

Running into the Sand

Why failure at the Cancun trade talks threatens the world's poorest people

In September 2003 world trade ministers meet in Cancun Mexico to start a new phase in the Doha 'development round'. The meeting provides an opportunity to reform the unfair trade rules that systematically disadvantage the world's poorest countries. Urgent action is needed to stop agricultural dumping, protect access to affordable medicines, improve market access, and prevent damaging new rules on foreign investment. Failure to deliver will undermine efforts to tackle global poverty and further damage the credibility of the World Trade Organisation.

Executive Summary

International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognise the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates.

Doha Ministerial Declaration, November 2001

Any export effort we might make will be worth nothing if rich countries continue to preach free trade and practice protectionism

President Lula Da Silva, World Economic Forum 26 January 2003

Rich countries have broken an important promise to the world's poorest people. Meeting in November 2001 in Doha, Qatar, they committed themselves to a 'development round' of multilateral trade negotiations. Bold pronouncements were made on the need to work for a fairer distribution of the benefits from trade, and for measures to strengthen the links between trade and poverty reduction. **Almost two years on, none of the promises made at Doha have been honoured. The Cancun meeting of World Trade Organisation (WTO) ministers in September 2003 could be the last chance for rich countries to deliver.**

Cancun is a defining moment for global poverty reduction efforts. It provides an opportunity to reform the unfair trade rules that systematically disadvantage the world's poorest countries and its poorest people, giving them a chance to share in global prosperity. Decisive action at Cancun could set globalisation on a new course, reducing the obscene inequalities that divide rich and poor countries and liberating forces that could lift millions out of poverty.

For Northern governments, Cancun provides an opportunity to respond to public demands for change. Trade justice has become a rallying call for people around the world. Already, more than three million have added their voices to the 'Big Noise' – Oxfam's global petition to make trade fair. They range from Zambian cotton farmers and Bangladeshi garment workers to Kofi Annan and Desmond Tutu. Decision makers have so far been deaf to these voices. Cancun is their chance to listen – and to act.

And success in Cancun would extend far beyond trade. At a time when multilateralism is in retreat, a reformed WTO could provide the foundations for a renewal of international cooperation. By contrast, failure in Cancun would do to the WTO what the Iraq war did to the UN: undermine its influence and leave it marginalised.

Responsibility for Cancun's fate resides overwhelmingly in the national capitals of the rich world. When they signed up for a 'development round' at Doha in late 2001, industrial countries promised to change policies that hurt poor countries. Acting on this promise will require radical change. Low-income countries account for over 40 per cent of the world's population, but for only 3 cents in every \$1 generated through exports. At the other extreme, rich countries account for 15 per cent of world population and three-quarters of world exports. Globalisation built on such inequalities is unsustainable – and it is not worth sustaining.

Fundamental reforms are needed if the WTO is to play a constructive role in making trade work for the poor. In some areas, the institution needs to do much more. If the Doha round is to succeed, rich countries have to eliminate policies that penalise poor countries, including agricultural export dumping and tariff systems that discriminate against imports from developing countries. Such policies are flagrantly anti-poor and, coming from countries that preach free market principles, profoundly hypocritical. WTO rules should prohibit them. It is equally vital that the Doha round produces rules that place the rights of poor people to affordable medicines before the claims of big drugs companies.

In other areas, the WTO needs to do far less. Corporate-driven 'mission creep' is at the heart of the institution's crisis of legitimacy. Industrialised countries are using the WTO in an effort to prise open markets for Northern-based transnational companies. The General Agreement on Trade in Services (GATS), and efforts to force new issues – investment, trade facilitation, competition, and government procurement – on to the Doha agenda are prime examples of mission creep inspired by corporate lobbying.

Reform of agricultural trade is one of the most important challenges facing the Doha round. More than three-quarters of the world's poor – some 900 million people – live in rural areas, most of them working as small-scale farmers. The EU and the USA, the world's farm-subsidy superpowers, promised in Doha to cut agricultural export

subsidies. Since then, both the EU and the USA have done exactly the opposite, increasing subsidies to their biggest producers.

Northern governments now spend \$1bn a day on agricultural subsidies. Amounting to six times their spending on aid, these subsidies generate large surpluses that are dumped on world markets at prices bearing no relation to production costs. From cotton farmers in West Africa to corn farmers in Mexico, millions of producers in developing countries receive lower prices for their products and get pushed out of markets as a result of agricultural dumping. The livelihoods of the world's poorest farmers are being systematically destroyed by subsidies for its richest farmers.

There remains an acute danger that WTO patent rules (the TRIPS agreement) will make vital medicines unaffordable for people living in poverty. At Doha, while trade ministers agreed to change WTO patent rules to improve access to cheaper generic drugs, rich countries, led by the USA, have been using negotiations over the exact wording to block a meaningful solution. For developing countries, this broken promise is the most glaring sign that development still takes second place to the narrow commercial interests of the powerful nations. If trade ministers genuinely want to help the sick and dying, and restore some legitimacy to the WTO, they should admit that TRIPS is fatally flawed and start fixing it.

Improved market access is a vital part of making trade work for poor people. Export growth is not a guaranteed route to poverty reduction. The benefits can (and often do) bypass the poor and cause environmental damage. But linked to domestic policies that extend opportunities to poor people, trade has the potential to act as a powerful catalyst for poverty reduction. The problem is that rich countries like to preach free trade and then use protectionist policies to deny opportunities to poor countries. Taking these double standards to their logical conclusion, the same countries are using the WTO to demand rapid import liberalisation in developing countries, ignoring their special needs and circumstances. Viewed from the developing world the guiding principle for rich country behaviour can be simply summarised: 'do as we say, not as we do'.

Developing countries exporting to rich ones face trade barriers four times higher than those faced by industrialised countries - and goods produced by the poorest people face the highest import barriers of all. Shirts produced by Bangladeshi women enter

the US market at a tax rate some 20 times higher than that imposed on goods imported from Britain. Vietnam – a country with 23 million people in poverty – pays more in US customs duties than the Netherlands, despite accounting for a far smaller share of imports. To add insult to financial injury, rich countries impose higher taxes on processed goods than on raw materials. This hampers efforts by developing countries to add value locally and diversify out of poverty. Eliminating import restrictions on textiles and garments alone could generate as many as 27m jobs in developing countries, many of them for women workers.

Most systems of taxation start from a simple principle of graduation: the more you earn, the more you pay. The trade taxes of rich countries turn this principle on its head. They impose the highest tax rates on the world's poorest countries, reserving their most punitive tariffs for goods produced by the poorest people in those countries. Were rich countries to base their income-tax systems on the same principles as their trade policies, single mothers on low income would be facing the highest tax rates, while corporate executives would operate in a virtually tax-free zone. For example, trade taxes paid by Bangladesh when exporting to the USA are fourteen times higher than those paid by France, despite the fact that average French incomes are fourteen times higher than those in Bangladesh.

Some Northern governments defend protectionism in manufacturing and agriculture by reference to the interests of poor people at home. That defence is specious. High tariffs on low-cost clothing imports act as a tax on poor consumers. **And under the Common Agricultural Policy, an average European family pays more than \$1000 each year, directed not towards Europe's many struggling farmers but towards the richest farmers and agribusinesses.**

Rolling back the corporate agenda should be a major priority in the Doha round. **The EU should abandon its reckless pursuit of the so-called 'new issues' agenda, under which it is pressing poor countries to accept uncontrolled foreign investment.** WTO negotiations in this area will lead to rules that developing countries do not want, do not need and cannot afford. It will also overload an already overcrowded agenda.

This paper looks briefly at the background to the Doha round and then examines four issues that will be critical in judging success or failure in Cancun: agriculture, patents and public health, market

access and investment. It suggests the following key benchmarks for success:

Agricultural dumping

A prohibition on all forms of direct and indirect agricultural export subsidies, including export credits by 2005;

An 'early harvest' commitment to immediately phase out all subsidies that generate surpluses and finance export dumping in cotton and other products of interest to developing countries;

Developing countries should retain the right to restrict imports in the interests of poverty reduction and food security.

Patents and public health

No restrictions on the export of cheap generic versions of new drugs to developing countries, in line with Doha commitments;

WTO patent rules should be reformed to give developing countries greater freedom to decide when to introduce high levels of patent protection for medicines, on the basis of their public health and development needs;

Market access

Duty-free and quota-free access in industrialised countries for all low-income countries;

Average industrial-country tariffs on developing country imports no higher than for developed countries;

Immediate phasing out of textile and garment quotas and a 5 per cent ceiling on tariffs;

Investment

Removed from the WTO agenda;

Existing OECD Guidelines for Multinational Enterprises to be strengthened;

WTO rules on investment reformed to allow the imposition of export and local content requirements on foreign investors;

A moratorium on the GATS negotiations until the implications of the agreement for development are properly assessed.

1 Background to the 'development round'

In September 2003, trade ministers from 146 countries will descend on the Mexican tourist resort of Cancun. The aim is to start the next phase of the 'development round' of world trade talks. Behind the impenetrable jargon that accompanies World Trade Organisation (WTO) negotiations, the Cancun meeting raises two fundamental questions. Will the rules-based multilateral trading system survive? And can the WTO play a constructive role in making trade work for the world's poorest countries and people? The answers to these questions will have a profound bearing on the future direction of globalisation – and on prospects for overcoming global poverty.

The optimistic deadline for achieving an overall agreement in the Doha round is 1 January 2005. But overall progress has been slow – and it has stalled in areas of vital concern to developing countries. Deadlines for resolving issues that were supposed to be dealt with at an early stage have come and gone. These issues include market access, agriculture, and trade-related intellectual property rights, all of them central components of a development round. Progress on these fronts would have helped to build trust and confidence. It would also have avoided postponing everything until a last-minute round of horse-trading, in which the negotiating capacities of developing countries will be over-stretched. Understandably, developing country governments feel frustrated and angry at the refusal of Northern governments to honour their commitments.

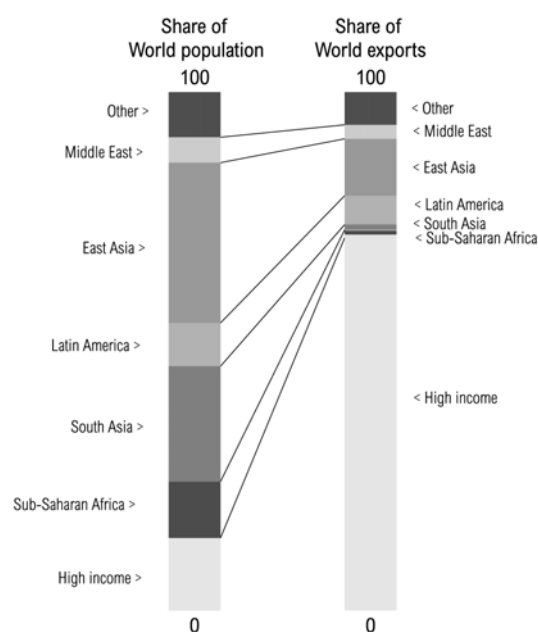
They are not alone. As an institution, the WTO is under public scrutiny as never before. The days when multilateral trade negotiations could be conducted behind closed doors without transparency and accountability have long passed. Civil society groups have mobilised on an unprecedented scale for the 'development round' – and they will hold Northern governments accountable for their actions (or lack of action).

Across the world, international trade has become a focal point for an increasingly broad-based mass campaigning movement. That movement reflects the importance of trade as a source of our mutual interdependence, shared prosperity, and shared commitment to poverty reduction. Oxfam is part of the movement for new trade rules. Three million people have signed Oxfam's 'Big Noise' petition, which

has one central demand: 'make trade fair'. The signatories range from developing country farmers and women working in free trade zones to concerned citizens in the industrialised world.

International trade has the potential to act as a powerful force for poverty reduction. As the experience of parts of East Asia demonstrates, trade can provide poor countries – and poor people in those countries – with access to new opportunities for employment and income generation, and to new technologies. Under globalisation, trade has become an increasingly important driver of global interdependence, with exports rising at twice the rate of world income growth. Yet for all of its positive potential, the benefits of international trade remain unequally distributed (**Figure 1**):

Fig 1.
Shares of world population and exports:
selected regions and country groupings (2001)



Source: Derived from World Bank, *World Development Indicators* (2002) and *Global Economic Prospects* (2003)

- With 14 per cent of the world's population, high-income countries account for 75 per cent of world exports.
- Low-income countries with 40 per cent of the world's population account for three per cent of world trade.
- Britain accounts for a larger share of world exports than South Asia and Sub-Saharan Africa combined.

- Export success in the developing world remains highly concentrated. For manufactured goods, just five exporters account for almost two thirds of total developing country exports.¹ The world's poorest region, Sub-Saharan Africa, has seen its share of world exports shrink from 1.2 per cent to 1 per cent.² Latin America has seen its share rise, but this is entirely due to rapid export growth in Mexico³.

Participation in trade creates winners and losers – and the poor are disproportionately represented in the latter category. Within countries, the gains from trade often bypass poor people. Lacking access to education, assets, and markets, poor people are often the last to benefit from the opportunities created through trade. And they are frequently the first to suffer the consequences of increased competition, for example when imports of agricultural or manufacturing goods displace local production. In some cases, trade produces contradictory outcomes. Under globalisation, export production has brought millions of women into labour markets, creating new sources of income. But in many countries increased income has gone hand-in-hand with increased vulnerability associated with a failure to protect even the most basic labour rights.

The Doha round cannot address all of the problems associated with trade and development. In the absence of measures to redistribute assets and opportunity to poor people, strengthen the rights of women, and give excluded groups a greater voice in policy design, increased trade can act as a force for polarisation. That is why trade policy needs to be at the heart of wider strategies for poverty reduction. What the Doha round can do is address some of the fundamental causes of unfair trade that reinforce global poverty and inequality.

The background to the negotiations is less than encouraging. World trade growth recovered in 2002, but to less than one third of the average seven per cent rate recorded in the 1990s. Moreover, fragile recovery has been accompanied by deep structural problems in industrialised countries. The US trade deficit has reached six per cent of GDP, and Europe and Japan are both trapped in a cycle of low growth and high unemployment. Large trade deficits, slow growth, and high unemployment in rich countries will inevitably be used by some as a pretext for avoiding the opening of markets to poor countries.

Regionalism and bilateralism represent a further threat. By the end of 2001 there were around 179 regional trade agreements in place, covering almost half of world merchandise trade⁴. The EU has built a huge portfolio of regional and bilateral agreements, but the USA is leading the most ambitious exercises. Through the Free Trade Area of the Americas, the Bush administration is currently negotiating with 33 governments to create a regional free trade zone that will encompass nearly 800 million people, making it the largest in the world. Bilateral trade agreements are also in the ascendant. The USA

has recently concluded free trade agreements with Chile, Jordan, and Singapore.

Most regional and bilateral agreements enshrine highly unequal arrangements, with developing countries securing limited improvements in market access while they are obliged to introduce sweeping liberalisation measures and to enforce corporate intellectual property claims. Failure at Cancun would inevitably accelerate the trend towards unequal regional and bilateral treaties, putting developing countries at a further disadvantage in bargaining processes.

One of the toughest challenges for rich country governments in the Doha round will be that of breaking with past practice and respecting democratic principles. The WTO is often portrayed as a model democracy. It operates on the formal basis of one country, one vote. Decision making takes place on the basis of 'consensus'. However, there is a very large gap between the formal system of governance and the informal realities of power politics. Behind the democratic façade, decisions are often made in informal bilateral meetings from which most developing countries are excluded. Developing country negotiators frequently complain about pressures brought to bear on them by industrialised countries, most recently on issues such as investment and services.⁵

Recent negotiations between the EU and the USA to reach a bilateral deal on agriculture, the EU's reckless attempts to drive through an investment agreement in the face of developing country opposition, and the refusal of the USA to place the interests of developing countries before those of the global pharmaceuticals industry on patents suggest that old habits persist. What is needed is a set of clear ground rules for ensuring that negotiations in Cancun are inclusive and transparent, and that any text is adopted by a real consensus.

2 Agricultural trade reform: ending dumping on the poor

The Doha commitment: *"We commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade distorting domestic support."*

The deadline for an agreed negotiating text: 31 March 2003

Current status: No agreement on any element of a text

The dumping problem

Some trade negotiators suffer from a short memory. Many developing countries agreed to the launch of a new trade round on the clear understanding that it would produce rules aimed at eliminating export subsidies. Pascal Lamy, the EU trade commissioner, has a different interpretation of the Doha declaration: "We cannot today say that we can eliminate export subsidies...our present level of reform doesn't allow us to say that we can do it." ⁶

These comments bear testimony to the lamentable state of agricultural reform – and to the prevalence of double-standards in world trade. Agricultural dumping by rich countries is a major cause of poverty in developing countries. In the absence of new rules to prohibit this practice, no 'development round' agreement will be worth the paper it is written on.

Three-quarters of all people surviving on less than \$1 a day in developing countries – a population of around 900 million – have one thing in common: they live and work as small-scale farmers in rural areas. Agricultural growth based on smallholder production is one of the most powerful forces for poverty reduction. It is also a vital source of foreign exchange for a large group of developing countries, often accounting for more than half of total export earnings. It follows that prices for agricultural goods have a fundamental bearing on rural poverty and economic growth prospects for a large group of countries.

Panel 1 Subsidising dumping: agricultural support in rich countries.

Figure 2
Farm subsidies and development assistance:
shares of Gross National Income (2001)

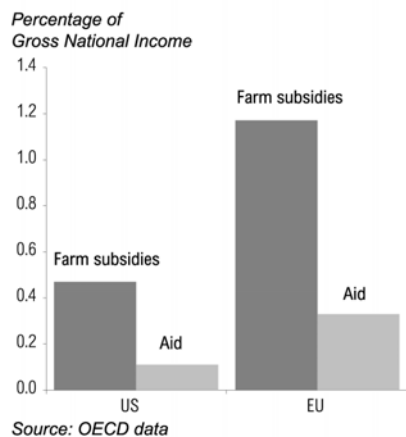
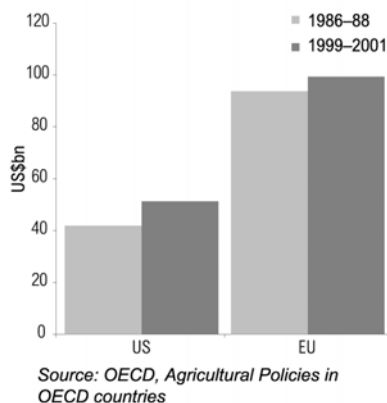


Figure 3
Agricultural support since the Uruguay Round:
US and EU Producer Support Estimates



Rich country agricultural subsidies systematically undermine market opportunities for smallholder farmers. The fundamental problem is this: each year, industrialised countries provide over \$1bn a day in support to agriculture – six times the amount they spend on aid (**Figure 2**). Aid to Africa, the world's poorest region, is worth about two week's worth of farm subsidy spending. To put the figures in context, the support provided to agricultural producers in rich countries is equivalent to more than the total income of the 1.2bn people in the world living on less than \$1 a day.

Support to agriculture in the North aimed at achieving legitimate social and environmental goals may be justified. The problem is that most Northern subsidies are provided in ways that support production, generating huge surpluses. Consumers and tax-payers pay the bill for the system that generates these surpluses, and then pay once again to subsidise their exports at prices that bear no relation to the costs of production. This cycle of over-production and export dumping undercuts developing country farmers in global and local markets, driving down household incomes in the process. Between them, the EU and the USA account for almost two-thirds of industrialised country farm subsidies. Having promised to cut agricultural support in the last round of world trade talks, both of the 'farm subsidy superpowers' have increased it (**Figure 3**).

The sugar policy of the EU is one of the worst cases of export dumping. Europe produces sugar at three times the price of more efficient countries, such as Malawi and Zambia. High tariffs and other

price-support measures keep competitors out. This creates production incentives that generate surpluses of seven million tonnes a year, making the EU the world's largest exporter – its exports are estimated to lower world prices by a fifth. They also push lower-cost producers out of regional markets. Meanwhile, restrictions on Mozambique's imports into the EU mean that the country loses almost \$100m a year – almost as much as the country receives in European aid.

Sugar is not an isolated case. Subsidised EU exports of dairy produce have caused serious problems for a group of countries. When India liberalised its dairy market in 1997, the country was promptly flooded with EU surpluses. Smallholder dairy farmers suffered serious losses. At the time, dairy subsidies in Europe were equivalent to over 40 per cent of the value of output.

The United States

US trade negotiators are vocal critics of the Common Agricultural Policy (CAP). They like to emphasise the benefits of open markets and 'level playing fields' in world agriculture. However, as in the EU, their trade policy rhetoric rests uneasily with the realities of agricultural policy.

Take the case of cotton. When it comes to harvesting subsidies, America's 25,000 cotton farms are first among equals. They receive over \$3bn a year in support. Because the USA is the world's largest cotton exporter, with over one third of the world market, that support has global market implications. According to the International Cotton Advisory Committee, these subsidies lower world prices by some 25 per cent. Farmers in Africa suffer the consequences.

Some 10–11 million farmers in West Africa alone depend on cotton as a major source of income; the crop is a major export earner for countries such as Mali, Burkina Faso, and Benin. Lower world prices associated directly with US subsidies cost the region around \$200m annually. Stated differently, US farm subsidies reduce the GDP of both Mali and Burkina Faso by around one per cent. Human costs for households are more difficult to capture. Lower world prices for cotton mean worsening nutrition, children being taken out of school, and an inability to meet health costs. For Benin alone the world price reduction associated with US subsidies is estimated to push around one quarter of a million people below the poverty line.

Dumping on Mexico

It is not just in export markets that developing country farmers face unfair competition. Their local markets are often flooded with cheap imports from rich countries, undermining production and reducing household incomes. IMF-World Bank import liberalisation programmes have helped to reinforce this unequal competition. In Africa, EU dumping of dairy produce and cereals has pushed farmers out of local markets and reinforced dependence on imports. But the problems are not confined to low-income countries.

Under the North America Free Trade Agreement (NAFTA), Mexico has been progressively liberalising imports of corn from the USA. The country is now the largest export market for US corn. Meanwhile, the domestic corn sector is in a state of acute crisis. Household incomes are in terminal decline and corn farmers are migrating in an effort to escape rural poverty. Nowhere is the crisis more acute than in the southern 'poverty-belt' state of Chiapas. There are around 250,000 households growing corn in the state, and three-quarters of them now live below the poverty line.

The US Department of Agriculture (USDA) points to the Mexican case as an illustration of the comparative advantage of US agriculture, and as a triumph of the open market. The reality is more prosaic. In 2000, USDA paid America's corn farmers \$10bn in subsidies – roughly ten times the total Mexican agricultural budget.

Oxfam estimates the implicit export subsidy used in dumping US surpluses in Mexico at between \$105m and \$145m. This figure is of the same magnitude as the *total* income of all of Chiapas' corn farmers. In other words Mexico's poorest farmers are competing not against corn farmers in the USA, but against the world's richest treasury – and that competition has only one possible outcome.

One of the supreme ironies in recent agricultural trade negotiations has been the US decision to file a case against Mexico, challenging the imposition of anti-dumping duties on rice imports from America.⁷ The Mexican government's actions were prompted in part by concerns over the problems faced by small-scale rice farmers in states such as Campeche and Veracruz, and by threats to the

livelihoods of the estimated three million people who work as labourers in the rice sector.

The USA has expressed outrage at the Mexican government's actions, claiming that it represents a violation of free market principle. As in other sectors, the facts tell a different story. According to the OECD, US government support to the American rice sector represented around one half of the value of output in 2001.

Who wins in the farm subsidy-fest?

As for protectionism in manufacturing, Northern governments often justify agricultural support by reference to the interests of poor populations in their own countries. The French minister of agriculture likes to present the CAP as part of a European 'social model'. In the USA, the Bush administration defends high levels of support by reference to the interests of small family farms.

Back in the real world, farm-subsidy systems are governed by a different principle: the bigger you are, the more you get. In 2001, the poorest 50 per cent of US farms received five per cent of government agricultural payments; the richest seven per cent accounted for half of total payments. In the EU, around five per cent of farms receive half of total CAP subsidies. Just 870 farms in Britain receive subsidy cheques in excess of €200,000, accounting for ten per cent of total payments. The reason for such skewed distribution patterns is that subsidies are linked to current output, or to land size and past production.

Oxfam has compared the distribution of farm subsidies in the EU and the USA with income distribution in Brazil, one of the world's most unequal countries, using the Gini coefficient.⁸ The results are instructive. The Gini coefficient for Brazil is .60, compared with .77 and .79 for EU and US subsidies respectively.

Farm subsidies generate windfall gains for assorted Texan cotton barons, large-scale cereals farmers in the Paris Basin, and East Anglian sugar producers. At risk of understatement, these are not plausible candidates for social welfare payments. Large sugar farms in Britain receive subsidy handouts of £60,000 (€86,057) each, and major corporate interests – such as British Sugar – also capture a large share of the benefit. In the USA, ten corporate cotton farms shared \$17m in 2001. Similarly, the major beneficiaries of the CAP in

France include some of its richest farmers, while one quarter of French farms receive nothing at all.

Corporate welfare for the rich farmers and agribusiness is financed by taxpayers and consumers. In the EU, they share the burden equally. The overall effect is that an average EU family pays over \$1000 to finance CAP payments. While most Europeans might support in principle the idea of payments geared towards goals such as rural poverty reduction and environmental sustainability, there is little support for the current system of welfare for the wealthy. What is needed is a transition to a system of support that combines a commitment to social equity and less intensive production at home, with a commitment to avoid damaging the livelihoods of poor farmers in developing countries.

Ways ahead: the Cancun challenge

There are two requirements for a successful outcome at Cancun. First, industrialised countries need to agree a clear – and short – time-frame for eliminating export subsidies. Second, they need to cut the production subsidies that generate surpluses and facilitate export dumping.

Prospects for achieving these goals are less than encouraging. Instead of grasping the opportunity to create a positive negotiating environment for Doha, the Bush administration's 2002 farm bill provides for an \$8bn a year increase in spending. It links agricultural support more closely to production than previous legislation, guaranteeing continued surplus production and export dumping.

Never to be outdone when it comes to irresponsibility in farm policy, the EU has followed the lead of the USA. Under the reform package adopted by EU member states in June 2003, overall spending on the CAP will be maintained at current levels – around €50bn – adjusted for inflation, representing almost half of the current EU budget. Proposals from the European Commission to set a ceiling on payments to farmers were diluted by member states, ruling out significant redistribution. Most worrying of all, the new CAP deal will have little impact on export dumping. The dairy and sugar sectors, which between them account for two-thirds of direct export subsidies, have been left largely untouched.

Whatever their differences in agricultural policy, the EU and the USA have colluded in one area: the weakening of WTO rules. Under existing arrangements (which were written by the EU and the USA), governments can provide an unlimited amount of support under programmes deemed to be 'decoupled' from production – the so-called 'Green Box' arrangement. Both agricultural superpowers have repackaged their subsidies to take advantage of this provision, with the result that around half of US support is now exempt from WTO rules.

Such arrangements are of more appeal to WTO trade lawyers than to farmers in developing countries. Multi-billion dollar payments directed towards crops in surplus clearly act as export subsidies – and they equally clearly reinforce unfair trade. Other measures also slip through the extensive loopholes in WTO rules. For example, the USA operates a \$7.7bn subsidised export-credit programme, and a food-aid programme that is distorted by commercial dumping objectives. Yet these are not treated for WTO purposes as export subsidies.

Developing countries are justifiably concerned that enforced import liberalisation in agriculture could have damaging implications for poverty and food security. Smallholder farmers in many countries are ill-equipped to cope with competition from imports, especially when prices are artificially lowered by subsidies. Under current conditions, market liberalisation is a potential prescription for the destruction of rural livelihoods, dependence on imports, and increased food insecurity. Unfortunately, both the USA and the EU see the WTO as a lever for opening agricultural markets overseas, while they retain subsidies at home.

The following are among the core requirements for an agreement on agriculture:

- **A prohibition on all forms of direct and indirect export dumping.** This should cover direct export subsidies, the export-subsidy component of direct payments, subsidised export credits, and food-aid programmes that facilitate commercial exports. The Cancun meeting should agree to a complete export-subsidy ban to be implemented within five years.
- **An early harvest on cotton and other products of interest to developing countries.** African governments have called for the Cancun meeting to agree priority action on cotton,

including a time-frame for phasing out all production subsidies and financial compensation in the interim period.⁹ That proposal should be adopted at Cancun.

- **New rules on domestic support.** Binding rules should be agreed for reducing all subsidies that have an effect on production and international trade. Subsidised products should not be exported.
- **Special treatment for developing countries.** Developing countries should not have to liberalise agricultural imports. There are good grounds to protect local agriculture in terms of long-run food security and poverty reduction efforts. This applies as much to middle-income developing countries as to low-income countries. The overarching objective should be to ensure that agricultural trade policies support wider rural development and poverty-reduction programmes. To this end, the WTO agreement should incorporate:

- a tariff-reduction formula that strongly differentiates between developed and developing countries, with no commitments on market access required from Least Developed Countries;

- provisions allowing developing countries to exclude specific products from liberalisation commitments and a safeguard mechanism to restrict market access in the event of import surges;

- measures to improve market access for developing countries, including duty- and quota-free provisions for low income countries, the reduction of tariff peaks and tariff escalation, and assistance to address supply-side constraints.

3 Patents and public health

Doha commitments on TRIPS: *We affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health, and in particular, to promote access to medicines for all.*

We recognise that WTO members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to General Council before the end of 2002.

The deadline for agreement: December 2002

Outcome: No agreement

Perhaps the most positive outcome of the Doha summit was the 'Declaration on TRIPS and Public Health', a clear affirmation by 142 governments that patients' rights should come before corporate patent rights. Developing country governments celebrated this as a landmark victory. It appeared that the USA and other industrialised countries which had resolutely defended the interests of their big pharmaceutical companies, had finally been forced by public pressure to reconsider their priorities. Regrettably, these countries have since failed to honour their Doha commitments, causing widespread frustration among developing countries and further fuelling criticism that the WTO is not serving the public good. More importantly, the broken promises are reducing the chances of treatment for the sick and dying in poor countries, and reinforcing the links between poverty and ill-health.

So what was the Doha promise? Firstly, ministers agreed that the least-developed countries (LDCs) could defer drug patenting until at least 2016, and so keep prices down by allowing generic competition. Unfortunately, these countries are subject to great political pressure from the USA not to use this exemption. Cambodia, for example, which will be the first LDC to join the WTO since its foundation in 1994, has been forced as part of the accession agreement to introduce patents in 2007.

Secondly, the Doha summit reaffirmed that any country could override a patent in the public interest (so-called compulsory licensing), and ask a generic manufacturer to produce at lower cost. This is important because even if a country does not wish to use compulsory licensing, the fact that it *can* is a vital bargaining chip when negotiating prices with the pharmaceutical giants such as Pfizer and GSK. Brazil has shown this by obtaining patented antiretrovirals for treating AIDS at reduced cost.

The political importance of the Doha Declaration in defending this policy option remains undiminished. The problem is that the USA has systematically sought to undermine the spirit of the Declaration. While conceding the principle of the right to override patents, it opposes any country exercising the option to issue compulsory licences. This is despite the fact that it threatened to issue compulsory licences when American lives were threatened by anthrax attacks. The USA is also seeking to circumvent any WTO agreement by reducing the scope for compulsory licensing using its bilateral and regional trade agreements. For example, its proposals for the Free Trade Area of the Americas (FTAA) agreement and the terms of its bilateral pacts with Chile and Singapore go further in defending corporate patent rights than WTO rules.

The third problem with the implementation of the Doha Declaration concerns the problem of supply and capacity. One of the problems with the TRIPS agreement is that developing countries are allowed to *buy* a cheaper generic version of a new medicine (either because they have issued a compulsory licence, or because they are LDCs who have opted not to grant patents on medicines), but no country with manufacturing capacity is allowed to *sell* it to them. This means that countries lacking an effective generic industry – a group that includes the vast majority of developing countries, notably in Africa – cannot easily access generic medicines. Resolving the problem requires simple rules that allow generic suppliers to export – and others to import – without having to go through complex legal processes that can be challenged at the WTO. Ministers set a deadline of the end of 2002 for agreeing the wording of an amendment that would end this deadly Catch-22. The deadline has not been met.

Instead, there has been intense pressure from the pharmaceutical lobby and industrialised countries, notably the USA, to restrict the scope of the proposed change and wrap it in so much red tape that it becomes largely unworkable. The current draft, which amends a clause of only 20 words, runs to eight whole pages. After facing more

than a year of rich-world intransigence, the developing countries were inclined to accept this draft as the least-bad outcome. The USA, however, at the behest of Pfizer and other companies, has been holding out for more. It wishes to limit the use of more flexible patent rules to treatments for major epidemic diseases, or to only the poorer countries. Fortunately, developing countries are standing firm on this.

If the USA does back down and the largely cosmetic deal goes through, both the EU and the USA will engage in a concerted spin exercise to convince the world that there has been significant change in the rules, and that the issue of patents and public health is now definitively off the agenda. However, the reality is that TRIPS rules, which extend the patent privileges of giant pharmaceutical countries throughout the developing world, will continue to drive up the price of vital medicines – a reality which no amount of spin can conceal.

WTO member states should revise the current draft amendment so that the restrictions on the export of generic medicines to poor countries are genuinely lifted. In the longer term, the WTO should grant developing countries greater freedom to decide if and when to introduce high levels of patent protection for medicines, in line with their public health needs. At the moment, all countries are obliged to grant drug patents for at least 20 years. The broader reform process should start with a deeper look at the public health impact of TRIPS, assisted by the World Health Organisation. Failure to take these steps will condemn millions of poor people to unnecessary sickness and suffering, and will deepen public questioning of how the powerful nations conduct their trade policies.

The following measures are vital if industrial countries are to live up to their commitments on public health and patents:

- The WTO should lift restrictions on the export of cheap generic versions of new drugs to developing countries, in line with Doha commitments.
- WTO patent rules should be reformed to give developing countries greater freedom to decide when to introduce high levels of patent protection for medicines, on the basis of their public health and development needs.
- Developing countries should ensure that their national patent laws take maximum advantage of the Doha Declaration

- The United States and giant pharmaceutical companies should stop pressurising developing countries to introduce (or keep) patent rules that go beyond the current TRIPS obligations.

4 Trade taxes on the poor

The Doha commitment: *To reduce, or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, as well as non-tariff barriers, in particular on products of export interest to developing countries.*

The deadline for an agreed negotiating text: 31 May 2003

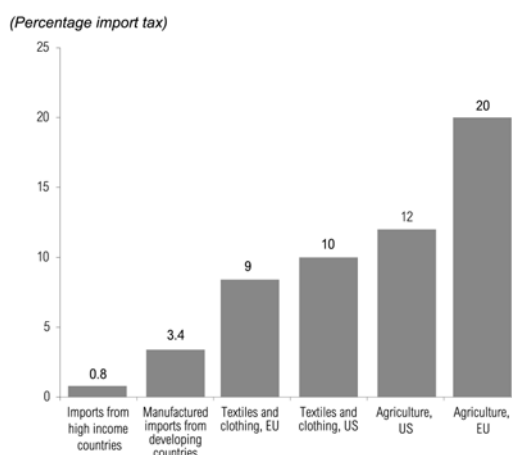
Current status: No text

Rich country tariffs: how to tax poor people

Most systems of taxation enshrine a simple principle of graduation: the more you earn, the more you pay. In international trade that principle is turned on its head. The world's poorest countries pay the highest taxes. Goods produced by the poorest people in those countries face the highest taxes of all. International trade is governed by a system of taxation based on perverse graduation: the less you earn, the more you pay.

Northern governments like to point to their low *average* tariffs as an example of their commitment to open markets. These averages now range between four and five per cent, falling to two to three per cent for manufactured goods. But averages conceal as much as they reveal, including the use of tariffs to discriminate systematically against products exported by poor countries.¹⁰

Fig 4.
Taxing the poor: patterns of protection in high-income countries (average tariffs)



Source: World Bank, IMF, World Trade Organisation, Commission of the European Union

Average tariffs applied by industrialised countries to developing countries are some four to five times higher than the tariff applied on trade between industrialised countries. The reason is straightforward: products in which developing countries have a competitive advantage are subject to the highest import taxes (**Figure 4**). For the most part, the products involved are labour intensive goods where export production has the greatest potential to reduce poverty.

Discrimination against poor countries is systematic. Poor countries account for less than one-third of rich country imports, but two-thirds of imports subject to tariff peaks, or duties of over 15 per cent.¹¹ In the USA and Canada, tariff peaks are concentrated in textiles and clothing, products of major interest to developing countries. In the EU, tariff peaks are concentrated in agriculture: there are 290 lines of agricultural goods subject to tariffs in excess of 15 per cent.¹² Many of the products involved, including meat, sugar, fruit and vegetables, and dairy products, are of special interest to developing countries.

Agricultural lobbies are particularly effective at securing protection. In the EU, powerful sugar interests were able to delay the liberalisation of imports for the world's poorest countries under the 'Everything but Arms' proposal. In the USA, the 2,000 catfish farmers of Mississippi have secured protective tariffs of over 60 per cent against imports from Vietnam, where half a million livelihoods are affected. Vietnam's trade 'crime' has been to export catfish to America at market prices that high-cost farmers in Mississippi cannot compete against. For its part, the EU has initiated an anti-dumping investigation against Chilean salmon exporters at the behest of producers in Britain and Ireland.

Few practitioners of non-tariff protectionism are more accomplished than the EU. The EU is also one of the world's most prolific users of anti-dumping investigations, with products from India the most frequently affected by anti-dumping duties.¹³ In the second half of the 1990s, the EU launched 53 anti-dumping investigations on garments alone, with more than 80 per cent targeted at developing countries.¹⁴ In many cases the high cost of contesting an anti-dumping investigation is enough to persuade developing country exporters to raise their prices – a fact that helps to explain why 40 per cent of EU anti-dumping investigations are terminated before their conclusion.

The less you earn, the more you pay

Tariff complexity hides a simple unifying feature of Northern government trade policy. The lower the incomes of producers seeking market entry, the higher the tax rate. If Northern governments applied the principles of their trade policies to domestic income tax, single mothers on low incomes would be facing average tax rates far in excess of those levied on corporate executives.

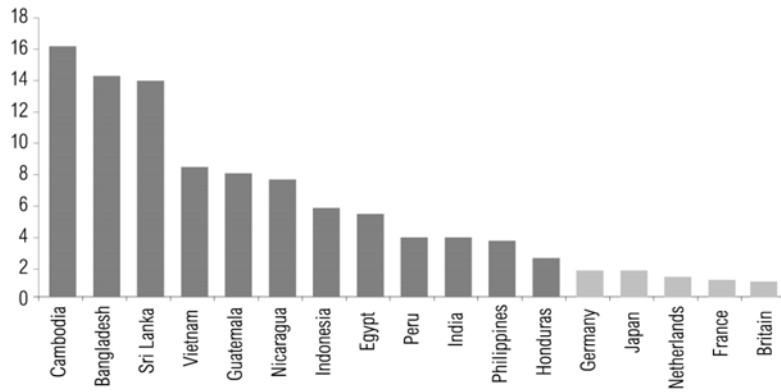
Patterns of customs revenue collection in industrialised countries confirm the spirit of perverse graduation that guides tariff policy. Oxfam has analysed US Department of Commerce data for 2001. By comparing the value of imports into the USA from individual countries with customs revenue collection from the same country, it is possible to develop a picture of the differential tax rate applied. The picture that emerges is one of profound inequity between rich and poor countries.

The overall import tax rate for the USA is 1.6 per cent¹⁵. That rate rises steeply for a large number of developing countries: average import taxes range from around four per cent for India and Peru, to seven per cent for Nicaragua, and as much as 14–15 per cent for Bangladesh, Cambodia, and Nepal (**Figure 5**). Rates far in excess of these averages are applied to specific product groups. For example, India's second largest export to the USA is garments – a sector facing an average tax rate of 19 per cent. By contrast, tax rates on the top three imports into the US from countries such as Britain, France, Japan, and Germany range from zero to one per cent.

There is a large disjuncture between the share of US imports accounted for by rich and poor countries, and the respective share of customs revenue. In broad terms, rich countries account for a share of revenue that is either much lower or broadly commensurate with import share (**Figures 6 and 7**).

Panel 2.
Trade taxes on the poor

Fig 5.
Effective tax rates on imports into the US*: selected countries (2002)
(Percentage tax rate)



*Refers to value of imports divided by value of customs receipts.

Fig 6.
Share of US imports and customs revenue:
selected countries (2001)
(Percentage share)

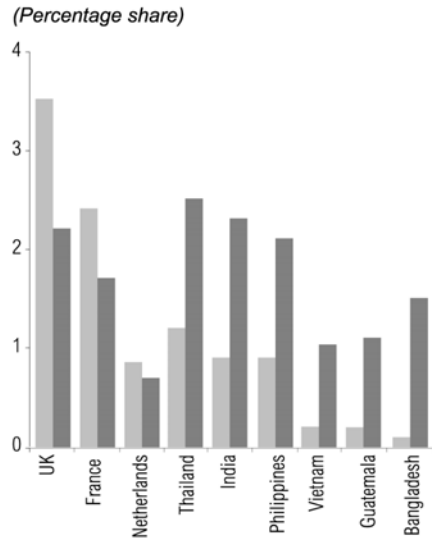
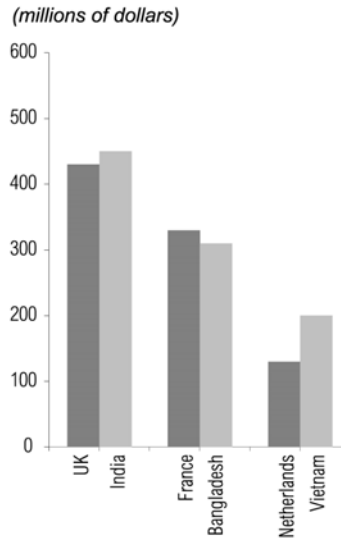


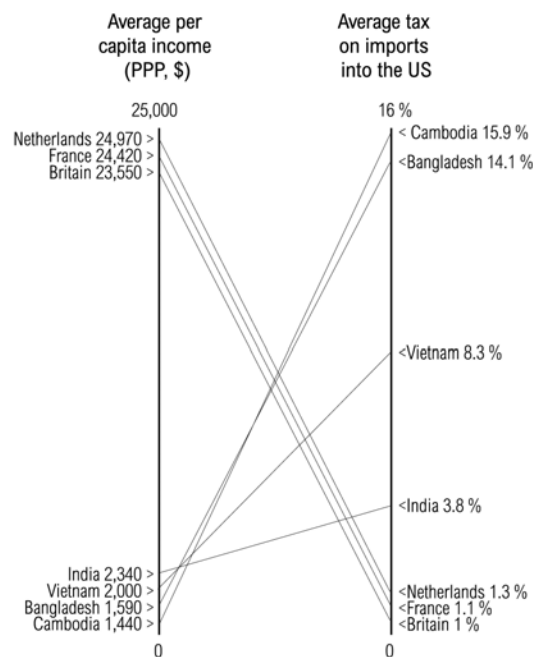
Fig 7.
Value of customs receipts in the US,
selected countries, US\$m



Source: Derived from US Department of Commerce data

For many poor countries there is an inverse correlation, with revenue share far outweighing import share. Countries with very low average incomes face among the highest import tax rates (**Figure 8**).

Fig 8.
Perverse Tax Graduation US style.



Source: World Bank, World Development Indicators (2002),
Oxfam estimates from US Department of Commerce data.

Some of the key findings of Oxfam's research can be illustrated by comparisons between specific rich and poor countries:

- Bangladesh and France** Bangladesh has an average per capita income of \$1602, compared with more than \$24,000 in France. Around 41 million people in Bangladesh live below the poverty line. Yet the tax rate applied to imports from Bangladesh is 14 per cent, against one per cent for France. The \$301m in trade taxes paid by Bangladesh in the USA is only marginally lower than that paid by France, even though Bangladesh accounts for only 0.1 per cent of US imports. France accounts for 2.4 per cent.
- Britain and India** Average income in Britain is ten times higher than in India. Around one-third of India's population lives below the poverty line. But the tax rate for British goods entering the USA is one per cent, or one fifth of that applied to India. Perverse

tax graduation helps to explain why India pays more in customs revenue on goods entering the USA than Britain does, even though Britain accounts for a four times larger share of US imports.

- **Vietnam and the Netherlands** Vietnam ranks 109th on the UNDP's Human Development Index, 101 places lower than the Netherlands. Average per capita income is less than \$2000 a year, compared with \$25, 657 for the Netherlands. Yet the average tax rate on Vietnamese goods entering the USA is eight per cent. The comparable figure for the Netherlands is one per cent. The result is that Vietnam pays more in customs duties on goods entering the USA than does the Netherlands, which exports four times as much by value.

Difficulties in data collection make direct comparison with the USA problematic. However, the available evidence suggests that the EU's Common External Tariff (CET) is fundamentally anti-poor. Here too the principle of perverse graduation applies. In Britain, tax rates on imports of goods from India are around four times higher than for the USA, rising to over eight times higher for countries such as Sri Lanka and Uruguay. India accounts for less than one per cent of the value of imports into Britain, but over three per cent of the value of British customs receipts.

While Northern governments have a distinctive comparative advantage in the production of pro-poor trade rhetoric, their track record tells a different story. The one million Bangladeshi women living in the slums of Dhaka and producing shirts for export to the USA face trade taxes more than 20 times higher than those imposed on goods exported by French or British engineers. In India, the 35 million workers in the garment industry are producing goods subject to a tax of 20 per cent in the USA. Meanwhile, the country's 10 million shoe workers, many of them from low caste groups facing high levels of poverty, are subjected to taxes of 10 per cent in the EU, rising to double this level for some product lines.

The overall effect of discriminatory tariff systems is to lower demand for goods produced by the poor, and to exclude them from a stake in global prosperity. Reduced to their essence, Northern tariff structures are designed to undermine developing country exports in precisely those areas where they have a comparative advantage.

The Multifibre Arrangement (MFA)

For many developing countries a litmus test for the success or failure of the 'development round' will be the treatment of textiles and garments. Export opportunities in this sector are constrained by quotas, high tariffs, and a range of non-tariff barriers.

This sector is an important source of foreign exchange earnings for many countries. It is also a major source of employment, notably for women workers. Dependence on textiles and garments is especially marked in South Asia. In India, the sector accounts for about four per cent of GDP and one quarter of merchandise exports, rising to 80 per cent of export earnings for Bangladesh.

On one estimate, the combined effect of rich country tariffs and quotas on textiles and garments costs developing countries export revenue losses of about \$40bn. India alone loses almost \$10bn. Financial losses are paralleled by losses of employment. Rich country protectionism in garments is estimated to cost developing countries 27m jobs, many of which would be taken by women living below the poverty line.¹⁶

One of the major achievements of the Uruguay round of trade talks was the Agreement on Textiles and Clothing (ATC) – or so it seemed at the time. Under the ATC, industrialised countries agreed to phase out import quotas over a ten-year period ending at the beginning of 2005. They have diligently stuck to the letter of the agreement, while comprehensively violating its spirit.

At the start of the final phase of the ATC in 2002, over half of all quotas should have been eliminated. In the event, the USA had removed just 10 per cent of the quotas in place at the start of the ATC, Canada had removed 20 per cent, and the EU 27 per cent.¹⁷ In each case, governments avoided real change by 'liberalising' goods that had not previously been subject to quota restraints, and by delaying the removal of existing quotas – a practice known as 'back-loading'. None of the products integrated into the ATC by the EU and the USA in the first stage were covered by import constraints. Moreover, there has been a huge bias towards the liberalisation of low value-added items such as yarns, rather than clothing¹⁸.

The removal of the MFA will hurt some developing countries. Some countries that have benefited from quotas – such as Bangladesh and Sri Lanka – will lose out. International assistance, compensation, and support for active industrial policies to adjust to competition will be vital for these countries.

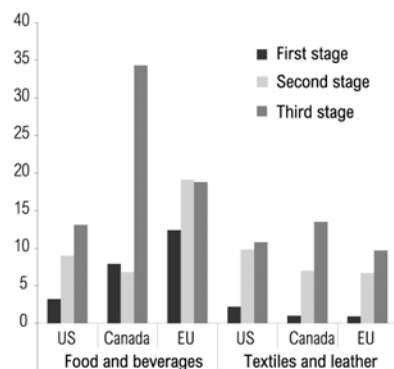
Tariff escalation

One of the most pernicious protectionist practices in rich countries is that of tariff escalation, or duties that rise with processing. Low tariffs on unprocessed goods encourage exports of low value-added raw materials, while higher tariffs on processed goods deter investment in higher value-added export industries. This makes it more difficult for developing countries to climb the technology ladder and diversify their exports. The net effect is that value generated through trade is transferred from poor to rich countries.

Panel 3.

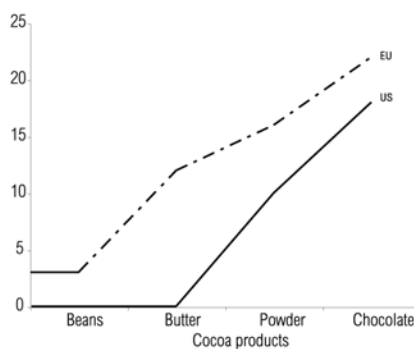
The tax escalation for the poor.

Fig 9.
Tariff escalation in industrialised countries:
selected products (2001)



Source: World Trade Organisation data

Fig 10.
Tariff escalation in cocoa:
the US and the EU (2002)



Source: European Commission, US Department of Commerce data

While patterns of protection vary, all industrial countries practice tariff escalation (**Figure 9**). In Canada, the tariff on fully processed foodstuffs is twelve times higher than for products in the first stage. In the manufacturing sector, escalation is particularly steep for labour intensive goods. The EU imposes a tariff of less than four per cent on Indian yarn. But if that yarn is worked into garments, the tariff rises to 14 per cent. This practice systematically excludes Indian producers from higher growth, higher value-added segments of the market.

Tariff escalation is especially damaging in primary commodity markets. There are two reasons for this. First, value in these markets is increasingly added through processing, with exporters of primary products getting a fast diminishing share of final market value.

Second, there is an urgent need for the poorest developing countries in particular to diversify out of primary commodities. Of course, tariff escalation is only part of the problem – but it is a serious part.

Cocoa markets demonstrate tariff escalation in operation. Exporters of cocoa to the EU and USA typically face tariffs of zero per cent on raw beans, rising to over 15 per cent if they process beans into paste and chocolate (see **Figure 10**). Such arrangements help to explain why Germany processes more cocoa than Cote d'Ivoire, the world's largest producer; and why Britain grinds more cocoa than Ghana. Developing countries account for more than 90 per cent of cocoa bean production, less than half of cocoa butter production, and less than five per cent of world chocolate production.

Taxing poor people in rich countries

Northern governments and protectionist lobbies sometimes seek to rationalise such policies by reference to the interests of vulnerable groups at home. In fact, high levels of protection on labour intensive goods are also bad for a significant group of poor people in rich countries.

Import tariffs in rich countries tend to be highest on goods that are important to the poor, and increases their costs. Research in the USA has shown that import tariffs are the only major tax in which effective rates rise as incomes fall. Import taxes on clothing and shoes add 1.2 per cent to the tax rate of America's 9.7 million single-mother families, or some \$308 a year.¹⁹ That is more than double the rate for high-income families. Higher tariffs are levied on goods consumed disproportionately by the poor (such as cotton and synthetic shirts and cheap shoes).

Protectionist lobbies often argue that protectionism is good for employment. In the USA, South Carolina textile magnates have been particularly effective in using this claim to defend restriction on imports from India and Bangladesh. Similar arguments are heard in the EU and Canada. In fact, the case for using import protection to preserve low-wage, low-skill employment is weak on at least three counts. First, it does not work: despite high levels of protection, employment in the labour-intensive garment and shoe sectors of the USA has fallen by half over the past decade. Second, import liberalisation can create new employment opportunities. The US International Trade Commission (ITC) estimates that liberalisation in

textiles and garments would increase overall economic welfare by some \$13bn. Third, it is far more effective to address the problems of low pay and low skills faced by workers in vulnerable industries through industrial policy, skills training programmes, and social welfare, than through import barriers.

Stated differently, hurting vulnerable women garment workers in South Asia is not an efficient way of tackling poverty among vulnerable women workers in South Carolina. Best estimates suggest that every job saved through import barriers in industrialised countries costs around 35 jobs in developing countries.²⁰

Market access and development: the challenges for Cancun and beyond

In order for the Doha round to become a genuine development round, the Cancun ministerial meeting has to set clear targets for reducing tariff peaks and tariff escalation in industrial countries. It also has to take into account the special problems and issues raised by import liberalisation in developing countries.

Tariff policies in developing countries differ from those in industrialised countries in a number of respects. On average, applied tariffs are much higher in developing countries. They range from a mean level of 17 per cent in Africa to over 30 per cent in India. There are several reasons for this discrepancy. One factor is that, in addition to protecting local industries, tariffs are often a major source of tax revenue. IMF data indicate that least developed countries (LDCs) in Africa raise one third of government revenue through import duties. For non-LDCs in South Asia and Central America, the share is in excess of 10 per cent.

Applying deeper tariff cuts to higher import duties will impose a disproportionate burden on developing countries, raising the danger of mass unemployment and economic dislocation. What is needed at Cancun is a formula-based approach that balances the respective needs and capacities of developed and developing countries. The overall agreement should include the following commitments:

- **‘Less than full reciprocity’** Developing countries should not be expected to take on the same import liberalisation

commitments as developed countries. Developed countries should agree to deeper tariff cuts than developing countries, recognising that liberalisation from higher tariff levels implies greater adjustment costs. India has proposed a formula under which rich countries would cut tariffs by half, and developing countries by one third.

- **Industrial country tariffs** Average industrial country tariffs on developing country imports should be no higher than for developed countries. Low-income developing countries should be provided with tariff-free and quota-free access to industrial country markets.
- **Products of special interest to developing countries.** Labour intensive goods of special interest to developing countries – such as textiles and clothing, leather, and footwear – should be subject to low tariff bindings.
- **Textiles and garments** Developed countries should honour in full their commitments to phase out the MFA and agree to make the transition to a 5 per cent tariff ceiling on textile and garment imports by 2005.

5 Foreign investment and the WTO

The Doha Commitment: *“It is clearly understood that future negotiations, **if any** ... will take place only after an **explicit consensus decision** is taken among WTO members”* (emphasis added).

The background

Foreign direct investment (FDI) has the potential to play a critical role in development. Good quality foreign investment can transfer capital, skills, and technology – and it can facilitate entry to export markets through transnational companies. Developing country governments themselves recognise the importance of investment. Research by UNCTAD has shown that more than 1,300 regulatory changes were introduced under domestic foreign investment regulation reforms in the 1990s, of which 95 per cent were aimed at creating a more favourable environment.²¹ The important question in the context of the Doha development round is whether or not a WTO agreement would help to promote flows of good quality foreign investment, especially to countries currently being bypassed.

The driving forces for an investment agreement at the WTO have been the EU and Japan. Under their proposed framework, developing countries would be required to remove all forms of discrimination favouring domestic over foreign investors. Governments would be prohibited from restricting profit transfers, limiting ownership rights, or from imposing rules requiring that foreign investors transfer technology and skills or purchase inputs locally. Tax incentives discriminating in favour of local companies could also be ruled out.

European negotiators maintain that their actions are motivated by a concern to help developing countries. They insist that that a WTO framework would help to create investor confidence through a transparent and legally binding arrangement.²² Such claims are in spite of the evidence to the contrary. One study has looked in detail at bilateral investment flows between OECD countries and thirty-one developing countries. It found no correlation between investment treaties and an ability to attract FDI.²³ As the World Bank puts it:

'Merely creating new protections does not seem to be strongly associated with increased investment flows ... The overall additional stimulus of multilateral rules that apply to new investment over and above unilateral reforms would probably be small – and virtually non-existent for low-income developing countries.'²⁴

Such findings are hardly surprising. National policies and institutions are far more important determinants of investment than WTO rules. More generally, improved access to Northern markets is likely to create a far more powerful stimulus to investment – domestic and foreign – than a WTO agreement.

EU efforts to use the 'development round' as a platform for liberalising investment are built on the General Agreement on Trade in Services (GATS) negotiated in the Uruguay Round. The GATS covers all forms of services from banking to environmental services²⁵. The agreement stipulates that all service providers have to be treated on an equal basis under the Most Favoured Nation (MFN) and national treatment rules. Governments are required to prove that any restraint on service provision by a foreign company does not result in 'unnecessary barriers to trade'. The GATS also includes restrictions on subsidies to prevent 'distortive effects', and an explicit commitment to 'successive rounds of liberalisation ... with a view to achieving a progressively higher degree of liberalisation'.

Corporate lobby groups played a critical role in brokering the GATS agreement – and are heavily involved in attempts to deepen it. These range from financial conglomerates such as Goldman Sachs, American Express, and Barclays Bank, to British Telecommunications and DHL.²⁶ Many of the same companies are strong backers of EU efforts to force through an investment agreement.

The EU defends itself against claims that GATS is anti-development by pointing to what it regards as escape clauses. The agreement also includes a provision allowing countries to exempt certain sectors, or specified forms of regulation, from its liberalisation commitment. It also adopts a 'positive list' approach: in theory, governments can submit requests for liberalisation and make offers to liberalise on a voluntary basis.

The narrowly legalistic interpretation of the GATS agreement offered by the EU overlooks the *realpolitik* of WTO negotiations. Three

specific problems in this area are of direct relevance to the negotiations on investment:

- **‘Locking in’ liberalisation** Even if the agreement does not force privatisation, it does have the potential to lock-in reforms, reducing the policy space available for future governments. Any government wanting to reverse a liberalisation measure will have to pay compensation, give three-years notice, and secure the agreement of all WTO members.
- **Aggressive requests** The EU claims that developing countries can opt-in or opt-out of negotiations on a sector-by-sector basis. In theory, that is true. In practice, the EU has used its formidable negotiating power to make excessive demands on weaker partners. Research by the World Development Movement (WDM) has analysed in detail EU negotiating requests to 94 developing or transition economies. The demands tabled range from market liberalisation in Indian banking, Kenyan telecommunications, and Colombian financial services, to the outlawing of rules restricting profit repatriation in Brazil and Chile, and water utilities in Bolivia and Honduras.²⁷ No EU request has been accompanied by an assessment of the implications for poverty or, alarmingly in view of recent experience, financial stability.
- **Regulatory costs** Effective liberalisation requires effective regulation to ensure that market failures are addressed, monopolistic abuse is avoided, and social objectives – such as universal coverage – are achieved. Such regulation requires developed institutions and may involve major costs. One study on Dominica estimated the basic costs of establishing an effective telecom regulatory body at around five per cent of the total national budget.²⁸ No attempt has been made to assess overall costs of GATS-style liberalisation, or to mobilise funds for development in these areas.

Far from creating a supportive environment for good quality foreign investment, the type of WTO agreement enshrined in GATS and now advocated by the EU for investment could prohibit policies that could support such investment. Successful governments in East Asia and elsewhere imposed a wide range of controls on foreign investors, primarily with a view to building local capacity, transferring skills and

technology, and increasing value added to local products. For example, foreign direct investment has played an important role in the development of the manufacturing sector in Mauritius. Tax incentives were provided. However, the entry of foreign investors was screened by government in order to direct flows into priority areas such as tourism and banking. At the same time, government regulations and incentives limited foreign ownership and created strong links between export processing zones and firms in the domestic economy. Similarly, governments in Taiwan and South Korea placed limits on foreign ownership, and obligations on foreign investors to transfer skills and technology and purchase inputs from local firms. These policies would be ruled out by the type of WTO investment agreement envisaged by the EU, and implied in the GATS.

The last straw

The EU's reckless pursuit of a WTO investment agreement poses threats to the Doha round, and, by extension, to the wider multilateral system. There are five main threats:

Undermining the principles of institutional democracy in the WTO Under the Ministerial Declaration there is a requirement that negotiations will only take place following an explicit consensus. The vast majority of developing countries has made it clear that they do not want to enter negotiations, especially on the terms sought by the EU. The EU's trade commissioner, Pascal Lamy, is clearly entitled to his view that a WTO agreement would be good for developing countries. But the governments elected by the citizens of these countries to represent them at the WTO take a different view – and the EU should be using its negotiating power to impose its will.

Signing a blank cheque The EU and Japan are pressing developing countries to agree to a deadline for negotiations on investment without prior agreement of the scope and content of those negotiations. Developing countries rightly see this demand as the thin end of a wedge that opens the door to wide ranging discussions covering all forms of capital flow.

Overloading the agenda The Doha agenda is already overcrowded. Adding complex negotiations on investment to that agenda would be in all probability the straw that broke the WTO camel's back. Given that Doha is supposed to be a 'development round' it

surely makes sense to aim to deliver tangible development outcomes, rather than to accommodate the interests of powerful transnational companies in an investment agreement.

Producing an unbalanced agreement By definition, any agreement to open markets for investment will be unbalanced: rich countries overwhelmingly dominate investment flows. Extending WTO rules on investment will create new opportunities for corporate investors based in rich countries, while restricting the policy options for governments in developing countries. Such an outcome would be inherently unbalanced, and deeply damaging for the WTO's legitimacy.

Promoting corporate irresponsibility The EU's preoccupation with rolling back governments' rights has deflected attention from one of the most critical issues in international trade: corporate responsibility. The proposal would do nothing to enhance corporate governance by requiring greater transparency and accountability. This is woefully inadequate, considered in the light of the scandals that have engulfed the corporate world in recent years. From Enron to World Com and Ahold, court cases involving allegations of fraud, money laundering, and tax evasion have highlighted the need for enhanced regulation. If global agreements are needed, then an obvious starting point is in the development of global institutional responses to the abuse of corporate power.

The challenge for Cancun

The right to regulate foreign investment is a basic requirement for anti-poverty development policies. This is why the principle of non-discrimination is inappropriate, and why the WTO is the wrong institution to oversee investment.

The following should form the core of an alternative 'development round' agenda on foreign investment:

- The investment negotiations should be dropped, as should the other new issues (competition, procurement, and trade facilitation).
- Existing OECD Guidelines for Multinational Enterprises should be strengthened. Much tougher standards are needed for the

disclosure of information and financial reporting by transnational companies, including an obligation to make public disclosures of all payments made to governments.

- Existing WTO rules on investment should be reformed to allow the imposition of export and local content requirements on foreign investors.
- There should be a moratorium on the GATS negotiations until the implications of the agreement for development are properly assessed.

Conclusion

Trade has the potential to play an important role in contributing to the achievement of the Millennium Development Goals. The Doha 'development round' provides an opportunity to unlock that potential.

By practising at home the open market principles that they preach abroad, rich countries could start to forge a new, more equitable pattern of globalisation. But it is equally important that the 'development round' is not used to further advance the deeply unequal system of trade rules formulated during the Uruguay Round. The scale of the challenge can hardly be over-stated. If they are to make trade work for the poor, rich countries will need to confront powerful domestic lobbies at home, and to adopt radically new approaches to the WTO.

Political leadership and vision will be required if the Doha round is to succeed. But the alternatives are stark. Failure would have devastating consequences for multilateralism. It would also perpetuate what is a fundamentally unsustainable pattern of globalisation based on prosperity for the few, and poverty for the many. That is in nobody's interest.

Notes

¹ WTO Annual Report 2003, p. 8.

² This figure is for Sub-Saharan Africa excluding South Africa.

³ Excluding Mexico, Latin America accounted for three per cent of world exports in 2001, the same as in 1990. Mexico accounted for a further 2.6 per cent of world exports in 2001.

⁴ WTO, 'Overview of Developments in the International Trading Environment', Mimeo, November 2002.

⁵ See the extensively documented accounts in Kwa A, *Power Politics in the WTO* (2003), Bangkok: Focus on the Global South.

⁶ Quoted in 'Inside US Trade', August 1, 2003.

⁷ The US case was filed at the WTO in June 2003.

⁸ The Gini coefficient measures inequality on a scale from zero to one, with higher figures representing higher levels of inequality.

⁹ WTO, 'Poverty Reduction: Sectoral Initiative in Favour of Cotton', submission by Burkina Faso and other countries, June 2002 (TN/AG/Gen/4).

¹⁰ Industrial countries operate a very wide tariff range. On average, the highest tariffs for OECD countries are forty times the mean tariff (compared with twelve times for developing countries).

¹¹ Hoekman B et al, *Eliminating excessive tariffs on exports of least developed countries*, Mimeo, World Bank, Washington.

¹² C. Stevens and J. Kennan, 'How Far Will Doha Reduce Tariff Peaks?' Mimeo., Institute for Development Studies, Sussex University.

¹³ *Ibid.*

¹⁴ WTO, 'Anti-dumping Actions in the Area of Textiles and Clothing', communication from Costa Rica and other countries, 14 July 2003.

¹⁵ This tax rate is derived by comparing the value of imports with the value of customs duties collected.

¹⁶ IMF–World Bank, 'Market Access for Developing Country Exports', Paper prepared by staffs, August 27, 2002.

¹⁷ International Textile and Clothing Bureau, 'Implementation Issues and Concerns: The Agreement on Textiles and Clothing, Examination of Proposals', 2002.

¹⁸ Clothing accounts for less than 10 per cent of the products integrated by the EU and the USA over the three phases of the ATC. World Trade Organisation Annual Report 2003, Geneva, p. 19.

¹⁹ E. Gresser, 'Toughest on the Poor', Policy Report, Progressive Policy Institute, , September 2002.

²⁰ IMF–World Bank, ‘Market Access for Developing Country Exports’, Paper prepared by staffs, August 27, 2002.

²¹ UNCTAD (2002), World Investment Report, Geneva..

²² UK government (2003), ‘Doha Development Round – Investment and Competition’, London: DFID.

²³ World Bank (2003), ‘Global Economic Prospects’..

²⁴ *ibid.* p. 133.

²⁵ R. Adlung *et al.* (2002) ‘The GATS: key features’, in B. Hoekman, A. Mattoo and P. English, *Development, Trade and the WTO: a Handbook*, World Bank.

²⁶ There are a number of corporate groupings actively involved in lobbying on GATS. These include the European Services Forum, the high-level LOTIS group, chaired by former EU trade commissioner and now vice-chairman of UBS Warburg, Leon Brittain, the US-based Coalition of Service Industries, and International Financial Services. For a detailed account of corporate lobbying activity see E. Wesselius, ‘Liberalisation of Trade in Services: Corporate Power at Work’, available at: www.gatswatch.org/LOTIS/LOTIS.html

²⁷ World Development Movement (2003), ‘Whose Development Agenda? An Analysis of the European Union’s GATS Requests of Developing Countries’, London: WDM.

²⁸ A. Mattoo, ‘Liberalising Trade in Services’, Mimeo., World Bank, available at: www.worldbank.org/trade

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