trade rule" TRIPS and the "multilateral environmental agreement" CBD have equal status even when TRIPS is seen by the US as the superior agreement.

The Doha Ministerial Declaration (DMD), contrary to expectations within the environmental community, proposes to "examine" the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members. What was rightly expected, was the stipulation that the TRIPS Agreement to be applied subject to the CBD and other relevant agreements such as The International Treaty on Plant Genetic Resources for Food and Agriculture, adopted by the Food and Agriculture Organisation (FAO) in November 2001. The approach of the DMD indicates total disregard by WTO members for international environmental law, and does ill for any discussions on environmental issues under the aegis of the WTO.

A further glaring omission in the DMD is in regard to the patenting of life forms - which should be ruled out as a matter of principle. "No patent on life" is also a consistent demand of the African Group within in the WTO.

Countries must have the right and the freedom to determine and adopt appropriate *sui generis* regimes. Any *sui generis* system, as the African Group states, "should enable Members to retain their right to adopt and develop measures that encourage and promote the traditions of their farming communities and indigenous peoples in innovating and developing new plant varieties and enhancing biological diversity."⁴

TRIPS and Health:

Although the Doha Ministerial Declaration states that public health should take precedence over the WTO patent rules, the continued deadlock in these negotiations further underscores that the Doha Development Round is in name only.

The restrictive approach by several developed countries, under immense pressure from their pharmaceutical lobbies to limit the agreed broad scope of coverage (e.g.: including only a handful of infectious diseases) is utterly reprehensible. **Greenpeace calls on developing countries to reject these proposals outright, and to further reject linking these negotiations to**

³ Benefit sharing, defined as "the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding" is beside the conservation of biological diversity and the sustainable use of its components one of the objectives of the CBD. See CBD Article 1 at <http://www.biodiv.org/chm/conv/art1.htm>

⁴ Taking Forward The Review Of Article 27.3(b) Of The TRIPS Agreement. Joint communication from the African Group. World Trade Organization, IP/C/W/404, 26 June 2003.

concessions in other areas. The notion of tying human health issues to unrelated trade concessions must not be accepted.

Creating a Safe Trade System:

The WTO continues to operate according to an outdated economic model based on the narrow pursuit of trade liberalisation as an end in itself - a major contributing factor to the environmental degradation and resource depletion that the world is currently facing. The free trade agenda is also contrary to achievement of the Millennium Development Goals (MDGs), and the global commitments made to achieving sustainable development at the Rio Earth Summit (1992) and the World Summit on Sustainable Development (2002).

Greenpeace supports a multilateral, rules-based trade system, but one that has sustainable development and social rights as the cornerstone. The global community must actively and effectively put an end to policies that promote the destruction of ecosystems and human well being. Global policies must be aligned towards the goals of sustainable development, poverty eradication, enhancing global stability, equity and justice, and ecological protection.

Greenpeace calls on countries to support a thorough assessment of the rules governing the international trade system in order to re-orient this system towards achieving sustainable development. Such an assessment should be carried out in a neutral forum – preferably the UN, which is better placed to address these issues in a balanced fashion. International trade rules must shift in focus from trade liberalisation as the end goal – which is currently the case – to the promotion of environmental and social well-being.

Specific elements of a safe trade system should include *inter alia*:

- **Sustainable development as goal:** the global trade system needs to shift its mandate to attain environmental, social and economic priorities
- **Precautionary principle:** the precautionary principle should be fully incorporated into the rule-making process, as the most scientifically rigorous approach. This is consistent with the Rio Declaration (1992) and other international instruments and declarations.
- **Transparency:** the system needs to be fully transparent and open, including broader consultation with all Members, as well as civil society. Documents should be declassified quickly, with opportunity for public scrutiny, comment and input on government policy and the actions of multinationals
- **Democracy:** rules and rule making must be democratic and truly multilateral.
- **Development as core business:** the needs of developing and least developed countries must be fully taken into account, including allowing for protection and intervention where necessary, in order to build up strong domestic economies and promote important development objectives such as food security, local livelihoods, and resource conservation. Rules must reflect the different levels of development of countries, and provide greater policy flexibility and policy space to the poorest
- **Special and differential treatment (SDT):** SDT provisions must be fully incorporated and operationalised

Until the current global trade rules are assessed and reoriented in this way, the WTO should not expand its mandate, and Member States should not embark on negotiations for further liberalisation.

Additional materials can be found at www.greenpeace.org