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From Doha to Sustainable Development

Positions and Recommendations of the Danish Non-Governmental Environment and Development Organisations for the World Trade Organisation's Fifth Ministerial Conference in Cancun, 10-14 September 2003.

At the Ministerial Conference in Doha, November 2001, WTO members agreed to initiate a new, comprehensive round of negotiations on global free trade. The negotiations will be held under the headline: "Doha Development Agenda" in order to indicate that – contrary to former rounds of negotiations - special considerations will be taken to the development countries.

This round of negotiations is set to end by 1 January 2005. At WTO's next Ministerial Conference in September in Cancun the members will take stock of the development of the negotiations and work out guidelines for the remaining part of the period.

The pace of the negotiations has been disappointingly slow and large trade powers like USA and the EU have made decisions contrary to the course of the Ministerial Declaration of Doha, showing reluctance to make concessions for the development countries and the environment. By way of example, the USA has increased its agricultural subsidies considerably and the EU continues to maintain a high level of agricultural subsidies in spite of the fact that the so-called midterm evaluation paved the way for reduction and reform. Nor have USA and the EU guaranteed that the WTO agreement on Intellectual Property Rights (TRIPS) secures the right of poor countries to import vital medicine.

The Danish 92 Group and the North/South Coalition believe that the Ministerial Conference in Cancun should be used to get the negotiations back on track. WTO's Fifth Ministerial Conference should:

- Result in concrete progress for the developing countries, as well as a show of genuine will from the rich countries to prioritise poverty eradication, including women's right to development.
- Show that the rich as well as the poor countries are interested in promoting a sustainable environment
- Not be used to initiate negotiations on investments, as it is unlikely that concessions will be made for developing countries and the environment.
- Be prepared and executed in a democratic manner

In order to accomplish this through the Ministerial Conference, it is necessary that the EU, and to some extent Denmark, reorientate its policy towards the WTO. The Danish 92 Group and the North/South Coalition have 6 central recommendations to the Danish parliament:

Recommendation 1

The preparation and execution of the negotiations at WTO's Fifth Ministerial Conference should be a process allowing for the poorest developing countries to defend their interests as well as for the rest of the world to follow the negotiations.

The Ministerial Conference in Cancun should be used, once and for all, to put an end to the WTO as a closed and antidemocratic organisation in which only the rich countries and strong business interests are heard.

The WTO has indeed become a more open and democratic institution over the years. It has improved its level of information and the publication of documents. However, too many documents are still labelled as confidential.

The Fourth Ministerial Conference in Doha was more democratic than the Third Ministerial Conference in Seattle where only a few countries – selected by the USA – were included in the negotiations. In relation to the round of trade liberalisation negotiations, which was initiated at the Fourth Ministerial Conference, procedures were agreed upon, which will ensure that all countries have the possibility to participate in the negotiations as well as in informal consultations.

There are, however, signs that the rich countries, in practice, are not willing to make the process more democratic. In November 2002 a mini-ministerial meeting on the WTO was held in Sydney to which only 25 of WTO's 145 members were invited to participate and the EU, USA, Japan and the other rich countries were remarkably over-represented among the participants. Further mini-ministerial meetings have been planned before the Ministerial Conference in Cancun.

However, it should be a given that the preparation process as well as all the official negotiations at the Ministerial Conference in Cancun be arranged in such a way that all WTO members are able to participate and be heard, provided they wish to do so.

Therefore, no closed mini-ministerial meetings should be held resulting in a take-it-or-leave-it offer to the other WTO members. It must be ensured, that at the mini-Ministerial Conference no negotiations will be held in the Green Room to which only a reduced circle of countries, appointed by the president, have access.

At the same time, the press, parliamentarians and civil society must be guaranteed real access to follow the preparation process and the execution of the Ministerial Conference in Cancun.

Recommendation 2

Prior to WTO's Fifth Ministerial Conference the promises from Doha to comply with the developing countries on specific areas (TRIPS/medicine, special and differential treatment of developing countries and other implementation issues) should be redeemed. The Ministerial Conference must make clear that poverty eradication is a main concern of the WTO.

At WTO's Fourth Ministerial Conference the developing countries accepted the initiation of a new, comprehensive round of trade liberalisation negotiations, although, they regarded it more important that the rich countries comply with the promises they had previously made as members of the WTO. The developing countries got the concession that a number of their problems would be resolved before the end of 2002. The rich countries, however, have not lived up to their promises, which is important in order for the Fifth Ministerial Conference to develop in a constructive atmosphere.

The rich countries must, in equivocal terms, allow for developing countries, without capacities for medical production, to import medicine, which is produced under the terms of compulsory licensing. The WTO decisions on Intellectual Property Rights (the TRIPS Agreement) must, as agreed upon in Doha, not get in the way of this process.

The rich countries must also live up to the promise from Doha to make a number of the provisions in the WTO agreements meant to ensure developing countries special treatment, more precise, efficient and operational.

Furthermore, the rich countries should contribute constructively to the implementation of the decision from Doha to find solutions to other of the so-called "questions of implementation". For instance, it is important to draw up guidelines that prevent the almost arbitrary introduction of dock due on foreign goods (anti-dumping duty), which is the case today.

At the UN Conference on Financing for Development in Monterrey, 2002, an agreement was reached that trade should be made an incentive for development for all, and that the fulfilment of international development objectives in the Millennium Declaration is a task for the International Community, including the WTO. In order to ensure this perspective in the ongoing rounds of trade liberalisation negotiations within the WTO, a special declaration should be agreed upon at the Fifth Ministerial Conference in which poverty eradication is made a top priority of the WTO. In relation to this, it is crucial to include the gender perspective, as the majority of poor people are women.

Recommendation 3

Much effort should be put into the EU making a clear statement at the Fifth Ministerial Conference in support of a development and environmentally friendly liberalisation of trade in agricultural products. Export subsidies must be abolished, direct subsidies must be phased out within a few years and duty on products from developing countries must be removed.

At the Fourth WTO Ministerial Conference it was decided that the member countries no later than at the Fifth Ministerial Conference should present their proposals for future obligations to liberalize trade in agricultural products.

Current agricultural subsidy schemes prevalent in the EU and other rich countries today, result in a highly intensive agricultural production with comprehensive consequences for the environment. The subsidy schemes also lead to distortions on the international markets for food and agricultural products. The export subsidized sales of the rich countries' surplus production result in an even more unfair competition in many developing countries.

The expectation of the developing countries that the current agreement on agriculture in the WTO, with its ceilings on internal agricultural subsidies and export subsidies, would create a more fair competition has not been met. The developing countries that do have a potential for export of agricultural products are being curbed by the rich countries' subsidies for their own agricultural sectors as well as the high tariff barriers to agricultural products.

Instead of the EU's and other rich countries' agricultural subsidy schemes, which promote intensive production methods with an extensive use of fertilizers and pesticides, what is needed are subsidies that will promote environmental protection and nature conservation, ecological agriculture and other forms of extensive agriculture.

The EU has played a reactionary role in the ongoing negotiations in the field of agriculture; however, the policy pursued causes considerable inconvenience to developing countries as well as to the environment, and leads to large extra expenses for consumers and taxpayers. Therefore, the EU should be very clear at the next Ministerial Conference in its proposal that the negotiations end in a total abolition of export subsidies (as well as credits) and that the agricultural subsidies that are directly meant for production should be phased out in a matter of a few years. Tariff barriers, which serve as an added measure of protection of the markets of the rich countries, must be removed.

When export subsidies and other agricultural subsidy schemes are reduced, an increase must be expected in world market prices on certain food commodities. In the short run, this may harm developing countries dependent on food import (net food importing countries). Many of these countries are among the poorest in the world. Thus, it is vital to maintain and renew the promise of the Marrakech Agreement of 1994 of compensation for potential negative effects of WTO's agreement on agriculture. So far, the promise has not been fulfilled.

The agricultural area is a key area in the WTO round. Developing Countries as well as a number of rich countries attach great importance to the negotiations within the agricultural area. Without considerable progress within this area, the negotiations within other areas will

reach a deadlock. Denmark has a responsibility to ensure, that narrow agricultural interests in the EU do not block for further negotiations.

Recommendation 4

At the Fifth WTO Ministerial Conference decisions should be made to initiate negotiations regarding transfer of cleaner technologies to developing countries as well as an adjustment of the TRIPS Agreement in order to avoid "biopiracy".

At the Fourth WTO Ministerial Conference it was decided, that the WTO Committee on Trade and Environment (CTE) should report to the Fifth Ministerial Conference about whether it is relevant to include negotiations on a number of environmental topics in the ongoing round of negotiations on trade liberalisation. The initiation of negotiations concerning the consequences of environmental rules for the market access of developing countries, eco-labelling and parts of the TRIPS agreement is particularly relevant.

Negotiations within these areas, however, should not prevent individual countries from implementing any well-founded environmental regulations – including regulations based on the precautionary principle and the life cycle approach – that is, if at least the same demands are made on domestic commodities and services as on imported commodities. For instance, the European regulation of the use of genetically modified organisms (GMOs) must not be affected.

However, more strict environmental regulations in the rich countries may make it more difficult for developing countries, which are rarely at the forefront in the development of ecotechnology, to export commodities to the rich countries. This implies that the developing countries will have a tendency to oppose new environmental demands, unless the rich countries take the concerns of the developing countries seriously. The right way to do this would be to establish an efficient system for transfer of cleaner technology to developing countries.

Thus, at the UN Conference on Environment and Development in 1992 it was decided that the rich countries should transfer new ecotechnology to the developing countries on favourable conditions. Similar decisions have been made in other connections, most recently at the Summit on Sustainable Development in 2002. Unfortunately, as of yet there have been no signs that the rich countries will live up to their promises.

Therefore, negotiations should be initiated within the WTO framework to make a binding agreement on transfer of cleaner technology.

Furthermore, decisions should be made at the Fifth Ministerial Conference to initiate negotiations, which will ensure that the TRIPS Agreement supports the regulations of the Convention on Biodiversity regarding the rights of developing countries and indigenous people to their own resources. Patent seekers should be obligated to give account of the origin of genetic material and must be able to document consent and agreement on profit sharing with the country or people from which or whom the material originates.

As it is now the TRIPS agreement is not compatible with the Convention on Biodiversity. According to the Convention on Biodiversity, genetic resources can only be utilised if prior consent is obtained and an agreement on profit sharing is made with the country or indigenous people from which or whom the genetic material originates. The TRIPS Agreement, however, enables countries to take patents on plants and animals without any requirements to document the consent and profit sharing as a condition for receiving patent protection. The TRIPS Agreement thereby makes "biopiracy" possible, allowing for genetic resources to be extracted and utilised commercially without consent from the country of origin.

Recommendation 5

At the Fifth WTO Ministerial Conference no decision should be made to initiate any new negotiations on investment

At the Fourth WTO Ministerial Conference it was agreed, that at the Fifth Ministerial Conference a decision should be made whether new rules on investments are to be negotiated as a part of the ongoing round of negotiations on trade liberalisation.

The importance of foreign investments in the world economy has increased remarkably since the mid eighties. While trade between countries used to play a major role in supplying foreign markets with commodities and services, foreign direct investments (FDI) have now taken over this role.

Today around two thousand bilateral investment agreements have been signed between countries, whose companies invest abroad and countries that host foreign investments. During bilateral negotiations on investments, as well as during negotiations with actual investors developing countries are usually not the ones in charge. On the contrary, developing countries have a tendency to make a "sell out" or race each other "to the bottom" when put under the pressure of a negotiation situation.

When rules on FDI are being changed in developing countries it happens only in one way: rules are made more lax. Hundreds of export-production-zones are being established all over the world, where companies get favourable investment conditions, e.g. exemptions from environmental, labour and tax laws.

In this respect there seems to be a great need for international agreement, which regulates the conduct of the investing companies. However, at this point of time, it does not seem appropriate to initiate negotiations on investments in the WTO.

There are many signals, which point to the fact that prospective WTO negotiations on investments will be about how to increase the investors' rights in the developing countries rather than increasing the rights of the developing countries on the hosted investments. It is the EU that pushes the investment issue forward on the WTO agenda and the EU has already made it official that the objective of the negotiations is to promote the interests of European companies. The EU has expressed a wish that investors' obligations should also be a part of the negotiations. However, during the last four years of campaigning for a new round of

negotiations on investments in the WTO, the EU has not succeeded in making concrete proposals on how to ensure that a prospective WTO agreement on investments will take into consideration the needs of the developing countries, as well as issues such as poverty eradication, environmental concerns, human rights, etc.

If a multilateral agreement on investments should constitute a real progress in that area, it is necessary that potential negotiations focus on the development needs of the developing countries and on the need for protecting the environment. Such an agreement should therefore ensure that:

- Developing countries can make requirements on the actual design of investments, e.g. requirements on the employment of local workforce, the use of local products and materials, on the reinvestment of profits and the partial national ownership of the investment made.
- Developing countries can regulate the transfer of capital abroad and thereby have the possibility to take necessary measures against speculations and balance of payments deficits.
- Investors are obligated to respect the UN Human Rights Declaration and all the respective UN conventions, to comply with the ILO conventions on labour rights, the OECD guidelines for multinational enterprises and the multilateral environmental conventions.
- Environmental and social impact assessments are carried out prior to the investment and hearings of the local population are made before the setting up of big, new production entities.
- A ban on lowering environmental and labour standards in order to attract foreign investment.

A minor agreement on investments already exists in the WTO. The TRIMS Agreement (Trade Related Investment Measures) puts a ban on different forms of regulations, which developing countries usually have applied in order to get a greater developing effect of the foreign investments. Among other things, it is not allowed that the host country place a demand on the foreign company to use locally produced inputs in its production process. A number of countries have already asked to be exempt from the rules of the TRIMS Agreement. It is our view that these rules should be abolished.

Recommendation 6

At the Fifth WTO Ministerial Conference no decision should be made to initiate any new negotiations on competition policy unless it is ensured beforehand that such negotiations will not be used to undermine vulnerable sectors of the economies of developing countries.

At the Fifth WTO Ministerial Conference a decision has to be made to whether the ongoing round of negotiations on trade liberalisation should include negotiations on an international set of rules on competition policy.

At international level there are no binding and effective rules yet, which prevent the formation of monopolies and the use of anti-competition practises such as dumping of prices, exclusion of competitors and transfer of profits through an internal enterprise accounting system.

Binding international regulations on competition, which deal efficiently with anti-competition practises, can give developing countries considerable advantages. Partly, such rules could lead to the opening up of the industrialised countries' markets to goods from developing countries; and partly, the rules could limit the sometimes ruthless behaviour of multinational companies.

International competition rules should, however, give special consideration to the issue of food security, as well to the agricultural and industrial development of developing countries by allowing these countries to protect the particularly vulnerable sectors of their economies against foreign competition. International competition rules should not force developing countries to promote private foreign companies' engagement in sectors, which are publicly run or serviced by local, consumer-owned companies, e.g. education, power or water supply.

If an agreement on competition policy is to be negotiated at the WTO, then it should be ensured beforehand that such an agreement allows developing countries to protect the particularly vulnerable sectors of their economies against foreign competition.

This document has been issued in February 2003. The Document is a result of the co-operation between organisations that are members of the Danish 92 Group or the North/South Coalition. In the Danish 92 Group Danish environmental and development organisations co-operate, among other things, on the follow-up on the World Summit on Sustainable Development in Johannesburg, 2002. The North/South Coalition is a coalition of Danish NGOs dealing with trade, debt and development issues.

Prior to the WTO Ministerial Conference in Doha, 2001, the Danish 92 Group and the North/south Coalition issued a more comprehensive position paper on Trade/WTO. In relation to topics not mentioned in this position document the views expressed in the previous document are still valid. This document is titled: "WTO after Seattle: Put Sustainable Development on the Agenda", and is available at www.92grp.dk

The following organisations back the positions and recommendations of the two documents, although not all the organisations may agree entirely in every detail. The organisations are different, and not all of them have an opinion about every subject touched upon in this paper. Accordingly, some of the organisations will want to add further points and have suggestions that they themselves will seek to promote.

Labour Movement's International Forum

Care Denmark

The Danish Society for the Conservation of Nature

Danish International Human Settlement Service

BirdLife Denmark

The Ecological Council

Network for Ecological Education and Practice/ECO-net

Danish United Nations Association

DanChurchAid

KULU - Women and Development

Danish Association for International Co-operation

Nature and Youth

Nepenthes

Danish Organisation for Renewable Energy

Ibis

The Swallows in Denmark. Association for International Social Development

WWF Denmark