WTO after Seattle: Put Sustainable Development on the Agenda!

Positions and Proposals by Danish Non-Governmental Environmental and Development Organizations

Second edition, November 2001.

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In November 2001 the World Trade Organization’s Fourth Ministerial Conference (WTO-MC4) will be convened in Doha, Qatar. It is the first time that WTO members will meet at top level to discuss and plan the organization’s future work, since the collapse of negotiations at the Third Ministerial Conference in Seattle, 1999.

The Ministerial Conference in Qatar could lead to the initiation of a new and comprehensive round of trade negotiations. It is the position of the 92-Group and the Danish North/South Coalition that any kind of trade round or any other negotiations in the framework of the WTO should be used to advance sustainable development.

During the last big round of trade negotiations, the so-called Uruguay Round, sustainable development, environmental protection, and the need for special considerations for developing countries were included as objectives for the WTO. This has not, however, resulted in any concrete measures of real consequence. Integrating environmental considerations into the WTO’s regulation of world trade is still problematic; and the development of the world’s poorest countries continues to be a very low priority.

Concurrent with the increase in international trade, the need for global regulation of social and environmental concerns becomes increasingly more urgent. Trade liberalization creates both losers and winners and causes a need for re-distributive policies at the international level. This may, for instance, be in the form of special considerations and increased development assistance to those countries and segments of populations that lose out and become marginalized. Without a global environmental policy, unfettered trade can lead to further pressure on the earth's fragile and limited resources.

If the WTO is to live up to its own objective of contributing to sustainable development in a meaningful way, coming negotiations must not focus on trade liberalization as the prime and overall objective. Instead the point of departure must be the need for a regulation of international trade in which environmental and development concerns are integrated.

The ’92-Group and the Danish North/South Coalition urge the Danish government and the EU to work on ensuring that future negotiations in the WTO result in substantial progress in the following areas:

- Environmental considerations should be genuinely integrated into WTO rules and agreements.
- Development concerns and poverty eradication in developing countries should be a main priority in the regulation of world trade, just as a gender perspective and analysis should be mainstreamed into trade regulation and policy.
- Respect for fundamental workers’ rights should be integrated into WTO agreements.
- Regulation of international investments and conditions of competition should promote a sustainable environment and development.
- The WTO organization should be democratized.

Below a number of concrete proposals are put forward - all of which promote sustainable development – that the Danish government and the EU should work for in any future WTO negotiations. The realization of the individual recommendations should, however, not necessarily await the conclusion of a possible new, comprehensive round of negotiations on trade liberalization that might go on for years. Therefore, the possibilities of progressing at an earlier point should be detected and utilized.

However, the WTO is experiencing a crisis. Mistrust is wide spread, especially between the rich and the poor countries. For this reason all forms for negotiations have been extremely sluggish. The collapse of negotiations at the Seattle ministerial conference revealed how far apart the different countries positions are from one another.

Developing countries have the impression that the rich countries are doing anything they can to escape from their obligations. At the close of the Uruguay Round, developing countries achieved both agreements and promises concerning better possibilities to export agricultural products and textiles to the rich countries. In addition, the poor, net-food-importing countries were promised compensation for rising prices on food products. Unfortunately it can only be confirmed that the rich WTO member countries have not yet lived up to their obligations. Neither were the rich countries willing too take concrete initiatives that would give concessions to the developing countries at the ministerial conference in Seattle.

The relationship between the rich countries and the developing countries became further strained by the manner in which negotiations were conducted in Seattle. The real negotiations took place in exclusive circles, in the so-called "Green Rooms", where only those countries that were invited by the chair of the conference – who was at the same time the chief negotiator for the USA – could participate. This meant that a large number of poor countries were not able to defend their interests.

A prerequisite for bringing the WTO out of this crisis is for the EU and other rich countries to give concessions to developing countries. To make this happen a number of decisions must be taken at the ministerial conference in Qatar that should go into effect as quickly as possible after the ministerial conference.

- The least developed countries should have free access to the rich countries' markets. Customs, quotas, seasonal restrictions, etc. should be eliminated at the latest 1 year after the conference.
- All forms of export support to agricultural products should be reduced by at least 50 % in relation to the year 2000 level.
- A "food security box" should be included in the WTO Agreement of Agriculture to allow developing countries the option to protect vulnerable agricultural markets.
- Concrete decisions should be taken in order to realize the promise to compensate the poorest and the net-food-importing developing countries for rising food and agricultural product prices that are caused by the WTO's present Agreement on Agriculture.
- It should be agreed that the TRIPS agreement on patents, etc., should not block developing countries' access to import and copy the production of vital medicines, including medicine against AIDS.
- The time periods for implementing the TRIPS agreement should also be extended to a minimum 5 years for developing countries. The least developed countries should be completely excepted from the agreement.
- Developing countries should have the right to advance local production in connection with foreign investments. As such, a moratorium on cases of violations of the TRIMs agreement's ban on the share of locally produced inputs to a foreign-owned company. (The TRIMs Agreement is an agreement within the WTO's investment regime.)

Finally, it should be a matter of course that all official negotiations at the Ministerial Conference in Qatar are prepared in a manner that enables all WTO members to participate to the extent they wish to do so.

1.Environment

There has only been very limited progress in the environmental field since the establishment of WTO in 1995. It is for example still not clarified whether the WTO can be misused to set aside some trade restrictions which are used in multilateral environmental conventions such as the Montreal Protocol on the phasing out substances that destroy the ozone layer, the Basle Convention on the export of dangerous waste, and the CITES Convention on trade with endangered species.

It is also still unclear to what extent WTO agreements limit possibilities to introduce regional or national environment regulations that have consequences for imported products. In the WTO a number of disputes concerning national environmental rules have been settled; and they have most often resulted in the setting aside of national regulations.

An important problem is that it is uncertain whether the WTO dispute settlement institutions will in connection with concrete cases accept that free trade can be limited by environmental regulations based on the use of the precautionary principle: i.e., the principle that an environmental risk can provide the basis for preventative measures, even if the scope of the environmental effects are not completely clear.

It is also uncertain whether the WTO dispute institutions will accept that member states limit free trade by making demands that relate to the environmental impact of production which takes place abroad. It should as such be possible to make environmental demands which relate to the whole life

cycle of a product, and not just to the impacts on environment and health from the use and disposal of the products.

Environmental arguments should not be used to introduce disguised trade restrictions, so- called "green protectionism"; but on the other hand, it should be prevented that considerations for free trade be given precedence over environmental considerations.

Denmark and the EU should therefore continue to work for the adoption of binding international rules in the environmental field and the use of trade restrictions as part of such rules. The rules should, as the point of departure, be minimum rules and contain an environmental guarantee, which allows the individual country to give more extensive considerations towards the environment.

Denmark and the EU should furthermore work for the limitation of the use of restrictions on imported goods from developing countries due to environmental problems connected to the production process methods in the country of origin. Restrictions should be applied to developing countries, only when other solutions (assistance, transfer of technology, international agreements, etc.) are not sufficiently effective. When applying trade restrictions to goods from developing countries, mainly positive incentives, such as environmental labeling and increased market access for products with less environmental impact, should be used instead of negative sanctions such as duties and embargo.

In the WTO Denmark and the EU should work for:

1.1 Clear rules in WTO agreements allowing trade restrictions to be used in international environmental conventions and trade sanctions to be implemented towards countries that do not respect international environmental conventions.
1.2 Specifications in WTO-agreements that nation states and regional governmental organizations can implement any well-founded environmental regulations - also regulations based on the precautionary principle and on life cycle considerations - if at least the same demands are placed on domestic goods and services as on imported goods.
1.3 Provision of environmental expertise and knowledge to the WTO dispute settlement institutions, when environmental regulation is involved in the disputes.

The elimination of trade restrictions can have both positive and negative consequences for the environment. The environmental aspect should therefore be integrated in all negotiations in the coming round, and analyses of the impact of trade liberalization on sustainable development should be undertaken before the agreements go into effect (see proposal 2.1 below). Denmark and the EU should work for the implementation of trade liberalization in areas where it would benefit the environment. Denmark and the EU should therefore work for:

1.4 New agreements on the reduction of envi-ronmentally damaging subsidies in, for example, energy, fishing, and agricultural sectors. (See also section 4. on agriculture.)
1.5 Attainment of rapid results in regards to liberalization of trade in environmental products, such as organic goods and tropical wood produced in a sustainable manner, and in environmental technology.

2. Development, Poverty Eradication and the Gender Aspect

The WTO is well on the way to becoming a global trade organization with more than 140 member states; and a number of countries, including China and Russia, are about to become members. This should lead to the regulation of the world trade in a manner which is beneficial for the entire world's population and not just for inhabitants of the rich countries.

Observers rightly noted that the Uruguay Round was the "rich countries' round". That must not be repeated. Denmark and the EU should work for setting the problems of the poor in central focus in the coming WTO negotiations.

In many areas developing countries cannot compete on equal terms with rich countries; and therefore mechanisms that rectify these imbalances must be introduced. Some WTO agreements contain provisions for special and differentiated treatment of the developing countries, especially the least developed countries. These provisions are however most often non-committal declarations of intent.

Moreover it is a problem for developing countries that there is no coherence between WTO agreements and the conditions that the IMF and World Bank impose in connection with loans for economic reform programs. These conditions often force developing countries to open their domestic markets more and liberalize more than they are obligated to do according to WTO-agreements.

Women and girls compose 70% of the world’s poor. This is just one of the reasons for the necessity to integrate a gender dimension into world trade rules and analysis.

Denmark and the EU should work for:

2.1 Implementation of impact analyses of the consequences of trade liberalization for sustainable development, including the consequences for women and children. The analyses should be carried out before new trade agreements are initiated and as a part of the WTO's regular trade policy reviews of the member countries.
2.2 Introduction of mechanisms with the pur-pose of giving full compensation to the poor countries for negative effects of future trade liberalization. The compensation must not be deducted from development assistance to developing countries.
2.3 Free access (i.e. no duties, quotas, or simi-lar restrictions) to the markets of rich countries for least developed countries.
2.4 Reduction of tariff rates by rich countries for goods from the developing countries, including agricultural goods (see also section 4. Agriculture), fish and fish products as well as leather goods, textiles and clothing. In addition, it must be ensured that no deterioration in the terms of the WTO Agreement on Clothes and Textiles is allowed. This means, among other things, that all types of quotas on the import of these goods from the developing countries must be phased out latest 1.1.2005.
2.5 Liquidation of tax escalation by rich coun-tries, i.e. the practice by which tariff rates are higher for manufactured and processed goods than for raw materials.
2.6 Limitation of the possibilities for rich countries to misuse anti-dumping rules. Anti-dumping

duties should be limited to situations involving market dominance by foreign companies, and anti-dumping instruments should be subjected to the WTO's normal dispute settlement system.
2.7 WTO acceptance of the Cotonou Agreement and other regional agreements, in which rich countries give a group of developing countries improved market access without requiring reciprocal free access to the markets of the developing countries in question.
2.8 Making the provisions for special and differential treatment of developing countries in WTO agreements operational and binding.
2.9 Obligating the WTO to build up competence to undertake gender analysis as a part of trade policy analysis, which includes impact analyses of how changes in trade policy effect women's and men's occupational access, employment, income, control of and access to resources, etc.

3. Workers' Rights

There is a risk of increased free trade leading to environmental and social dumping: that production will be placed in countries with the lowest level of protection for workers and their rights. The risk for social dumping arises when companies and countries are willing to use on the worst conditions for workers as a competitive edge, assuming that this will increase their competitiveness and possibilities. This assumption however is outdated. Countries that do not comply with basic workers' rights are in fact not performing as well economically as countries that comply with good conditions for workers.

However, a comprehensive documentation exists on the violation of workers' rights in a large number of countries; and it is especially worrying that competition for jobs among developing countries is leading to the creation of an increasing number of export processing zone (EPZ's), where compliance with even the most basic workers' rights is disregarded. The majority of employees in EPZ's are women.

Sustainable development cannot be achieved through poverty and oppression of workers. On the contrary, sustainable development requires the creation of development for the world's poorest.

UN's workers' organization, ILO, has formulated conventions and other declarations on workers' rights. A broad international agreement supports the ILO's "Declaration on Fundamental Principles and Rights at the Work Place and Its Follow-up" is the cornerstone in the efforts to achieve workers' rights.

This ILO declaration gives the key conventions of the ILO a universal character; and compliance with these conventions is related eligibility for ILO membership. At the same time, the declaration obligates the secretary general to report annually to the ILO annual conference on compliance to the principles.

ILO's key conventions include no.s 29 and 105 (rights to freedom from slavery and forced labor), 87 and 98 (the right to membership of a labor union and the right to collective bargaining), 100 and 111 (rights to freedom from discrimination on the basis of sex, race, color, religion, political viewpoints, nationality or ethnic origin), as well as no.s 138 and 182 (minimum age and the right to childhood and the elimination of the worst forms of child labor).

The demand for compliance with basic workers' rights or core labor standards is not a blind for protectionism. On the contrary, it is a means to ensure that free trade does not lead to social dumping and further impoverishment of ordinary people.

Denmark and the EU should therefore work for:

3.1 The obligation of WTO member countries to comply with the basic workers' rights. The WTO should also encourage more of its member states to develop specific custom duties discounts – similar to the EU's General System of Preferences (GSP) - for goods from countries that respect core labor standards. The developing countries must at the same time be given better opportunities to draw on technical assistance from the ILO, so that efforts to comply with basic workers' rights are not hindered by the lacking technical capacity.
3.2 The obligation of the WTO to include compliance with basic workers' rights in the regular WTO trade policy reviews of member countries. The inclusion should be based on reports conducted by the ILO.
3.3 The extension of the current WTO regu-lation, which allows countries the possibility to forbid import of goods produced by prisoners to also include goods produced under slavery, forced labor, child labor, violation of the freedom to organize, or under discriminating conditions.

4. Agriculture and Food Security

The agricultural support systems of the EU and other industrialized countries lead to intensive agricultural production systems, resulting in great damages to the environment. In addition, subsidy systems lead to massive distortions on international markets for food and agricultural products. Sales of the rich countries' surplus production with export subsidies results in an even more unfair competition for many developing countries.

The developing countries' expectations that the present WTO Agreement on Agriculture with its ceilings on domestic support to the agricultural sector and on export subsidies would result in fairer competition have not been met at all. On the contrary, the support to this sector in the rich countries is the same today, as it was 10 years ago; only the forms of support have been changed. That means that competition in the agricultural sector is often based on support systems and not on price and quality.

The artificially low prices on world markets may tempt developing country governments to rely on importing cheap food products from abroad instead of developing their own potential for food production. It is a dangerous development that in the long run can be harmful for these countries' food security.

The developing countries that have an export potential in agricultural products are blocked by the rich countries' support to their own production and by the high tariff walls for agricultural products. On the other side, many developing countries have already opened their markets to agricultural products much more than rich countries. This is not a primary result of WTO commitments but has occurred as part of the economic reform programs, structural adjustment programs, which are part of the conditions for receiving World Bank and International Monetary Fund loans. This has made

it difficult for developing countries to strengthen their own agricultural sector and create food security.

Instead of the EU's and other rich countries' support systems, which promote intensive production with a high consumption of fertilizers and pesticides, there is a need for support that promotes environmental protection and nature conservation.

In the negotiations for a new agricultural agreement in the WTO, Denmark and the EU should work for:

4.1 A phasing out and abolition of export subsidies and credits in the course of a few years. As long as export subsidies exist, the support should not be targeted at export to specific developing countries, in a manner, which undermines the competition conditions of the local farmers.
4.2 A strong reduction in general agricultural support, as well as a limitation to the number of exceptions in the permitted forms of support.
4.3 The continued possibility to support envi-ronmental and nature conservation, organic farming, and other means of advancing extensive agricultural production. These support forms should however be monitored closely in order to avoid that they develop into unfair competition in relation to developing country producers.
4.4 Ensuring developing countries better pos-sibilities to strengthen the development of their own agriculture in order to promote food security. This could for example be done by giving developing countries the possibility to exempt crops from the agricultural agreement and by exempting developing countries from the obligation to open their own markets to agricultural products.
4.5 Increased access to the rich countries' markets for developing countries in general, by reducing tariff barriers as well as making access independent of seasonal restrictions and quotas. The least developed countries should be given free market access.

When export subsidies and the level of domestic support are reduced, the price level for certain agricultural products can be expected to increase. In the short run, this can harm developing countries dependent on food import (net-food-importing countries). Many of these countries are among the poorest in the world. It is therefore vital to maintain and renew the promise from the Marrakech Agreement in 1994 to compensate these countries for possible negative effects of the Agreement of Agriculture. Until now this promise has not been fulfilled.

Denmark and the EU should ensure:

4.7 That the poorest countries and net-food-importing countries are compensated for the increasing price levels, which have resulted from the present Agreement on Agriculture. This compensation must not be deducted from development assistance.
4.8 That a new Agreement on Agriculture should include obligations to provide support for agricultural development in poor and net-food-importing countries in order to prevent possible negative effects. In addition, compensation should be provided for price increases that the new agreement might cause.

5. Intellectual Property Rights

Intellectual property rights are regulated by the so-called TRIPS Agreement, Trade Related Aspects of Intellectual Property Rights, under the auspices of WTO. According to the agreement, member countries must implement patent protection on areas which are not yet included in their national jurisdiction. The industrialized countries had a deadline to implement this protection before 1996, while the developing countries had a deadline in 2000, while the least developed countries have deadline in 2006.

The TRIPS Agreement regulates, among other items, copyrights, industrial designs, trademarks, patents, and protection of plant varieties. This is an area in which the majority of developing countries had not produced any legislation before the TRIPS Agreement. Therefore is has been necessary fore these countries to develop an extensive set of laws and an administration for these laws. Very few developing countries have the capacity and economic resources to carry out such changes in the short time period allotted. The result is that some developing countries didn't meet the deadline – and some have adopted other countries' systems without any real national adjustment in order to meet the deadline.

The TRIPS Agreement involves a kind of inverse development aid. More than 95% of all patents and copyrights are owned by companies and people from rich countries; and the TRIPS Agreement makes it possible for these people and companies to charge the developing countries for royalties. The amount which in this way is transferred from the poor to the rich countries will probably exceed the amount of granted development aid, as the TRIPS Agreement is implemented in more and more developing countries.

Many development countries have not had patented protection of medicine before. This has helped to keep the prices down. The TRIPS Agreement requires that patents be introduced on all medicine. The affect will be higher prices and less access for poor people to medicine.

However, Article 31 in the TRIPS Agreement makes it possible to issue mandatory licenses which means that a country's government can issue a license for the production of a certain product without it being necessary to receive an acceptance from the patent owner first. Mandatory licensing can only be issued under certain conditions and only in special situations. Unfortunately this exemption clause is formulated in a vague manner; and therefore there is doubt about the possibilities of using the clause. This has led to the situation that only a few developing countries - in spite of the health catastrophe that AIDS had caused in many developing countries – producing and selling inexpensive AIDS medicine.

The TRIPS Agreement is not coherent with the Biodiversity Convention. According to the Biodiversity Convention, genetic resources can only be utilized if prior consent is obtained and an agreement on sharing the benefits is made with the country or the indigenous people from which the genetic material originated. The TRIPS Agreement, however, enables countries to provide patent protection on plants and animals without any requirement to document the consent and sharing of benefits as a condition for receiving patent protection. The TRIPS Agreement thereby makes "bio-piracy" possible, where genetic resources are extracted and utilized commercially without consent from the country of origin.

According to the TRIPS Agreement's article 27.3(b), countries are not obligated to grant protection of patents on plants and animals. But they are obligated to grant protection to plant varieties. This can be done either by the introduction of a patent system along the lines of the Western model, or

by the introduction of other so-called "sui generis systems" (systems of their own kind). However, the USA and other countries are working to remove this exemption from the article. If this is the case, this will enable the biotechnological industry to take out patents on all kinds of genetic material without consideration of developing countries' or indigenous peoples' rights.

In the WTO Denmark and the EU should work for:

5.1 An exemption of the least developed coun-tries from the TRIPS Agreement.
5.2 An extension of the deadline for the other developing countries in order to implement the agreement, including longer deadlines for the introduction of sui-generis systems to protect plant varieties.
5.3 The possibility for developing countries to refrain from implementing patent protection of medicine.
5.4 Maintaining the TRIPS Agreement article 27.3(b) in its present form, so member countries can still refrain from patenting living organisms such as plants and animals.
5.5 Securing the rights of indigenous peoples to their own resources by giving the Convention on Biodiversity precedence over the TRIPS Agreement. Patent applicants must be obligated to account for the origin of genetic material and be able to document consent and the profit-sharing agreement with the country/peoples from which the material comes.

See also in the introduction of this paper the proposals concerning decisions about the TRIPS Agreement at the coming conference in Qatar.

6. Investments

Investments across borders have since the mid1980's received a marked increasing importance in the world economy. Whereas trade between countries previously played the biggest role in supplying foreign markets with goods and services, this dominant role is now furnished through foreign direct investments.

Today the rights of the investor are typically secured by a bilateral investment agreement between the investor's country of origin and the receiving country. International co-operation in the field of investment can be improved and eased by a multilateral agreement on investments, which could replace the numerous bilateral agreements. At the same time, such an agreement would legally provide nations with weak and strong economies with equal rights.

Along with the rapid increase in foreign investments, an increased internationalization of private companies has taken place. Therefore, it has become more urgent to implement a regulation of transnational companies and their international investments. A multilateral agreement on investments must therefore not only involve the rights of the investors, but also their responsibilities and obligations.

A multilateral agreement on investments should give special considerations to developing countries. Developing countries should be able to make demands concerning the concrete design of the investments, in order to develop their national economies and ensure special considerations for poor segments of their population of which women and girls comprise a large part. This might be

demands to employ the local workforce, use local products, reinvest profits, and partial national ownership of the investment. Furthermore, developing countries should be able to regulate capital transfers to foreign countries and thereby have an opportunity to intervene in cases of speculation and balance of payments deficit.

In principle, the UN-system with its broader and more democratic composition would be the ideal framework for the negotiation of a multilateral agreement on investments. However, the most realistic is that negotiations will take place within the WTO which is the most important organization for international economic co-operation. The advantage of this could be that the WTO already operates with binding rules, a dispute settlement system, and possibilities for sanctions.

A minor agreement on investments already exists in the WTO. The TRIMS Agreement, Trade Related Investment Measures, contains prohibitions against different forms of regulations which have been typically been used by the developing countries to increase the development effects of foreign investments. It is among other things not allowed to demand that a certain share of inputs to the foreign-owned companies' production process should be locally produced. Presently, a number of countries have requested to be exempted from measures of the TRIMS Agreement.

Denmark and the EU should work for the initiation of negotiations on a multilateral agreement on investments. However, just any multilateral investment agreement at all is not preferred to no agreement. The content of the agreement is vital. What is needed is a multilateral agreement on investments based on the objective to ensure democratic regulation of international investments that promote sustainable development globally. The demands to such an agreement should be:

6.1 Investors are obligated to comply with ILO conventions on fundamental workers' rights and the OECD guidelines for multinational enterprises.
6.2 Investors are obligated to observe and pro-mote the UN Human Rights Declaration and the corresponding conventions, as well as contribute to observance of multilateral environmental agreements.
6.3 The agreement should prohibit the prefe-rential treatment of foreign investors which today often results in the disregard of rules concerning environmental and employee protection, for example in export processing zones (EPZs).
6.4 Environmental and social impact assess-ments should be executed, as well as hearings of the local populations before the placement of new, big production sites, etc., are decided.
6.5 The agreement should not make it more difficult to carry out usual national regulation, such as regulation concerning physical planning, the environment, the work place environment, consumer protection, tax, and cultural policies.
6.6 The possibility for developing countries to make special demands to investments, for example requirements to hire a local work force, use local products, to reinvest profits, and partial national ownership of the investment.
6.7 The possibility for developing countries to regulate the transfer of capital abroad.
6.8 The agreement does not hinder the implementation of agreements in other fora, which impede currency speculation, for example by hindering, limiting. or taxing short-term capital flows.
6.9 Dispute settlement should continue to take place between states, with openness and transparency ensured in the process.
6.10 The agreement exclusively pertains to areas and sectors explicitly mentioned in the agreement.
6.11 The individual developing countries should be able to decide which areas and sectors their agreement covers.

See also the introduction of this paper for a proposal concerning decisions on the TRIMs Agreement at the upcoming conference in Qatar.

7. Competition

At present there are no binding and effective rules at the international level that prevent the establishment of monopolies and business practices that distort competition, such as price dumping, exclusion of competitors, and the export of profits through foreign concerns' internal accounting systems.

There are WTO rules on anti-dumping, but they are insufficient. Dumping occurs when goods are sold at prices below their costs of production. A motive for dumping might be the companies' desires to gain market shares. Current WTO regulations make it possible to levy a tariff penalty on goods claimed to be dumped. However, the rules make it possible to compute the existence of dumping, even though it is not really the case. This means that the rules can be used to protect national companies; and as such the rules are, in fact, an obstacle to competition.

Under the auspices of the WTO there is also an agreement on public procurement. The agreement provides better possibilities for competition because it stipulates that foreign and domestic suppliers should have equal treatment. However, so far only 25 countries have signed on to the agreement and many goods and services are exempted.

Binding international regulation of competition practices would give developing countries considerable advantages. Partly such rules could lead to the opening of industrialized countries' markets to imported goods from developing countries; and partly the rules would limit the at times ruthless behavior of multinational companies.

International competition rules should however give special consideration to food security as well to agricultural and industrial development in developing countries by allowing protection of especially vulnerable sectors in these countries against foreign competition. Neither should international competition rules force developing countries to promote private companies' engagement in areas which today are primarily taken care of by the public sector, consumer owned companies, or similar entities, as for example, education, power supply, or water supply.

In other words, Denmark and the EU should work for the adoption of an international agreement on the regulation of competition policy, which gives specific consideration to the developing countries' situation. Denmark should therefore work for:

7.1 Prohibition of practices that distort com-petition.
7.2 Protection of particularly vulnerable sectors in developing countries against foreign competition, as well as prevention of international competition rules from forcing developing countries to promote private companies' engagement in areas which today are managed by the public sector, consumer-owned companies or the like.

See also proposal 1.4 concerning subsidies, 2.8 concerning anti-dumping, and 4.1 to 4.3. concerning agricultural subsidies.

8. Services

In many countries the service sector is growing in relation to the industrial sector. At the same time the service sector is being internationalized. Trade in services is as such increasing faster than trade in goods. Today trade in services comprises 25-40 % of the total world trade. The developing countries' share of world trade in services is about 25%.

In the WTO trade regimes, international trade in services is regulated by the GATS Agreement, the General Agreement on Trade in Services. The GATS agreement covers 12 service sectors, including banking services, telecommunication, electronic trade, trans-port, education, and tourism. The agreement includes four so-called "delivery forms": trade across national borders (for ex. legal counsel given by a foreign firm); consumption in a foreign country (for ex. tourism); consumption; trade presence (for ex. establishing a bank in a foreign country); and the presence of individuals (for ex. stationing employees in a foreign country).

Most forms for international trade in services is a rather new phenomenon – especially for developing countries. A fundamental problem is therefore that there are no thorough economic or social analyses of the consequences of trade liberalization under the GATS Agreement. The problem is greatest for the developing countries that do not have the administrative capacity to examine and realize the consequences.

In connection with the GATS agreement, there are lists for each country with specifications of its obligations in regards to market access within each sector and under-sector and within each of the four delivery forms. On the one hand, trade liberalization under the GATS Agreement is therefore a very complicated affair with long, very detailed lists. On the other hand, this "bottom-up principle" means that developing countries have the possibility to adjust market liberalization in relation to their own development stage.

Many developing countries are worried about the consequences of further liberalization in the services sector. They fear that local suppliers will not be able to compete with international concerns, for ex. in tourism. Although foreign concerns start ventures in developing countries, the jobs that are created are often poorly paid; and in many cases the companies and firms key employees come from the concerns' countries of origin. Furthermore, a large share of the profits can be transferred back to the parent concern. In these cases, the contribution to the host country's development is very modest.

Education and health sectors are not as yet included in the concrete GATS Agreement's obligations to liberalize. Especially the USA is pressuring to include these two sectors in trade liberalization negotiations. If this succeeds and also obligates the developing countries, it will be even more difficult for countries' governments to control the quality and supply of these services.

According to the present GATS Agreement, developing countries' participation in trade in services should be increased. There are however no concrete measures that describe how this statement of intent should be carried out.

Denmark and EU should work for:

8.1 Retention of the "bottom-up principle" approach to the GATS Agreement, so it will be possible for the individual developing country to decide which sectors and which delivery forms should be given better market access to foreign suppliers.
8.2 Realization of postive discrimination/spe-cial and differential treatment of developing countries through obligatory and operational measures in the GATS Agreement which include the rich countries' obligation to both open their markets to services provided by developing countries and to provide technical and economic assistance to developing countries so they can increase their participation in trade in services.

See also proposal 2.1 concerning analysis of trade liberalization's impact on sustainable development.

9. The Democratization of WTO

One reason for the collapse of negotiations at the Ministerial Conference in Seattle was the lack of democracy. The important negotiations took place among an exclusive group in the co-called "Green Room" where only countries invited by the chairman of the conference - who was also the chief US negotiator - could participate. This meant that a number of poor countries were prevented from defending their interests. This situation has truly put the need for institutional reform on the agenda of the WTO. It is therefore hard to imagine that the negotiation model from Seattle will be used at future ministerial conferences.

But more extensive reforms are needed. The power in the WTO is extremely unevenly distributed. Even though every member state has one vote in the WTO, the reality is that a few rich countries have the decisive influence. Because of their economic strength, EU, USA, and Japan are the central players.

In addition to this, a number of other problems make it difficult for many developing countries to make their views and positions count in the WTO system. Almost half of the least developed countries are not represented in Geneva where the headquarters of the WTO is situated and where the ongoing negotiations take place. The developing countries with offices in Geneva are often only represented by one person who then has to cover the many different negotiations and meetings. Another problem is that very few developing countries have the expertise to analyze the consequences of proposals presented in the WTO.

The innovative with the WTO compared to other international institutions is the binding decisions and the dispute settlement system, which make it possible to sanction countries that do not comply with WTO regulations. But the dispute settlement system is not equally accessible for all countries, since it requires great expertise to take legal action under the WTO's dispute settlement understanding.

Denmark and the EU should work for:

9.1 The abolition of the use of the Green Room. It should not be the prerogative of the chairperson of the ministerial conference nor of the WTO's director general which countries are allowed to participate in the key negotiations.

9.2 The introduction of an "early warning sy-stem" so meetings, agendas, and all other initiatives are announced in time for all countries' representations to reflect and decide on their position and participation.
9.3 The provision of support to the least de-veloped countries to enable the maintenance of representation in Geneva.
9.4 The formulation of a concrete strategy for institutional and technical support to developing countries in order to enable their participation in policy processes of the WTO.
9.5 Improvement of developing countries' pos-sibilities to use the WTO's dispute settlement system by ensuring them access to qualified advice.
9.6 The requirement for rich countries to pay case costs for both parties, when they lose WTO dispute settlement suits to developing countries.

Historically, trade liberalization negotiations in the GATT were marked by secretiveness, and this tradition has continued in WTO. But in the course of including a larger number of products and a wider range of issues in the WTO agreements, it has now become more necessary to involve politicians and populations in the decision-making processes.

The WTO Secretariat has in more recent years actively begun to inform the outside world about what is going on in WTO. Via the WTO website it is today possible to access a large number of documents. But the main rule is still that all documents are restricted until the meeting in question is held. This applies among other thing to agendas, proposals for decisions, background notes.

A few types of documents are automatically publicized. The rest of the documents are publicized, only if there are no countries that object to the publication.

Ensuring transparency in the WTO is critical. Most kinds of meeting papers should be available before the decisions are made. Otherwise it will still only be the ones with the best contacts that are able to influence decisions. In practice it will probably primarily mean American and European industrial and agricultural organizations, as well as transnational compa-nies.

The secretiveness furthermore results in the lack of independent, critical examination of data and analyses upon which the negotiations are based.

Denmark and the EU should work for:

9.7 The publication of provisional agendas well in advance of meetings; and the de-restriction of proposals from member states and background notes from the WTO Secretariat, as soon as they are officially accessible. In more closely defined exceptions, such documents can restricted for a short period.
9.8 The inclusion of information about national positions that member states have expressed in the minutes of meetings, and the de-restriction of minutes as soon as they are approved.
9.9 The submission of written contributions by NGOs to WTO meetings and the possibility for NGO-representatives to observe certain parts of WTO meetings. Open parts of the meetings should be broadcasted on the internet.
9.10 The submission of written contributions by NGOs to the WTO dispute settlement bodies, when they are treating concrete disputes concerning countries' compliance with WTO agreements.
9.11 The convening of regular information meetings between NGOs and chairpersons or other government representatives in WTO councils and committees.

9.12 The obligation of the WTO Secretariat to inform developing country NGOs, including the establishment of information channels for NGOs without access to the internet and the provision of courses for NGO from developing countries.
9.13 The involvement of national parliaments in the work of the WTO, for ex. by establishing a parliamentary assembly in connection to WTO ministerial conferences.

The following organizations support the presented views and proposals, although not each organization necessarily agrees with every detail. The member organizations of the two networks are very diverse. Not all of them have an opinion about everything that is mentioned in this position paper; while some of the organizations will have additional and further proposals that they might seek to promote themselves.

Bird Life Denmark
Care Denmark
DanChurch Aid
Danish Association for International Co-operation
Danish Outdoor Council
Danish United Nations Association
FairNet
Greenpeace Denmark
IBIS
K.U.L.U. - Women and Development
Nature and Youth
Network for Ecological Education and Practice / Econet
The Danish Rainforest Group Nepenthes
The Danish Society for the Conservation of Nature
The Ecological Council
The Labour Movement's International Forum
WWF Denmark

The first edition of this paper was published in April 2001. The paper is the result of a co-operation between organizations which are members of the '92-Group or the Danish North/South Coalition. The '92-Group is comprised of Danish environmental and development organizations and works on the follow-up to UN's Conference on Environment and Development, Rio de Janeiro, 1992. The Danish North/South Coalition includes development and environmental NGOs and individual members cooperating on trade, debt, financial, and development issues from a South/North perspective. This second edition has been published in November 2001 and contains a few linguistic corrections compared with the first edition.