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**COMMUNICATION FROM THE COMMISSION  
TO THE COUNCIL AND TO THE EUROPEAN PARLIAMENT**

**Reviving the DDA Negotiations – the EU Perspective**

## **Executive summary**

The Communication assesses the state of play of the WTO Doha Development Agenda negotiations in the light of developments since Doha and of the Cancun Ministerial Meeting, and outlines how the EU could best contribute to a successful relaunch of negotiations. It is based on the reflections and consultations that the Commission has engaged in since Cancun.

The Communication concludes that the basic rationale for the DDA remains valid, and that the EU's objectives, set out in earlier Council conclusions, should be maintained. It also concludes that the EU should support the early re-launch of the DDA and should, together with other WTO Members, participate constructively in efforts to this end. The Communication does however suggest that, in order for a relaunch to be successful, all WTO Members must be prepared to adjust or refine their approach in a number of specific areas.

As far as the EU is concerned, it is suggested that we now be ready to explore alternative approaches to negotiating the Singapore issues of investment, competition, trade facilitation and transparency in government procurement, possibly through removing them from the single undertaking of the negotiations and through negotiating them as plurilateral agreements if necessary. While maintaining our substantive objectives, it also suggests a slight adjustment of the approach on trade and environment and geographical indications aimed at reducing reticence to negotiations in these areas.

On agriculture, the Communication confirms the EU's continued readiness to make significant commitments provided that our trading partners also show real movement. A specific initiative on cotton within the context of the agriculture negotiations is also proposed.

On services and non agricultural market access, the Communication suggests the EU should maintain its high level of ambition, and that other delegations should make a real contribution to negotiations according to their capacities.

The Communication also proposes that on rules for Anti-dumping, Subsidies and Regional Trade Agreements, the EU should seek ambitious results, while on a range of trade and development issues, we should work for outcomes that genuinely support the integration of developing countries as opposed to measures that perpetuate the development gap.

## Introduction

Following the failure of the Cancun conference, WTO Members, in particular the EU, have devoted considerable time in trying to comprehend the reasons for that failure. Mature reflection suggests a mixture of reasons. One was certainly procedural: in some respects the Cancun meeting began on track, and only fell apart at the last moment. But there are also solid grounds for believing that there were serious underlying problems behind the failure of Cancun, which will have to be addressed if the Doha Development Agenda is going to succeed as a negotiation. Developments such as the emergence of new groups such as the G20 and the G90, driven by concerns that their priorities were not being given sufficient attention; the reluctance of a number of Members either to engage in further trade liberalisation or to extend the WTO rule-book; differences in substance that remained too wide to be bridged in the time available; the importance (and fear) of China and her huge exporting potential; and systemic problems in the operation of the WTO itself cannot be ignored or brushed aside.

Given this mix of factors, and indeed, the dramatic and important nature of the Cancun collapse, many have also spent an equally considerable amount of time in assessing how and under what conditions the DDA negotiations could be re-launched. For our part, over the last two months the Commission has engaged in an extensive process of reflection and consultation with Member States, in the 133 Committee and elsewhere; with the European Parliament; with a broad range of civil society representatives (NGOs, business and trade union representatives); and with our third country partners, in order to better understand views and build a sense of what needs to be done if the process launched at Doha is to move forward again. The Commission has, in carrying out this review, posed a series of general questions: about the scope for pursuing new rule making in the WTO, and the relationship of “rule making” to “market access” negotiations; about the extent to which more emphasis should be given in the future to bilateral and regional trade negotiations; on the best means to further the developmental objectives of the WTO and the Doha agenda; and on the need for improving the workings of the WTO as an organisation. A brief word on each of these questions, and the conclusions we have drawn following our consultations:

- On “rule-making” and its relation to “market access” negotiations, it is clear to the Commission that the EU should continue to insist on a strong continuing rules-making component in the multilateral trading system. If we are serious about “harnessing globalisation”, we cannot dismiss the importance of rules in the WTO or those developed in other areas of international policy making. In any case, existing rules in areas such as agriculture or trade defence, for example, show how fundamentally intertwined rule-making and market access continue to be within the WTO. Further rule making accompanied by improved market access should help to sustain higher rates of global economic growth and poverty reduction, in addition to helping developing countries better integrate into the world economy.
- On the question of balance between multilateral and bilateral / regional negotiations, the results of our consultations are very clear: multilateral negotiations should remain the European priority. There is widespread support for this notion in all parts of the Commission’s authorizing environment – Member States, the Parliament, business, trade unions and civil society.
- On the question of development, much has been done before Doha, at Doha and since to ensure that the new Round supports development objectives. But

several developing countries, the G90 in particular, have so far been sceptical of the benefits that the Doha Development Agenda can bring to them, notably in terms of further market opening in sectors like agriculture. Most obviously, there has been concern over the impact of further multilateral trade opening on the preferential market access that some developing countries enjoy in a number of developed, “northern” markets. Some developing countries have also expressed reservations about engaging themselves in further liberalisation, or of adopting stronger multilateral rules.

Against this background, the Commission has sought to identify clearly what kinds of outcomes will genuinely promote development: what in other words a “development Round” should and should not be about. In our view, the WTO is not a structurally unfair system that needs to be rebalanced. We believe that the WTO and previous Rounds have not worked against the interest of developing countries. Nor should the Round be geared to removing all responsibility from all developing countries to contribute to a successful market-opening outcome, including the important dimension of improved “south-south” trade. And it should not be ignoring the necessity to update the WTO rule-book (since developing countries as much as any can benefit from the security that multilateral rules provide), or absolving developing countries from new WTO rules, which would create precisely the same two tier WTO which many developing countries have expressed fears about. The Doha Development Agenda has instead to enhance further the integration of developing countries, particularly the poorest of them, into the world economy, through progressive market opening and the progressive assumption of stronger rules, in keeping with the implementation capacities of developing countries. The biggest developmental gains will, after all, come from ambitious trade opening and the strengthening of multilateral rules. The DDA thus has to ensure that the negotiations more generally work fully in the interests of development. These arguments are set out at greater length below.

- Finally, and more briefly, on the question of WTO reform, the Commission has consulted widely on what specific improvements are needed to the functioning of the WTO. We have concluded that a relatively modest, but feasible, package of reforms, focusing first and foremost on the preparation and management of Ministerial conferences, and other means to improve the efficiency and inclusiveness of WTO negotiations, is the way to move forward. The Commission will raise further, more systemic questions in due course with the Consultative Group on WTO reform established by the WTO Director General.

During this period of reflection, the October European Council also invited the Commission both to reflect on the EU strategy and to explore with key WTO players the possibility for future progress in the DDA. At the same time, the European Council clearly laid down a framework for this reflection: the unchanged EU's commitment to the multilateral approach to trade policy, on the one hand, and the commitment by all WTO Members as an indispensable condition for any successful resumption of negotiations, on the other hand.

So in concluding this process of reflection and consultation, the Commission arrives firmly at one single basic premise: that the WTO must remain the principal forum for trade opening and the strengthening of trade rules, as the multilateral approach to co-operation on trade matters, based on the principles of transparency and non discrimination, remains the most effective and legitimate means to manage the globalisation process and trade relations

between countries. Along with, and in cooperation with other key international organisations, the WTO will continue to have a critical role to play in the management of globalisation and in the pursuit of sustainable development in all its aspects. The EU for its part should aim at improving further the coherence between the WTO and these other organisations in the interests of more coherent international governance in the economic, social and environmental fields.

If so, where next? It is clear that there are relatively few EU constituencies who are opposed to any form of multilateral trade round. We rule the “no Round” option out as unfeasible, undesirable and out of line with basic EU interests. But should we conclude that the Doha Development Agenda needs to be closed, in order to start afresh with a wholly new mandate, and that we should then look for an early WTO Ministerial meeting to launch a new Round ? This, too, we reject. It would be a recipe for a major delay in the conclusion of any Round, indeed even a *launch* of a new Round itself could be highly problematic over the next year.

Moreover, we believe that the Doha Declaration itself remains valid. The initial justification for launching the Doha Round remains unaffected by developments before or at Cancun. The negotiations still offer great potential to foster long-term economic growth, to stimulate trade and investment, and to promote sustainable development, and the DDA has an important role to play in our efforts to attain the Millennium Development Goals.

Our conclusion therefore is that the EU should support the early re-launch of the DDA and should, together with other WTO Members, participate constructively in efforts to this end.

Clearly, however, future negotiations will not be successful if we or others ignore the lessons of Cancun or pretend that we can simply pick up the issues where they were left on 14 September without any further reflection. As stressed by the European Council, *all* Members of the WTO have to be willing to reflect on their approach and come back to the negotiations in a constructive spirit, one that demonstrates anew a basic commitment to multilateralism. The EU, for its part, both before and at Cancun, moved, often repeatedly, on all important issues, many of which are very sensitive for European interests. It should continue to do so. However, movement in a negotiation is not an aim in itself, but a tool to facilitate a compromise where our own interests are also met: we do need, therefore, commensurate movement from other participants, which was and still appears, unfortunately, by and large insufficient or absent altogether. Negotiation is a two way street.

The process of reflection that the Commission has carried out so far suggests that the fundamental objectives that the EU set for itself before Seattle, as defined in the Council Conclusions of October 1999 and re-visited and re-affirmed in subsequent Council Conclusions, have stood the test of time. What *has* appeared in need of some review is our strategy to achieve those objectives: the need to refine and sharpen our negotiating approach in a number of areas; take account of the manner in which discussions have developed over the past few months or at Cancun itself; and take account of developments within the EU itself (notably the successful mid-term review of the CAP). On this basis, we should be able to continue to play a full and constructive role in any re-launch of negotiations.

The remainder of this Communication therefore identifies, in relation to the different areas of the DDA, what is needed from ourselves and from our trading partners - who also need to show their commitment to the negotiating process. For our part this Communication takes into account the discussions held with all European constituencies, including in particular the Member States in the 133 Committee and Members of the European Parliament. Orientation discussions have been already held on a number of topics. The paper in particular suggests

areas where the EU itself could further refine its approach in order to contribute to the resumption of work.

## **Agriculture**

Negotiations on Agriculture were launched in Doha on a broad and balanced platform covering substantial reductions in trade-distorting support, in export subsidies, improvement in market access, special treatment for developing countries and non-trade concerns, as part of a wider, single undertaking of the Doha Development Agenda.

The EU has from the outset taken a pro-active role in the negotiations and unreservedly supported the implementation of the Doha Declaration. The recently adopted reform of the CAP and proposals for reform in other sectors are the best proof that for the EU the path towards less trade-distorting support need not be an external constraint, but a desired policy orientation. Internally, the path chosen meets the domestic challenges of promoting competitiveness for EU agriculture while at the same time meeting the highest environmental, quality and animal welfare standards that our citizens expect. Externally, the reform process in turn enables the EU to contribute to the Doha negotiations through an approach based on further, significant trade opening and support for sustainable development. The process of CAP reform thus in a sense has anticipated on the achievement of the Doha objectives. It is now essential that others also follow the path of reform, at least as the result of the negotiations.

Rather than camping on its initial negotiation proposals, the EU has therefore already responded to the call for leadership from the WTO at large by demonstrating its capacity to reform. At the demand of other Members it also presented in the latter stage of preparation of the Cancun Ministerial a joint proposal with the US that built important bridges between opposing positions of WTO members. The new concepts developed at that stage on how to reduce trade-distorting domestic support, on market access and on export subsidization, are concepts that should not be lost as they provide the foundations for a balanced and fair outcome of the negotiations. Unfortunately the same cannot be said about many other important players. The onus is now on them to show similar determination for real progress leading to the successful outcome of the negotiations.

What is our position in the different areas of negotiation, and what do we believe other countries should do to get to an agreement? First and foremost, the negotiations can only succeed if they are faithful to the Doha Declaration. More specifically:

On domestic support, trade-distorting support should be substantially reduced from bound levels. Conversely, support with no or little trade effects, that addresses key policy goals crucial to the sovereign rights of Members, as is the case for green box support, cannot be subject to any capping or reduction. The notion that we or others should reduce green box support is unacceptable. This would amount to putting external constraints on internal policies having no trade distorting impact.

The real focus of the negotiations should be on what distorts trade, first and foremost on the amber box and export subsidies. The EU therefore should call for substantial reductions in the amber box, the most trade distorting form of support that is linked to production or prices. The *de minimis* threshold should also be reduced so as to keep it as a real exception. In addition, the EU should support specific disciplines, including a cap, on blue box support, although this is clearly less trade-distorting as it is based on fixed entitlements. Again, it should be noted that the EU has moved in this area, and the cap of 5% of total agricultural

production we have proposed should constitute the limit. Flexibility now has to come from others with the clear recognition of the distinction between the different trade distorting impact of different policies.

Further on domestic support, the EU accepts that DCs should have more flexibility to address their developmental needs, including the needs of poor farmers and the right to continue to sustain sound rural, agricultural and food policies. But while the EU has always supported special treatment for developing countries in the area of domestic support, it considers that such treatment should be targeted particularly to the poorer, less competitive developing countries as opposed to the most advanced. This appears to us the most appropriate means to fulfil the development objectives of the Doha declaration.

On market access, further gradual, substantial trade liberalization is beneficial to all, developed and developing countries alike. The developed countries should make the biggest contribution to most trade liberalisation, but that will not suffice. Development of trade *among* developing countries is also essential, as those are the countries where demand for food is expected to rise, and where most of the future growth in and benefits from trade are likely to arise.

Most WTO Members have particular sensitivities in some sectors, which explains why the mixed UR formula/Swiss formula approach constitutes the right compromise on tariff cuts, (which should be made starting from bound levels of tariffs), and why a special safeguard designed to meet genuine needs is important for developed and DCs alike. On TRQs, it should be noted that their distribution across the membership is very uneven, reflecting the situation prevailing at the end of the Uruguay Round, and therefore proper burden sharing of further market opening can be achieved only if all countries are put on the same footing, with appropriate special treatment for developing countries. Preferential access for the weakest of the DCs, in combination with sound economic policies and supply capacity, can be vital for their integration in world markets. Ignoring this fact is ignoring the lessons of Cancun.

But while we should be ready to re-confirm what the EU is prepared to do, other countries - including the largest and most advanced developing countries - should also provide preferential access in their markets to the larger number of developing countries in need. The EU's EBA initiative should be followed by others, and we consider that in addition to the OECD countries, the G20 should, for example, be invited to offer trade preferences to G90 countries. Last but not least, the EU should maintain its demand for an end to usurpation of certain selected EU GIs. Failure to do so will negate valuable export potential to the EU and other countries, which can only have a negative impact on the negotiations in this area.

As regards export competition, the EU's position has been very clear in asking that all forms of export competition need to be addressed in a strict, parallel manner. The EU has made very substantial proposals in this area, such as our offer to eliminate export subsidies on a list of products of interest to developing countries. Other Members, however, have tried to ignore the Doha Declaration by trying to exempt their own export competition instruments from significant, binding disciplines. Rather than attempting to re-write the Doha Declaration, other Members should respond positively to EU initiatives, including the offer regarding export subsidies.

In respect of non-trade concerns, the EU should continue to try to address all issues related to agriculture trade rules rather than only the commercial aspects. Protection of the environment, animal welfare, rural development are legitimate societal goals (cf under "Domestic support" above). To ignore them, as some Members do, can only reduce public support for further

trade liberalisation. To respond to them in a non-trade distorting manner is the correct way forward.

On cotton, the EU should support an effective and specific solution in the WTO to the plight of the African countries, taking in account the discussions in the Council in recent weeks. In the framework of the agriculture negotiations, an initiative on cotton should contain three key elements: an explicit commitment to grant duty free and quota free market access for cotton exports from least developed countries, as the EU already provides through the “Everything But Arms” initiative; substantial reductions of the most trade-distorting forms of domestic support; and elimination of export subsidies within a stated timeframe. The Commission has proposed such changes to our domestic support in the framework of reform of its Common Market Organisation for cotton, and intends to include cotton amongst products of interest to developing countries in the list for which EU export subsidies would be eliminated. This initiative, while being integrated within the agriculture negotiations, could receive a specific treatment, for example a specific timeframe for implementation.

Flanking support measures should be pursued in parallel by the EU and other partners, including the relevant international organisations, with a view to supporting modernisation and restructuring in the least developed cotton producing countries. The Commission will soon follow up on the Council Conclusions of 18 November, and will propose concrete orientations addressing the concerns of developing countries in the area of cotton.

More generally, the Commission intends to use these ideas as an illustration of how the wider commodities issue could be dealt with. The Commission is committed to providing input for an EU perspective on commodities and will produce an EU action plan no later than January 2004. Within the WTO, the EU should support such commodity initiatives aiming at raising the profile of the issue as proposed by preparatory texts to the Cancun conference.

On the Peace Clause, finally, comprehensive negotiations on agriculture, resulting in an agreement acceptable to all Members, risks being undermined if Members use litigation in an attempt to challenge subsidies granted consistently with the Agreement on Agriculture. Protection for such subsidies must be maintained. Since however the existing peace clause will no longer be in force next year, a strategic choice has to be made by Members, and in particular by the export oriented Members, between two alternative routes that are largely mutually exclusive : either they believe that multilateral negotiations are the way forward to a fair and market oriented trading system, or they believe WTO litigation is the way forward.

To conclude, the positions outlined above reflect a considerable movement, largely thanks to the successive reforms of the CAP. This has been used by the Commission in the negotiations, but so far, with the exception of the US, to no avail in terms of moving others away from entrenched positions. The EU should continue to play a full and constructive role, and will continue to provide positive signals through the continuation of its own internal reforms in agriculture, as described in recent orientations for reform in cotton, sugar, olive oil, and tobacco. A successful outcome of the negotiations will however only be possible if other major players are ready to show the same degree of determination to arrive at a fair compromise.

### **Non Agricultural Market Access**

Negotiations on tariffs and non-tariff barriers to trade in non-agricultural products remain a priority for EU industry and our fundamental objectives in this area remain sound. This is a subject in which the EU has significant potential trade gains. The negotiating process leading

up to Cancun and at Cancun itself, however, was disappointing: the “modalities” for further negotiations that were emerging at Cancun could have resulted in rather modest further market opening overall, with very little balance between the commitment of different WTO Members. In fact, the proposed modalities were so riddled with exclusions and exemptions, that they might well have resulted in a very low level of engagement, especially on the part of some influential developing countries, including the more advanced and competitive among them. While there is no question of developing countries undertaking market access commitments resulting in tariff levels similar overall to those of developed countries, the extent of the imbalance would have denied meaningful market access not only to our exporters, but to those of other developing countries as well, even though the greatest gains from further liberalisation will come from more South-South market opening.

Thus, modalities of the type on offer at Cancun – but not accepted by Members - cannot constitute a balanced basis for progress when negotiations resume. We, and many others, will have difficulty in moving to a final phase of the negotiations on non-agricultural market access that does not hold out real prospects of effective improvements in market access for our exports, in terms of reductions in both bound and applied rates and strict disciplines on non tariff measures. Nor can we accept an approach that would allow developed country partners to shelter important sectors from liberalisation. Given that 70% of the trade of developing countries is in industrial products and that they raise the highest barriers between themselves, important trade and development benefits will only be found if there is serious market opening within the developing world, particularly on the part of the more advanced developing economies, who are perfectly able to make a meaningful contribution. Indeed, the concern of several weaker developing countries about the impact of preference erosion can to a considerable extent be mitigated through the creation of new markets for their goods in the South.

Modalities for resumed non-agricultural market access negotiations must therefore ensure that the concept of “less than full reciprocity” does not equate to non participation of developing country Members in the liberalisation process, but instead reflects the genuine capacity of Members at different levels of development to contribute. As to the question of erosion of preferences more generally, while there is no easy solution, developed WTO Members should at the very least pursue some of the EU example, such as duty and quota free access for Least Developed Countries’ exports or at least minimum overall access for developing countries’ exports. (More on this in the “development” section below).

On this basis, when negotiations resume, the Community should make it clear that the approach set out in its previous submissions to the negotiating group remain valid. It should insist on an approach that maintains the justifiably high levels of ambition set out in the Doha mandate, and which ensures that all Members contribute to this process according to their level of economic development and capacities. This approach should remain anchored to a simple, single, non linear tariff reduction formula applied to all tariff lines, and result inter alia in the elimination of tariff peaks and significant improvements in tariff bindings. However, it should also cater for sectoral negotiations, over and above the results of a formula, on products of special interest to developing countries, as well as on other products of particular EU interest. In this regard, the Community should maintain its proposal to negotiate, over and above the agreed tariff formula, further reductions in textiles and clothing tariffs to as close to zero as possible, on a reciprocal basis. The modalities must also adequately reflect the interest of the Community and many other Members in seeing meaningful disciplines on non-tariff barriers, and the commitment made by all in Doha to negotiate the reduction or elimination of market access barriers to environmental goods. The EU’s aims should remain unchanged in this regard.

## **Services**

The services' negotiations are another key priority for the EU and are clearly one of the areas of the negotiations where the EU has much to gain. Services should therefore be maintained at the top of the EU's negotiating agenda. Further opening in services trade offers major potential benefits, however, not only to the EU but indeed to all countries irrespective of their levels of development. This opening can and should be entirely consistent with the full maintenance and protection of public services in the EU and elsewhere. Yet progress in the negotiations up to Cancun has been very disappointing. Few developing countries have engaged in the request and offer negotiations, while amongst the developed Members the quality of offers has been extremely inadequate, with the EU alone among the bigger Members in making a meaningful offer, including on Mode 4.

A major step change is therefore needed as and when negotiations resume, in order to reflect adequately the importance of these negotiations in themselves and for the overall balance of the DDA. To this end, a much greater level of engagement from all WTO Members is needed, which should be reflected in the submission of meaningful offers by those Members that have not yet done so, as well as by substantially improvement in the offers already on the table. The services negotiations should also put greater energy in fulfilling the Doha mandate to negotiate the reduction or elimination of market access barriers for environmental services.

Developing countries need to take a full part in this effort, in particular by fostering greater opportunities for South-South trade and by opening further those services sectors that provide the key infrastructure for economic development and growth. It is only through participation in the negotiations, not by standing aside, that developing countries can achieve sustainable growth. Development cooperation can play an important part here, both in identifying developing countries' export interests and in assisting them through capacity building measures to put in place the appropriate regulatory structures and policies important in several services sectors to ensure a sound regulatory framework within which trade opening can take place. Obviously the EU will have to continue contribute to this. A new impetus is also needed in the negotiations on rule making in services, both in areas of interest for the EU and developing countries.

## **Singapore Issues**

It is of crucial importance, for developed and developing countries alike, to create optimal conditions for cross border trade (trade facilitation), to encourage a climate attractive to productive foreign direct investment, to promote fair competition and of the procurement of the best goods and services for its citizens at decent prices. There remains deep disagreement among WTO Members, however, about the appropriateness of making rules on these four matters at a multilateral level in the WTO and, since Cancun, within the single undertaking of the DDA.

The EU sees no reason to abandon the fundamental and long run objective of creating rules for these four issues as key drivers of the global economy. Nor should we shy away, as a matter of principle, from the WTO as a forum for rule-making. The question now, therefore, is how can WTO Members build a shared basis for doing business on these issues in the WTO.

Some have argued that all four issues should be removed from the DDA, in a bid to "clear the air": if the EU were to accept this, it would set the clock back many years for the essential development of international rules in these areas. Others have argued that WTO Members

should settle for negotiations on trade facilitation alone, a subject on which there seems to be no deep seated opposition, and drop the other items entirely. While this judgement on trade facilitation may well be true, for the rest, again, we should reject as unacceptable such a radical shift from the agenda of Doha.

In seeking to build a practical foundation for WTO work on the Singapore issues, the EU should start therefore from the premise that it remains desirable to pursue the four Singapore issues within the single undertaking. Yet if, as appears likely, agreement on modalities within a single undertaking remains elusive, then the WTO must find a way to handle these matters on some other basis. The EU should therefore explore with an open mind the possibility that the wish of some WTO members to participate in negotiations on Singapore issues could still be accommodated, while accepting that others do not take part in or even explicitly exclude themselves from the negotiations.

The Community should now therefore consider each of the four issues strictly on its own merits, and no longer insist on each issue being treated identically if there is no consensus to do so. It should explore the potential for negotiating some, or even all four Singapore issues, outside the Single Undertaking, and to the extent necessary on the basis of participation in negotiations and adoption of the final results on a voluntary basis, by interested Members only. Following this, the Commission will have to assess, based on the level of interest, and number of countries wishing to take part, whether such negotiations would provide real added value. And to the extent that implementation of any future commitments remains a real concern for developing countries, notably the weakest, the Community and other partners should continue to give priority to technical assistance and development aid in these areas.

Exploring this approach seems to us to be the only way to develop rules on the Singapore issues while accepting that not all Members may be ready to take this step now or in the near future. It also appears to be the only way that might enable negotiations to be launched on these subjects while eliminating, once and for all, the false logic of the proposition that the EU should somehow “pay” for these issues.

### **Trade and Environment**

The relationship between trade liberalisation, trade rule making and action at all levels to protect the environment lies at the heart of many worries expressed in Europe concerning the development of the global economy. Some fear that the WTO can become an obstacle to environment policy making. Other European constituencies fear that over-regulation in the pursuit of environmental protection is itself becoming an unnecessary, disproportionate and perhaps protectionist burden for world traders, including for traders in developing countries. Some trade policy experts argue that there is no real problem in the trade-environment interface, and yet repeatedly in the last decade this interface has become a focus for opposition to trade policy making and for concern about global governance. These concerns are not simply expressed in Europe but world-wide although the EU is among the very few to have drawn the conclusion that the WTO should clarify these complex issues.

There is no controversy among the members of the WTO as to the importance of environment protection. There is no controversy as to the need for non protectionist and least trade restrictive domestic and international regulation in pursuit of environment protection. There is, however, controversy as to whether anything needs to be done today, in the WTO, in order to contribute to a better, and mutually supportive, relationship between the trade and environment legal and policy systems.

The current relationship between trade and environment legal and policy systems is one of unstable equilibrium. The findings of the WTO Appellate Body have contributed over the years to the maintenance of this equilibrium, at least so far. It remains in the interest of the EU, and remains an important element of the WTO's pursuit of its sustainable development goal, to use the Doha mandate on trade and environment issues to make that equilibrium more stable and predictable. Any other choice would undermine the WTO's legitimacy and credibility by demonstrating either a lack of confidence in the trade community's ability to handle cross-cutting issues appropriately, or a lack of commitment to the pursuit in the WTO of the Johannesburg commitments. Given this mandate, the EU cannot accept the extinction of trade and environment negotiations in the DDA.

On the relationship between the two bodies of international law: Multilateral Environment Agreements (or MEAs) on the one hand, and the WTO on the other, the EU has tabled ideas both for a legal approach to fulfilling this mandate and for broader political concepts, whose general formal acceptance by the membership could contribute to the definition of a more stable and mutually supportive interface between trade and environment policies. Without abandoning either track, given the dynamics in Geneva, it seems useful to focus more on the political principles for the moment, and to explore whether these could provide the foundation for progress. This is also the general message that we are receiving from European civil society.

A focus on governance principles could also have the advantage of providing an "opening" to a dialogue on ways to improve the dispute settlement mechanism for MEAs through inter alia better and clearer environmental input from experts, which has been a long standing issue on the agenda of the WTO Committee on Trade and Environment (or CTE). In this connection, possible options to be explored could include more systematic recourse to article 13 DSU (according to which each panel has the right to seek information and technical advice from any individual or body which it deems appropriate). The 1996 CTE report to the Singapore Ministerial already recognised "the benefit of having all relevant expertise available to all WTO panels in cases involving trade-related environmental measures, including trade measures taken pursuant to MEA's". In addition, the regular invitations by the CTE to certain key MEA Secretariats to observe negotiating sessions marks a useful improvement of WTO practice since Doha. However, the DDA mandate on MEA observership, which instructs the CTE to negotiate criteria for granting observer status for MEA Secretariats, is much broader than this. In addition, the CTE debate on this should be held independently from the ongoing debate in the General Council on observerships in the WTO, which has made no progress for a long time (due to the political implications surrounding the status of the Arab League). Our ideas to deal with that broad DDA mandate have yet to receive detailed analysis in Geneva: this should be a stronger focus of work from now on.

On market access-related issues, the work on environmental services requires a political push. On environmental goods, it needs to be made clearer to our trading partners that the EU is looking for an acceptable outcome reflecting the interests of both developed and developing countries. There is no question of the EU embarking in some sort of frontal assault on established orthodoxy in the goods area in Geneva. Nor can there be any question of importing countries being asked to sacrifice the integrity of their domestic regulatory autonomy in order to boost imports from other countries in contravention of environmental or other standards. There should, however, be scope between these extremes for improving the conditions of trade in environmental goods within the non-agricultural market access negotiations.

The EC also intends actively to contribute to discussions on Trade and Environment related assistance, whether in the CTE or in the Committee on Trade and Development (or CTD) with the aim of fostering WTO activities in this particular field, in close cooperation with other international organisations.

In the rules area, the work on subsidies in the fisheries sector is central to our trade and environment philosophy and also admitted by most to be core business for the WTO. The EU must continue to be a leading player here.

Finally, the EC should also further consider how to render more operational paragraph 51 from the Doha Declaration, which instructs the CTD and CTE to act as a forum to identify and debate developmental and environmental aspects of the negotiations, so as to ascertain whether and how environmental objectives are being appropriately reflected in the negotiations.

### **Geographical Indications**

The global economy has not produced global demand for the same product everywhere. On the contrary, very many products, from food and drink to handicrafts, are crafted to reflect local strengths and to meet the specific needs of local markets.

The notion that a local product should brand itself on the basis of its provenance is universally accepted as a potentially useful tool for business development. It even lies at the heart of the development of wine production in many new global players during the last 20 years. It equally lies at the heart of rural development policy in many countries, the most notable recent example being Thailand. So called GIs are a marketing tool, a store of value and a source of legitimate, proprietary pride for those who produce in a way that builds on the strength of their local roots. This proposition is widely shared by the developing as well as developed countries.

More controversial is the best global legal framework within which to empower businesses to develop GI strategies should they so wish. More controversial still is the potential adjustment costs where the development of a better legal framework creates not just long-term benefits for everyone but short-term adjustment challenges for those who may be prevented from developing certain strategies or required to adjust established strategies.

No one therefore can argue that GIs are a matter of universal consensus. But they are a matter of global economic potential, and a negotiation to further develop the existing framework in the WTO can enable all the players to balance off the costs and benefits so that all can gain. Three key issues lie before us: whether the current regime for the protection of wines and spirits GIs, which has stood the test of time since the creation of WTO, can now be developed over a suitable transitional period through the establishment of a register for all wines and spirits GIs world-wide. A second issue is whether the tried and tested wines and spirits' regime should not be extended to other products. Finally, in the agriculture context, there is a question whether we can address multilaterally the rolling back of certain GI use in countries where the GI was not originated: this is provided for in the TRIPS agreement, but has so far been pursued in bilateral and not in multilateral negotiations.

The EU has pursued a clear and coherent commercial strategy on this cluster of issues. Nevertheless, there continues to be a very substantial gap between the EU's ambitions in this field and the willingness of an important number of WTO Members to accept a meaningful outcome. Since it is clear that the EU cannot accept the proposals of some partners to abandon

this part of the negotiating agenda agreed at Doha, either in the context of IPR as such, or in the context of agriculture, we have to intensify our work to build sufficient trust on the part of our partners to persuade them to show the necessary flexibility. Persuasion and pragmatism are the tools we need to employ in this task.

The EU has signalled already its willingness to offer significant flexibility as to the precise arrangements for the creation of a multilateral register. Our position is clear: we are looking for a binding register, but with a carefully defined start-up phase of appropriate length. We believe that we should be able to bridge the gap with other WTO members, who are currently limiting their ambitions to a non-binding register with a mechanism for its future evolution towards full legal status. The launch of negotiations on extension is an important EU objective in its own right, but is also the key to create broader interest in the overall GI process in the WTO. Developing countries, in particular, are identifying a growing range of GIs that could be of interest to them, both at home and on export markets. It will be important to signal to these countries that the EU will continue to support negotiations on extension of GI protection that offers developing countries a concrete chance to pursue their own interests in this field, and not something that is exclusively geared to the protection of EU interests.

As regards the list of GIs transmitted to our partners before Cancun, it is important for the EU to finalise rapidly any additions needed to take account of enlargement, and to pursue a reasonable and contained approach to this negotiation. We shall have to make it clear, however, that the progress on this list is not a substitute for progress on a multilateral register, or on the extension of IPR protection for other GI products and that all concrete results on three sets of issues need to be obtained.

### **Rules, including those covering Regional Trade Agreements**

The negotiations on rules (anti dumping, subsidies and regional trade agreements) were not discussed at Cancun. When work on the DDA resumes, these negotiations should, in accordance with the Doha mandate, move into a more intensive negotiating phase.

Both on anti dumping and subsidies, the EU continues to have a basic economic interest in stronger disciplines that will reduce the scope for the rise in protectionist and trade distorting measures that we have witnessed in recent years. This should remain our approach to negotiations. The EU has long pursued the aim of balanced trade defence rules, with the objective of protecting European industry from the effects of unfair practices, but without falling into the trap of countering a trade distortion with another trade distortion. As a result, EU trade defence mechanisms have always applied stricter criteria and have included stricter provisions than those of other WTO Members, and continue to do so (e.g. mechanisms such as the “lesser duty rule”). The positions taken by other Members on these issues and the outcome of Cancun only reconfirm the need to negotiate ambitious and trade liberalising improvements to these rules. Our objectives in the subsidies area are similar, where too we seek improved and more transparent disciplines, including in the area of fisheries. Here too it is time to move to a more substantive phase of work.

As regards Regional Trade Agreements, the EU’s experience shows that these agreements, provided they adhere strictly to the conditions laid down in Articles XXIV GATT and V GATS, can contribute to the functioning of the multilateral trading system. The recent drift towards very partial, sector specific “free trade areas” between some Members is, however, a matter of concern. The EU’s position has been based on the need to clarify the margins of ambiguity in these rules, so as to strengthen the complementarity of bilateral and regional liberalisation with multilateral liberalisation. In the wake of Cancun, an increasing number of

WTO Members appears tempted to pursue RTAs/FTAs as an alternative to multilateral liberalisation. Worse still, this trend also extends to a number of bilateral tariff agreements, hitherto justified under the Enabling Clause, the role of which should be re-examined to ensure that arrangements established under it are brought under stronger multilateral control and are more transparent. This makes it even more imperative to clarify the applicable standards, and to tighten multilateral scrutiny of these putative RTAs, so as to ensure that any such agreements are genuinely trade liberalising and supportive of multilateralism, and do not distort markets, restrict trade with other Members, or undermine MFN-based liberalisation. The EU should firmly reject any attempt either to weaken the rules governing RTAs or to argue that they should escape multilateral disciplines in the first place.

More generally the EU has, following Cancun, posed the question as to whether it should now give more priority to bilateral and regional FTAs. Many WTO Members – including the US and some Asian developing countries – have announced that they will seek to intensify their networks of FTA relations in parallel with the WTO negotiations, or as a possible alternative, given the absence of progress at the multilateral level. The question is whether the EU should follow suit, or whether a major shift in our policy would disrupt multilateralism or be inimical to our own interests. The conclusion we draw is that the broad lines of our current policy and negotiating programme should remain, and that in order not to undermine progress in the DDA we should be careful not to shift the balance significantly further towards bilateralism. At the same time we also concluded that this continuity in approach was quite consistent with a possible expansion of our network of bilateral and regional agreements if persuasive economic or other reasons present themselves. This will require periodic reassessment.

### **Development Issues**

In the aftermath of Cancun, a number of voices have questioned whether the DDA is truly capable of delivering its promises for development and/or whether WTO Members are truly committed to the development dimension of the DDA. The integration of developing countries into the world economy is a necessary condition for development. Such integration will be deeper and fairer if anchored in the multilateral trading system. To this end, the potential of the Doha Development Agenda remains. The process so far has been far from easy, however, and WTO Members, both developed and developing, have at least partly fallen into the trap of looking at the development dimension of the DDA through the lenses of the very narrow notion of “special and differential treatment” that prevailed under the GATT and that has proven ineffective over the years. The critique of this notion has advanced at the theoretical level in the WTO, but this has not sufficiently filtered through to the negotiating process.

The EU should therefore, when negotiations resume, work hard to secure genuinely pro-development outcomes in all areas of the Doha work programme, in line with the stress placed on this in earlier Council Conclusions. The lines of action to achieve this outcome remain those identified by the Commission in the September 2002 Communication on Trade and Development, and subsequently endorsed by the Council: (a) market access, (b) multilateral rules, (c) trade-related assistance and capacity building, including the mainstreaming of trade related assistance into Poverty Reduction Strategy Papers and similar strategies. It is evident that the biggest developmental gains of the DDA will come from ambitious trade liberalisation and the strengthening of multilateral rules. At the same time Cancun has shown the persisting limitations to the capacity of the poorer developing countries to negotiate effectively and in a timely way even on issues of great importance to them.

As far as market access is concerned, there is an ever growing wealth of evidence, as noted in the preceding sections of this Communication on agriculture, services and non agricultural market access, that development gains will only be reaped if developing countries themselves also make a contribution to the liberalisation process according to their level of development, and begin to open markets to each other. Economic growth and integration will not take place through non-participation.

Equally compelling is the evidence that development will also be best served if developing countries progressively commit themselves to stronger multilateral rules, and benefit from similar commitments taken by others, rather than by seeking permanent exemption from WTO disciplines. The original role of exemptions and transitional periods was to allow developing countries the time to implement rules that should in principle benefit them as much as they benefit developed countries, but which would in the short term unduly stretch their resources. This has been all too often forgotten: developing countries have too often relied on exemptions and transitional periods to postpone indefinitely the assumption of new obligations. Developed countries have too often found it convenient to grant developing countries exemptions and transitional periods instead of taking a hard look at whether the rules being negotiated were indeed suitable for all Members, albeit in different time horizons.

To some extent this philosophy of “special and differential treatment” has been distorted to the point of identifying the development dimension of the WTO with permanent exclusion of developing countries from any meaningful obligations, in respect of both market access and rules. This line of thought has been especially troublesome in the DDA discussion on implementation and special and differential treatment, which is all the more disturbing, given the potential of the work programmes on both implementation and special and differential treatment to contribute to development if they are approached in a rational and critical manner. It has also spilled through into the negotiations on agriculture and non-agricultural market access.

The experience of two years of work since Doha suggests that both subjects have lost their sense of direction and need to be restored onto a firmer footing and with a clearer sense of the long term objectives driving them. Unless this sense of direction is restored Members of the WTO will continue to be frustrated about the lack of practical progress on SDT and implementation. This means at least three things. First, both work programmes will only lead to serious results if formal negotiations take place. The EU was ready to support negotiations in Cancun and should remain ready to do so in the context of a re-launched DDA with satisfactory overall balance, in which negotiating groups should be entrusted with dealing with each SDT and implementation issue.

Second, a more serious focus should be placed on finding solutions to the problems experienced by the most vulnerable Members of the WTO – the Least Developed Countries, small economies, landlocked developing countries and any others particularly vulnerable to economic shocks or with particularly weak economies or infrastructure, or who remain highly dependent on preferential access and revenues from tariffs. These Members are in the greatest need of flexibility in the application of WTO rules, of development aid to remedy supply side weaknesses, and of measures to improve their access to markets. Work should be guided by the principle, embodied in the WTO rules, that as Members develop, they would be in a position to assume greater commitments and make a greater contribution to the multilateral system. Nor should these commitments be seen merely in terms of mercantilistic exchange with developed countries. There is no reason, for instance, why at least the more robust developing economies should not extend to other developing countries tariff preferences, or extend to Least Developed Countries duty and quota free treatment. The G20 countries could

be invited to consider what preferences they are ready to extend to the G90 countries. Such improved access, together with support for supply-side reforms will mitigate the impact, if any, of reductions in margins of preference brought about by further multilateral trade liberalisation.

Third, as regards the negotiation of greater flexibility for developing countries in the application of WTO rules – which is the core of the SDT work programme – the EU should only support the principle of permanent waivers or exemptions from basic WTO provisions in exceptional cases, limited to the LDCs and other similarly weak Members of the organisation, and where this helps, rather than hampers, development.

Last but not least, it is not enough that the EU and Member States re-affirm their strong commitment – political and financial – to trade-related assistance and capacity building, in the WTO and elsewhere. This is an obviously necessary condition, but far from a sufficient one. The WTO Technical Assistance programme has suffered from a number of teething problems, from a mismatch between the financial resources committed by WTO Members and the organisational and human resources capacity of the WTO itself to implement it, as well as from insufficiently clear political guidance from WTO Members as to the strategic direction of the programme.

Assurances need to be repeated as to the continuity of the financial commitment of developed countries. However, the EU should also press for the WTO as an organisation to be given the tools to do the job, beginning with more and better human resources. The WTO must become better at identifying the needs of developing countries in this area, relying more on the work of WTO bodies and Committees, including specific input from the Trade Policy Review process, and bearing in mind that those developing countries who are in greater need of assistance are those least able to articulate convincingly those needs. The focus of WTO-led trade-related assistance must shift from explanation and awareness raising to tackling in the very short-term the very real lack of negotiating capacity and ability to participate in WTO work, and laying the foundations for the implementation of future WTO agreements, together with other multilateral institutions and bilateral donors.

### **Improvements to the Functioning of the WTO**

Finally, although as noted above the failure of the Cancun ministerial was due largely to substantive differences amongst Members, important organisational and procedural shortcomings also contributed to the breakdown. WTO Members have begun to recognise that, unless these organisational shortcomings are quickly remedied, they will continue to impede any future efforts to resume, conduct and conclude negotiations. The EU for its part, has asked the – far from rhetorical – question as to whether improvements are needed to the functioning of the WTO. The EU should now put forward a number of improvements, notably to improve the preparation and management of ministerial conferences, with the aim of facilitating more efficient negotiations and decision making amongst an ever-growing membership. In doing so, the EU has focussed on changes that could be introduced rapidly, without changing the basic rules or constitution of the WTO, and without distracting in any way from the substantive negotiations. For instance, it should be possible to agree in the short term to a better definition of the role of the host of Ministerial conferences, or on the need to appoint “facilitators” at Ministerial level earlier in the process. Equally, there is a need to improve the ability of smaller (and non-resident) delegations to negotiate effectively both in the Geneva process and at Ministerial meetings: technical assistance is certainly part of the solution here. The EU should raise the above mentioned proposals in the WTO in the coming

weeks so as to ensure that the necessary changes in organisation and procedure are put in place in good time and actually facilitate the building of consensus, rather than hinder it.

## **Conclusions**

This paper attempts to draw comprehensive conclusions from the Commission's consultation and reflection over the last two months, taking full account of views expressed in the 133 Committee, by Members of the European Parliament and elsewhere. It also responds to the request of the European Council that the EU reflect on its multilateral strategy as part of an effort to relaunch the Doha Round. It has tried to identify, in relation to the different areas of the DDA, the actions needed from ourselves and from our trading partners, who also need to show their commitment to the negotiating process. And this document tries to provide an answer at least in part to the four basic questions posed by the Commission shortly after the failure of the Cancun meeting.

The Commission believes that the approaches outlined in this paper will enable the EU to play its role in getting negotiations back on track, and this time on a more solid basis. This must be our objective. Following further discussions in the Council and the European Parliament on the approach, and taking account of any views expressed, it would be the intention of the Commission to use the approach set out in this document as a basis on which, in cooperation with our WTO partners, to seek a relaunch of the Doha negotiations.