

Danish 92 Group's report from WTO's 5th Ministerial Conference in Cancun, 10-14 September 2003

Commentators had described the occasion as a "once-in-a-generation opportunity" in international trade negotiations. Although we knew it would be difficult, we nevertheless had some expectations that the gathering in Cancun would produce progress for sustainable development. However, our hopes were shattered, and the historical opportunity was thrown away on a worldwide scale.

The conference was meant to take decisions enabling a finalisation of the Doha Round according to plan, i.e. before 1 January 2005. The outcome was diametrically opposed: completing the round about on time is no longer realistic, it is almost unthinkable.

A kind of meltdown took place at the core of negotiations about 24 hours before the conference was scheduled to close. Soon after, everything was chaos, as negotiators scrambled into the press centre to present their versions of the breakdown. The 'blame game' had begun.

The disorderly close-down has set back the Doha round of negotiations by far. It is uncertain how and when the talks may resume, and whether some of the papers presented on the occasion of the 5th Ministerial Conference will have any status at all in future negotiations. Perhaps the countries are further apart than ever.

After the breakdown, a brief declaration was passed, about half a letter-sized page, whose most important point is that a top-level meeting of the WTO's General Council is to be held by 15 December 2003.

In brief terms, it is our view that the EU bears a great deal of responsibility for this failure. The EU tabled maximalist demands to developing countries, among them a start to negotiations on investment and three other issues, while the EU itself was in fact unwilling to make significant concessions on agriculture.

Below follows a more detailed report on the course of negotiations, the most important questions addressed, and our own efforts as Danish NGO representatives at the conference. Section 6 contains proposals for the Danish 92 Group's work ahead.

The report has been written by the 92 Group's participants in Cancun, namely Pia Olsen, Morten Emil Hansen, Hans Peter Dejgaard, Janice Goodson Førde and John Nordbo.

1. The course of negotiations

Prior to the conference, the chairman of the WTO's General Council, Mr. Castillo, had drawn up a draft ministerial declaration. This came about upon the basis of rather intense negotiations in Geneva, and it gave an idea of what the countries might agree on. The Castillo paper particularly

raised the prospect of the ministerial conference taking decision in four areas: agriculture (both subsidies and tariffs); non-agricultural produce (particularly tariffs); special and differential treatment of developing countries (specifying existing provisions); and the four so-called Singapore issues (investment, competition, transparency in government procurement and trade facilitation), for which it was to be decided whether to initiate actual negotiations on new agreements as part of the Doha Round.

In the run-up to the conference, the Castillo paper was criticised for a lack of balance. This applied particularly to the section on agriculture, in which 70% of the text came from a proposal presented by the EU and the USA. A group of developing countries, in Cancun called the G20, tabled their own proposal for a text on agriculture.

No formal decision was taken to build conference negotiations upon the Castillo paper, but there can be little doubt that this is in fact what happened.

The negotiations as such at the 5th Ministerial Conference went through three stages:

Initial round (10 and 11 September)

After the opening of the conference and until the 13 September, the plenary debate took place. This consisted primarily of ministerial speeches, of which none is likely to pass into history (the Danish one was not, by the way, the worst, but nor was it exactly brimming with initiatives).

In parallel with the plenary debate, negotiations were conducted within five working groups, each led by a 'friend of the chair'. In the working groups, the countries largely signalled their points of dissatisfaction with the Castillo paper. From the outset, daily meetings were held at the level of heads of delegation, at which the progress in negotiations was reported.

Middle round: the Derbez paper (12 and 13 September)

The friends of the chair heading the working groups delivered their inputs to the conference chairman, Mexico's Minister of Foreign Affairs, Mr. Ernesto Derbez, who finally, on 13 September, presented a new combined proposal for ministerial declaration.

As it appears from our assessment in the present report's Appendix A, the Danish 92 Group was not impressed by the contents of the Derbez paper. It failed to make any breakthrough on agriculture, and it entailed the launch of negotiations on three of the four Singapore issues. All in all, it represented considerable deference to the viewpoints of rich countries, especially of the EU and Japan.

On 13 September, a drawn-out meeting was held among the heads of delegation, many of whom opposed the Derbez paper. The USA was relatively satisfied, whereas the EU was hungry for more, still demanding the incorporation of all four Singapore issues into the Doha Round.

The finale: breakdown (14 September)

On Sunday, negotiations went ahead in the Green Room on the text, i.e. actually only on the Singapore issues. The vast majority of representatives from developing countries were against

raising these issues as part of the Doha Round, and only towards the end did the EU start to hint at some willingness to compromise. Then Korea insisted that negotiations were to begin on all four new issues. Conversely, the African developing countries insisted, appointing Kenya to represent them, that none of the four issues were to be addressed in negotiations. In this situation, foreign minister Derbez chose to note that no consensus was possible, after which he halted all further talks. Negotiations had already broken down on Sunday afternoon, while many delegates had expected them to last into the night before Monday.

A final plenary session was held, issuing a brief declaration that everyone stood by the decisions taken in Doha.

2. Democracy throughout the process

Preparations for the ministerial conference were marred by a lack of democratic process. An important part of preceding negotiations took place behind closed doors at the so-called mini-ministerial meetings, at which a mere handful of developing countries had been invited. In the area of agriculture, the EU and USA managed to set the agenda through their joint proposal, which subsequently left a decisive mark on (chairman of the WTO General Council) Ambassador Castillo's draft ministerial declaration, whereas the proposal of developing countries did not get this degree of influence.

Although negotiations began, in the first few days, according to relatively democratic principles, as all countries had an opportunity to attend, the actual balance of power was still very unevenly distributed between rich and poor countries. Small African nations like Rwanda, Burundi, Gambia and Mauritania had three representatives in their official delegations. Since the talks took place in five working groups, the smaller African countries were prevented from following all the negotiations.

In comparison, the US delegation had 650 staff members, among them 262 accredited negotiators. The 15 EU countries' official delegations reached 621 persons, among them 96 negotiators from the EU Commission. In third place was Japan with 235 accredited negotiators.

The rich countries did not refrain from flexing their economic muscles in Cancun. For instance, it was reported that the US was offering the Central American countries tariff privileges in exchange for leaving the group of developing countries (G20) which stuck together in demanding far-reaching decisions on agriculture.

The final negotiations took place in the so-called Green Room, where the main actors were placed together to work out a compromise. At this stage, a number of developing countries were no longer directly attending the negotiations, but, according to the South African Minister of Trade, Mr. Alec Erwin, the African nations had established a working group which remained in close contact with the least-developed countries, among others.

The cooperation among African and least-developed countries enabled the poor nations to count on technical expertise at a much higher level than previously. Other developing countries were assisted in the negotiations by, for instance, the South Centre and Oxfam, which improved their negotiating

position. In general, it can be ascertained that the developing countries were better prepared than ever, having drawn up numerous specific proposals, and following the course of negotiations in a constructive and committed manner.

3. Important areas of negotiation

Agriculture

The main issue in Cancun was agriculture. Through their joint proposition, the EU and USA had clearly drawn the battle lines. The reaction was prompt, giving rise to the G20. This group of developing countries with a special interest in liberalising the trade in agriculture, including Brazil, China, India and South Africa, prepared their case at the negotiations. This prevented the EU and USA from playing the developing countries off against each other. In fact, the G20 remains in existence after the ministerial conference.

The EU and USA offered a small reduction in domestic production subsidies, a partial abolition of export subsidies, an insistence on maintaining 'the green box' (which, in principle, encompasses non-trade-distorting subsidies), and some lowering of tariffs.

As for the production subsidies in the so-called 'blue box', the EU and USA suggested a 5% reduction. This aim had already been written into the mid-term reform of the EU's common agricultural policy, i.e. it would not require further steps to be taken by the EU.

As for the export subsidies, the EU and USA espoused a phase-out for produce of special interest to developing countries, though without further specifying what kind of produce would be included in this category. All in all, it was a package requiring a small effort from the EU and USA, but no major overhaul of their present agricultural policy.

In the opposite corner stood the G20, who suggested a total phase-out of export subsidies, long-term phase-out of direct and indirect production subsidies, major cuts in the rich countries' tariffs, discontinuation of the peace clause, combined with greater protection of developing countries' markets.

It was clearly the wishes of the EU and USA that were considered in the Derbez proposal. This led Brazil, among others, to react strongly against the proposed text. The frontlines had been drawn.

In the course of events, we tried to sway the Danish delegation towards a more compromising approach to several elements in the G20 paper, but this was clearly ruled out by the Danish food minister, who was not, however, 100% behind the proposal of the EU and USA. The offer of this rich-country alliance was also somewhat out of line with the mandate given to the Danish government by the Folketing (Danish parliament) on the occasion of various WTO debates, for instance in the case of export subsidies, where the Folketing wants a total phase-out by means of the Doha Round.

It was discussed whether it is possible, within the EU's mandate from member states, particularly in view of the mid-term reform of the common agricultural policy, to advocate a general phase-out of

export subsidies. The mid-term reform says nothing about phasing out export subsidies, so this is an issue of interpretation left to the EU Commission.

There was general agreement among the attendant Danish parliamentarians that export subsidies must go, and that a deadline for completing the phase-out would be a welcome outcome of negotiations in Cancun. Export subsidies were also a crucial concern of developing countries, so it could have broken the waves if the EU had suggested to abolish them, even if export subsidies make up just a couple of percent of total agricultural subsidies in rich countries. However, negotiations on agriculture never really took off.

The cotton initiative

Earlier this year, four countries from central and western Africa (Benin, Chad, Mali and Burkina Faso) tabled a cotton initiative, which they wanted to negotiate in Cancun. In brief terms, the initiative entails an abolition of subsidies to cotton production over the next three years, while the least-developed countries, which are subjected to unfair competition in this transitory period, should be compensated for the loss of export earnings.

The proposal was opposed especially by the USA and EU. The USA spends 3 billion dollars a year on cotton subsidies. The EU hands out 1 billion dollars (figures from 2001 and 2002), all of this to Greek and Spanish cotton farmers. The initiative, however, was widely supported in the special plenary debate on 10 September.

Instead, the USA suggested including the whole production chain related to cotton, all the way from the raw material (cotton) via fibre to textile, negotiating the abolition of subsidies as well as tariffs. In this way, the US negotiators wrapped the four countries' proposal into a package with scant chances of being passed in Cancun. Burkina Faso rejected the offer out of hand.

The EU was sceptical towards negotiating agriculture sector by sector, fearing similar initiatives for produce other than cotton, which could trigger a domino effect in coming years. The EU came out tepidly backing the initiative, suggesting a phase-out of export subsidies for cotton (the EU does not have these) and zero-tariff on cotton. This offer was totally cost free for the EU, which already has free market access for cotton. If the EU chose to buy the small amount of cotton on the world market it is currently producing itself, the price would amount to a third of the subsidies.

As mentioned, the cotton initiative was negotiated in the first days of the ministerial conference, and the issue was mentioned in the Derbez text, raising the prospect of continuing negotiations on something with a striking similarity to the US proposal. The four countries' initiative had been taken to pieces.

The Singapore issues

From the beginning of the conference, the EU insisted that a decision be taken in Cancun on the start of negotiations on all four Singapore issues (investment, competition, government procurement and trade facilitation) as part of the Doha round. Consequently, more than 70 developing countries, among them China, India, Bangladesh and Kenya, joined forces on Thursday to stress that there was no chance they would agree to start negotiations on the Singapore issues. Moreover, these 70 countries made it clear they would not accept linking the Singapore issues to, for example,

agriculture. There would be no 'quid pro quo', i.e. developing countries would not accept negotiations on, for instance, investment, in return for concessions on agriculture.

This turn of events brought the Singapore issues to the forefront of the ministerial conference. Thus, it was only the Singapore issues that made it all the way to the negotiations of substance in the Green Room.

During the negotiations, internal EU disagreement on the Singapore issues began to grow. The UK, which has long been opposed to negotiating investment in Cancun, was joined by Sweden, Holland, Belgium and Ireland, whereas Germany and EU commissioner Pascal Lamy, alongside for instance Denmark and UNICE (the European industry association) stuck to their demand for negotiations. Prior to the conference, the USA had let it be known that it would not press for negotiations on two of the four Singapore issues, namely investment and competition.

Against this background, Canada's minister of trade, who was chairing the working group on the Singapore issues, entered into informal talks with the various countries with the aim of starting negotiations on two of the issues: government procurement and trade facilitation. Nonetheless, the Derbez paper suggested negotiating three of the four issues (all of them bar competition).

We have been unable to gather together the subsequent course of events, but apparently this is what happened: after intense negotiations in the Green Room on the night before Sunday, it was clear that the EU would not achieve negotiations on all four Singapore issues. Mr. Lamy convened a meeting of the EU Council of Ministers to address the chances of giving way. Denmark was, with the consent of the attendant parliamentarians, ready to drop the Singapore issues altogether.

Market access of non-agricultural goods

The Castillo paper proposed some guidelines for the market access of non-agricultural produce (i.e. manufactured goods as well as forestry and fishing produce). The Derbez text brought further specification along the same lines, and if it had passed, the final negotiations in this field would soon have been within reach.

The proposal implied the deepest cuts in the highest tariffs, reduction in the tariff differential between manufactured and non-manufactured goods, emphasis on the promotion of trade in products from developing countries, and a certain flexibility towards developing countries with regard to the tariff reductions that they would also have to undertake.

The market access of non-agricultural goods attracted more attention in Cancun than is usual in the international trade debate. This stems not least from the great importance that industry associations attribute to this area.

Special and differential treatment

This issue never came to play any particular role in the negotiations in Cancun. The Castillo paper available prior to the conference contained 24 suggestions for straightforward decisions on special and differential treatment of developing countries, particularly the least-developed ones. The Derbez text added three more suggestions.

Among these 27 suggested decisions, only a couple, at most, would make even a minimum economic impact. The rest were mere declarations of intent, often with promises of further negotiations, reporting, etc.

All in all, these suggestions were a far cry from the decision in Doha to negotiate with a view to making all provisions in the WTO agreements on special attention to the concerns of developing countries more precise, operational and effective. During negotiations in Geneva, developing countries have suggested more than 85 decisions which could give substance to the promises made in Doha. Against this background, it is hardly surprising that developing countries did not invest too much effort in prompting any decisions in this area in Cancun.

Environment

In Doha, it was decided that the following environmental issues would definitely be raised as part of the round: clarification of the relation between international environmental conventions and WTO rules; observer status within the WTO for the secretariats of environmental conventions; and liberalisation of environmentally-friendly goods and services.

The EU sought to make the Cancun conference stick to parts of this agenda, though without taking a stance on the most essential issue, namely the relation between environmental conventions and the WTO. It is necessary to ensure that trade provisions, such as a ban on imports or exports of certain chemicals, may still be agreed in environmental conventions without risking disputes in the WTO system. It must also be guaranteed that WTO agreements do not undermine environmental conventions, as in the case of the WTO's patent regime (the TRIPS agreement), which enables patents on plants, though this may be contrary to the Biodiversity Convention.

This key issue was not addressed in Cancun. Instead, the EU sought to obtain observer status for the secretariats of environmental conventions and for UNEP, though only in the WTO's Committee on Trade and Environment. The EU also advocated WTO negotiations to promote environmental certification.

The Derbez paper suggested that the secretariats for environmental conventions and UNEP should become observers during the rest of the Doha Round (which has, incidentally, been the practice for more than six months), which must be seen as a token gesture rather than a genuine move forward.

During the conference, the EU proclaimed to have the environment as a major priority, but this was difficult to detect in practice during the negotiations. The USA is clearly opposed to settling the discussion on the hierarchy between environmental agreements and WTO trade rules, preferring to maintain the status quo, which places trade rules above international environmental agreements, especially when trade rules have not been considered by environmental agreements.

The environment is not a priority for developing countries. To them, the issue is not to let the environment be used as yet another barrier to their access to rich-country markets.

Gender aspects

The discussion on how best to integrate women's rights, equality and development concerns into trade policy and multilateral forums, including the WTO, was started at the NGOs' "Women's

International Forum: Women's Rights in Trade Agreements", which took place in Cancun on 8 and 9 September. The intention is to 'mainstream' gender into trade issues at the WTO, and a Mexican women's network has been in dialogue with their government for some time. This resulted in the Mexican chairman of the conference, Mr. Ernesto Derbez, agreeing to propose the establishment of a WTO task force to look into the effects of trade liberalisation on men and women, as well as on indigenous peoples and other groups, provided that other delegations could support the idea.

It should still be examined how concern for gender equality and for economic and social rights may best be integrated into trade policy. This includes an analysis of the World Bank's and APEC's mainstreaming experiments, also involving the newly established "UN Task Force on Gender and Trade", which is coordinated by UNCTAD.

Appendix A:

Assessment by environmental and development organisations in the Danish 92 Group of the draft ministerial declaration presented on 13 September 2003

Comments

The proposed ministerial declaration is clearly undermining the Doha mandate and the ambition of fostering sustainable development for the benefit of, especially, the poorest people in the world. If the declaration passes in its present form, it will not bring any progress either for the environment or for developing countries.

A key problem is the absence of concrete targets for the reduction of agricultural subsidies in the rich countries. At the same time, negotiations on the Singapore issues are rammed through, although vast groups of developing countries are strongly opposed to this.

The present unfortunate situation stems to a considerable degree from the EU's reluctance to take on global responsibility and leadership. The EU is setting a bad example by failing to live up to commitments and pledges made in Doha.

Overall analysis

1. There is a real risk that negotiations will break down, and that the ministerial conference in Cancun closes without a new text. The EU is responsible for this.
2. Denmark has gone to the conference in Cancun with a clear mandate to achieve tangible results on agriculture. This will be very difficult with the negotiating text presented today. Therefore, Denmark should not accept the paper in its present form, but actively seek to get figures and concessions on the table in Cancun.
3. The contents of the new negotiating text show that this is not to be the conference setting targets (tariff reductions and time frames) for the liberalisation of trade in agricultural produce. This means that the EU has fully succeeded in its tactics of procrastinating the negotiations on agriculture. The paper's section on agriculture is merely a framework to be filled out later. From the outset of negotiations on agriculture, it has been clear that any new agreement would contain those elements mentioned.

4. The most significant changes in the negotiating text are clear concessions to (especially) the EU, since negotiations are to be started on investment and on two more Singapore issues.
5. These far from completed guidelines concerning agriculture, as well as the new scope for negotiations on investment as part of the Doha Round, are bound to break the agreed time limit. Without the pressure of a realistic deadline, there is a major risk that negotiations in Geneva will more or less come to a standstill. Any substantial progress can hardly be expected before the next ministerial conference.

Agriculture

The most important changes in the new paper's Annex A, which may be considered as concessions to developing countries, are:

- The criteria for support in 'the green box' must be re-assessed with a view to avoiding trade-distorting forms of subsidy.
- There shall be additional tariff reductions for manufactured goods, to which tariff escalation applies at present.
- Special attention shall be paid to the concerns of new WTO members.

The most important changes in Annex A, which may be considered as concessions to industrialised countries, especially to the EU, are:

- Developing countries are to use the so-called 'Swiss formula' for determining the tariffs on some agricultural goods.
- The peace clause is to remain in place.

In square brackets (i.e. still being negotiated) are:

- A formulation stating that the EU's tariffs on agricultural produce must be reduced by an average x%.

- A commitment from industrialised countries to give free market access for agricultural produce from the least-developed countries.

Market access for non-agricultural goods

The most important changes in the new paper's Annex B entail greater flexibility in the tariff reductions of developing countries. The industrialised countries are obliged not to introduce tariff and quota free access for products from least-developed countries.

Special and differential treatment

Annex C has been expanded by three new decisions. These are either declarations of intent or so-called process-oriented decisions, i.e. requiring further follow-up (just as the overwhelming part of the 24 decisions included in the last draft ministerial declaration).

Singapore issues

The new paper meets the EU's wish to negotiate these for three of the four issues.

- Negotiations are not started on competition, but the issue is still addressed by a WTO task force.
- Negotiations are started on investment, but the modalities are not determined now. There is an option of negotiating outside the modality of 'single undertaking', which is unlikely to make much difference in practice. The EU will not give in.
- Negotiations are started on transparency in government procurement. The modalities in Annex D contain more precise formulations of the special considerations for developing countries.
- Negotiations are started on trade facilitation. The modalities in Annex E do not include any changes.

Environment

The only change in the text is to confirm the continuation, for the duration of the whole Doha Round, of the current practice of letting the secretariats of environmental conventions as well as UNEP and UNCTAD attend the meetings of the WTO's Committee on Trade and Environment.