

GLOBAL TRADE AT THE SERVICE OF HUMAN DEVELOPMENT

A position paper on the occasion of the
5th WTO Ministerial Conference in Cancún, Mexico
10–14 September 2003



CIDSE
Coopération Internationale pour le
Développement
et la Solidarité



Executive summary

The Ministerial Declaration issued at the end of the 4th WTO Ministerial Conference held in Doha from 9-14 November, 2001 set out a work programme which is due to be completed by 1 January, 2005 at the latest. The Doha Round mandated that special attention be given to the development needs of poor countries in the South¹. The 5th Ministerial Conference in Cancún (Mexico) from 10-14 September, 2003 is an important mid-term review. It takes place two years after the events of September 11th, in a period of global economic decline and political uncertainty over multilateral and political solutions to global and regional problems. Whereas the launch of the Doha negotiating agenda was claimed as a breakthrough for developing countries who stood to gain great benefits from new agreements on a range of issues, today, 18 months later, the WTO is facing a major crisis as it attempts to negotiate that agenda. Deadlines on agriculture and TRIPS/health and on Special and Differential Treatment and Implementation have all been missed. A combination of lack of political will among developed countries, lack of capacity in developing countries, and the sheer size and complexity of the agenda has led to extremely slow progress and now threatens complete breakdown.

This paper summarises CIDSE/CI policy recommendations in preparation for the Cancún Ministerial Conference. These recommendations aim to:

- promote fairer trade rules in the areas of agriculture and Trade-related Intellectual Property Rights (TRIPS);
- 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;
- prevent the already overloaded WTO agenda from being further expanded with four new policy areas, the so-called 'Singapore Issues', and in particular prevent the negotiation of an investment agreement in the WTO.

AGRICULTURE

CIDSE/CI believe that the treatment of agriculture will continue to be a litmus test of the Doha round's development credentials. If it is to pass that test, the European Union (EU) and other powerful WTO members must agree to:

- Promote a sustainable model of agriculture, ending the dumping of subsidised food products on developing country markets, a practice which undermines the potential of the South for value-added, agricultural-based production.
- End dumping and introduce a ceiling for domestic support, converting agricultural subsidies (the savings made by reducing subsidies) into support measures promoting food security and sustainable rural development in developing countries.
- Rebalancing the agreement: guarantee developing countries the right to protect their borders via quotas and/or quantitative restrictions as long as northern subsidies remain.
- At a minimum, guarantee sufficient flexibility to developing countries to protect small farmers, including removing food security crops from tariff reduction commitments or raising tariffs. The concepts of strategic products and special safeguards for developing countries introduced in the Harbinson draft provide a basic minimum of protection, and must not be watered down further in the course of negotiation.

¹ See for CIDSE's analysis of 'Doha': <http://www.cidse.org/pubs/CIDSEDohaAnalysis.pdf>

TRIPS (Trade Related Intellectual Property Rights)

The TRIPS Agreement remains one of the most controversial components of the WTO system. If the Doha mandate is to be taken seriously, WTO members must fully address the development dimension. In the view of CIDSE/CI, this would mean:

- Article 27.3(b) of TRIPS should be amended to ban the patenting of life forms;
- Following the recommendations of the Africa Group, “delegations (should) confirm a common understanding” in areas including that “members have the right and the freedom to determine and adopt appropriate regimes in satisfying the requirement to protect plant varieties by effective *sui generis* systems.”
- The TRIPS Council should undertake a study on the relationship between TRIPS and the Convention on Biological Diversity, in particular the development dimension.
- WTO members should immediately implement the Public Health Declaration as envisaged at the Doha Ministerial and explicit recognition in Cancún of the human and social costs of further procrastination.

WTO INSTITUTIONAL REFORM

The general lack of democratic decision making characteristic of previous Ministerial meetings and the failure of the latter to address the priority concerns of developing countries augurs ill for Cancún. CIDSE/CI recommends that the WTO should tackle these issues by ensuring the following:

- The Cancun Ministerial Conference meetings should facilitate participation by all WTO members. Accordingly, the Conference should reject decision making processes which exclude some members, such as ‘green room’ type meetings.
- Drafts of Cancun Ministerial Declarations should reflect the various views put forward by all countries and not just those of the more powerful countries.
- The Cancun Conference agrees to develop a binding code of conduct to promote transparency and democracy in WTO decision making processes. Such a code would address the conduct of ongoing WTO negotiations as well as the preparatory process and procedures for future Ministerial Conferences. It would also ban developmentally detrimental bilateral political and economic coercion by developed countries on developing world members and provide for voting in the absence of consensus, as mandated in Article IX.1.

SINGAPORE ISSUES

CIDSE/CI recommends that the already overloaded WTO agenda not be further expanded with four new policy areas, the so-called ‘Singapore Issues’, and in particular prevent the negotiation of an investment agreement in the WTO.

CIDSE/CI is particularly concerned about proposals for a multilateral investment agreement (MIA) in the WTO, which in our view, is an inappropriate forum for such an agreement. CIDSE/CI opposes the launch of negotiations on investment in Cancún for the following reasons:

- Contrary to the claims of those who propose an MIA, such an agreement is unlikely to lead to increased flows of foreign investment.
- An MIA would merely add to, rather than replace, the current patchwork quilt of over 2,000 bilateral investment treaties.
- The initial promises of flexibility for developing countries would be undermined by the realities of negotiations in this and in subsequent rounds.

- There is a lack of balancing obligations on home countries and investors.
- A study of successful development strategies shows that almost all countries have discriminated between foreign and local investors in order to encourage technology and skills transfer, yet this runs counter to the WTO's 'core principle' of national treatment.

Introduction

1. CIDSE (International Cooperation for Development and Solidarity) is an international network that brings together 15 Catholic development organisations from Europe and North America. In its international advocacy work, CIDSE collaborates with Caritas Internationalis (CI) on an international trade agenda that focuses primarily on the WTO negotiations on TRIPS and Agriculture. CIDSE and CI members attended the Seattle and Doha WTO Ministerial meetings. This paper summarises CIDSE/CI policy recommendations in preparation for the Cancún WTO Ministerial Conference. It has been developed by trade and development experts from Germany (Misereor), the UK (CAFOD and SCIAF), France (CCFD), Belgium (Broederlijk Delen), Austria (KOO), Ireland (Trócaire), Canada (CCODP) and the USA (Center of Concern).
2. The Ministerial Declaration issued at the end of the 4th WTO Ministerial Conference, held in Doha from 9-14 November, 2001, set out a work programme which is due to be completed by 1 January, 2005 at the latest. The Doha Round mandated that special attention be given to the development needs of poor countries in the South². The 5th Ministerial Conference in Cancún (Mexico) from 10-14 September, 2003 is an important mid-term review. It takes place two years after the events of September 11th, in a period of global economic decline and political uncertainty over multilateral and political solutions to global and regional problems. Whereas the launch of the Doha negotiating agenda was claimed as a breakthrough for developing countries who stood to gain great benefits from new agreements on a range of issues, today, 18 months later, the WTO is facing a major crisis as it attempts to negotiate that agenda. Deadlines on agriculture and TRIPS/health, and on Special and Differential Treatment and Implementation have all been missed. A combination of lack of political will among developed countries, lack of capacity in developing countries, and the sheer size and complexity of the agenda has led to extremely slow progress and now threatens complete breakdown.
3. As Catholic development agencies, the CIDSE/CI position on international trade is based on Catholic Social Teaching on human development, which holds that trade is a means to development for all humanity, and not just an end in itself. Pope Paul VI clarified this principle in 1967 when he wrote: *'God intended the earth and everything in it for the use of all human beings and peoples. Thus under the leadership of justice and in the company of charity, created goods should flow fairly to all. All other rights, including the rights of property and free trade, are to be subordinated to this principle...'*³. In 1979, the bishops of Latin America further elucidated this standard in their call for a "preferential option for the poor", a cry which has since become the central guiding principle of all of CIDSE/CI work, including its advocacy efforts on international trade. Our concern is indeed that of the universal common good: *'Faced with the tragic situation of persistent poverty which afflicts so many people in our world, how can we fail to see that the quest for profit at any cost and the lack of effective, responsible concern for the common good have concentrated immense resources in the hands of a few while the rest of humanity suffers in poverty and neglect? ... Our goal should not be the benefit of a privileged few, but rather the improvement of the living conditions of all.'*⁴
4. CIDSE/CI believes that trade is an essential part of any successful development strategy, which, in its view, should aim at the eradication of poverty and the promotion of human rights, in particular the right to food. CIDSE/CI reminds Member States of

² See for CIDSE's analysis of 'Doha': <http://www.cidse.org/pubs/CIDSEdohaAnalysis.pdf>

³ Pope Paul VI *Populorum Progressio*, 22, March 22, 1967

⁴ Pope John Paul, Message for Lent, 2003

the WTO of the international human rights obligations that they have undertaken by ratifying international treaties including the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of the Child and the UN Convention on the Elimination of all Forms of Discrimination against Women, treaties which enshrine the States' obligations to protect the basic economic, social and cultural rights of their citizens. Member States should use the texts of these international treaties as guiding principles when making trade policy, and we urge States to accordingly ensure that their WTO commitments are not in conflict with their human rights obligations.

5. International trade could increase growth, enhance the full enjoyment of economic, social and cultural rights and contribute towards reaching the Millennium Development Goals (MDGs) if only the benefits of trade were shared more equally between and within countries. However, current global trade rules are biased against poorer countries and poorer people. The current issue at stake is the imposition of free trade at whatever cost to national development and well-being. In fact, trade rules are not flexible enough in many areas to allow poor countries to develop and implement trade policy consistent with both short and long term development objectives⁵. In the current complex context of globalisation, a phenomenon that shows a marked disposition to widen the gap between rich and poor, developing countries need to pursue policies that assure all citizens a basic standard of living. In order to be able to do this, developing countries need policy space, rather than rigid and constricting trade rules which constrain and shape the formulation of domestic policy.
6. Therefore, a new system of trade rules is urgent: one which places trade at the service of international human rights obligations, in particular poverty eradication and sustainable development, with the in-built flexibility to implement according to human development indicators. This implies a complete reorientation of the WTO, from trade liberalisation to a stronger focus on development and equity. In this context, we urge the WTO to fully embrace the concept underwritten in the Monterrey Consensus of trade as an engine for development and to endorse the UN Millennium Development Goals (MDGs) as its overarching objective, as the IMF and World Bank have already done. Subscribing to the MDGs would provide a clear anti-poverty framework in which to discuss trade and its impact on the poor, allowing impact assessment and evidence more influence in the formulation of policy. To endorse the MDGs would show a clear statement of intent that trade reform should be in the interests of development.
7. In this context, the time has come for the EU, the US and other powerful trading blocs to recognise that rapid trade liberalisation is imposing severe adjustment costs on poor countries, and poor communities within them.⁶ They must also take stock of the failure of the dominant paradigm of liberal trade policies as part of export-oriented economic growth, promoted as the model for developing countries by the WTO and the international financial institutions. This model does not, and has never, provided an automatic path to poverty eradication, the key objective of any development policy. In

⁵ In *Trade and Solidarity: A statement of the Catholic bishop's conference of England and Wales and the Catholic Bishop's Conference of Scotland 2003*

(http://www.cafod.org.uk/policy/trade_solidarity2003.shtml) it was stated that : . "Despite all the efforts made to transform the situation, the economic and trade relationships between the wealthy and the poor countries of the world remain deeply unjust. If trade rules are to take account of the needs of the poorest and most vulnerable sectors of society, the process of liberalisation must not override such primary development goals as poverty reduction, health and education."

⁶ Developing countries face intense pressure in the WTO, through bilateral/regional trade arrangements and through donor conditionality to open their markets: in particular through structural adjustment policies on the IMF and World Bank, which have locked in policy reforms towards outward looking, export-oriented economies.

practice, trade liberalisation often tends to increase poverty and food insecurity, and widen the gap between rich and poor men and - particularly - women⁷. Poor countries need the right and the capacity to regulate trade and investment in the interests of national development, with the necessary protection when building up industries and gradual openness when the right conditions (not just the right policies!) are put in place. This was the model employed successfully by Europe and United States themselves, but the latter now seem unwilling to permit others to use the same policies. The argument that appropriate policies should be determined by a country's level of development and own development priorities, with liberalisation often appearing as the outcome of development, rather than a cause, is increasingly resonating in NGO and academic circles.⁸

Agriculture

8. Mexico, the host country of the 5th WTO Ministerial Conference, has often been called the 'laboratory of free trade'. The country radically opened its borders in 1986, with entry into the General Agreement on Tariffs and Trade (GATT), and unilateral trade liberalisation and structural adjustment accelerated in 1994, when the North American Free Trade Agreement (NAFTA) came into effect. We can now draw on nearly two decades of experience in agricultural free trade policies from the perspective of a developing country. The lessons are illuminating for the present WTO negotiations on agriculture. The asymmetries between Canada, US and Mexico in agricultural production have deepened. These exist in subsidies, productivity, credit, natural resources, inputs and transportation (see Box 1).

Box 1: Mexico and agriculture

Maize is Mexico's principal crop and major source of sustenance. Mexico is the birthplace of maize and the country's history and culture revolve around the crop. Since NAFTA, maize imports have nearly tripled, and the price has dropped 64% since 1985⁹. Genetically modified maize imports have contaminated local varieties, leading to fears of loss of biodiversity and increasing dependency on transnational seed and chemical companies. Under NAFTA, the Mexican countryside has lost 1.7 million jobs, with little employment generation in other sectors. Thousands of Mexicans migrated to the US, many to work in agriculture as undocumented workers without labour guarantees or benefits. CIDSE's analysis of the proposed Free Trade Area of the Americas¹⁰ (FTAA) predicts development outcomes in the rest of Latin America similar to those witnessed in Mexico: increase of rural poverty, malnutrition and migration; increased workloads, particularly for women; increased profits and market control by transnational traders and processors at the cost of small holder farms; increased food dependency and lost national revenues; and severe risks to the environment and biodiversity. De-agriculturalisation has led to a loss of culture and destruction of the traditional fabric of society.

⁷ See: *The Impact of Trade Liberalisation on Food Security in the South. A Literature Review* by John Madeley and Solagral, CIDSE, May 2001. <http://www.cidse.org/en/tg1/tradelibgr01.htm>

⁸ See: Joseph Stiglitz, *Globalisation and its Discontents* (2002), Ha-Joon Chang, *Kicking Away the Ladder* (2002), Ha-Joon Chang, Duncan Green, *The Northern Agenda on Investment: Do as we say, not as we did*, South Centre/CAFOD, June 2003: <http://www.cafod.org.uk/policy/doaswesay200306.pdf>

⁹ See Laura Carlsen, *The Mexican Experience and Lessons for WTO Negotiations on the Agreement on Agriculture*. Presentation at the European Parliament, Brussels 11 June 2003: http://www.tradeobservatory.org/library/uploadedfiles/Mexican_Experience_and_Lessons_for_WTO_Negotiations.pdf

¹⁰ CIDSE, *The Free Trade Area of the Americas: Is there an alternative? Our hope: integration with solidarity*.

9. CIDSE/CI is equally concerned with very similar negative development impacts of the current WTO Agreement on Agriculture (AoA).¹¹ The AoA promotes an industrialised model of agriculture that has jeopardised food security in developing countries by pursuing a capital and chemical intensive form of production, geared to exports from large farms rather than the interests of small producers. It has legitimised the use of subsidies in developed countries, while narrowing the options available to developing countries, such as using tariffs to protect vulnerable farming communities. Agricultural support from the Organisation for Economic Cooperation and Development (OECD) currently runs at almost \$1bn a day, or 6 times the global aid budget.¹² As a consequence, there has been widespread dumping by rich countries of food exported at below the costs of production, just as poor countries have been forced to open their markets. Food security, and the potential of agriculture as an engine of growth in the South, have been undermined by these processes.
10. In 2000, the WTO began a mandated review of the AoA, moving on to fully-fledged negotiations after the Doha ministerial. The Doha declaration promised improvements in the AoA, including “reductions of, with a view to phasing out, all forms of” export subsidies, (one of the main causes of dumping), and special consideration for the needs of developing countries, in particular to “enable them to meet their needs for food security and rural development.” The Doha declaration also set an ambitious timetable, with 'draft modalities' (the framework of a new agreement) to be agreed by 31 March, 2003.
11. Developing countries have played an active role in the negotiations, tabling a large number of submissions on different aspects.¹³ Of these, two proposals have particularly resonated with CIDSE/CI's concerns:
 - the introduction of a 'development box' in the agreement on agriculture, providing developing countries with the necessary flexibility to protect food security and sustainable rural development by, among other measures, exempting food security crops from tariff reduction commitments.¹⁴ Different versions of the Development Box proposal have advocated a 'positive list' approach, whereby countries choose which sectors they wish to submit to tariff reduction disciplines, and a 'negative list' approach, in which they nominate certain 'strategic products' for exemption.
 - the linkage of the level of subsidies in developed countries and the tariff reductions to be undertaken by developing countries. Through a so-called balancing measure, the proposal would provide the flexibility to importing developing countries to impose additional duties on subsidised imports by calculating a subsidy-equivalent tariff.¹⁵
12. As in the other development-related aspects of the Doha round, such as TRIPS or Special and Differential Treatment, the 31 March deadline was missed. In no small measure, this was due to the EU's inability to agree on reform of the Common Agricultural Policy (CAP), which effectively held the entire Doha round hostage to the internal battles of Europe. In March, WTO member states failed to agree modalities, and promised instead

¹¹ See Sophia Murphy, *Food Security and the WTO* (CIDSE, September 2001), see: <http://www.cidse.org/pubs/CIDSEfoodsecurityWTO.pdf>

¹² The 2002 figure for total producer support is \$318bn. See: *Agricultural Policies in OECD Countries: Monitoring and Evaluation*, OECD 2003

¹³ For a summary of developing country proposals on food security-related aspects, see Luisa Bernal, *Developing Country Proposals On Modalities For Further Reform In Agriculture, Action Aid and CAFOD*, March 2002, <http://www.cafod.org.uk/policy/proposals2003.shtml>

¹⁴ See for example, submission by Dominican Republic, Honduras, Nicaragua, Nigeria, Pakistan, Sri Lanka and Venezuela in November 2002. WTO document JOB(02)/174

¹⁵ See, for example, submission by the Philippines in September 2002, WTO document JOB(02)/111

to continue with technical work and to try and reach agreement by the Cancún ministerial.

13. Prior to the breakdown in talks, Stuart Harbinson, the chair of the agriculture negotiations, produced two versions of a draft modalities paper. Although this was rejected by a number of members, including the EU and Japan, it offers the best current guide to the likely future direction of negotiations. In response to the developing country proposals described earlier, the Harbinson draft ignored the issue of rebalancing, or linking the different 'pillars' of the WTO, and failed to propose any ceiling on developed country subsidies. In addition, it proposed a very gradual phase out of export subsidies (over 9 years). The draft also provides a number of loopholes that would enable producers such as the US to continue to support exports. In CIDSE/CI's view, these proposals will do little to curb the destructive impact of dumping on developing countries. The Harbinson draft did, however, go some way to addressing the issues raised in the Development Box proposal. The final version of the draft proposes that developing countries should be allowed to nominate an unspecified number of 'special products' of particular significance in terms of food security and rural development. Although differentiating between crops in this way is an important conceptual breakthrough, the draft then insisted on reducing tariffs on these crops, albeit at a slower pace than for other products. In CIDSE/CI's view, this is entirely inconsistent. If a crop is of crucial importance to food security in a poor country, governments should have the flexibility to set tariffs at whatever level required to protect the livelihoods of the poor, even if that involves raising them. CIDSE/CI welcomes the proposals in the Harbinson draft text for providing developing countries with a special safeguard mechanism to cope with sudden surges of imports. However, it should be stressed that this is a short-term mechanism for dealing with price volatility, not a long-term solution to the structural imbalances of world trade. Moreover, the value of any safeguard mechanism will depend on the detail of the mechanism, still to be negotiated. Any safeguard mechanism should be easy to use and applicable for all products.
14. The debate on strategic products took a new turn in mid-2003, with a new proposal entitled *Poverty Reduction: Sectoral Initiative in Favour of Cotton*. The proposal, co-sponsored by Benin, Burkina Faso, Mali and Chad, and supported by 13 other West and Central African countries, calls for the elimination of subsidies for cotton production and export, describing it as their "only specific interest" in the Doha Round. Effectively, the proposal moves the strategic product debate from a defensive to an offensive position, by arguing that key export crops for developing countries deserve special treatment from rich countries. While the elimination of cotton subsidies would benefit all low-cost cotton producers, West and Central African countries – where more than 90 percent of cotton is grown for export – are among those that suffer most from the high level of subsidisation in the sector. Over ten million people in the region depend directly on cotton production. Cotton exports represent around 30 percent of total export earnings and more than 60 percent of earnings from agricultural exports. Over the past two decades, West and Central African countries have made major efforts to improve both cotton quality and production efficiency. State marketing bodies have been restructured and farmers' loan mechanisms have been improved. As a result, the region's cotton producers are among the most competitive in the world: they can produce a kilogram of high quality cotton at half the price it would cost in the US. However, millions are currently affected by the steady fall in prices caused by Northern subsidies. The International Cotton Advisory Committee (ICAC) estimates at US\$6 billion the combined support granted to the cotton sector by the US, the EU and China in 2001/2002, which corresponds to total world exports in that year. US cotton subsidies alone exceed by 60 percent the total GDP of Burkina Faso, where nearly two million people depend on cotton production. Nearly half of US support goes to a few thousand

growers with farms of more than 1,000 acres penalising West and Central African farmers whose plots average five acres and who live on less than a dollar a day.¹⁶

15. After protracted and difficult negotiations, the EU finally agreed on its CAP reform package on 27 June, potentially giving the Commission more leeway to make concessions in the AoA negotiations. The Commission and EU member states hailed the reform package as radical, and claimed that such reforms required serious matching concessions from the US and other WTO member states. On closer inspection, however, the Mid-Term Review of the CAP will do little to end the CAP's negative impact on southern farmers. The total CAP budget will stay at €43bn and rising; CAP reform merely rearranged the subsidy regimes to try and make them WTO-compatible. This involved a partial shift to 'decoupling' payments from production. CIDSE/CI find little evidence that this will lead to a fall in production (indeed the EC's own calculations show increased production of maize, wheat and rice). Partial decoupling in the US has not led to a fall in production. Dumping will continue and could even increase. Moreover, some of the most significant sectors from a development perspective, were barely touched: sugar was not included in the review, while dairy was largely left on its current reform course. Developing countries should be clear that the European Commission (EC) has no right to demand a high price at the bargaining table in Cancún for such a feeble reform.
16. Prior to the EU deal on CAP reform, French President Jacques Chirac had proposed various measures in support of African agricultural development, including a temporary moratorium on developed countries' agricultural export support measures. This proposal was later on supported by the EC but was not met with great enthusiasm by the G8 and EU Member States. It is, however, significant that both the French President and the EC (belatedly) recognized the damage that export subsidies inflict on producers in poorer countries. Chirac's proposals fail to recognize the damaging effect of northern agricultural over-production and subsequent sale at prices below the cost of productions - irrespective of the kind of subsidies provided. Even without export support, African and other developing country farmers suffer from dumping, and this denies them fair access to their own markets, let alone the markets of developed countries. Coherence between CAP, EU trade policies and EU development policies is lacking: one cannot pretend to support African countries' agricultural development needs while at the same time demanding these countries open up their markets to European subsidized products as part of the Economic Partnership Agreements (EPA), or as part of conditionalities imposed by the World bank and the IMF.
17. In July 2003, Chair of the Agriculture Negotiations Stuart Harbinson submitted a report to the Trade Negotiations Committee, the body responsible for overseeing progress on the Doha round. The report was relatively downbeat, *'Achieving the objective of establishing modalities as soon as possible has continued to remain elusive'* and asked the committee for further guidance. Harbinson's report included developing country demands for greater flexibility on strategic products and a special safeguard mechanism. The report had a number of worrying aspects: it appeared to link the latter issues to the kind of market access formula agreed, i.e. maintaining that developing countries would only receive the concessions sought in exchange for more drastic liberalisation. Developing countries have reacted strongly to this suggestion, arguing that they need these safeguards on their own merits, given the extent of northern dumping. Moreover the Harbinson report once again ignored the issue of rebalancing.
18. CIDSE/CI believes that the treatment of agriculture will continue to be a litmus test of the Doha round's development credentials. If it is to pass that test, the EU and other powerful WTO members must agree to:

¹⁶ This section is taken from Bridges, May 2003, <http://www.ictsd.org/monthly/bridges/BRIDGES7-4.pdf>

- Promote a sustainable model of agriculture, ending the dumping of subsidised food products on developing country markets, a practice which undermines the potential of the South for value-added agricultural-based production.
- End dumping and introduce a ceiling for domestic support, converting agricultural subsidies (the savings made by reducing subsidies) into support measures promoting food security and sustainable rural development in developing countries.
- Rebalancing the agreement: guarantee developing countries the right to protect their borders via quotas and/or quantitative restrictions as long as northern subsidies remain.
- At a minimum, guarantee sufficient flexibility to developing countries to protect small farmers, including removing food security crops from tariff reduction commitments or raising tariffs. The concepts of strategic products and special safeguards for developing countries introduced in the Harbinson draft provide a basic minimum of protection, and must not be watered down further in the course of negotiation.

TRIPS (Trade Related Intellectual Property Rights)

19. The TRIPS Agreement has been one of the most controversial components of the WTO system. Rather than reducing tariffs and other trade barriers, it prescribes a minimum standard for protection and enforcement of intellectual property rights (IPR), which creates new restrictions for competition. The IPR standard prescribed is a very high one, equivalent to the level found in many developed countries, and much higher than in most poor countries in the South. Developing countries were required to implement by 2000 a level of IPR protection which took over 100 years to reach in developed nations¹⁷. It is thus not surprising that the developing countries were reluctant to accept TRIPS. It offers them little or no new opportunities and it has so far failed to deliver the promised transfer of technologies.
20. CIDSE/CI recognises that some protection is necessary to reward innovation. However, the excessive levels of protection incorporated in TRIPS create monopolies and power concentration in agricultural development, which can restrict the diffusion of knowledge and innovation and potentially exclude large sections of society from the benefits of this knowledge. Strict patents allow companies to unduly raise the cost of knowledge-intensive technologies thereby denying poor people access to essential medicines, seeds, and other technologies vital to reduce hunger and disease.
21. Moreover, there is evidence that strong intellectual property rules distort the allocation of spending on Research and Development (R&D) and skew the development of knowledge and technology towards the greatest commercial gain, rather than the greatest human good. For example, in the health industry most R&D is spent on rich rather than poor country diseases. In agriculture it is feared that stricter intellectual property rules will provide incentives for large companies to develop and promote expensive and inappropriate high-input seed technologies threatening local livelihoods, food security and bio-diversity¹⁸. TRIPS thus tends to promote industrial mono-cultures and export

¹⁷ Many developing countries have not yet implemented the agreement. LDCs have to implement TRIPS by 2016 (a deadline extended by 10 years by the Doha Ministerial Declaration.)

¹⁸ Indian theologian Josanthony Joseph noted in 2003: '*Looking at the issue of bio-patenting from the perspective of the hungry, we have to conclude that what is unethical and therefore unacceptable is not the fact that research is being done that could perhaps create better crops and assist in the food security of the*

agriculture over food production for domestic needs. There are widespread concerns that TRIPS will impede the access of poor countries to the technologies they need to develop and compete in global markets. This in turn threatens to exacerbate existing inequalities between countries.

22. The TRIPS Agreement also lacks measures to protect traditional knowledge thereby allowing companies to appropriate collectively shared knowledge for private gain. The South contains the bulk of the earth's genetic plant resources, yet a small number of Northern corporations control over 86 per cent of plant patents.
23. TRIPS prevents farmers from saving and exchanging seed. This violates the 'Farmers' Rights' guaranteed in the International Treaty on Plant Genetic Resources for Food and Agriculture of the UN Food and Agriculture Organisation, erodes the traditional basis for the seed supply in many developing countries, raises the cost of food production and decreases food security.
24. CIDSE/CI's main concerns on TRIPS relate to the extension of the patent system to life forms. According to article 27.3(b), which covers life patenting, WTO members' domestic legislation must allow patents on micro-organisms and microbiological processes¹⁹. There is a special provision for plant varieties, the seeds that farmers sow. Plant varieties must be subject to some form of IPR regime, but WTO members can choose either a patent system, an "effective sui generis system" or a combination of the two. What is 'effective' is however not defined and this is a source of disagreement. Industrialised countries continue to push legislation promoted by the International Union for the Protection of New Varieties of Plants (UPOV) as the supposedly only effective model, whereas developing countries prefer to draft their own systems, often incorporating community rights and biodiversity protection. A group of developing countries, in particular members of the Africa Group, have attempted to enact their own IPR legislation for the protection of plant varieties, and an African Model Law²⁰ was drawn up as an attempt to reconcile the demands of TRIPS with the farmers' rights and community ownership aspects of the Convention on Biological Diversity and the FAO International Treaty on Plant Genetic Resources for Food and Agriculture. However, in practice, African nations have come under intense pressure from multi-lateral organisations including the World Intellectual Property Organization (WIPO), and bilaterally from the EU and the US to adopt, instead, UPOV-based legislation, and to date, no African country has adopted the African Model Law, despite the endorsement of the latter by the African Union.
25. One important reason why developing countries, albeit reluctantly, finally agreed to sign on to TRIPS, was that the agreement included a clause saying that article 27.3(b) would be reviewed *before* developing countries would have to implement the agreement. The review started in 1999, but very little progress has been made so far. One reason is that the developed nations are seeking to limit the review exercise to implementation of the agreement, whereas developing countries are calling for a review of the substance. In the past four years, developing country proposals have met with little sympathy from

world. What is unacceptable is the fact that bio-patenting allows the control of the world's food supply to be concentrated in fewer and fewer hands'

¹⁹ Members are not obliged to allow patents on plants, animals, nor 'essentially biological processes for the production of plants and animals'. Nevertheless, in practice, many patents on micro-organisms and microbiological processes extend to the whole seed, plant, or animal.

²⁰ African Model Legislation on the Protection of the Rights of Local Communities, Farmers and Breeders and the Regulation of Access to Biological Resources

developed countries²¹. CIDSE/CI proposes the suspension of implementation of TRIPS for all developing and least developed countries until the substantive review is completed and appropriate adjustments have been made.

26. The mandate for review of TRIPS and of article 27.3(b) in particular was confirmed by paragraph 19 of the Doha Ministerial Declaration²², which also referred to examining the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore and “other relevant new developments”. It also committed WTO members to take fully into account the development dimension.
27. CIDSE/CI supports the African position to ban patents on all life forms and ensure local community control over genetic resources and associated knowledge²³. In its recent communication to the WTO TRIPS Council, the Africa Group reiterated that “Patents on life forms are unethical and the TRIPS Agreement should prohibit them”²⁴. Patents on life forms are contrary to moral and cultural norms of many societies and article 27.2 on ‘*ordre public*’ and morality should not be restricted by the provisions of article 27.3(b).
28. Various proposals have been made to harmonise TRIPS with the Convention on Biological Diversity (CBD), concluded in 1992 at the UN Conference on Environment and Development (UNCED.) The CBD mandates States Parties to adopt legislation regulating access to genetic resources and requiring equitable benefit sharing with the provider of that knowledge. TRIPS contains no safeguards against the granting of patents on unlawfully acquired genetic resources or traditional knowledge, a practice known as biopiracy. CIDSE/CI supports the amendment to require patent applicants to disclose the origin of such resources of knowledge, and submit proof that they were acquired with the prior informed consent (PIC) of the original holder, and of an arrangement of benefit sharing. Some of the above mentioned concerns have also been addressed by the International Treaty on Plant Genetic Resources for Food and Agriculture. CIDSE/CI advocates the prompt ratification and entry into force of the Treaty in order to ensure that the access to and use of genetic resources for food and agriculture is subject to a multilateral system that mandates benefit sharing. Our networks also support the granting of observer status for the Secretariat of the Convention on Biological Diversity on the TRIPS Council.

²¹ The US has indicated it will not accept a weakening of the TRIPS provisions and may well use the substantive review to push for further tightening of the 27.3(b) provisions.

²² “We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, inter alia, 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 pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.” Doha WTO Ministerial Declaration, Par. 19.

²³ See: “Biopatenting and the Threat to Food Security – A Christian and Development Perspective” (Brussels, 2000). See: <http://www.cidse.org/pubs/tg1ppcon.htm>

²⁴ “Taking Forward the review of Article 27.3.(b) of the TRIPS Agreement”, Communication from the Africa Group, WTO IP/C/W/404, 26 June 2003. See: www.docsonline.wto.org or http://www.tradeobservatory.org/library/uploadedfiles/Taking_Forward_the_Review_of_Article_273b_of_t.pdf

TRIPS and Public Health

29. The Doha Declaration on TRIPS and Public Health confirmed the original broad interpretation of the TRIPS agreement, that is, that the TRIPS agreement “does not and should not prevent Members from taking measures to protect public health”. This interpretation was seen as a key indicator of the degree of serious intent with which developed countries take on board the concerns of developing and least developed countries. However, it was recognised in Doha that countries with insufficient or no pharmaceutical manufacturing capacities faced possible legal difficulties in making effective use of compulsory licensing, as Article 31(f) of the TRIPS agreement largely limits the latter to supplying the domestic market. Accordingly, the WTO TRIPS Council was mandated to find an expeditious solution to the problem and to report to the General Council before the end of 2002. In missing this deadline, primarily as a result of some pharmaceutical companies’ and the US Government’s efforts to impose further restrictive definitions of public health crises by proposing to limit provisions to a list of specific diseases, the WTO’s perceived commitment to treat developing country priority issues has been severely undermined. In the view of CIDSE/CI, the Doha Declaration is clear and unambiguous. There is no need for further debate in Cancun on the circumstances that constitute grounds for the issue of compulsory licenses.

Box 2: TRIPS: Towards Scientific Apartheid

The ongoing attempt to harmonise and strengthen the intellectual property protection regimes worldwide, as part of the TRIPS Agreement, is choking the knowledge spillovers from the industrialized to the developing countries by way of benefit sharing and adversely affecting technology transfer. The implementation of the provisions of TRIPS Agreement is also undermining the right of the gene-rich countries to public goals of food security and poverty elimination. If the two recent patents granted by the European Patent Office (EPO) are any indication, the Third World faces an immediate threat from the resulting scientific apartheid.

At a time when the WTO's TRIPS Council is still engaged in reviewing Article 27.3 (b) of the TRIPS Agreement, dealing with biological materials, traditional knowledge and folklore, the EPO first struck in May 2003 by upholding a controversial patent granted to Agracetus (subsequently bought by the multinational giant Monsanto) for a particle bombardment (biolistic) method of transforming soybeans. In simple words, this broad-spectrum patent grants Monsanto exclusive control over all genetically modified varieties of soybean. The patent also covers all other plants that use the same GM technology for crop improvement.

Seed multinationals Syngenta and De Kalb had also opposed the patent on the grounds that it provides Monsanto with a monopoly control over a commonly used scientific process. Interestingly, before acquiring Agracetus, Monsanto too had opposed the same patent. Such broad patents represent a grave impediment to developing country scientists' access to new crop technologies as well as to their capacity to breed new crop varieties using the frontiers of new technology. Not only contrary to moral and cultural norms of the developing world, as spelled out by the Africa Group's position before the TRIPS Council, broad spectrum patents are a serious threat to countries' food security needs and the livelihood security of farming communities.

A few weeks later, the EPO granted another patent to Monsanto (EP # 445 929) allowing monopoly rights over traditional characteristics of a wheat accession – *Nap Hal*. All that Monsanto had done was to cross *Nap-Hal*, a traditional *durum* wheat cultivar, with another wheat variety to develop an improved variety with 'special baking qualities'. The patent covers biscuits and dough produced from this wheat, as well as the plants themselves. Monsanto's wheat patent extends to European Union, and in addition to Japan, Canada and Australia where the company sees its maximum commercial utility. Since the wheat germplasm – *Nap Hal* landrace – was procured from a UK-based gene bank, it also raises questions about the relevance of the laws on access and equitable benefit sharing.

The unique baking characteristics of *Nap Hal* were traditionally known by the communities, which had preserved these landraces. Monsanto has actually used the traditional knowledge to breed an improved variety and thereby block any further use and application of the Indian wheat landrace. Although, India's unique *sui generis* legislation -- the Protection of Plant Varieties and Farmers Rights Act 2001, does recognise the rights of farmers and communities in respect of their contribution in conserving, improving and making available plant genetic resources for the development of new plant varieties, it remains helpless when a patent is granted outside the country. National systems cannot by themselves protect traditional knowledge.

30. The TRIPS Agreement remains one of the most controversial components of the WTO system. If the Doha mandate is to be taken seriously, WTO members must fully address the development dimension. In the view of CIDSE/CI, this would mean:
- Article 27.3(b) of TRIPS should be amended to ban the patenting of life forms
 - Following the recommendations of the Africa Group, “delegations (should) confirm a common understanding” in areas including that “members have the right and the freedom to determine and adopt appropriate regimes in satisfying the requirement to protect plant varieties by effective *sui generis* systems.”
 - The TRIPS Council should undertake a study on the relationship between TRIPS and the CBD, in particular the development dimension.²⁵
 - WTO members should immediately implement the Public Health Declaration as envisaged at the Doha Ministerial and explicit recognition in Cancún of the human and social costs of further procrastination.
 - WTO members should acknowledge in Cancún that the timetable laid down in the TRIPS Agreement for an overall review of its workings has not been met and in recognition of the urgent need to address this failure, commit to a completion date for such a review.

WTO Reform

31. As a one-country one-vote, member driven organisation, with a majority of the membership from developing countries, the WTO is in principle well placed to develop trade policy in accordance with human development principles. Nevertheless, as the organisation has evolved, the benefits of world trade remain unequally distributed. In addition, the informality that has characterised decision-making has marginalized developing countries in the past²⁶. Both phenomena are inter-related and have together raised serious questions about the institution’s legitimacy.
32. Our networks believe that Institutional Reform of the WTO is a pre-requisite for a good development outcome of the Doha Round as well as a vital factor for legitimisation of the WTO. Non-inclusive working methods, as well as lack of international and external transparency in the negotiation process prior to the publication of final agreements invariably figure in critiques of the WTO. As in previous Ministerial Meetings, the preparations for Cancún are being conducted in a non-transparent, non-inclusive manner. The series of mini-Ministerial meetings that have been held since Doha are an illustration of such non transparent practices. The Montreal mini-Ministerial in July 2003 to which only 25 of the WTO’s 146 members were invited, the Sydney mini-Ministerial in November 2002 to which only 25 WTO members were invited, with industrialised countries constituting a disproportionate number of these on both occasions, typifies the exclusive nature of such meetings. The use of exclusive meetings to build consensus among the few, which is then presented to the majority, is a deeply flawed, undemocratic process and contradicts the fundamental tenets of one-country one-vote and consensus which are the official basis of WTO decision making processes.
33. Historically, failure to respect the consensual approach in the preparatory meetings has promoted further exclusion of developing countries at the Ministerial Conferences. The infamous ‘green room meetings’ in Seattle excluded all but the

²⁵ As called for by the UK Commission on Intellectual Property

²⁶ There are currently 69 developing countries and 30 LDCs in the WTO.

most prominent or assertive developing countries. The failure of consensus building in Seattle was a major reason for that Conference's collapse. While a conscious effort was made to avoid 'green room' meetings at the Doha Ministerial Conference, the 'friends of the chair' process also suffered from significant shortcomings. Moreover, arriving at consensus on the Doha Declaration was only achieved after an unauthorised extension of the Ministerial and a final all night marathon session, exploiting the capacity constraints of developing country delegations (many of whom had already had to leave before the final declaration was approved), and highlighting the political role of a supposedly neutral secretariat. The Like Minded Group (LMG) of Countries, commenting on the preparatory process in Geneva and negotiating procedures at Ministerial conferences, have recommended that late night meetings and marathon negotiating sessions be avoided. They also recommended that the duration of Ministerial Conferences be in accordance with the schedule agreed in Geneva with the proviso that if an extension is required, it should be formally approved through consensus, and that specific rules to conduct the work of Chairs and Vice-Chairs of the Ministerial Conference be elaborated.

34. In the run-up to the Cancún meeting, this 'friends of the chair' approach has become the norm for any difficult issue in the negotiations. There has been a 'Harbinsonisation' of the WTO process whereby draft texts are arrived at informally, drawn up by the chair of the relevant body on their own authority following confidential 'confessionals' with a number of members. The result lacks any accountability trail, as it is not known who has said what to the Chair in the confessionals, nor whose suggestions the Chair has taken up. Moreover, the proliferating number of informal consultations places a huge burden on overstretched developing country delegations, since no minutes are kept, and so those countries unable to attend (for reasons including clashes of meetings) are effectively excluded from the discussion. It is extraordinary and a matter of deep concern that a supposedly rules-based organisation should carry out negotiations on the basis of an almost complete absence of clear rules. The Like Minded Group has called for draft texts to be drawn up through an open-ended consultation process with differences fully and appropriately reflected in the draft ministerial declaration. Specifically they recommend that this could be done through listing various options suggested by Members or by the Chair reflecting different positions on issues.²⁷
35. 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 concede²⁸. 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 made²⁹. These are examples of the violation of procedures and the principles underpinning them.
36. Internal power imbalances challenge the credibility of the WTO's claims to be a democratic institution. As extensively documented in the report "Power Politics in the WTO", developing countries come under heavy pressure in the course of trade

²⁷ "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

²⁸ "Making Global Trade Work for People", UNDP, 2003

²⁹ "The Global Accountability Report", Power without Accountability? Kovach, Neligan and Burall (One World Trust, 2003)

negotiations³⁰. This makes them vulnerable to a range of incentives and threats that include personal insults directed against individual negotiators, as well as threats to orchestrate their removal from Geneva, threats of withdrawal of trade preferences and to reduce Overseas Development Assistance (ODA).

37. A critical, but much neglected factor in ensuring that developing countries play a full role in the WTO is that of civil society participation in national trade policy-making. In countries such as Uganda and Kenya, civil society organisations have made valiant efforts to participate in national commissions on the WTO, but in so doing, have faced acute financial and political constraints.³¹ The negotiation process leading to the Biosafety Protocol is seen as an example of inclusive decision-making procedures (see Box 3).
38. The general lack of democratic decision making characteristic of previous Ministerial meetings and the failure of the latter to address the priority concerns of developing countries augurs ill for Cancún. CIDSE/CI recommends that the WTO should tackle these issues by ensuring the following:
 - The Cancun Ministerial Conference meetings should facilitate participation by all WTO members. Accordingly, the Conference should reject decision making processes which exclude some members, such as ‘green room’ type meetings.
 - Drafts of Cancun Ministerial Declarations should reflect the various views put forward by all countries and not just those of the more powerful countries.
 - The Cancun Conference agrees to develop a binding code of conduct to promote transparency and democracy in WTO decision making processes. Such a code would:
 - address the conduct of ongoing WTO negotiations, the preparatory process and procedures for future Ministerial Conferences;
 - ensure the neutrality and impartiality of the Secretariat, Director General, Chairs, Vice-Chairs and Facilitators, setting specific rules to conduct the work of Chairs and Vice Chairs of the Ministerial Conference;
 - ban developmentally detrimental bilateral political and economic coercion by developed countries on developing world members, and provide for voting in the absence of consensus, as mandated in Article IX. 1.

³⁰ “Power Politics in the WTO”, by Aileen Kwa, 2002. Also see “Behind the Scenes at the WTO: the Real World of International Trade Negotiations” by Fatoumata Jawara and Aileen Kwa, August 2003

³¹ ‘Civil Society and the WTO: Participation in national trade policy design in Uganda and Kenya’, CAFOD, August, 2003

Box 3: The Biosafety Protocol – a model for inclusive global governance?

Global negotiations have proliferated in recent years – and taken on much greater significance. This has led people to compare the many kinds of negotiations under way and to search for more transparent, democratic models. In particular, many forums have been looking for ways to give all participating countries a fairer say. The Cartagena Biosafety Protocol, established under the Convention on Biological Diversity, is a case in point.

Negotiations for the protocol started in 1996 and concluded in 2000. At one stage, as the target date for concluding the negotiations neared and the differences among the contending parties still looked wide, there were fears that the talks would break down. But a combination of transparent, innovative methods and an active, impartial chairperson allowed the successful conclusion of one of the most contentious negotiations in international law.

Juan Mayr Maldonado, Colombia's minister of environment, introduced the new methods when he became chair of the Extraordinary Meeting of the Conference of Parties to the Convention on Biological Diversity, held in Cartagena in February 1999. He continued to use these methods at an informal consultation of the members in Vienna in September 1999, until the conclusion of the negotiations at a resumed Extraordinary Meeting of the Conference of Parties in Montreal in January 2000.

The main features of the methods involved:

- Grouping country participants by their interests and positions, rather than by geography or income. A significant innovation was the formation of the Like Minded Group, which enabled most of the developing countries to caucus while the few that held a different position could join another group. This was a departure from the norm, in which developing countries come under the single umbrella of “the Group of 77 and China.”

- Selecting representatives from each group to act as spokespersons, with the number of spokespersons depending on the number of members in the group. This approach allowed for a more equitable representation of views.
- Allowing all member countries to be present during negotiations, even though the negotiations were carried out among the group spokespersons. Thus the meetings were transparent and open to the participation of all members.
- Encouraging the participation of non-governmental organizations (NGOs). In Vienna the chairperson met separately with NGOs and industry. In response to NGO requests for access to the negotiations, instantaneous audio reception was provided in a “spillover” room next to the government consultation room. Thus NGOs and representatives of international organizations were able to follow the discussions. And in Montreal all observers, including the media, were able to sit in on the plenary sessions.

These new arrangements brought the complicated, often contentious negotiations over the protocol to a successful conclusion. They helped strike an effective balance between three sometimes competing priorities: allowing all members to participate, enabling negotiations among so many countries to flow within time constraints and ensuring transparency and openness so that members could have the information needed to follow the discussions. The new approach also improved the flow of information to NGOs and increased NGO involvement.

Source: UNDP (2002): p. 122

Singapore Issues and the overloaded WTO Agenda

39. At the WTO's Doha ministerial meeting in November 2001, whether to commence negotiations on the so-called 'Singapore Issues' (Investment, Competition Policy, Transparency in Government Procurement and Trade Facilitation) was one of the most controversial issues. The EU, backed by Japan, overrode developing country opposition led by India to insist on their inclusion in the ministerial declaration. Even as the final declaration was being drafted, there were disputes over the exact meaning of some of the paragraphs on the investment issue.³² In the end, it was agreed that the 5th ministerial meeting, scheduled for September 2003 in Cancún, Mexico, would decide whether to proceed with negotiations (as opposed to the current "discussions") on the four issues.
40. CIDSE/CI believes that the best decision in Cancún would be not to include new issues in the negotiations. The chief argument is one of priority – they would provide few benefits to developing countries (and some serious disadvantages), and would seriously overload the agenda. The EU should listen to the voice of developing countries themselves: within the space of a month from early June 2003, 77 developing countries, including over half the WTO membership, made public statements urging that new negotiations should not be launched in Cancún.³³
41. CIDSE/CI is particularly concerned about proposals for a multilateral investment agreement (MIA) in the WTO, which, in its view, is an inappropriate forum for

³² Paragraph 22 of the final Doha Ministerial Declaration reads: *"In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment."*

Paragraph 20 further stated: *"Negotiations will take place after the Fifth Session of the Ministerial Conference [the Cancún meeting in 2003] on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations."*

In the closing plenary session of the Doha Conference, in response to concerns raised by a number of developing countries, the chairman, the Qatari Finance, Economy and Trade Minister, Youssef Hussain Kamal, clarified his understanding of paragraph 20, as follows:

"Let me say that with respect to the reference to an 'explicit consensus' being needed, for a decision to be taken at the Fifth Session of the Ministerial Conference, my understanding is that, at that session, a decision would indeed need to be taken by explicit consensus, before negotiations on trade and investment and trade and competition policy, transparency in government procurement, and trade facilitation could proceed. In my view, this would also 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."

³³ 'Singapore Issues in the WTO: What do Developing Countries Say?'
<http://www.cafod.org.uk/policy/singapore20030714.shtml>

such an agreement. Reasons for opposition to the launch of negotiations on investment in Cancún³⁴ include the following:

- Contrary to the claims of those who propose an MIA, such an agreement is unlikely to lead to increased flows of foreign investment.
- An MIA would merely add to, rather than replace, the current patchwork quilt of over 2,000 bilateral investment treaties.
- The initial promises of flexibility for developing countries will be undermined by the realities of negotiations in this and subsequent rounds.
- There is a lack of balancing obligations on home countries and investors.
- A study of successful development strategies shows that almost all countries have discriminated between foreign and local investors in order to encourage technology and skills transfer, yet this runs counter to the WTO 'core principle' of national treatment.³⁵

Conclusion

Our networks believe that global trade works for people – persons and communities - when it is placed at the service of human development. Trade, like globalisation, is not an end in itself. It is evaluated by its relationship to a more comprehensive human good. The Cancun WTO Ministerial meeting is an opportunity for trade negotiators and the governments they serve, to look beyond narrow national advantage to the wider interests of humanity. This is the real and genuine meaning of *'an agenda that places the development dimension at the centre of the international trading system.'*³⁶

³⁴ 'Unwanted, Unproductive and Unbalanced: Six Arguments against an Investment Agreement at the WTO', May 2003 http://www.cafod.org.uk/policy/jointngo_mia200305.shtml

³⁵ See Ha-Joon Chang and Duncan Green, *The Northern Agenda on Investment: Do as we say, not as we did*, South Centre/CAFOD, June 2003

³⁶ EU Trade Commissioner Pascal Lamy (November 2001), 'Making Globalisation Work For People', See: http://europa.eu.int/comm/commissioners/lamy/speeches_articles/spla73_en.htm

LIST OF ABBREVIATIONS

CAP	Common Agricultural Policy
CBD	Convention on Biological Diversity
CI	Caritas Internationalis
CIDSE	International Cooperation for Development and Solidarity
DSB	Dispute Settlement Body (WTO)
EC	European Commission
EU	European Union
FAO	Food and Agriculture Organisation of the United Nations
FTAA	Free Trade Area of the Americas
G8	Group of 7 industrialised countries and Russia
GAP	Global Accountability Report ('Power Without Accountability')
GATT	General Agreement on Tariffs and Trade
ICAC	International Cotton Advisory Committee
IMF	International Monetary Fund
IP	Intellectual property
IPRs	Intellectual Property Rights
LMG	Like Minded Group (of countries in the WTO)
MDGs	Millennium Development Goals
MIA	Multilateral Investment Agreement
NAFTA	North American Free Trade Area
NGOs	Non-governmental organisations
ODA	Official Development Assistance
OECD	Organisation for Economic Cooperation and Development
R&D	Research and Development
TNCs	Transnational corporations
TRIPs	Trade Related Aspects of Intellectual Property Rights (GATT/WTO)
UPOV	<i>Union Internationale pour la Protection des Obtentions Vegetale</i> (International Union for the Protection of New Varieties of Plants)
UNDP	United Nations Development Program
US	United States
WFS	World Food Summit
WIPO	World Intellectual Property Organisation
WTO	World Trade Organisation

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Oesterreichische Caritaszentrale	AUSTRIA
Caritas Azerbaijan	AZERBAIJAN
Caritas Bangladesh	BANGLADESH
Caritas Belarus	BELARUS
Caritas Catholica Belgica	BELGIUM
Caritas en Communauté Française et Germanophone	BELGIUM

Caritas Secours International Belgique	BELGIUM
Caritas Vlaanderen - Belgium	BELGIUM
Caritas Benin	BENIN
Pastoral Social - Caritas Boliviana	BOLIVIA
Caritas Bosnia-Herzegovina	BOSNIA AND HERZEGOVINA
Tirisanyo Catholic Commission - Caritas Botswana	BOTSWANA
Caritas Brasileira	BRAZIL
Caritas Bulgaria	BULGARIA
OCADES - Caritas Burkina Faso	BURKINA FASO
CED - Caritas Burundi	BURUNDI
Caritas Cambodia	CAMBODIA
BASC - Bureau des Activités Socio-Caritatives - Caritas Cameroun	CAMEROON
Développement et Paix / Development and Peace	CANADA
Caritas Caboverdeana	CAPE VERDE
Caritas Centrafrique	CENTRAL AFRICAN REPUBLIC
UNAD - Caritas Tchad	CHAD
Caritas Chile	CHILE
SNPS - Secretariado Nacional de Pastoral Social	COLOMBIA
Caritas Comores	COMOROS
Caritas République du Congo	CONGO REPUBLIC
Pastoral Social Caritas Costa Rica	COSTA RICA
Caritas Croatia	CROATIA
Caritas Cuba	CUBA
Koinonia Caritas	CYPRUS
Ceska Katolicka Charita - Caritas Ceska	CZECH REPUBLIC
Commission Episcopale Caritas / Développement	DEMOCRATIC REPUBLIC OF
Caritas Danmark	DENMARK
Caritas Djibouti	DJIBOUTI
Caritas Dominicana	DOMINICAN REPUBLIC
Caritas East Timor	EAST TIMOR
SENAPS – Secretariado Nacional de Pastoral Social	ECUADOR
Caritas Egypte	EGYPT
Caritas El Salvador	EL SALVADOR
CAFOD - Catholic Fund for Overseas Development	ENGLAND-WALES
Caritas Guinea Ecuatorial	EQUATORIAL GUINEA
Eritrean Catholic Secretariat	ERITREA
Caritas Estonia	ESTONIA
Ethiopian Catholic Secretariat	ETHIOPIA
Caritas Finland	FINLAND
Secours Catholique - Caritas France	FRANCE
Caritas Gabon	GABON
Caritas The Gambia	GAMBIA
Caritas Georgia	GEORGIA
Deutscher Caritasverband	GERMANY
SED - Department of Socio-Economic Development	GHANA
Caritas Hellas	GREECE
Caritas de Guatemala	GUATEMALA
OCPH - Organisation Catholique pour la Promotion Humaine	GUINEA REPUBLIC
Caritas Guinée-Bissau	GUINEA-BISSAU
Caritas Haiti	HAITI
Caritas de Honduras	HONDURAS
Caritas Hong Kong	HONG KONG
Caritas Hungarica	HUNGARY
Caritas Island	ICELAND
Caritas India	INDIA
Institute of Social Research and Development	INDONESIA
Caritas Iran	IRAN
Confrérie de la Charité - Caritas Iraq	IRAQ
TROCAIRE - Caritas Ireland	IRELAND
Caritas Italiana	ITALY
Caritas Côte d'Ivoire	IVORY COAST

Caritas Japan	JAPAN
Caritas Jordan	JORDAN
Caritas Kazakhstan	KAZAKHSTAN
Kenya Catholic Secretariat - Caritas Kenya	KENYA
Caritas Coreana	KOREA
Caritas Latvia	LATVIA
Caritas Internationalis	LEBANON
Caritas Liban	LEBANON
Department of Development - Caritas Lesotho	LESOTHO
Caritas Liberia	LIBERIA
Caritas Libie	LIBYA
Caritas Lithuania	LITHUANIA
Caritas Luxembourg	LUXEMBOURG
Caritas Macau	MACAU
Caritas Macedonia	MACEDONIA
Caritas Madagascar	MADAGASCAR
CADECOM - Catholic Development Commission in Malawi	MALAWI
NOHD - National Office for Human Development	MALAYSIA
Commission Nationale de Pastorale Sociale - Caritas Mali	MALI
Caritas Malta	MALTA
Caritas Mauritanie	MAURITANIA
CEPS - Caritas Mexicana	MEXICO
Caritas Moldova	MOLDOVA
Caritas Monaco	MONACO
Caritas Mongolia	MONGOLIA
Caritas Maroc	MOROCCO
Caritas Moçambicana	MOZAMBIQUE
Caritas – Karuna Myanmar	MYANMAR
NACADEC - Namibian Catholic Development Commission	NAMIBIA
Caritas Nepal	NEPAL
Caritas Nederland - CORDAID	NETHERLANDS
Caritas Aotearoa - New Zealand	NEW ZEALAND
Caritas Nicaragua	NICARAGUA
Caritas Niger	NIGER
Nigeria Catholic Secretariat	NIGERIA
Caritas Norge	NORWAY
CEPAC – Comm. for Justice and Development	PACIFIC ISLANDS
Caritas Pakistan	PAKISTAN
Pastoral Social - Caritas Panamá	PANAMA
Caritas Papua New Guinea	PAPUA NEW GUINEA
Pastoral Social Nacional - Caritas Paraguay	PARAGUAY
Caritas del Peru	PERU
NASSA - National Secretariat of Social Action	PHILIPPINES
Caritas Polska	POLAND
Caritas Portuguesa	PORTUGAL
Servicios Sociales Catolicos - Caritas Puerto Rico	PUERTO RICO
Confederatia Caritas Romania	ROMANIA
Caritas of the Asian Part of Russia	RUSSIA
Caritas of the European Part of Russia	RUSSIA
Federal Caritas of Russia	RUSSIA
Caritas Rwanda	RWANDA
Caritas Sao Tome & Principe	SAO TOME & PRINCIPE
SCIAF – Scottish Catholic International Aid Fund	SCOTLAND
Caritas Senegal	SENEGAL
Caritas Seychelles	SEYCHELLES
NCDCO - National Catholic Development and Caritas Office	SIERRA LEONE
Catholic Welfare Services - Caritas Singapore	SINGAPORE
Slovenska Katolícka Charita	SLOVAKIA
Slovenska Karitas	SLOVENIA
Caritas Solomon Islands	SOLOMON ISLANDS
Caritas South Africa	SOUTH AFRICA
Caritas Española	SPAIN

SEDEC - Social Economic Development Centre	SRI LANKA
SUDANAID - Caritas Sudan	SUDAN
Caritas Swaziland	SWAZILAND
Caritas Sverige	SWEDEN
Caritas Schweiz	SWITZERLAND
Caritas Syria - Commission Commune de Bienfaisance	SYRIA
Commission for Social Development - Caritas Taiwan	TAIWAN-R.O.C.
Caritas Tajikistan	TAJKISTAN
Caritas Tanzania	TANZANIA
CCHD – Catholic Council for Human Development	THAILAND
OCDI - Organisation de la Charité pour un Développement Intégral	TOGO
Services Caritas de la Prélature - Caritas Tunisie	TUNISIA
Caritas Turquie	TURKEY
Uganda Catholic Secretariat - Caritas Uganda	UGANDA
Caritas Spes - Caritas of Roman Catholic Church in Ukraine	UKRAINE
Caritas Ukraine - Caritas of the Greek Catholic Church	UKRAINE
Catholic Campaign for Human Development	UNITED STATES OF AMERICA
Catholic Charities USA - Caritas USA	UNITED STATES OF AMERICA
Catholic Relief Services - Caritas USA	UNITED STATES OF AMERICA
Caritas Uruguay	URUGUAY
Caritas Uzbekistan	UZBEKISTAN
Caritas de Venezuela	VENEZUELA
Caritas Yugoslavije	YUGOSLAVIA
ZEC - Catholic Commission for Development - Caritas Zambia	ZAMBIA
Catholic Development Commission - Caritas Zimbabwe	ZIMBABWE