

Bad Deal is Bad News

WTO Inches Forward in Hong Kong

Development — real gains in real peoples' lives — remains the primary benchmark for success of the Doha Round. Whatever other smaller steps your negotiations achieve, development writ large is the standard against which your efforts will be judged.

— Kofi Annan, UN Secretary-General in his address to the Opening Plenary, Hong Kong December 2005

Negotiating teams from the 149 member states of the World Trade Organization (WTO) converged in Hong Kong December 13-18, 2005, for the 6th Ministerial Conference. The last two attempts at moving global free trade forward had ended in spectacular failure: Seattle in 1999 and Cancun in 2003.

The clock was ticking. The legitimacy of the WTO — indeed the very idea of free trade — was on the table. A third failure

could cause a fundamental shift for the future of globalization.

In this pressure cooker scenario, on par with a thriller, the week-long meeting was full of intrigue, uncertainty, conflict, manipulation, posturing, deception, and — sometimes — action. The exact outcome was never quite clear, the storyline taking a different path with each new storyteller. In fact, the ending — after a week's worth of high drama — was superficial at best, in true Hollywood fashion.

Regardless, there is cause for concern. The tepid deal hatched in Hong Kong validates the current unjust institution.



Police surround Korean demonstrators for more than 24 hours, denying them food and water during the WTO Ministerial Conference.

Most disturbingly, it brings with it new dangers, new ways to cement global corporate power at the expense of people, communities and the environment.

What was gained? What was lost? What will be the Final Act of this epic saga that holds the lives of billions of children, women and men in the balance?

In order to understand the significance of what happened in Hong Kong, it is first necessary to review the

path negotiators took to get there. Part of the 'trick' in understanding global trade negotiations lies in tracking the way in which items, sentences and even words, whose legal significance is often not clear, move from meeting to meeting. Then, this report will provide an overview of the deal which was "hatched" in Hong Kong, paying special attention to unpacking the implications of the three intertwined agreements that dominated the talks: the Agreement on Agriculture (AoA), the General Agreement on Trade in Services (GATS), and Non-Agricultural Market Access (NAMA).

Rusa Jeremic, KAIROS International Trade Program Coordinator, travelled to Hong Kong for the World Trade Organisation's Ministerial Conference in December 2005. This is her first-hand photo-essay of the events that unfolded at the meetings.

PROLOGUE: The Bumpy Ride to Hong Kong

First stop: Doha, Qatar, 2001

Southern governments first began to contest the undemocratic nature of WTO negotiations at the 1999 Ministerial in Seattle, resulting in a near failure of the meeting. Northern countries responded by declaring that the very next WTO Conference would be a ‘development round.’

Following as it did on the heels of September 11, 2001, this Ministerial was held in a secluded and heavily policed location in Doha, Qatar, and carried with it an unspoken burden of requiring success and movement. This 4th Ministerial, termed the “Doha Development Round,” committed to addressing the development needs and concerns of Southern countries as a first priority. Yet many of the same dirty tricks and shenanigans from earlier meetings took place.

At the end of the day, there was a pledge to address Southern countries’ concerns on public health and access to essential medicines as well as a number of key concerns pertaining to agricultural implementation issues.

With regard to agriculture, the Doha Declaration states: “We commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of... all forms of export subsidies; and substantial reductions in trade-distorting domestic support.” It goes on: “We agree that special and differential treatment (SDT)... shall be an integral part of all elements of the negotiations...” (WT/MIN (01)/Dec/1 page 3) This meant that SDT, an understanding that one size or one formula does not fit all, was henceforth to be an integral part of negotiations.

Moreover, with regard to the LDCs (Least Developed Countries), there was a recognition that, “the multilateral trading system requires meaningful market access, assistance and capacity building” with a commitment to “the objective of duty-free, quota-free market access for products originating from LDCs.” (WT/MIN (01)/Dec/1 page 9)

The final item worth noting is that somehow — snuck through the back door — were the first steps in advancing talks on NAMA or Non-Agricultural Market Access products. NAMA negotiations have the overarching objective of eliminating tariffs on industrial products. In the context of this Round, there was a recognition of the need to, “take fully into account the special needs and interests of developing and LDC participants, including through less than full reciprocity in reduction commitments.” (WT/MIN (01)/Dec/1 page 4)

So in the midst of a shaky world order with increasing militarization and fear mongering, the Doha Ministerial attempted to address some of the long-standing concerns of Southern countries — particularly in agriculture — saving the WTO for the time being.

Second stop: Cancun, Mexico, 2003

When the 5th Ministerial rolled into Cancun on September 10, 2003, the world was a different place. The strenuously-opposed

US invasion of Iraq had begun, while in Latin America a geopolitical shift was emerging as leftist governments were coming to power, starting with the Worker’s Party in Brazil.

In the global trade arena, two more years had passed in which the dominant North had not given an inch on previously made commitments (which they had re-committed to in Doha). The contradiction was a searing open wound: the US, EU, Japan and others did everything in their power NOT to cede to WTO rules and open up their agricultural markets, while obligating Southern countries to do exactly the opposite.

Simultaneously these powerhouses (along with Canada), devised ways to further open Southern markets to Northern goods and services. They arrived at Cancun with a contentious proposal in hand, intending to advance negotiations on the so-called Singapore Issues (investment, government procurement, competition policy and trade facilitation). These issues had been 11th hour add-ons in Doha, limited to an agreement that negotiations on these contentious issues would begin only if there was explicit consensus to do so. Earlier attempts to introduce investment policies through the MAI (Multilateral Agreement on Investment) had dramatically failed. The Singapore Issues represented the same wolf but wearing a brand new outfit.



Korean farmers stand in front of memorial for Lee Kyeong-hae who killed himself at the Cancun Ministerial in protest of WTO policies.

Meanwhile Southern countries arrived in Cancun determined to see concrete results in agriculture and thereby move the Doha Round forward. In the upside down world of global free trade, small-scale farmers in West Africa were forced to compete with heavily subsidized US agri-business cotton producers. As with most commodities, in 2001 the price of cotton fell to its lowest level in 30 years, thereby compromising the ability of these farmers to survive. In an attempt to play by the skewed rules of the WTO and “level the playing field” once and for all, the West African countries of Mali, Burkina Faso, Benin, Chad, and Cameroon came with a proposal demanding that the cotton situation be addressed urgently and apart from the AoA discussions.

At the same time, the new progressive Southern govern-

ments brought an emerging strategic alliance to Cancun. For the first time, there was a counterweight to the then Quad (US, EU, Japan, Canada). The Group of 20+ (G20) were led by Brazil and India but its membership fluctuated daily, if not hourly, depending upon which countries could be coerced into leaving the alliance. The G20's demands honed in on pressuring for successful completion of this Round with a particular focus on market access, subsidies and other elements in the AoA.

The Quad's end game, on the other hand, was clear: "We will discuss agriculture but first let us begin negotiations on the Singapore Issues." Such an arrogant abandonment of the Doha agenda, combined with a shameless disregard of the Southern countries' urgent concerns, in particular those of the West African nations, led the Cancun meeting to a stunning collapse. "Explicit consensus" enabled Southern countries to hold firm and walk out the door and they did so in spectacular fashion.

There were clear victories for Southern countries in Cancun: the Singapore Issues, except for Trade Facilitation, were dead for the time being and there was a hope in the air that the emerging geopolitical shift just might bring with it further benefits.

With disregard for the South's strategic victory in Cancun, the half-page Ministerial Statement asserted, "We will bring with us into this new phase all the valuable work that has been done at this Conference." (WT/MIN (03)/20 page 1) Here, then, is the Achilles heel for the South. Before each Ministerial meeting, the Chairman brings in a draft text, which — the hope is — will form the basis of discussions. Then the final declaration moves negotiations forward into the next phase. The draft Cancun Ministerial text, known as the 'Derbez text,' contained many disconcerting elements, including a call to establish Non-Agricultural Market Access (NAMA) modalities. NAMA negotiations are all about industrial, forestry and natural resources products. In other words, a framework to break through into the last bastion of goods thus far saved from enforced liberalization.

This text should have died a proper death on the sunny beaches of Mexico but as we see at our next stop, the WTO has everything to do with who has the power and nothing to do with democracy.

Surprise detour: Geneva, Switzerland, Summer 2004

After Cancun, there was little movement (or 'convergence' in WTO speak) on negotiating positions for months. With the future of the WTO literally hanging in the balance, a regular, yet poorly attended, General Council Meeting in July 2004 suddenly took on Ministerial proportions, reaching so-called 'consensus' on a Framework text that would move things forward.

It was here that the FIP (Five Interested Parties) emerged. This unofficial grouping of the US, EU, and Australia brought Brazil and India into their fold. The backroom discussions now included some of the new middle-emerging powers. Politically, it was crucial that the WTO be salvaged. Thus,

minutes before the midnight deadline the FIP presented an agreement to other members giving them a mere 17 hours to respond. (Gould 2004,1)

The pattern that emerged that July was one in which the often narrow interests of Brazil and India began to guide the negotiations. In many ways, they assumed a self-appointed role as representing the entire Global South. On the surface, their long-sought-after demands for the elimination of Northern subsidies appeared to be granted. Yet a closer look revealed a vague agreement full of loopholes that was, once again, achieved through the use of manipulation, coercion and secrecy.

The Framework essentially replicated elements of the defunct Derbez text presented in Cancun while apparently going further on agriculture: there was an agreement to end export subsidies (but still no fixed date) and there was a much-lauded commitment for a 20% cut to trade-distorting subsidies. In the case of the US, this would accomplish little because of its pre-existing artificial ceiling of allowable spending, compared to actual spending levels. Moreover, while the Framework agreement finally recognized repeated demands regarding sensitive products (SP), it simultaneously allowed Northern countries to safeguard products within this category.

It seemed as if agriculture, the engine of the WTO talks, had received some fuel, albeit through the narrow lens of increasing market access for Southern goods. Meanwhile, the big-ticket item first slipped into Doha and then resuscitated from the Derbez text, was a clear commitment to Non-Agricultural Market Access (NAMA) negotiations. Regarding NAMA, the decision clearly states, "The General Council adopts the framework set out in Annex B of this document." (WT/L/579 page 1) In the upside down world of global free trade, this gave the nod to begin determining how industrial tariff liberalization would take place.

Moreover, by July 2004 the GATS or services negotiation — conducted through a bilateral offers approach — was clearly not resulting in big offers and de facto gains for Northern corporations keenly interested in access to all kinds of services markets in the South. The July Framework gave a push to these lagging talks by insisting that they get back on track. Annex C of the Decision states, "Members who have not yet submitted their initial offers must do so as soon as possible" adding, "in order to ensure a substantive outcome, Members shall strive to ensure a high quality of offers." (WT/L/579 page C-1) **The pressure was on.**

The initial outburst of concern over the implications of the Framework agreement diminished to wide-spread bickering. The bottom line was more of the same: Southern countries looking for clear commitments to fulfill the Doha Development Agenda with Northern countries looking for ways to move forward with other sectors, namely NAMA and GATS, without giving anything away.

The striking disregard for addressing the Doha Agenda was once again palpable. No real proposals were brought forward to address the cotton issue, to recognize and incorporate Special and Differential Treatment, to ensure Special Safeguard

Mechanisms and Sensitive Product listing for the Global South, or to assure duty and quota free tariff access for goods from Least Developed Countries. Time and again, Southern ambassadors demanded that these issues be addressed before NAMA and GATS began, but there was no progress. In July 2005, after one such meeting, Jamaican WTO Ambassador, Ransford Smith spoke for many in stating that he was deeply disappointed over how the development dimension to the talks was “sadly lacking.” (Bridges Vol.9, No.28, 3 August 2005)

The clock was ticking and the time to get on the plane to Hong Kong was fast approaching. As in previous Ministerial Conferences, the Chairs worked behind closed doors with a “selected group of countries” until the 11th hour, patching together a draft Ministerial Declaration by early December. This Declaration relied on each Negotiating Chair (Agriculture, NAMA, and GATS) submitting their Report as an Annex to the Declaration. As we have seen, these Declarations carry with them a lot of political and legal weight. If approved they are adopted as an agreement of the 149 member

states who must adhere to and implement the content.

As negotiating teams landed in Hong Kong and made their way to the spectacularly glossy Hong Kong Convention Centre, past the shiny, bountiful shopping boutiques of Prada, Cartier, and Yves St. Laurent, it was far from clear that the meeting would result in a deal. More than anything, the legitimacy of the WTO hung in the balance. Having so much to lose, the US, EU, Canada and others were determined to salvage the flagging institution while many feared that the narrow self-interests of some Southern countries would dominate the negotiations, resulting in a bad deal for all.

At the same time, thousands of activists from around the globe also arrived in Hong Kong and marched in the first of several protests planned throughout the week. Having no real opportunity to have their voices heard behind the barricades, the opposition was strong on the streets of Hong Kong:

Kong Yee Sai Mau! (No WTO!)

The pressure was on. The final curtain opened as the lights went up on this high-stakes drama.

ACT I: Hong Kong, China, 2005

The 6th Ministerial Conference opened with a rousing speech from WTO Director-General Pascal Lamy. This was countered by a rousing demonstration of activists who seized the opportunity to remind negotiators of the undemocratic nature of the talks and the billions of people whose lives are impacted by back-room deals.

Lamy, however, insisted on the so-called participatory nature of the WTO: “You all have the right to speak, the right to agree, the right to disagree. In sum in spite of all criticism, the WTO decision-making process is democratic.” He also warned: “Repeating long known positions, using negotiator’s language, refusing to understand the reasons of counterparts and avoiding any risks — including political risks — will get us nowhere.” (WT/MIN (05)/13 pages 2-3) Interestingly, the tactic of not repeating known positions would later be used to skew the Services negotiations.

The US and the EU were crystal clear from the outset that if they were to “give in” on agriculture they would need to get something in return in Services or NAMA. Yet their obligations under agriculture were **pre-existing obligations** stemming from the Uruguay Round in 1994. To now turn them into a negotiating item, making them a trade-off to ensure further liberalization under Services and NAMA, was absurd and fundamentally unjust.

In response, Brazil’s position, outlined by Celso Amorim, pointed out that, “the agricultural gap compounds the development gap.” He stated the need to properly address sensitivities such as food security and rural development in addition to, “a firm commitment by developed countries to provide duty-free and quota-free market access to products from the LDCs on a stable and permanent basis.” (WT/MIN (05)/ST/8, page 2)

As expected, Kamal Nath, Indian Minister of Commerce, referred to the key Indian concern of GATS Mode 4 — the movement of persons — in his opening remarks: “The liberalization of professional services trade in Modes 1 and 4 needs to figure high on the development agenda.” (WT/MIN (05)/ST/17 page 2) Because of India’s growing number of internet technology (IT) professionals many feared that India would give in on other demands in order to make gains on Mode 4.

Kenyan Minister Mukhisa Kituyi welcomed the newly introduced idea of Aid for Trade with a word of caution: “If Aid for Trade is to add value to our own efforts, it must be long-term, sustainable, predictable and must come from new resources.” (WT/MIN (05)/ST/7, page 1)

Canada’s position was disappointing but not surprising. Although Minister of International Trade Jim Peterson had repeatedly committed to a defensive position vis-à-vis pre-



Former Canadian Trade Minister James Peterson and former Agricultural Minister Andy Mitchell.

servicing Canada's supply management system and state trading enterprises, Canada went into Hong Kong with an aggressive agenda on NAMA and Services. Peterson stated: "In NAMA we seek real improvements in market access," and on services, added, "Canada feels that a plurilateral negotiating process can improve the quality of offers..." (WT/MIN (05)/ST/20, page 1) As will be discussed below, in the lead-up to Hong Kong, the notion of a plurilateral approach had come under strong critique for its potential to remove the flexibility and optional nature of the GATS negotiations. By adopting this position, the Canadian government was clearly choosing to advocate for corporate interests searching for expanded markets over a development agenda.

High drama at its finest

The WTO is incredibly undemocratic in countless ways. The very nature of the Conference is a no-holds barred, no-sleep fest where major decisions are made late into the night by whomever is left standing in the 'invitation-only' Green Room. It has the air of a buddy-buddy old boys club that you are either in or want to be in. Jokes are made about the lack of sleep and number of coffee cups consumed. The Green Room itself, a negotiating tactic recognized to be counter to consensus decision-making, is now spoken about openly and figures as the butt of many jokes. It is scandalous that decisions impacting the lives of billions of people are made in a pressure cooker that literally relies on negotiators sleep-deprived capacity to function in order to make a deal.

As a result, although the Global South came to Hong Kong with alternative proposals and demands, very few of them made their way into the draft texts or the text that ultimately was agreed upon. According to KAIROS partner Tetteh Hormeku of Third World Network Africa, the Least Developed Countries (LDCs) submitted several hundred proposals on agriculture,

only five of which made it into the official text for discussion.

There were many other official proposals, letters and public statements decrying the process and offering alternatives: the G20 submitted a well-developed market access proposal; the G90, the ACP (Group of 77 countries from the African, Caribbean and Pacific Regions), the Africa Group and others presented proposals on different aspects of negotiations including agriculture, services, and NAMA. On NAMA, Venezuela, Namibia, Argentina and South Africa wrote a joint letter demanding that flexibility be treated as a separate issue from the formula reduction. In Services, another group of countries, the Philippines, Kenya, Venezuela, Mauritius, and South Africa, highlighted the undemocratic nature of the process by which Annex C, which allows for sectoral and plurilateral negotiations, was included in the Hong Kong Declaration.

Moreover, many in the Global South, in addition to the G20, entered negotiations with strong public positions. The LDCs held firm on the need for duty free, quota free access for their goods while CARICOM (Caribbean Community) demands centred on the precariousness of small economies within global trade, emphasizing the need for Special and Differential Treatment. Indonesian Trade Minister Mari Pangestu, spokesperson for the G33 countries, consistently emphasized their key demands for Special Safeguard Measures and Special Products in agriculture, two policy tools that would enable Southern countries both to impose border restrictions on goods coming in and also exempt key products from liberalization.

Yet in the upside down world of global free trade, the selection of proposals — deciding which letters become official correspondence and which ones don't — and the weight given to negotiating positions was clearly skewed in favour of Northern positions, which in large measure were designed to secure markets for the most powerful global actors, the multinational corporations.

ACT II: Negotiations Reach a Climax

By the middle of the conference, the stalemate was at its peak, the tension was palpable and something had to give. Thus, on December 16th, the G20, G33, the ACP, LDC Africa group, Small Economies and the G90 held a historic press conference announcing their newly formed alliance, the G110 (Group of 110 countries). They declared that by coming together they would harmonize their negotiating positions for the first time.

The high level of frustration over the negotiations was clear. The representative of the Least Developed Countries, Zambian Minister Deepak Patel, stated that they "were not interested in promises and post-dated cheques," referring to the much-touted yet vague promises on *Aid for Trade* that were floating around. He added that there had to be real gains, and not just for multinational corporations. Given that the LDCs represent a mere 1% of all world trade, the logic of not pro-

viding differential treatment for them was simply nonsensical.

Indian Minister Kamal Nath expressed his annoyance at the posturing of Northern countries, objecting that they seemed most interested in a free round for themselves. He also warned the countries of the South that they would only "perpetuate inequalities if we don't band together." To which, Brazilian Celso Amorim added, "Our differences shouldn't be used as a smokescreen by rich countries to not do what they are supposed to do."

The group issued a statement reiterating their now joint support for: (a) the complete elimination of export support measures by 2010; (b) the importance of Special and Differential Treatment in agricultural negotiations; (c) the role of Special Products and Special Safeguard Mechanisms as a means of addressing food security, rural development and livelihood concerns of developing countries; (d) LDC duty-free and quota-free

market access; and (e) specific measures to provide adequate responses to the trade-related issues raised by small, vulnerable economies. (G110 Joint Statement December 16th, 2005)

Speculation was immediate and fierce. **What did the future hold for the negotiations?** The combination of so little movement and so much frustration was reaching a climax. As the spokesperson for each group within the G110 rose and linked their arms in an act of solidarity, observers were sure that the constantly turbulent WTO was on its way to another spectacular crash.

Meanwhile, on the streets of Hong Kong, each day brought with it a number of workshops on alternatives, demonstrations and protests. The strongest voices on the ground came from Via Campesina, the small farmers and farm workers grassroots movement. The media focused its attention on the Korean farmers who came to Hong Kong in large numbers. From the first day of protest, they were well-organized, vocal and provided strong leadership. They repeatedly highlighted the forced exclusion of those impacted most by these policies. As the Ministerial Conference opened, numerous men and women jumped into ice-cold water and tried to gain access by swimming to the Convention Centre. On December 17th, they led the march to the Convention Centre, attempting to push past police into the inaccessible meeting. Their courage on the front lines was an amazing display of sheer determination stemming from their understanding that this was a life and death issue.

In recent years, thousands of farmers, facing overwhelming despair, have killed themselves; others have felt compelled to kill themselves to call attention to the death facing all farmers and to demand action. That night, police used brute force, rubber bullets, tear gas, and attack dogs to squelch dissent. Hundreds of people were arbitrarily arrested, denied food and water and held without charges. Addressing accusations against Via Campesina of violence, Jose Bove charged: **“The WTO is institutional violence. The WTO is killing farmers. We are fighting for our lives.”**



Via Campesina members Jose Bove and Colleen Ross (Canadian National Farmers' Union).

That same day, inside the Convention Centre, the first revised Ministerial Text was received by the Heads of Delegation (HoD) Meeting. Its lack of movement on the Development Round triggered a strenuous critique. Incredibly, the agriculture



One of many NGO inside protests.

discussions had barely moved, with no end date for export subsidies, no agreement on the cotton issue, and no clear integration of Special and Differential Treatment disciplines (SDT).

The ACP issued a clear rejection of the Swiss formula on NAMA, which would force countries with higher tariffs, namely the Southern countries, to undertake deeper cuts than countries with lower tariff starting points, namely the Northern countries.

In Services, several countries expressed concern about the Annex C text, both for the blatantly undemocratic way in which the text was introduced, as well as its content which made a commitment to plurilateral negotiations. Canada, as one of the supporters for the new text and consistent with its short-sightedness regarding possible implications for Canadians, was a strong advocate for its full acceptance.

Passion, anger, and concern were evident in the powerful comments coming from the South. On behalf of the LDCs, the Zambian representative declared “development at a deadlock” adding that “the text is not positive enough for the LDCs. There are 700 million people living in the LDCs and they represent less than 1% of trade. How can this be delayed!” He concluded by insisting that the cotton issue needed a solution.

Saint Lucia, on behalf of the Caribbean countries, stated: “The text is unsatisfactory and lacks a clear development focus... this text can mean food on the table of our families or not, education or not, healthcare or not.” Jamaica and South Africa both spoke of how little development there was in the declaration declaring their disagreement with the NAMA text.

But it was the Zimbabwean representative, the last to speak, who best summed up the content of the deal by stating, **“Someone said we needed a platform, we hope it will not propel us into a pond full of crocodiles.”** (Informal report on HoD Meeting)

The Hollywood ending

And so amidst an air of acute disagreement, high tension, and melodrama the bets were in favour of collapse. Yet, somehow within the next half dozen hours an agreement was hatched and dispatched. And that agreement — for the most part — stayed the same as the original text, although some key con-

cessions were made.

When it came time to accept the deal, it seemed only two countries went against the 'big boys' and voice their concerns. Much to the chagrin of Conference Chair Donald Tsang, Cuba and Venezuela rose to express their concerns in the form of exceptions. As to others, even if they wanted to disagree, the pressure was on, particularly from the new Quad members Brazil and India, for everyone to accept the deal. Consequently it would be too politically costly for Cuba and Venezuela to derail the week's product by themselves. They had to go along but they did so reluctantly, articulating exceptions in both the NAMA and GATS sections of the Ministerial. At the closing session they requested that the exceptions form part of the final document, hoping that the legal standing of the exceptions would lead to a future favourable outcome for the Global South.

Where was the historic Group of 110 countries who had vowed to stick together and harmonize their positions? Where

were the African voices — those who may have received some immediate gains but at what future cost? Perhaps everyone was just plain exhausted; perhaps they put vast amounts of trust in Brazil and India; perhaps because so much was made of the lack of movement in agriculture that once there was movement there was no way NOT to accept the deal, regardless of the cost. Or perhaps, at the end of the day, the pressure and political cost was simply too high.

And so a deal that never should have been, materialized from Hong Kong right on schedule on December 18, 2005.

Thus negotiators left Hong Kong with a deal, albeit a lukewarm one, for moving forward with negotiations. Even Pascal Lamy stated that they had started the Ministerial with the round 55% complete and ended 60% completed. (Khor Dec. 19th, 2005). But 5% is 5% and for the Global South, the gains that were made in agriculture, upon close scrutiny, are not great and do not outweigh the potential losses in Services and NAMA.

ACT III: Unpacking the Upside Down World

Agriculture: Gets some fuel

As we have seen through our journey, agriculture was at the centre of the Doha Development Round. One of the cruellest ironies of free trade and free markets is that the Global South has been forced to rapidly liberalize through IMF/WB policies, regional trade agreements and global agreements forged at the WTO, while the North, for the most part, not only has not done so, but often is able to enact protectionist measures. Naturally that type of dynamic had led some, like Brazil and India, to push for a level playing field where all markets are opened equally. However, such a demand often leads to addressing only a few aspects within the neo-liberal model rather than addressing the fundamentally unjust structure itself. Thus, as South African Lebohang Liepollo Pheko points out: **“The playing field may be level but it is elephants and ants that are wrestling each other.”**

At the 11th hour of the Hong Kong Ministerial, the EU finally ceded to the demand for an end date for export subsidies. This was the big debate when it came to agriculture. For the entire week, a 2010 end date was aggressively pursued but the date finally agreed upon was 2013. In reality, due to the CAP (Common Agriculture Policy) of the European Union, the Europeans were never in a position to accept a date earlier than 2013. As a result, many expressed their frustration that over 20 hours were spent discussing an end date for export subsidies. The EU negotiators shamelessly held out on naming a date until the very end so that they could achieve gains in other areas. In fact, after all the commotion and drama the final text states, “The date above for the elimination of all

forms of export subsidies, together with the agreed progressivity and parallelism, **will be confirmed** only upon the completion of modalities.” Moreover, export subsidies make up only 3.5% of EU agricultural support, so the impact will be minimal.

The key G33 demand, led by Indonesia, to list Special Products and Special Safeguard Mechanisms, appears at first sight to have been met. The Declaration states: “Developing country members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development. (They will also have the right to have recourse to a Special Safeguard Mechanism based on import quantity and price triggers...” Although this agreement does provide a key opportunity for countries to protect certain products and markets, it provides a defensive tool rather than directly addressing Northern practices.

Cotton, or rather the lack of movement on cotton, led to the derailment of the Cancun Ministerial. In Hong Kong, the issue received only a lukewarm response. However, African countries, afraid to be responsible for the failure of the WTO, agreed to the declaration, which states that, “All forms of export subsidies for cotton will be eliminated by developed countries in 2006.”

Although a step in the right direction, when one looks beyond the smoke and mirrors, one finds that it is actually domestic subsidies that are at issue. A paragraph calling for “the removal of trade distorting domestic subsidies expeditiously” appears in the Declaration as bracketed text, which means no consensus was reached on its inclusion. Clearly this was a key battle as it is unusual for a Declaration to have bracketed text.



Moreover, bracketed text carries no legal weight bringing into question once more how it was possible that this agreement was reached.

Another drawn out battle took place on US food aid, which, generally, is nothing more than a guise for dumping excess agri-business products. Despite US Chief Negotiator Rob Portman's assertions that, "in fact there is not enough food to go around," the end result in Hong Kong was the insertion of some seemingly strong language. The Declaration states, "a 'safe box' for bona fide food aid will be provided to ensure that there is no unintended impediment to dealing with emergency situations. Beyond that, we will ensure elimination of commercial displacement. To this end, we will agree to effective disciplines on in-kind food aid, monetization and re-exports so that there can be no loop-hole for continuing export subsidization." However, since neither the actual disciplines nor the 'safe box' have been defined, the power to end dumping by agri-business, and when that will happen, remains to be determined.

Annex F on Special and Differential Treatment (SDT) for LDCs lists apparent victories. First it states agreement to, "provide duty-free and quota-free market access on a lasting basis, for all products originating in LDCs by 2008 or no later than the start of the implementation period." The LDC countries and their allies had demanded much stronger language than **"on a lasting basis"** which simply does not guarantee that this market access will be permanent.

The Annex goes on to state, "Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97% of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period." Again this apparent gain is countered by the reality that the remaining 3% will enable Northern countries to protect against key products produced by Least Developed Countries and open their markets to those products that are only nominally produced.

Another key demand for the small economy countries and their allies was that Aid for Trade "must be new, grand, and without conditionalities." The end result merely acknowledges the concept without defining it. The Declaration states, "Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO agreements and more broadly to expand their trade." It also supports "appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans."

For Canadian farmers, it seems that defensive interests won out for the time being. Supply management is safe and the Canadian Wheat Board is in the same cloudy space that State Trading Enterprises were placed into during the pivotal July 2004 Framework Agreement. The prospect for eventual doom continues, but the threat has been delayed for now.

Responding to the agriculture crisis remains urgent. Approximately 800 million of the world's population, the major-

ity women, still suffer from hunger and malnutrition, while an additional 42 million are undernourished (FAO 2003, 6) as a result of maldistribution and structural inequities. It is highly unlikely that the AoA as it stands now will enable countries to fulfill the principle of food sovereignty, i.e., "the right of peoples to define their own food and agriculture; to protect and regulate domestic agricultural production and trade in order to achieve sustainable development objectives; to determine the extent to which they want to be self-reliant... Food sovereignty does not negate trade, but rather, it promotes the formulation of trade policies and practices that serve the rights of peoples to safe, healthy and ecologically sustainable production." (Via Campesina)

Most disturbing is what countries traded for these gains. In fact as we turn to GATS and NAMA we will see how, at the end of the day, the South ended up giving away so much more than they could possibly receive.

GATS: Dirty tricks used to push privatization

The Services negotiations went from being a back burner issue to one of the more contentious and dangerous negotiations in Hong Kong. With the Northern countries, including Canada, insisting on no longer negotiating "in silos," GATS and NAMA negotiations had to be undertaken at the same time as the agriculture talks. This demand enabled them to try to ram through new and dangerous proposals on both agreements.

GATS negotiations are currently conducted under a bilateral request offer approach that provides flexibility and a good degree of voluntarism on the part of submitting countries. But the level of offers received by the North fell short of expectations. In a bid to get offers moving and widen the potential for the entry of foreign-service providers and privatization in the Global South, dangerous new proposals began circulating in Geneva, just before the meeting in Hong Kong, on modalities for GATS negotiations.



One of many GATS protests inside the Conference Centre.

These proposals had the backing of a number of countries, including Canada and its NAFTA partners. In different ways, the proposals called for a removal of flexibilities in negotiations by creating a benchmark that all countries would have to meet. Even countries like Canada that have declared certain services off the table would be obligated to meet the benchmarks. Other proposals called for the adoption of a plurilateral, sectoral

approach that would allow groups of countries — often at the behest of specific corporate sectors — to work together. In addition, these proposals called for disciplines in domestic regulation by referencing, but not spelling out, another official document, which contains language on how to deal with domestic regulatory frameworks considered “unfair” barriers to trade. Simply put, these proposals were designed to pry open Southern markets at any cost, even at the expense of unforeseen consequences on people in many countries, including Canada.

Going into Hong Kong, it was clear that there was no consensus for such proposals even to be on the table. The other Annexes clearly state what they are. NAMA, for example, states that it is the “Chairman’s commentary of the state of play;” Agriculture goes further to state that it is an “objective factual summary of where the negotiations have reached at this time” and that “full modalities will not be achieved at Hong Kong.”

But Annex C, written by the Chair, was written as if there were full agreement on its content. The Declaration states, “We agree that Members should be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments...” Thus, from the very outset the aggressive, explicitly undemocratic way in which privatization of services was being rammed down people’s throats provoked a strong reaction from WTO member countries and from civil society.

As mentioned above, groups of countries came together to protest the way in which Annex C assumed agreement on what, in fact, were new negotiations. Others like the G90 which encompasses the ACP, African Union, and LDCs (i.e., 90 of the 149 members of the WTO) developed an alternative proposal to Annex C which recognized “appropriate flexibility for individual developing countries Members.” It substituted “maximum extent” with “to the extent possible,” in the text and, generally speaking, retained the flexibility of past negotiations.

At the same time, civil society members both inside and outside the meeting began a campaign to call for the rejection of Annex C. In a public statement, KAIROS along with others such as the Council of Canadians and the Canadian Council for International Cooperation, called upon the Canadian government to stop aggressively pursuing this undemocratic agenda. Rather, “the Canadian government should seek to protect and improve upon the quality of public services offered in Canada and around the world, not just promote the interest of its services multinationals.” There were many protest actions in the hallways of the WTO meeting to draw attention to the dangers in Annex C.

Yet at the end of the day, the undemocratic nature of the WTO became evident once again as the final Declaration largely incorporated everything contained in the original proposal. It states a commitment to, “intensify and expedite the request-offer negotiations, which shall remain the main method of negotiation.” But it adds: “In addition to bilateral negotiations, we agree that the request-offer negotiations should also be pursued on a *plurilateral* basis...”

The Declaration goes on to state, “Any member or group of



Indian Minister of Commerce, Kamal Nath, speaks to the press.

members may present requests or collective requests...” And “members to whom such requests have been made shall consider such requests.” In addition, the Declaration contains a potentially dangerous line on domestic regulation: “Members shall develop disciplines on domestic regulation... We call upon members to develop text for adoption.” It ends by providing very specific, immediate timelines to push the negotiations forward.

There were long, drawn out battles over using “shall” which offers more flexibility or “should” which is more directive. At the end of the day, the “shall” language was incorporated. New Quad members Brazil and India used this to push fellow Southern countries to accept the agreement, because “shall,” they stated, assured flexibility and voluntarism in future negotiations.

India’s interest was obvious. Their chief push within GATS negotiations was for gains under Mode 4, which deals with the movement of persons. Annex C states that there will be “new or improved commitments... de-linked from commercial presence.” The LDC annex also refers to Mode 4: “In the services negotiations, members shall implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4.” But again no firm commitments were articulated.

A deep problematic exists in using Mode 4 as a solution to globalization-induced forced migration. As Hong Kong is a migrant city, there were many events and workshops to draw attention to the issue of forced migration but also to call for a clear rejection of GATS Mode 4 as the solution to forced migration. KAIROS participated in the Ecumenical Women’s Forum, which drew the following conclusion: “The policies of the WTO have resulted in displacement and losses in livelihood and food and health security, especially among the poor and marginalized. They have violated national sovereignty and the right to self-determination of many nations. Traditional economies have been eroded and women as the caregivers and providers of their families have been forced to migrate from their communities and countries in search of employment. Nearly half of the 192 million migrant workers are female... Migrants do not choose to leave their countries but do so to survive.”



WCC Ecumenical Womens' Forum on Life Promoting Trade, participating in one of the many marches during the WTO Ministerial Conference.

The letter to WTO Director General Lamy concludes: "GATS Mode 4 is not the solution to forced migration as it commodifies human beings and does not promote the rights of all migrant workers." It calls for the rejection GATS Mode 4 while calling upon "United Nations member-states to respect and uphold UN Conventions" and for "all countries to ratify and implement the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in order to assert that migrant rights are human rights."

Clearly there are both hidden and obvious dangers in this text that led many countries to oppose it and Venezuela and Cuba to rise and call for exceptions. A dangerous path has been opened and where it leads remains to be seen.

The nail in the Doha Development Agenda coffin

As our journey illustrates, for some time now, Northern countries have been attempting to make gains in NAMA since it was slipped into the Doha text, articulated again in the Derbez text (Cancun), and finally resuscitated in the July 2004 Framework agreement. Even the G8 Gleneagles Statement in July 2005 promoted negotiations of NAMA as the way to alleviate poverty. NAMA is yet another example of how Northern countries like Canada are aggressively pressuring Southern countries to open their industrial and natural resource production into uncharted territory.

NAMA has been called a recipe for the deindustrialization of the South (Bello and Kwa 2004). It will limit policy flexibility to start and protect infant industries and actively erode domestic industries that do exist.

In addition to deindustrialization, NAMA is also about

forestry products and natural resources, seeking to remove any "trade-distorting" barriers. Given the power of the mining industry in Canada, it is not surprising that our government is seeking NAMA concessions from the South. Within the NAMA negotiations, there exist at least 212 Non-Tariff Trade Barriers (NTBs) challenges, many of them targeting environmental and health standards. These standards exist to protect people, communities, and the earth.

As Friends of the Earth has noted, national legislation on mineral products, automobiles, chemicals, electronics, forest/wood products, food, environmental goods, health and others are all being challenged through NAMA negotiations. (FOEI, May 2005) In addition, NTB challenges often cause a 'chill effect' whereby governments become less likely to enact domestic regulation on environmental standards or human health for fear of such challenges. (Greenpeace, Dec. 2005)

Another hidden danger of the NAMA negotiations is the unforeseen effect that NAMA liberalization will have on government tax revenue generated by domestic industry and through custom tariffs. Many countries in the Global South do not have an individual tax base and rely heavily on these taxes to provide for existing state services. Without this revenue, a country's ability to provide adequate health and education to its citizens becomes questionable. Not only would NAMA be the deathblow to those services, it would also be a deathblow to many Southerners themselves.

Many countries in Africa, for example, have already been devastated by Structural Adjustment Programs (SAPs) which have impacted their ability to respond to the HIV/AIDS crisis. Imagine a country that is already barely coping with a health

pandemic, thanks to an IMF-decimated health care system, when its key source of revenue, a 30% tariff base, is wiped out from one WTO meeting to the next. What would the future then hold for the people of Uganda?

Precisely for these reasons, a long struggle to halt the direction of the NAMA framework ensued in Hong Kong, both inside and outside the official negotiations. The focal point of how tariff liberalization would be carried out was debated before and during the Conference. But the dominant framework was the Swiss Formula. This formula, though seemingly complicated, essentially calls for steeper cuts for those countries with higher tariffs. Moreover, there is a demand that cuts be across the board, and binding, thereby removing flexibility for a country should it begin to develop a specific infant industry.

Thus, despite the fact that the Ministerial Declaration includes language such as “reaffirming the importance of SDT and less than full reciprocity” and “takes note of concerns raised by small, vulnerable economies,” it still commits to the dangerous Swiss Formula, promising, in fact, “to intensify work to establish modalities.”

There are other concerns as well. As Chee Yoke Ling points out: “The treatment of unbound tariffs — using applied rates as the basis, which has never been done before and should not be done — has been adopted by the Ministers.” (TWN Dec. 18th, 2005) Moreover, it calls on negotiators to “ensure that there is a comparably high level of ambitions in market access for agriculture and NAMA,” meaning that the two will go forward together. The decision also allows for a sectoral approach, a pressure tactic that involves key corporate sectors and makes Special and Differential Treatment that much harder to achieve.

Unlike agriculture where Northern countries could potentially “lose,” the NAMA negotiations are pretty much solely targeted at Southern countries since the Northern countries already have low tariff baselines on the one hand, and rely

KAIROS RESOURCES AND CONTACTS

KAIROS Network

KAIROS has a network of one hundred local “communities”, organised into five regions. We also have a francophone partnership with the Montreal-based Réseau Océanique justice et paix. For information on starting or joining a group contact Sara Stratton, Network Coordinator at 1.877.403.8922 x241 or ssstratton@kairoscanada.org

Kairos Times Newsletter

To subscribe to KAIROS’ free monthly email newsletter, contact Julie Graham, Education/Website Coordinator at jgraham@kairoscanada.org with your full name, email address, province or territory and a little information about your interests and affiliations.

Kairos Trade E-Bulletin

The KAIROS Trade E-bulletin is a quarterly electronic publication offering the latest analysis on trade talks globally and at home. Available in English and French. To subscribe contact Rusa Jeremic, Program Coordinator, Global Economic Justice, rjeremic@kairoscanada.org

Resource Orders

KAIROS produces a range of print and video resources for researchers, teachers, and activists. All resources, including a free brochure outlining our latest titles, can be ordered online at www.kairoscanada.org

You can also email orders@kairoscanada.org or leave a message at 1.877.403.8933 x246.

Website

The KAIROS website offers our latest analysis and action ideas. Check it out at www.kairoscanada.org

very little on the income generated by these tariffs on the other. By contrast, because of their stage of development, many in the South have mid- to high-tariff levels. Ironically, the fact that all Northern countries, including Canada, relied on these precise tools to fully develop their economies is overlooked as corporate gain overrides economic development once more.

EPILOGUE: Destination Unknown

Chairman Tsang’s gavel banged one final time, signalling the end of the 6th WTO Ministerial. The Doha Development Round and indeed, the WTO had been saved — barely. Any hopes for gains in the development agenda though, have once again been reduced to nothing more than rhetoric.

Disturbingly, this Ministerial Declaration provides a dangerous new platform for future negotiations, even though there is still so much that has yet to be accomplished within the current agenda. In order for the Doha Development Round to be completed successfully a real deal on modalities — spelling out and agreeing to the frameworks and formulas — needs to be accomplished by the deadline date of December



2006. Moreover, because US Fast Track, a bill which enables negotiations to proceed without fully involving Congress, runs out at the end of 2006, with a grace period of the first few months of 2007, the pressure is on to get the deal done. Right now, there are expectations for a major, as of yet undefined, meeting in Spring 2006 that will, once again, attempt to ram through the Doha Round agenda.

In the meantime, within member countries there is still a lot of concern and disagreement on many aspects of the AoA, GATS, and NAMA agreements reached in Hong Kong. Without doubt, Hong Kong once again dramatically increased the level of solidarity, accountability, and harmo-

nization among Southern countries as they worked to define and shape their relationship in the context of global power.

Given that reality, there is an emerging concern that Northern countries will now work to “reform” the WTO. Rather than each country having a voice in the effort to reach consensus, country blocs would name representatives to negotiate “on their behalf.” This approach would amount to legalizing the present ‘Green Room’ strategy. Whether it will be possible to completely re-orient the WTO in the next round remains to be seen. While Hong Kong illustrated a strong emerging alliance in the G110, it also illustrated how newly-established powers (Brazil, India) can appear to abuse that power in the name of self-interest and engage in the same manipulation as others.

What is urgently needed is an alternative holistic approach that places people, communities and the earth at the centre. Communities need to have policy flexibility and sovereignty: the right to choose their own development path — a path that recognizes the role that women play in the formal and informal economy and is ecologically sound. Such globalization would be intentionally global by building community, solidarity and alternatives across race, class, sectors, and borders. Such globalization would lift up and share ‘on the ground’ alternatives and support Southern negotiating positions that are of the people and for the people.

Despite the disappointing and dangerous results of the Hong Kong Ministerial, this holistic approach may not be too far off. Each Ministerial brings with it new signs resistance to the Northern corporate agenda, particularly in Latin America, but elsewhere too. People whose lives have been decimated by neo-liberal economic globalization and free trade are electing governments that they see as responsive to their needs. These governments and the G110 alliance have

the potential to derail the WTO and demand a new way forward for global trade.

The turbulent flight of the WTO plane has landed it back in Geneva once again. Typical of any major Hollywood epic, as this one came to a close it laid the groundwork for its sequel. The passengers are all at home unpacking what was gained, what was lost and how to move forward. A pivotal shift to a just trading system or a final cementing of corporate rights hangs in the balance. People and movements the world over rise early to strategize, resist, pressure, and transform the corporate agenda of the WTO as the stage lights go down, and the curtains are drawn for a brief intermission.

GLOBAL Economic Justice REPORT

The Global Economic Justice Report is a publication of KAIROS: Canadian Ecumenical Justice Initiatives. KAIROS is a coalition of Canadian churches, church based agencies and religious organizations dedicated to promoting human rights, economic justice, peace and ecological justice.

Subscription rates: \$20/year (4 issues)

For information please contact us at

**Global Economic Justice Report
KAIROS**

**129 St. Clair Ave. West,
Toronto, ON M4V 1N5**

**Tel: 416.463.5312 x 246
Toll free: 1.877.403.8933**

**E-mail: orders@kairoscanada.org
www.kairoscanada.org**

Selected Bibliography

Friends of the Earth International. May 2005 “Summary of analysis of notifications of non-tariff measures (NTMs) in Non-Agricultural Market Access (NAMA) negotiations of the World Trade Organization.” www.namawatch.org/docs/ngo/ntbsanalysis.pdf

Greenpeace. December 2005. “The NAMA Drama.”

Gould, Ellen. 12 August 2004. “One Night in July.” Council of Canadians, www.canadians.org/documents/night_in_july04.pdf

G90. December 2005. “Alternative Annex C (Services) By the G90 (ACP, African Union and LDCs). Unpublished.

G110. December 2005 “Joint Statement” Unpublished.

KAIROS. December 2004. “Food, Farmers, and Global Trade: The Real Story.” *Global Economic Justice Report*, Vol. 3, No.4.

Khor, Martin. 14 December 2005. “Ministerial opens amid protests and diplomatic activism.” Third World Network Hong Kong News Update 2, 2005.

Khor, Martin. 19 December 2005. “How the WTO’s Conference Adopted its Ministerial Declaration in Hong Kong.” Third World Network, 2005.

OWINFS. 2005. World Trade Organization. November 20, 2001. “Ministerial Declaration Adopted on 14 November 2001.” WTO, WT/MIN (01)/DEC/1. www.ourworldisnotforsale.org/signon_nama_statement.asp

Third World Network. 17 December 2005. “Heads of Delegation meeting, 17 December: Developing countries voice disappointment over revised text.”

Third World Network. 18 December 2005. “Little to celebrate in Hong Kong Outcome.”

World Trade Organization. 13 September 2003. “Draft Cancun Ministerial Text.”

World Trade Organization. 23 September 2003. “Ministerial Statement Adopted on 14 September 2003.” WTO, WT/MIN (03)/20.

World Trade Organization. 2 August 2004. “Doha Work Programme. Decision Adopted by the General Council on 1 August 2004.” WTO, WT/L/579.

World Trade Organization. 13 December 2005. “Address by Mr. Pascal Lamy Director-General,” WTO WT/MIN (05)/13

World Trade Organization. 18 December 2005. “Doha Work Programme. Draft Ministerial Declaration. Revision.” WTO, WT/MIN (05)/W/3/Rev.2.