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The Cancún WTO Ministerial Meeting: A View from the Sidelines

By Duncan Green¹

1. Introduction

Heading into the WTO Ministerial Meeting in Cancún, I wrote a two-page briefing², summarizing my expectations for the event. It began:

“The ‘Doha Development Agenda’ of world trade talks is hanging by a thread. Two years after its launch, the WTO is facing a major crisis: deadlines for agreements on key development issues such as agriculture, patents on essential medicines and special treatment for developing countries have all been missed. The lack of political will among developed countries, compounded by developing countries’ difficulties in managing the sheer size and complexity of the agenda, has led to extremely slow progress and now threatens complete breakdown.

The Cancún Ministerial Conference is thus a make or break moment for the multilateral trading system. If the WTO, and in particular its most powerful members, notably the EU and U.S., fail to rise to the challenge, they risk consigning the organization to the geopolitical sidelines. In its place, bilateral trade deals between rich and poor countries would make it even harder for developing countries to get a fair deal from trade.

If the trading system is to work for the poor, WTO members must seize the moment in Cancún to:

- promote fairer trade rules in agriculture;
- prevent the already overloaded WTO agenda from being further expanded with four new policy areas, the so-called ‘Singapore Issues’, in particular the negotiation of a WTO investment agreement; and,
- promote a more equal and transparent system of decision-making in the WTO, ensuring the full participation of all stakeholders, in particular the poorer and weaker ones.

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² <http://www.cafod.org.uk/policy/cancunstatement20030830.shtml>. For CAFOD’s other publications on the WTO and related issues, see www.cafod.org.uk/policy.

This Paper records how the organisation, and in particular its most powerful members, failed on all three points, leading to the collapse of the talks on the afternoon of Sunday 14 September. It goes on to discuss the impact of the collapse on the Doha Round and the WTO itself.

Developing countries benefit from multilateral rules, mainly through their potential for restraining anti-development trade policies in the rich countries. It is therefore essential that the WTO be put back on its feet, but also that this opportunity is taken to ensure that the institution and the rules it oversees are reformed in the interests of development.

The paper finds that, although the Cancún Meeting collapsed, just like Seattle, there were important, and encouraging, differences. These included the increased unity and clarity of the developing country positions in Cancún, which in the years to come could herald a welcome geopolitical shift in the WTO, and even beyond.

2. Roots of the Collapse

The Cancún Ministerial collapsed through a combination of political deadlock and what Pascal Lamy has twice (in Seattle and Cancún) dubbed the ‘medieval’ processes of the WTO (Mr Lamy subsequently downgraded this description still further to ‘neolithic’).

Politically, the conference witnessed a clash of visions: while the developing countries advocated a new trading system based on fairness and development needs, and made huge steps forward in their unity and voice, the EU and U.S. in practice abandoned any pretence that this was a ‘development round’ fundamentally different from its predecessors. Instead, developed country trade negotiators reverted to an eye for an eye ‘business as usual’ approach, complaining bitterly when developing countries failed to play the game by making sufficient concessions in negotiations. U.S. Trade Representative Robert Zoellick seemed particularly incensed by the language of development and non-reciprocity used by developing countries in Cancún. Writing the following week in the *Financial Times*, he laid the blame for failure on the obduracy of developing country negotiators and appeared to pine for the ‘good old days’ of give and take:

Over the course of 50 years, global trade negotiations have progressed because countries could trade off cuts across products and even sectors to achieve a balanced result³.

Soon after the collapse, one WTO veteran, Pakistan’s Ambassador to the United Nations, Munir Akram, who was his country’s Ambassador to the WTO from 1995-2002 and part of its Cancún delegation, astutely blamed the collapse on the pro-development rhetoric of Doha, saying “the seeds of Cancún’s failure were sown in Doha and the use of the label Doha Development Agenda”. However, by taking at face value what had largely been intended as window-dressing, developing countries have helped to expose the development deficit at the heart of the WTO, and may yet alter the balance of power within the organisation, enabling it to deliver on the development promises of Doha.

Two issues in particular alienated the developing countries and eventually wrecked the conference: the insistence, by the European Union and a handful of others, on adoption of the Singapore Issues⁴ in the face of overwhelming opposition from the developing countries, and the US’ refusal to tackle the problem of its cotton subsidies, which became the development rallying call of the conference in the way TRIPS and Public Health had dominated the Doha Ministerial. Some important progress was made on agriculture, for example in dealing with tariff escalation, capping Blue Box subsidies, and tightening the criteria for Green Box subsidies (see table 1), but this was lost in the ensuing collapse of the conference⁵.

³ Robert B. Zoellick, *Financial Times*, 22 September 2003

⁴ The four Singapore Issues are Investment, Competition Policy, Transparency in Government Procurement and Trade Facilitation: The Doha Ministerial Declaration and Chair’s clarification established that a decision would be taken at Cancún by explicit consensus on the modalities for negotiations on these issues, including the right not to proceed with negotiations.

⁵ The Green Box and Blue Box are categories of agricultural subsidies permitted under WTO rules to be ‘non- or minimally trade distorting’. Many trade economists dispute this description.

Following the Ministerial, in a speech to the European Parliament⁶, Mr Lamy offered a fascinating analysis of the politics behind the breakdown. He concluded that the US saw no reason to deal with cotton because it was alienated by the lack of substantial progress on additional market access for its agricultural and industrial exports; the G22 was willing to forego immediate progress on agriculture because it was content with its political consolidation as a major player, and with its defensive gains in not liberalising (particularly in industrial tariffs), while the coalition of smaller countries, known as the G90, used its opposition to the Singapore Issues to prevent an agreement which would have undermined its preferential access to northern markets. This author does not, however, share this somewhat Machiavellian interpretation, or its absolution of the EU for its (sizeable) share of the blame for the breakdown.

This political clash was exacerbated by severe problems of process. Traditionally trade negotiations operate on the basis of brinkmanship. Players hold out until the final (usually small) hours and then rapidly make a series of concessions and strike a deal. Most of the conference time is largely wasted in repeating positions long since established in Geneva. The European Commission in particular revels in this 3 a.m. ambush approach. However, for this to work, the parties at the table must be clear what is being offered, accept the process, and be able to respond rapidly in going back to their constituencies and winning approval for any climbdowns.

In Cancún, this process failed spectacularly. Even hours after the collapse, many developing countries were still not clear whether the EU had offered to drop two or three Singapore Issues, while newly formed, large membership groups like the G90 found it impossible to agree sudden shifts in this way and instead merely held out against all four Singapore Issues.

Paradoxically, one reason for the collapse was that the process of negotiation has become a good deal more inclusive since Seattle. Developing countries were well organised in a range of overlapping regional and interest groups (discussed below), which were closely involved in negotiations throughout. The number of players involved in taking decisions was thus significantly greater, complicating any attempt to extract quick concessions and last minute climbdowns. Moreover, some of the groups were numerous and relatively new and fragile, making the kind of compromises required in a trade negotiation hard to deliver without threatening the unity of the group. These organisational questions meant that in practice, it was much easier for ministers to stick to repeating fixed positions than to persuade large and multi-faceted groups to move at short notice.

The opaque process for producing a new draft text also contributed to the breakdown. At each ministerial meeting the position of overall chair of the conference is taken by the senior minister of the host country. In Mexico this was Sr Luis Ernesto Derbez, the Minister for Foreign Affairs. He in turn appointed five other Trade Ministers as 'facilitators' of five working groups on the main issues at stake in the conference⁷. The facilitators reported to Sr. Derbez on progress – or lack of progress – in their working groups and, on the basis of their reports, he produced the Second Draft Ministerial Statement, issued at 2.00 p.m. on Saturday 13th September. The role of the WTO's Secretariat in this process was both significant and unclear.

The chair-driven process for arriving at new drafts meant that developing countries were largely negotiating with the Chair and the Facilitators of the different working groups, rather than with other members. This led to confusion over who had said what to the chair, and who was being taken seriously in the redrafting. The result was an erosion of transparency and trust, and delegates who had been assured that their views would be taken into account and had appreciated the improved level of participation in negotiations, were doubly disillusioned when they read the new draft. Despite clear developing country opposition, it included negotiations on three of the four Singapore Issues, and provided only extremely weak language on cotton, despite the feelgood rhetoric on the subject during

⁶ Result of the WTO Ministerial Conference in Cancún, speech by Pascal Lamy, Strasbourg, 24 September 2003

⁷ These were Agriculture, Non-Agricultural Market Access, Singapore Issues, Development and an 'Other Issues' category. On the second day of the ministerial a sixth working group was set up to deal with complaint over northern subsidies by West African cotton producing countries. This was facilitated by the Director General, Dr Supachai Panitchpakdi.

the opening days of the conference. This provoked a mood of rebellion among many developing country delegations.

The problems of chair-driven texts were not confined to Cancún. The original 24 August First Draft of the Ministerial Text had been produced in a similar fashion, and had also prompted dissatisfaction from all sides. This led to a number of further submissions being made in the days before the Ministerial, increasing the complexity of the task-awaiting ministers in Cancún. The WTO seems desperately in need of new ideas in this field: either (as in Seattle) it produces texts that are full of square brackets, which although accurately reflecting the views of members, are virtually un-negotiable in a five day Ministerial, or it follows a more opaque chair-driven process which has a high probability of being rejected by a number of the members.

As chair of the conference, Sr Derbez has also come in for criticism for ending the conference when most members felt further progress could still be made. It is particularly hard to understand the interplay between the two key subjects – Agriculture and Singapore Issues. The first three days of the conference were devoted almost entirely to Agriculture, where some progress was made and many countries felt a deal was possible, given further work. Meanwhile the discussion on Singapore Issues received much less airtime and largely consisted of the repetition of fixed positions. Then in the final Green Room⁸, starting on Saturday night, Minister Derbez decided to start with Singapore Issues, a decision which baffled many delegates.

If Agriculture had been resolved first, (admittedly a big ‘if’), then countries would have found it easier to decide how far they were prepared to go in bridging the heavily polarized positions on the Singapore Issues.

One positive improvement in process terms was the heightened involvement of parliamentarians compared to previous Ministerials. Some 300 were present in Cancún, from both developed and developing countries. While improving ministers’ lines of accountability to their electorates, the increased level of political scrutiny may, however, have contributed to greater inflexibility in negotiating positions.

3. The Rise of the South

The Ministerial witnessed the coming of age of the developing world in the WTO. The formation of the G22 (initially the G20)⁹ of developing countries, led by Brazil, was far more significant than the EU or US had realized when the group submitted jointly a paper on Agriculture in Geneva weeks prior to the Ministerial. The coming together of developing countries such as Brazil, China and India, and a wide range of smaller players, around the key issue of agriculture represented a tectonic geopolitical shift whose significance will only become clear in the coming months¹⁰. Celso Amorim, the Brazilian Minister of Foreign Affairs, was for many the star of the Conference. Showing a markedly more statesmanlike reaction to the collapse of the Conference than either Pascal Lamy or Robert Zoellick, he concluded.

“We were able to show that a group of developing countries united were able to present a platform of agricultural reform, the most important unfinished (perhaps unbegun) business in the WTO, taking into account the needs of developing countries.”

⁸ The Green Room is the name given to special negotiating sessions with a small number of ministers from different countries, hand-picked by the chair because they are thought to be representative of the issues at stake. Green Rooms are often resented by those countries not chosen to participate. At Cancún, the final Green Room ran in parallel with consultation groups including all those countries that had a representative in the Green Room. The origin of the Green Room is said to be a meeting room at the WTO headquarters in Geneva where the Director General met ambassadors to thrash out particular problems. The table in the room was covered with a green baize cloth.

⁹ The G20 were Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, India, Mexico, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Venezuela. Over the course of the ministerial, El Salvador left the group, while Egypt, Nigeria and Indonesia joined, bringing the total to 22.

¹⁰ For submissions by the G22, see http://www.ictsd.com/ministerial/cancun/docs/G21_ag_text.pdf and <http://www.ictsd.com/issarea/ag/resources/G-20%20official%20text.pdf>.

What was immediately apparent, however, was that the EU and US failed to rise to or even understand the moment. Stuck in a Ministerial negotiating mindset, and rather than welcoming this new development, the powerful players dwelt on the divisions between the trading interests of G22 members and predicted its imminent demise. The US in particular was enraged at Brazil's insubordination, reportedly briefing US business delegates that Brazil had 'done a deal with the devil' (presumably India) and that 'this round is about development, not charity'.

The formation of the G22 was not the only step forward for developing countries: the LDCs, ACP and African Union members came together to form what became widely known (although not by themselves) as the G90 (an exaggeration, since after double-counting is removed, it in fact includes only 61 WTO members). On 12 September, this African Union, ACP, and LDC Group, led by Mauritius, made a significant joint submission on Agriculture. This covered issues of key concern such as the need to address tariff peaks and tariff escalation; the need for enhanced access to developed country markets; self-selection of so-called 'special products' for developing countries (see below) and the need to compensate for the erosion of trade preferences due to tariff liberalisation¹¹. In press conferences during the Ministerial, the ACP Group also identified resisting the introduction of Singapore Issues as one of its key priorities.

A group of 33 countries, led by Indonesia and the Philippines, formed the Alliance for Strategic Products and a Special Safeguard Mechanism, in what became dubbed the G33¹², demanding that special measures to protect vulnerable farmers should be strengthened in the Draft Text and subsequent negotiations. Their position is discussed below.

These groups overlapped, and worked together, showing unprecedented strength and unity in their readiness to withstand the usual divide and rule pressures from the powerful countries and to hold together despite the stresses and strains of their different trade interests. In particular, the G22 went to great lengths to talk to other developing country groups on agriculture, and the African Group set up a 'contact group' with the G22 to try and coordinate positions.

It is noteworthy that many of the leaders of both the G22 (Brazil, Argentina) and the G33 (Indonesia, the Philippines) are members of the Cairns Group of agro-exporting countries. Until Cancún, the Cairns Group had been dominated by Australia, which kept it focussed exclusively on issues of improved market access and curbing subsidies. This crude free market position may have suited the Cairns developed country members, but it caused increasing tensions with developing country members, who recognized the need also to address development issues such as the protection of small farmers from the adverse impacts of liberalisation. The Cairns Group almost dropped off the map in Cancún, in large part because its developing country members decided to branch out on a more development-sensitive, less free trade-oriented path.

As can be seen from the formation of the G22 and the G33, developing countries focussed on agriculture throughout the conference. Other subjects, notably the Singapore Issues, were seen as a distraction from this essential issue. This newly assertive developing country voice on agriculture may have far-reaching consequences both for the WTO and the Common Agricultural Policy (CAP). A Wall Street Journal editorial following the collapse noted 'What really died on Sunday was the developed world illusion, especially in Europe, that farm subsidies are untouchable¹³.' Kevin Watkins of Oxfam, writing in the Guardian, concurred, writing 'The EU can either defend the Common Agricultural Policy or it can defend multilateralism. It can't do both¹⁴.'

¹¹ For the 12 September AU/ACP/LDC submission on agriculture, see http://www.ictsd.com/ministerial/cancun/docs/acp_ldc_au_agriculture.pdf.

¹² The Alliance for Special Products and Special Safeguard Mechanism comprises Antigua and Barbuda, Barbados, Belize, Botswana, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Honduras, Indonesia, Jamaica, Kenya, Mauritius, Mongolia, Nicaragua, Nigeria, Pakistan, Panama, the Philippines, Saint Kitts, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia, and Zimbabwe.

¹³ *Wall Street Journal*, 16 September 2003.

¹⁴ *Guardian*, 22 September 2003.

4. The Draft Ministerial Text¹⁵

The new Draft issued on 13 September contained some advances over the first Draft, issued in Geneva on 24 August, and some notable rebuffs for developing countries: it included a curate's egg of positives and negatives in the text on Agriculture, but a number of negative aspects elsewhere, notably on NAMA (Non-Agricultural Market Access, i.e. industrial tariffs) and Singapore Issues:

A. Positive Aspects in the Agriculture text

A comparison between the first and second Draft Ministerial Texts (of 24 August and 13 September) shows some important steps forward on development issues. While they fall far short of an adequate response to developing country concerns, it is important to identify these and ensure they are not lost in the post-Cancún confusion. Table 1 provides a brief outline of the strengths and weaknesses of the second Draft Ministerial Text on Agriculture. It should however, be noted that this was still far from being agreed by the time the Ministerial collapsed, and its development content might have been substantially altered by the time any final agreement was reached.

In the Draft Text, developed countries were obliged to deal with tariff escalation – the widespread practice of the EU, US and other rich nations of charging higher tariffs on processed products than on raw materials, which prevents poor countries from processing their raw materials at home, thereby gaining more of the final value added (annex A, para 2.3). Blue Box payments would be capped and reduced (annex A, para 1.3), while tighter disciplines would also be introduced on permitted subsidies under the Green Box (annex A, para 1.5). This was certainly sufficient to worry the European Union – Britain in particular was concerned that tighter Green Box criteria could undermine CAP reform's effort to shift European subsidies from the Blue to the Green Box. The text also appeared to move forwards from the Doha Mandate in requiring members to negotiate a final date for the end of all export subsidies – something the EU would have been unlikely to accept (annex A, para.3.6).

B. No progress on cotton

However, the Draft Text was seen as a slap in the face for West African cotton producers, who had been led to believe that their concerns over the impact of subsidies to cotton producers in the US and elsewhere would be addressed as a priority in Cancún. Closely following the US position on the issue, paragraph 27 muddied the waters by mixing up the cotton issue with the industrial tariffs in textiles and clothing, did not support compensation or other new aid flows, and suggested the answer for West Africa was diversification out of cotton production, rather than curbing US dumping.

C. Market Access for Developing Countries

In both Agriculture and Industrial trade, the text urging developed countries to provide market access to developing countries remained purely 'best endeavours' (i.e. non-binding). (annex A, para 2.10 and annex B para 9). Experience has shown such exhortations to be largely worthless. A decision was required on whether to make market access for agricultural goods from LDCs (the poorest countries) binding or best endeavours (annex A, para 4), although some reports suggest that binding language had been widely accepted by Sunday, in the last hours of negotiations.

D. Ignoring developing countries on Singapore Issues

Despite the clear and loudly expressed opposition of the majority of developing countries to commencing negotiations on the Singapore Issues, the text set out a timetable for negotiations on Trade and Investment (para 14), and launched immediate negotiations on Transparency in Government Procurement (para 16) and Trade Facilitation (para 17).

E. Deindustrialising the South

Annex B on Non-Agricultural Products was largely unchanged from the first Draft and retained a number of measures that could lead to premature trade liberalisation in developing countries, undermining local industries and long-term industrialisation prospects. These included applying a non-linear formula likely to oblige developing countries to liberalise faster than others (para 3), complete elimination of tariffs in some sectors (annex B, para 6), minimal flexibilities to exempt sectors from

¹⁵ http://www.ictsd.com/ministerial/cancun/docs/draft_cancun_minist_text_rev2.pdf

binding and cutting tariffs (annex B, para 7) and including only best endeavours language on dealing with the erosion of preference schemes for the poorest nations (para 15).

F. Special Products and Special Safeguards in the Agreement on Agriculture

Over the last three years, development concerns in Agriculture, and in particular concern over the impact of rapid import liberalisation on small farmers in developing countries, have resulted in a proposal for the introduction of a 'development box' in the Agreement on Agriculture¹⁶. In the March 2003 Draft Modalities paper produced by Stuart Harbinson, the chair of the WTO Agriculture Committee, this discussion crystallised into a proposal to enable developing countries to protect vulnerable producers by granting them additional tariff flexibility on a range of 'special products' (SPs) of particular importance to food security and rural development, and to be provided with a special safeguard mechanism (SSM) to deal with import surges across all products.

The first Draft Text was weak on these issues; merely saying that SPs would be introduced 'under conditions to be determined' and that tariffs on SPs would still have to be reduced, albeit by a lower amount. It also established an SSM 'subject to conditions and for products to be determined'. It did not address developing country concerns that SPs should be designated by the countries themselves, and that SSMs should apply to all products. The G20 proposal was also vague on SSMs and SPs, a casualty of the need to find a compromise between India (an SP supporter) and Brazil (an agro exporter generally opposed to tariff protection on agricultural products).

In response to these concerns a group of countries, led by Indonesia and the Philippines, coalesced in the months prior to Cancún, rapidly expanding at the ministerial to include 33 members in the so-called Alliance for SPs and SSMs. This group, inevitably dubbed the G33, had three core demands:

- Developing countries should have the flexibility to self-designate a certain percentage of their tariff lines as SPs, which should not be subject to tariff reductions or other means of increased market access for imports;
- SSM for all products; and
- SPs should also have access to the SSM.

Although the 13 September Draft Declaration retained the identical text on SPs and SSMs to the earlier draft, the formation of the alliance prevented further erosion of the concept and is likely to lead to increased pressure for a more comprehensive approach back in Geneva.

5. What Happened on the Singapore Issues?

Although most attention was paid to Agriculture during the first three days of the Conference, developing countries made a number of statements expressing their continued opposition to the new issues. They were therefore surprised and in many cases angered when the 13 September draft included immediate negotiations on Transparency in Government Procurement and Trade Facilitation, and delayed negotiations (after some further clarification) on Trade and Investment.

Over the next 24 hours, the EC finally started to backtrack from its prior insistence on commencing negotiations on all four Singapore Issues, but confusion still surrounds what it actually offered to give up. According to both Pascal Lamy and senior staff in his cabinet, on the morning of Sunday 14th September Lamy said he would be willing to ask EU Member States to allow him to drop two of the four issues. The Chair of the Conference, Sr Derbez, then suggested that the two should be investment and competition. Uncertainty surrounds the issue of Transparency in Government Procurement, which many African delegates were convinced the EC had also offered to drop. One reliable (but off the record) source claims that the EC initially produced two draft paragraphs for inclusion in the Ministerial Declaration, one offering to give up Trade and Investment, Trade and Competition Policy and Transparency in Government Procurement, the other moving immediately into negotiations on Trade Facilitation. The source claims that the EC then, in a change of heart, or as a negotiating tactic, moved government procurement from one paragraph into the other (two separate sources have said they saw

¹⁶ See http://www.iatp.org/tradeobservatory/library/index.cfm?c_id=42 for a collection of papers on the Development Box.

Table 1: Positive and Negative Elements in Agriculture

Positive Elements of Second Draft Ministerial Text	Negative Elements of Second Draft Ministerial Text
<p>Domestic Support: Green Box criteria to be tightened Cap and reduce Blue Box spending 'Down payment' in first year in reducing Amber Box payments</p>	<p>Domestic Support: No ceiling on Green Box No elimination of Blue Box</p>
<p>Market Access: Tariff peaks to be eliminated in developed countries Tariff escalation to be addressed according to a clear formula. Possibility of making mandatory previous best endeavours language on developed countries providing duty and quota free market access to LDCs</p>	<p>Market Access Loophole may allow developed countries to retain tariff peaks for a 'very limited number of products to be designated on the basis of non-trade concerns' Further loophole created for lower tariff cuts in developed countries on 'import sensitive tariff lines' Special Safeguard (mainly used by developed countries) not eliminated Swiss formula reintroduced for developing countries (seen as a step backwards by developing countries since it specifically targets their higher tariff rates (developing countries are largely unable to protect agriculture through subsidies, and so generally have higher tariffs than developed countries). Weak language on Special products and Special Safeguard Mechanism for developing countries (see below)</p>
<p>Export Competition Elimination of tariffs (by date to be negotiated) of export subsidies on 'products of particular interest to developing countries'. Important change on the text on elimination of all export subsidies: 'the question of the end date for phasing out remains under negotiation' becomes 'an end date for phasing out of all forms of export subsidies remains under negotiation'. This changes the issue from 'if' to 'when'.</p>	<p>Export Competition No definite end date for phasing out all export subsidies</p>
<p>Other</p>	<p>Other Peace Clause to be renewed by X months No linkage between the pillars, so developed countries will continue to use domestic support to protect agriculture and dump surpluses on the world market, even though developing countries will have to reduce tariffs further</p>

this crossed out text circulating in the Green Room). This account has so far not been confirmed by any European sources, but if it is true, clearly undermines the EC's wish to leave two issues on the table in Geneva.

In any case, the EC moved too late to rescue the Conference. Positions had become so entrenched that Botswana, on behalf of the African Union/ACP/LDC group rejected negotiations on any of the Singapore Issues, while Korea insisted on retaining all four. At that point the Chairman called off the Conference.

The tale of the Singapore Issues is one of startling arrogance and imperviousness both to argument and the clearly expressed views of developing countries. For seven years since the Singapore Ministerial, the EC, albeit with gradually diminishing support from its Member States, has insisted on their inclusion,

only to abandon them altogether a few hours before the scheduled end of the Cancún Ministerial. The damage inflicted is both to the WTO as an institution, and to the EC's own credibility and reputation.

To its credit, however, the EC at least offered to take Trade and Investment and Trade and Competition Policy off the table entirely, rather than merely postpone them until the next Ministerial, and in the aftermath of Cancún, Patricia Hewitt, the UK Secretary of State for Trade and Industry, and EC staff made clear that they had no intention of reintroducing them in Geneva. In the memorable phrase of one Commission staffer 'we are not masochists, nor are we sadists'.

The Commission should go further (especially if the accounts of what happened on Transparency and Government Procurement are accurate) and promise to remove all four Singapore Issues from the table for the duration of the round. This coupled with an energetic effort to salvage the pro-development aspects of the Agriculture discussions in Cancún, could be a significant contribution to rekindling the Doha Round.

6. Were the NGOs Responsible for the Breakdown?

It may seem implausible, but in the hours after the collapse, both WTO and British Government Officials and Ministers claimed that NGOs had to some extent hoodwinked the developing countries into opposing the Singapore Issues. EC Agriculture Commissioner Franz Fischler, for example, argued in an interview with the *Financial Times* that NGOs had been at least partly responsible for the breakdown¹⁷. This is a disturbing allegation in several respects. Firstly, it shows a patronising attitude towards developing country governments by implying that NGOs were able to persuade them to act against their better interest. Secondly it demonstrates a remarkable lack of appreciation of the balance of power in the international debate on these issues – the WTO, EU, etc massively outgun NGOs in terms of influence and resources. Thirdly, it ignores the lack of support for Singapore Issues outside the bubble of the European Commission – there has been little pressure from business, and the World Bank has made it clear that investment negotiations are not a development priority.

However, if NGOs (both northern and southern) have had an influence, officials and politicians would do well to reflect why, despite their limited political clout and research budgets, NGO arguments have resonated so strongly with developing countries' own experience.

7. Back to Geneva

Amid chaotic scenes as the Conference collapsed, the Secretariat and Chair of the Conference cobbled together a hurried six paragraphs sending the negotiations back to Geneva and 'taking fully into account all the views expressed in Cancún'¹⁸. It rapidly became apparent that this form of words is likely to generate considerable uncertainty over which texts should provide the basis for further negotiations in Geneva. For example, is it only those that were properly discussed in Cancún, or should it include submissions and proposals from all sides during the ministerial, whether or not they were debated? This problem is particularly acute in Agriculture, with a plethora of contradictory texts and proposals, none of which (including the Draft Ministerial Text) appear to have the support of a solid majority of members. A General Council meeting at the senior officials level (one step down from a Ministerial) will take place before 15 December 2003 to decide on the next steps.

What happens next depends to a large extent on political will. Developing countries need and will remain committed to a reformed WTO in order to ensure that it helps them get a fair deal out of the multilateral trading system. There is a clear danger, however, that the US and to a lesser extent the EU will give up on the WTO and divert time and energy into bilateral and regional negotiations where their greater relative weight enables them to ensure outcomes biased in their favour. This would clearly be a setback for development and raise serious doubts over their initial commitment to a 'Development Round'. In their closing press conferences, both Pascal Lamy and Robert Zoellick sounded negative

¹⁷ *Financial Times*, 20 September 2003.

¹⁸ [http://www.ictsd.com/ministerial/cancun/docs/WT-MIN\(03\)-W-24.doc](http://www.ictsd.com/ministerial/cancun/docs/WT-MIN(03)-W-24.doc).

about the future of the WTO, with the US reportedly particularly blaming the Brazilians for their strong stand on agriculture.

Over the following week, the EC appeared to pull back from these threats of bilateralism, with Agriculture Ministers, for example, pledging their continued commitment to the multilateral system¹⁹. The US, on the other hand, appeared alarmingly intent on 'doing a Kyoto'. Writing in the *Financial Times*, Robert Zoellick concluded an attack on 'the transformation of the WTO into a forum for the politics of protest' with the ominous warning:

The key division at Cancún was between the can-do and the won't-do. For over two years, the US has pushed to open markets globally, in our hemisphere, and with sub-regions or individual countries. As WTO members ponder the future, the US will not wait: we will move towards free trade with can-do countries²⁰.

Another possibility, floated by Martin Wolf in the *Financial Times* is that the systemically important players, some 30 or so countries with the EU counted as one country, will revert to the Tokyo Round approach of negotiating agreements with each other, without requiring reciprocal concessions from the smaller economies. Whether this would be a pro-development step would partly depend on what happens elsewhere - if it provided genuine flexibility for developing countries, plus market access commitments and subsidy reductions from the OECD, then it would be beneficial. However, a Tokyo-Round approach might resemble the failed OECD talks on the Multilateral Agreement on Investment, producing plurilateral agreements, which developing countries have no part in shaping but are then bilaterally forced to sign up to.

Furthermore, in such a system, developed countries would no longer have any incentive to resolve the many problems with the existing Uruguay Round agreements, raised by developing countries under the general heading 'implementation issues'. Resolving these was made part of the Single Undertaking in Doha, giving weaker players additional leverage in persuading the powerful WTO members to address these concerns.

Besides any immediate attempt to relaunch the Doha Round, however, the WTO needs to be overhauled as an institution. The WTO system is clearly not functioning. Prior to Cancún, negotiations were in a state of paralysis in Geneva, and the attempt to break the deadlock through the heavily criticised 'mini-ministerials' had delivered few results. Now two of the last three Ministerials have collapsed. Even Doha was arguably only saved by a combination of the post-September 11th mood and the quick thinking of the chair in clarifying his understanding of the text on new issues in such a way as to reassure doubters among developing countries (and quick thinking was in short supply in the handling of events in Cancún).

There may be an argument for member states declaring a time out on negotiations, while they agree proposals for reforming the way the WTO works, and the manner in which trade negotiations are handled. These may arise from the work of the Sutherland Commission, which is currently reviewing the WTO's operations.

8. Some of the institutional issues that need to be addressed include²¹:

Are time-limited negotiating 'rounds' the only or best way forward for the WTO?

Research by Sheila Page at the Overseas Development Institute shows that developing countries generally 'learn by doing', gaining negotiating capacity as talks progress. This suggests that perhaps a permanent negotiating forum would lead to more pro-development outcomes than the current pressure

¹⁹ *Financial Times*, 23 September 2003.

²⁰ *Financial Times*, 22 September 2003.

²¹ The Like Minded Group has produced several papers on reform of the procedures in Geneva and at ministerials, e.g. Preparatory Process in Geneva and Negotiating Procedure at the Ministerial Conferences, Communication to the General Council from the Like Minded Group of Countries, April 2002. Ideas on institutional reform are also discussed in Global Trade at the Service of Human Development, the CAFOD position paper prior to the ministerial, available on http://www.cafod.org.uk/policy/CIDSE_CI_Cancún_Paper.pdf.

cooker approach, in which talks may end just as the smaller developing countries are getting fully up to speed on the issues.

Should the WTO start voting?

While Article IX.1 of the Marrakesh Agreement provides for voting in the absence of consensus, the institutionalisation of the practice of informal consensus means votes are never taken. The UNDP notes that if a vote is never taken then informal consensus can become a means by which a powerful minority can persuade a less powerful majority to concede²². This interpretation is widely shared among independent analysts. Even the GAP report, which the WTO has widely cited, draws specific attention to the very negative impact these informal means of consensus have on members' ownership over decisions made²³.

What can replace Ministerials?

One issue which clearly must be addressed is that the WTO needs to find a new way of reaching agreements, accommodating a new multipolar negotiating landscape of slower-moving, more numerous blocs of countries. This will not be easy, but Cancún demonstrated the counter-productiveness of trying to persevere with a Ministerials-as-usual approach.

Any delay while such issues are considered would not be without cost, however, since it could fuel the move to bilateralism, for example in the ACP-EU negotiations under the Cotonou Agreement.

9. Food for Thought for Developing Countries

The author is British, and (perhaps unlike the European Commission) wishes to avoid any suggestion that he knows what is best for all developing countries. However, some issues clearly emerge from the debate over the Doha Round and Cancún, which will concern both development NGOs and developing country governments:

A. How should developing countries build on the bloc-led negotiations in Cancún?

Cancún crystallized an existing tendency for developing countries to work together in coalitions within the WTO. The appearance of the G22, G33 and G90 raised the possibility that the WTO could develop a more formal system of inter-bloc discussions, which might solve some of the difficulties involved in winning agreement on every issue by consensus among 148 members. However, formalisation will require much clearer lines of accountability and representativity within the different groupings, along with a clearer understanding of how countries should behave when they are members of more than one grouping.

B. How should negotiations, both in Geneva and Ministerials, be adapted to fit the new multipolar world of bloc-led negotiations?

If such groupings are to be formalised, the negotiating processes will have to be changed to fit the new constellation of forces within the WTO. Can this be done in a manner that is both more inclusive and effective than the current system?

C. What are the real benefits of the multilateral trading system, compared to a network of bilateral and regional arrangements?

It is always claimed that developing countries are the chief beneficiaries of the multilateral system because within it, they can find safety in numbers. Is this actually true? To what extent does the WTO either shield developing countries from bilateral pressures to sign 'WTO-plus' agreements, which potentially undermine their development prospects? To what extent does the WTO provide genuine discipline over OECD policies on agriculture subsidies, abuse of anti-dumping rules etc? It is important to be clear what key aspects of the multilateral system need to be defended from attack, post-Cancún.

D. Is the WTO Secretariat neutral?

Although the Secretariat claims to be neutral, and appears more sympathetic to development issues under the new Director-General, there is still plenty of evidence that it has its own agenda, which can

²² Making Global Trade Work for People, UNDP, 2003.

²³ The Global Accountability Report, Power without Accountability? Kovach, Neligan and Burall, One World Trust, 2003.

interfere with its ability to perform a genuinely neutral role. Not least, it is imbued with a somewhat 1990s view of liberalisation-as-panacea that increasingly does not reflect the views either of member governments, or of the debate within academia and civil society. This may partly stem from the primary role of trade and finance ministries, rather than (say) development or social service ministries. Is it necessary to review the extent to which trade ministers should have acquired jurisdiction over non-trade matters?

E. Building Alliances with non-governmental actors in the North.

Developing country governments in the past have not been the most media-savvy of players at the WTO. This may be changing – many observers thought Celso Amorim the most credible performer at Cancún - but much more could be done in terms of building an effective developing country influencing strategy in the WTO. This could involve everything from media training for ministers, to working with northern NGOs and academics in building sympathetic audiences in the North. The joint work between NGOs and developing country governments such as Brazil, India, Kenya, Pakistan and the West African countries on issues such as the TRIPS/Access to medicines, cotton subsidies and the development box shows what can be achieved by such coalitions, while in Cancún, northern NGOs with press officers and media contacts were able to help developing countries get their message out to key northern journalists.

10. Was Cancún a Disaster?

The collapse of the Ministerial was clearly a setback for the progress of negotiations. It demonstrated that the US Government has no intention of budging from its traditional ‘might is right’ approach to trade negotiations. The collapse was an embarrassment for the EU, and a political watershed for the role of developing countries in the multilateral trading system, but was it a disaster for development and the achievement of the Millennium Development Goals?

The answer largely depends on what happens next. The Draft Ministerial Text of 13 September represented a net loss for developing countries. For only minor gains in disciplining northern subsidies and improving market access for their agricultural goods, and progress on tariff escalation, they were being asked to accept a developmentally suspect investment agreement, potential deindustrialisation, and to open up their markets to dumped northern crops with only vague promises of future talks on measures to defend the livelihoods of the rural poor. In that sense, the collapse can be seen as a positive outcome – no deal was better than a bad deal.

But what happens next is crucial. If the EU and US can show the necessary leadership in working with developing countries to reform the institution and reenergize the negotiations around genuine development goals, dropping their pressure to force new issues onto the agenda and concentrating on curbing northern protectionism, then Cancún could in retrospect come to be seen as a watershed. A middle way would see them agreeing to make the current set of Uruguay Round agreements work better, including addressing the developing countries’ implementation concerns, before seeking to move onto further talks. If however, the big players walk away from the multilateral trading system and opt instead for the David and Goliath world of bilateral trade negotiations, Cancún could come to be seen as the death knell of the development round and a grim day for the world’s poor.



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