

PUTTING TRADE ON TRACK

A Realistic
Negotiating
Agenda
for the WTO

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A FEDERAL TRUST REPORT



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Putting Trade on Track: A realistic negotiating agenda for the WTO

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Executive Summary

This report by a Federal Trust Working Group was compiled with a view to submitting practical recommendations to the Fourth Ministerial Conference of the WTO. The Group brought together trade experts drawn from a wide variety of backgrounds, including governments, international organisations, business, NGOs, academia and the media. The Group met six times and took evidence from a range of governments, non-governmental organisations, commercial interests and academics. They also consulted with a number of ambassadors to the WTO and members of the WTO Secretariat, as well as paying close attention to papers tabled in negotiating groups in Geneva. The full report of the Group will shortly be available at www.fedtrust.co.uk.

Summary of recommendations

To sustain the world trade system and to boost confidence in, and the robustness of, the world economy, the fourth WTO Ministerial conference should give the go-ahead for a negotiating agenda designed to:

- Reduce agricultural protection at the frontier by at least 50%.
- Reduce all agricultural export subsidies to zero.
- Eliminate all support of agricultural production and allow its replacement with measures to encourage agricultural development in developing countries and truly delinked income subsidies and/or subsidies for specific and targeted environmental and rural development outputs in both developed and developing countries.
- Promote liberalisation of services trade by using Groups or 'clusters' of related services sectors.
- Further liberalise trade in manufactures with the objective of reducing average levels of tariffs and the eventual elimination of tariff peaks.
- Re-examine the anti-dumping agreement to reduce the use of such instruments and the chilling effect they have on trade.
- Look again at Uruguay Round agreements where these impose significant administrative costs on small developing countries with a view to aiding capacity building and extending implementation horizons for the poorest members in particular.
- Direct existing Working Groups on foreign direct investment and international competition policy to meet jointly to examine whether there is a substantive case for rules to cover these related issues, with a particular reference to problems of implementation.
- Establish a special standing body, serviced jointly by the WTO and UNEP Secretariats, and open to all members of the WTO and of individual multi-lateral environment agreements, to examine actual and potential clashes between WTO rules and MEA provisions in order to clarify the relationship under public international law and to agree a concordat on their co-existence. (This special body should be independent of the ordinary WTO negotiating machinery).
- Require all negotiating Groups to work out practical and effective special and differential treatment provisions for developing countries, which can be implemented in a way that does not risk their marginalisation in the WTO.
- Direct the General Council to accelerate the accession of the least developed countries applying for membership to demonstrate the relevance of the WTO to the poorest countries in the world.

Background to the recommendations

The terms of reference of the Group were to:

- Identify the aims & objectives of the various stakeholders.
- Identify the potential benefits of further trade liberalisation for different country groups.
- Identify the key problems in the multilateral trade system that should be addressed by negotiation.
- Identify the most practicable way forward.

Key assumptions

The starting points of the Group were that:

- the world trade system provides an important support to world commerce and to its governance; and
- the core principles of non-discrimination against and between foreign suppliers and the progressive reduction of trade barriers underpinning the GATT and the WTO are a key element in the remarkable expansion of world trade in the past half century.

A heavy burden lies on ministers to revive confidence in the institution and the world trading system. The disastrous failure at Seattle and the subsequent wave of objections to the WTO's key functions on the streets of world capitals demands that the fourth Ministerial gives momentum to the Organisation and its role in the world economy if the needs of its members and of other stakeholders in the world trade system are to be met. These concerns are intensified by the rapid slowing of the world economy in recent months, made worse by the blow to economic confidence following the atrocities of 11 September 2001.

Against that background, the Group tried to put together a set of recommendations which asks much of all members of the WTO – either to go further than they wish, or to reassess some of their long-standing priorities.

In making its recommendations, the Group had particular regard for the sustainability of the core trade system and the need to meet what seemed to be the main and reasonable objectives of the key players within the system.

Overall judgements

The Group came to the broad conclusion that a comprehensive round as pursued by a number of developed countries was not an attainable objective but that many of the issues included under that agenda did bear serious examination within the trade system. The Group equally concluded that an approach that focussed only on the existing but stranded negotiations on services and agriculture, and on renegotiating the Uruguay Round agreements, was also not designed to sustain the system. The Group further concluded that a successful agriculture negotiation was a key element in reaching agreement and that this would require a wider agenda to provide the necessary tradeoffs.

Key issues

On the issue of implementation of Uruguay Round agreements, the Group were sympathetic to the difficulties that small developing countries with tight budgets, weak administrative capacity and competing priorities face. TRIPs in particular can impose significant costs for little apparent or immediate local benefit and the group are sympathetic to the case for more time and aid for capacity building. The Group noted, however, that this route contains dangers. The precedent could backfire on developing countries. As textiles and agriculture amply demonstrate, there is no great appetite for rapid implementation of agreements in developed countries. The GATT/ WTO system of rights and obligations has been a bulwark against backsliding by the big members.

On traditional market access issues, a traditional tariff negotiation seems to the group a sine qua non of a wider package. The proliferation of the use of anti-dumping measures among WTO members is a significant threat to market access liberalisation and hence requires a negotiation on the anti-dumping code.

Similarly, the Group understood the desire of the developing countries to reinforce their rights to special and differential treatment under Article XXVIII of the GATT. It should be remembered that one result of the application of these principles in the past was the marginalisation of developing countries in negotiations.

On the so-called new issues, the Group recognised the case for international rules linking trade, foreign

direct investment and competition policy. Our doubts are practical. As with intellectual property, we see the lack of financial and human resources and more pressing priorities, particularly in small developing countries, as likely blockages to rapid progress. This requires more work and we concluded that the issues might be considered jointly by the existing working Groups given their close relationship.

The relationship between the environment and the trade system was particularly difficult for the Group. It was difficult to understand what the various protagonists for change wanted. Two issues seem salient. First the precautionary principle, and, second, the relationship of the WTO to multilateral environmental agreements with trade provisions.

The role of the precautionary principle in the sanitary and phyto-sanitary rules and technical barriers to trade agreements is a key issue which links trade rules and the environment.

Its invocation could be used to exclude imports on safety grounds, which raises particular suspicions among food exporters. Those seeking change need to make specific suggestions on how the SPS and TBT agreements should change to bring the principle into play, and what the implications of such changes might be.

The possible conflict between the provisions of the WTO and the trade-related provisions of multilateral environmental agreements need to be addressed. Aiming for a concordat between the WTO and UNEP would seem a possible way forward. The Group recommends a novel form of cooperation between the two organisations (given their differing structures) to that end.

The Group also noted that while there was much activity in the existing negotiating Groups on agriculture and services, there was little progress. This suggests that both Groups need guidance from the Ministerial conference on a way forward.

On services, the bottom up, negative-list approach to negotiation gives guarantees to members that they can choose the speed of their liberalisation. However, the benefits of liberalisation are significant – especially in developing countries where sectors such as telecoms and financial services can be inefficient and a drag on development. Thus there is a need to find a way of accelerating progress. We

recommend that the Ministerial conference mandate the services negotiating Group to pursue liberalisation through the identification of clusters of sectors which would be the focus for reciprocal liberalisation on a non-discriminatory basis.

The Uruguay Round Agreement on agriculture was extremely complex, with commitments on market access, total support and export subsidies. The negotiations encompass four main groups of countries:

- net food exporters;
- net food importing developing countries;
- developing countries which see agriculture as central to their poverty strategies and wish to retain the ability to protect, while demanding the end of export subsidies and increased market access to OECD markets;
- countries in Europe and North East Asia which see agriculture as contributing to major non-agricultural objectives, notably environmental protection and the sustaining of rural society.

The Group acknowledged that agricultural policy did have implications for environmental and social objectives. These implications, however, do not justify trade-distorting support. Targeted subsidies for defined environmental and social objectives are the best response.

The Group felt that export subsidies were a particularly damaging form of support and the case for their immediate abolition under WTO rules was unassailable.

The Group also recommended cuts in tariffs and trade-distorting agricultural support of 50%.

The Group emphasised however that neither of these objectives can be achieved unless support of agricultural production in the developed countries is substantially reduced.

CONCLUSION: TWO CREDIBLE STRATEGIES

The task facing the fourth Ministerial conference is large and complex. The consequences of failure are significant both for the WTO and for the world economy, given the fragility of confidence. Strategies are therefore needed for both of the main scenarios at the Ministerial conference.

Plan A: trade on track

The Federal Trust Working Group has proposed a package of measures intended to deal with the concerns of the main groups within the negotiations. Everyone has to give if agreement is to be reached: we have suggested where. Now is a time for trade negotiators to lift their heads and look around and ask themselves about the wider costs of failure.

Plan B: a survival strategy

Facing up to realities however, what can the conference do to minimise the damage of failure? It will not be enough to welcome China and Taiwan to the fold (important though that is), declare a victory and go home.

If a clear way forward on the details of the next stage in negotiations is not agreed at the fourth Ministerial, ministers must at least mandate the General Council to agree by a specific date, with a view to launching a consolidated negotiation across all these issues:

- A clear agenda for concluding negotiations on agriculture and services.
- Proposals for a market access negotiating Group on manufactures and on anti-dumping.
- Proposals on the implementation of Uruguay Round agreements where small developing countries have noted real difficulties.
- Proposals for a joint working group on investment and competition policy rules.
- A joint group with UNEP to agree a concordat on the WTO and Multilateral Environmental Agreements.

Appendix

Evidence and Documentation

The group held meetings with

Alistair Abercrombie - International Financial Services London
Donald Anderson - International Chamber of Commerce
David Dawson - UK Department for the Environment, Food and Rural Affairs
Phil Evans - Consumers Association and UK Representative to BEUC
Duncan Green – CAFOD
Stuart Harbinson – Chairman, General Council of the WTO and Permanent Representative to WTO, Hong Kong and China
Martin Haworth - UK National Farmers Union
David Hartridge – Special Advisor, Services Division, WTO
Peter Holmes - The University of Sussex
Constance Kann – Global Public Policy, Unilever
Patrick Low – Chef de Cabinet, Office of the Director General, WTO
Robert Madelin – DG Trade, European Commission
Riccardo Melendez-Ortiz – International Centre for Trade and Sustainable Development
Razeen Sally - The London School of Economics and Political Science
Gus Schumacher – Former US Under Secretary for Farm and Foreign Agricultural Services
Paul Shanahan - Agriculture and Commodities Division, WTO
Geoff Raby – Former Permanent Representative to WTO, Hong Kong and China
Christopher Roberts - International Financial Services London

Written evidence was received from

Alan Swinbank – University of Reading
Agricultural Trade Reform Alliance (UK)
Commonwealth Secretariat
European Services Forum
International Confederation of Free Trade Unions (ICFTU);
Phillippe Rutley - Clyde and Co;
UK Food and Drink Federation; Union of Industrial and Employers' Confederations of Europe (UNICE).

The group utilised documents from

Action Aid; Association for South East Asian Nations (ASEAN); Centre for International Trade, Economics and Environment (CUTS, Jaipur); Christian Aid; Coalition of Service Industries (US); Confederation of the Food and Drink Industries of the EU; Consumers International; Council for the Preservation of Rural England; Foundation for International Environmental Law and Development (FIELD); Oxfam; Royal Society for the Protection of Birds; South Asian Association for Regional Cooperation (SAARC); The Director General of the WTO; The Governments of Canada, India, Japan, Malaysia, Dominican Republic, El Salvador and Honduras; UK Trade Network; United States Trade Representative; US National Foreign Trade Council; World Vision International; World Development Movement; World Wildlife Fund.