

THE CANCÚN
WTO 5TH MINISTERIAL CONFERENCE
ASSESSING THE CONFERENCE
AND LOOKING AHEAD

A DISCUSSION PAPER

Geneva, 15 October 2003

Due to its activities on international trade and international trade negotiations, CASIN sent two observers to the *Cancún 5th WTO Ministerial Conference*: one who focused her attention on the Conference itself, and another who specifically concentrated on NGO activities.

This paper has been prepared by **Cristina Hernández**, CASIN Trade Counsellor and former Mexican trade negotiator. It is based on ideas gathered during discussions and interviews with WTO delegates, trade practitioners and negotiations specialists, as well as on the examination of WTO documents and relevant information and analysis found in briefings and articles publicly available from a variety of sources. Guadalupe Sánchez-F, CASIN Director of Programmes, deserves special acknowledgement for her valuable comments and contributions.

We welcome any comments you may have on this paper. It should be considered as work in progress. Please send them to chz@casin.ch Please note that the paper analyzing NGO activities prior and during the Conference and their influence on the trade talks will shortly be published on the CASIN web page <http://www.casin.ch>

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Foreword

This paper aims to contribute to the current discussion of a number of aspects that appear to have had significant influence on the results of the Cancún Ministerial Conference. It is not intended to be exhaustive. It focuses more on the negotiation process prior and during the Ministerial Conference, rather than on the substantive progress made on the negotiating agenda. To facilitate its reading and to foster reflection, the possible areas identified to lay the ground for further consideration and/ or action are highlighted in italics.

Executive Summary

Taking into account the recent history of the multilateral trading system, which has encountered various ‘failed’ ministerial meetings, this paper suggests that the collapse of the Cancún talks should not necessarily imply a break-down of the Doha multilateral trade negotiations but, rather, more optimistically, just a set-back. Such a situation, if effectively used, could generate the activation of an effective dialogue among all WTO Members to move the trade negotiating process forward with renewed impetus, while encompassing the interests of all to truly pursue the objectives set out in the Doha ‘Development’ Agenda.

The paper assumes that the responsibility of what happened in Cancún most probably rests on all WTO Members, as by definition the inherent nature of the multilateral trading system entails a shared collective responsibility in the decision-making process. It reviews the negotiations and highlights the attitudes and positions of certain key delegations and country coalitions formed and/or consolidated during the negotiation process at Cancún. It suggests that the factors that brought about the collapse of the trade talks are intrinsically inter-linked between the process and the substance.

Based on this assumption, the paper examines both the preparatory phase as well as the negotiation process at Cancún. It identifies possible areas for further reflection and/or action at two levels. It suggests the need to re-examine the WTO’s working and decision-making process and procedures in order to better adapt them to the new realities and challenges of the multilateral trading system. And it draws a number of ‘negotiation lessons’ from the process in Cancún.

With regard to the process and procedures, this paper questions both the utility of continuing to hold biennial ministerial meetings, and the efficiency of organizing them in different Member capitals instead of in Geneva. By questioning the role and selection practices of the Chairpersons and ‘facilitators’, it calls for the search of new, creative and more efficient approaches to these aspects, whilst enhancing the transparency and democracy in the negotiating process.

Among the possible lessons drawn from Cancún, the paper underlines the importance of alliances and coalition formation and interplay, and the importance of going beyond initial positions. It supports the view that the issues discussed or negotiated in the WTO need to be of interest to all the Members, and that the issues proposed by all Members need to be seriously taken into consideration.

In sum, the paper promotes the view that the *ownership* of both the process and the substance of the trade negotiating agenda should rest on all the WTO Members, and not only on a few of them. Finally, it recognizes the importance of *capacity building*, as well as the need to deploy further and meaningful efforts in order to assist developing countries in strengthening their ability to participate more actively in the WTO system in favor of their vital interests. It also recommends developing means and methods of *building trust*, an essential component in any fruitful negotiation, but which appears to have been absent at the Cancún talks.

THE CANCÚN WTO 5TH MINISTERIAL CONFERENCE: ASSESSING THE CONFERENCE AND LOOKING AHEAD

A Discussion Paper

The 5th WTO Ministerial Conference was held in Cancún, México, from 10th-14th September 2003. The meeting was attended by its 148 Members ¹, 38 observer governments, 76 observer intergovernmental organizations, around 1700 journalists and media representatives, and more than 950 registered NGO's. These are some initial comments on the process and results of the event.

1. *Did Cancún fail?*

On 14th September, the Conference ended without consensus on *any* of the issues under discussion. Was this a failure? For some, it was. "Cancún has failed. This is not only a severe blow for the WTO but also a lost opportunity for all of us developed and developing countries alike. We would all have gained. We all lose", said Pascal Lamy, EU Trade Commissioner after the talks collapsed. ² For others, the conference was a success because it demonstrated the resolution of developing countries to defend their positions vis-à-vis the big trading powers. "No deal is better than a bad deal", has been many observers' viewpoint. For various NGOs (e.g. Greenpeace, FOE, Oxfam, etc.), this failure was the 'expected' end to a trade system ruled by the WTO with a single-minded objective of trade liberalization.

Whilst no one can deny the meeting failed in its ultimate objective to reach an agreement, does this necessarily mean that the Doha Development Agenda has collapsed and that the multilateral trading system is in crisis? For those who participated or observed the Uruguay Round and its preparatory process, the events at Cancún resonated a feeling that this has happened before. Indeed, the 1988 Montreal mid-term review, held at the mid-point of the Uruguay Round, and the Brussels Ministerial in 1990 were also 'failures', as the negotiations, which were expected to conclude in Brussels, were only completed four years later in 1994. In spite of these set-backs, the trade talks finished successfully and a major package of trade agreements was adopted by the then more than 120 GATT Members.

Although launching and successfully finishing the Uruguay Round was probably a more challenging endeavour than concluding the present round of trade negotiations, the substantial complexity of the Uruguay Round, which dealt with the establishment of the new organization, the TRIPs and the services agreements and the new dispute settlement

¹ The most concrete result of the Cancún meeting was the agreement on the accession of Cambodia and Nepal to the organization.

² See Pascal Lamy, EU Trade Commissioner, Press Conference Closing the World Trade Organization 5th Ministerial Conference, Cancún, México, 14 September 2003.

mechanism, does not necessarily find a parallel with the Doha Round. This new round faces different complexities. For example, not only has the membership of the organization increased to 148 members, which makes the task of finding consensus more difficult, but the present political limitations of the EU and US delegations to move beyond what their internal agricultural lobbies demand has led some developing countries to adopt an extreme ‘non-negotiable’ position in a variety of new, and often unexplored, proposed areas (i.e. the so-called ‘Singapore issues’ of investment, competition, government procurement and trade facilitation).

In spite of the frustration expressed by many delegations after the collapse of the Cancún talks, some also stated their willingness to continue negotiations back in Geneva.³ A ‘Ministerial Statement’ was put together by the Chairman that: (i) instructed officials to continue working on outstanding issues with a renewed sense of urgency and purpose and taking full account of all views [expressed] at the Conference; (ii) asked the Chairman of the General Council to coordinate this work and to convene a meeting at the Senior official level no later than 15 December 2003 and to take any action necessary at that stage to enable members to move towards a successful and timely conclusion of the negotiations; (iii) urged officials to bring forward the valuable work that had been done in Cancun and to maintain the convergence reached in some areas; (iv) reaffirmed the Doha Declarations and Decisions and the recommitment to working towards a full and faithful implementation of them.

So it can be hoped that negotiations on the Doha Development Agenda will continue. However, one should be prepared to see the completion of this new round to go well beyond the original deadline of 1 January 2005. Indeed, it could take months to reassemble all the pieces from Cancún and reach an agreement on, amongst other things, establishing a timetable, approving modalities for negotiations on agriculture and on non-agricultural market access (NAMA), and on how to approach the “new issues”. And of course, the negotiations will not end with the establishment of modalities. Draft schedules of commitments must be outlined and negotiations on rules fine-tuned. In addition, it has not escaped anyone’s attention that the end 2004 deadline will coincide with the US presidential elections and with the European Union’s enlargement.

2. Who is responsible for the results of the Cancún talks?

For many, it was not a surprise that Cancún did not produce an agreement, given the persistent divergence in Members’ substantive positions on agriculture, a principal area of the Doha Development Agenda, where freer trade would, in principle, help developing countries. What was a surprise, however, was that Chairperson Luis Ernesto Derbez, Mexico’s foreign

³ For example, some key players, like the EC, stated their willingness to continue keeping their offers on the table. Refer to “The breakdown of the Cancun Ministerial Meeting” by Dr. Franz Fischler, Member of the European Commission responsible for agriculture, rural development and fisheries, September 14, 2003.

affairs minister, closed the meeting as early as Sunday 14th September, without giving Ministers a chance to discuss agricultural issues in the final negotiations.

Some observers have apportioned the ‘blame’ for this ‘failure’ on the least-developed countries (LDCs), who remained firm in giving no concessions on any of the ‘new issues’. Others are of the opinion that, in reality, the talks broke down because the EU refused to reform its agricultural subsidies⁴ and attempted to foist new non-trade issues into the WTO as a ‘delay’ tactic to avoid discussion of agriculture.⁵ For others, the US deserves the blame for this failure because of its unwillingness to reduce its subsidies,⁶ and in particular its subsidies on cotton, which have already devastated African producers, and because it outraged African countries with its insignificant response to their ‘Cotton Initiative’.⁷ The US’ refusal to respond to the African countries claims over this issue was perceived by them to be a clear sign that the introduction of the ‘development’ dimension into the Doha agenda was nothing but a simple rhetorical promise. The finger is also pointed at Japan due to its refusal to dismantle its own trade barriers on rice.

The responsibility of what happened in Cancún most probably lies on all WTO Members, as by definition the inherent nature of the multilateral trading system entails a shared collective responsibility in the decision-making (or decision ‘not-making’) process. One could also add that the factors which brought about the collapse of the trade talks are intrinsically inter-linked between the process and the substance, which characterized the event. This inter-linkage is becoming more and more distinctive to the multilateral trading system as its membership and substantive scope progressively increase.

⁴ Despite the internal agricultural reforms agreed to in June 2003, the European Union remains the largest farm subsidizer within the WTO.

⁵ See for example, “Democracy and Free Trade Prevail at WTO Breakdown in Trade Talks Gives WTO Members an opportunity to Push for Real Free Trade”, September 14, 2003, <http://freedomtotrade.org>

⁶ It was difficult to reconcile the US delegation’s apparent good will to do progress in Cancún with Bush’s signature last year on legislation that would see US farm subsidies increase by \$180 billion over the next 10 years. Refer to “Agriculture on the Table at Trade Talks in Mexico”, Op.cit.

⁷ Under the initiative, African countries (in particular Chad, Benin, Burkina Faso and Mali) seek the total elimination of domestic support measures and subsidies for the production and export of cotton, as well as compensation for lost income while subsidies are being phased out. The US, having persistently refused to discuss any reductions in its own subsidies, showed readiness to only “address the impact of distortions that exist in trade in cotton, man-made fibres, textiles and clothing to ensure comprehensive consideration of the entirety of the sector”. Avoiding discussion of the compensation issue and reflecting much of the language of the US proposal, the Ministerial draft produced at Cancún suggested that international bodies “direct existing programmes and resources toward diversification of the economies where cotton accounts for the major share of their DPG.” –See more details in the Derbez’ Draft Cancún Ministerial Text (WTO Job (03)/150/Rev.2), 13 September.

3. Is failure a part of the process, or is the process what creates the failure?

As mentioned above, this is not the first GATT/WTO Ministerial meeting to have constituted a set back. Therefore, from a historical perspective, one could say that ‘failure’ has been part of the evolution and transformation of the now more complex than ever multilateral trading system.

However, one should and cannot accept the notion that the system is condemned to learn by failing. There must be ways to avoid such failures, as they have, without exception, left important financial, human, diplomatic and political deficits. One possible solution is the adaptation of the process itself to the new realities and challenges of the WTO.

a) The preparatory process

Some have identified the procedures (i.e. the way in which the negotiations were structured, notably the resort to ‘facilitators’, and the way in which facilitators were appointed) as one of the reasons for the failure of the Cancún Conference. But let us not forget that the process of any negotiation starts at the preparatory stage, and that the long preparatory process of the Cancún meeting held in Geneva had already been unsuccessful in producing a consensus draft of the ministerial declaration, and that several crucial deadlines had passed without any agreement.

After the launching of the new round at Doha in November 2001, where a clear division between developed and developing countries was already noticeable on the content and ambition of these negotiations, WTO Members took more than 20 months to switch from general discussions to substantive negotiations in preparation for the Cancún meeting. Indeed, Members lost precious time in Geneva restating their views and positions in an effort to mainly clarify and interpret the scope and objectives of the negotiating agenda.

Very little time was left for consultations that could have led to consensus on a variety of key issues like time-frames and modalities on agriculture and NAMA negotiations, and for consolidating a draft text that could have served as a basis for the discussions by Ministers in Cancún. The first draft prepared by General Council Chair Carlos Pérez del Castillo, in close cooperation with DG Supachai, not only came too late (18 July 2003) but it was also a document that most Members did not recognize as a basis for negotiations.⁸ On 31 August 2003, after dead end discussions among Members in the General Council on a revised text circulated on 24 August, Pérez del Castillo and Supachai submitted their draft Ministerial Declaration. However, it was clear that this document had no real status, since no part of the

⁸ General Council Chair Carlos Pérez del Castillo submitted this text on his own responsibility.

text had Member consensus.⁹ This process was disapproved by many countries, in particular developing countries, and was highly criticized by NGO's for its blatant lack of transparency and legitimacy. Under such circumstances, a successful outcome following the 4-day Cancún process was almost like asking for a miracle.

Indeed, going to Cancún in the belief that Ministers would solve highly complex technical issues in four days was a bit too ambitious and, in a way, naive. Let us not forget that Ministers were supposed to attend this meeting to engage in a mere mid-term 'review' and not in a major negotiation.

In principle, a preparatory process should ensure that all technical issues are discussed and worked out by the experts in Geneva, only leaving to Ministers the task of providing the necessary political legitimacy, guidance and leadership. Work is probably required to search for new approaches that lead to guaranteeing the preparatory process is managed in a manner conducive to holding efficient ministerial meetings. Reflection is equally needed to redefine what sort of 'guidance' Members expect to extract from the Ministerial meetings. Past experiences demonstrate that Ministers can unblock a particular situation impeding progress (i.e. Punta del Este); they can equally re-set the pace (i.e. accelerate negotiations) required to fulfill a negotiating mandate, re-state objectives and goals, or prolong deadlines.

b) The negotiation process during the Conference¹⁰

Prior to, and at the outset of the Conference, different groups of developing countries sent strong messages to the Chairman asking for transparency and 'inclusion' during the process. A large coalition of developing countries, led by Brazil, India and China, that originated at a late stage of the preparatory process in response to the alliance created by the US and the EU over agriculture (the 'G-21',)¹¹ also made it clear that a successful outcome from the meeting would depend on whether their own agricultural proposal was considered on an equal footing to the Pérez del Castillo's draft, which in many Member's opinion was just a copy of the 'minimalist' agricultural reform plan proposed jointly by the US and the

⁹ Together with their draft Ministerial Declaration, Pérez del Castillo and Supachai submitted a cover letter to Ministers stressing that the draft Declaration had not been agreed "in any part", and did not preclude many of the member government's proposals.

¹⁰ Most details regarding the negotiation process of the Cancún meeting were found in ICTSD, Bridges "Daily Updates on the Fifth WTO Ministerial Conference", Issues 1-6, 10-15 September 2003 (at www.ictsd.org). See also WTO Summaries of the Conference, 10-15 September 2003 (at www.wto.org).

¹¹ The 'G21', which started as a group of 14 countries and later became the 'G-23', representing half of the world's population, is now formed by the following 18 WTO member countries: Argentina, Bolivia, Brazil, Chile, China, Cuba, Ecuador, Egypt, India, Indonesia, México, Nigeria, Pakistan, Paraguay, Philippines, South Africa, Thailand, and Venezuela. Indeed, since Cancún, El Salvador, Colombia, Costa Rica, Guatemala and Peru have left the Group.

EU on 13 August. Another group of smaller developing countries has equally insisted in taking its own proposal on agriculture, submitted on 19 August, into consideration.¹²

After informal discussions that apparently took place before the plenary session between Chairman Derbez and regional groups' representatives on the structure of the Conference, Derbez announced that the negotiations should be conducted in five working groups dealing respectively with agriculture, non-agricultural market access, development, the 'Singapore issues', and miscellaneous. This last group encompassed negotiations on all the remaining issues, such as environment, TRIPs, services, implementation, etc.). The 'Cotton Initiative' was treated as a separate issue.

Each group was led by a 'facilitator', who was in charge of identifying possible areas for progression.¹³ Working Groups were 'open-ended' in that each Member was able to be represented by both a Minister and a maximum of two more delegates. The facilitators reported back at the 'Heads of Delegation' (HOD) meetings each morning and held consultations with the Chair. Facilitators also met bilaterally with leading players, and Chairman Derbez held informal 'green room' consultations attended by an exclusive group of countries, some representing larger country groupings.

No doubt, the aim of putting in place the procedure of using facilitators as 'bridges' between small and big groups was to help ensure 'inclusiveness'. However, the management of the process through this mechanism fell short of expectations.¹⁴ Regrettably, it has raised tensions between a number of delegations, who have felt excluded from the process. Indeed, various delegations informally complained about not having been approached by the facilitators, or about 'negotiating' with the facilitators instead of with other Members. Some criticized the draft texts which facilitators produced later on, by stating they did not truly reflect the positions as articulated during the consultations. Some facilitators were perceived as insisting on the inclusion of formulas and issues, when it had already been proved they could not be agreed upon. In the end, using this 'tool' in the WTO negotiating process appears to have led to a certain polarization of positions in the different groups.

¹² This group was formed by Dominican Republic, Honduras, Kenya, Nicaragua, Panamá and Sri Lanka.

¹³ Facilitators were: (i) Agriculture (Yeo Yong-Bon, Singapore); NAMA (Henry Tang Ying-yen, Hong Kong); Development (Mukhisa Kituyi, Kenya); Singapore issues (Pierre Pettigrew, Canada); and Miscellaneous issues, i.e. environment, TRIPs, services.. (Clement Rohee, Guyana). The facilitator for the 'Cotton Initiative' was WTO DG Supachai.

¹⁴ From the negotiation specialist's point of view, facilitators are indeed ideal tools to foster negotiation processes in highly complex environments, characterized as in the WTO by multi-party and multi-issues challenges. However, maximizing their "value & use" requires knowledge and very good coaching. The appointment of facilitators is key in the process and should have the "ok" from all parties. This issue will be reexamined in the next section.

By Friday 12, the facilitators of the Working Groups submitted draft texts to the Chair, but again, no texts were consensus-based.¹⁵ Upon the release on Saturday 13 of a consolidated new draft Ministerial text that Chair Derbez put together based on the facilitator's drafts, the process moved into a single track of negotiations on all the issues, led by Derbez himself and WTO DG Supachai. Reactions to the text, however, showed members were more apart than ever. As during the initial stages of the preparatory process, Members and groupings kept repeating their positions. Agriculture remained the main point of discord –though some say it appeared that positions on agriculture were somehow closer to convergence.¹⁶ But in the end, the question of launching negotiations on the 'new' issues was what made the talks collapse.

Indeed, during the over-night consultations that ended at 4am, Ministers expressed their concerns and showed that there was still immense divergence in their positions on a large number of issues, with the Singapore issues causing the most-bitter disagreements. In view of this, Chair Derbez decided that the next consultations, which began at 8:30am that same day, would start with this subject, and then move onto agriculture and other issues. This produced a high level of scepticism particularly among developing countries.

During these consultations, in which around 30 Ministers representing different 'caucuses' participated, an effort was made to try and bridge the gaps between the differing viewpoints. In an attempt to break the deadlock, the EU suggested dropping for the first time two of the 'Singapore issues'. The Chair then proposed dropping investment and competition.¹⁷ After four hours or so, the meeting was adjourned to give participants the time to consult with their constituencies. But when they returned it soon became clear that positions had hardened. The Minister speaking on behalf of the African Union, said it was unable to agree to any deal that included any of the proposed new issues, not even the trade facilitation, an area, which in the view of some, no country should have objections to.¹⁸ South Korea, by contrast, said it could only accept negotiations on all four Singapore issues. Chair Derbez declared then that there was no agreement and that he would suspend the conference.

It is worth mentioning that towards the end, the newly created G-90, a regrouping of the African Group and the LDC coalition, were the only ones who voiced opposition to the

¹⁵ Even during Friday's Working Group discussions, Members, for the most part, continued to hold to their previously expressed positions. Therefore, facilitators submitted their texts on their own responsibility.

¹⁶ See for instance, ICTSD, "Cancun Collapse: Where there's no will there's no way", Bridges Daily Update on the Fifth Ministerial Conference, Issue 6, September 15, 2003.

¹⁷ Refer to "Goodbye from Cancun", Letter from the EU Trade News, Brussels September 16th 2003.

¹⁸ According to The Economist, the trade blockades that certain internal measures produce end up generating higher cost than tariffs. For example, as stated by the World Bank, the cost of transporting African exports to foreign markets is five times higher, on average, than the tariffs paid on those goods. Complex, inefficient and corrupt customs procedures make up a big share of these transport costs. Refer to "The WTO under fire", in The Economist –Special report: The Doha Round, September 20th-26th 2003.

Singapore issues. Apparently, neither Brazil, nor India spoke on this matter during the Sunday consultations, thus giving the impression they were probably ready to accept the launching of negotiations in some of these issues in exchange for a deal in agriculture, which some considered a possibility at that stage. It is also important to mention that African and LDC countries had practically been absent from discussions on the new issues held in Geneva during the preparatory process. This is why many delegations were very surprised with Chair Derbez's decision. It is possible that, as EU Commissioner Pascal Lamy said once the talks broke down, the WTO procedures had not supported the weight of the task and that simply "there was no way to structure and steer discussions amongst 146 members in a manner conducive to consensus."¹⁹

Yes, the WTO decision-making process will probably need to be reviewed. In view of the large majority of developing countries in the organization's present Membership, it is very unlikely that the big trading powers would agree to change the rule of consensus, which has indeed been the premise for the functioning of the system. But maybe certain guidelines and/or new methods/structures could be established to help the now 148 WTO Members increase their ability to efficiently negotiate and find such consensus, while ensuring that negotiations are managed in a transparent, democratic, responsible and efficient manner.

c) *The role of the Chairperson(s) and Facilitators*

The way in which chairpersons for WTO Ministerial meetings are chosen can probably also be questioned. As in past occasions, Minister Derbez happened to be the chairman of the Cancún Conference because Mexico was the host country of the meeting. However, past experiences prove that, to be effective, a chairperson needs to be a real negotiator and not only a politician, and that the success of trade talks lies, to a large extent, on the genius and personality of the chairperson to actively create the atmosphere for building consensus and formulas to arrive at a compromise solution. Actually, one could say that, to a great extent, the system owes the launch and the conclusion of the Uruguay Round to the genius of Enrique Iglesias and Peter Sutherland, respectively.²⁰ As is the case with Chair Derbez, Iglesias happened to be the Chairman of the Punta del Este GATT Ministerial Conference because Uruguay was the host country of the meeting.

As mentioned above, some suspect that, in taking the decision to abruptly close the meeting, Derbez could have been 'influenced' by one of the 'big' players who, facing the dilemma of not being able to offer developing countries something substantial in agriculture (in particular to the Africans on the issue of cotton) preferred to switch the burden on to

¹⁹ In Pascal Lamy's opinion, "The WTO remains a medieval organization". See Press Conference (14 September 2003), Op.cit.

²⁰ Let us not forget the key role played by Ambassador Julio Lacarte (also from Uruguay), who arrived at a compromise solution at the end of the Uruguay Round, which allowed for the establishment of the WTO and the creation of the new dispute settlement mechanism.

others (i.e. Africans and LDCs). But still, some have criticized that, in the absence of an agreement on substance, the Chairman could have at least produced, as a fall back, an agreement on a timeframe to facilitate the continuation of discussions back in Geneva.

Although using facilitators was certainly a positive variation in the WTO negotiation process²¹ towards helping ensuring ‘inclusiveness’ and democracy, it is not clear how and with the support of whom this procedure was decided, nor under which criteria facilitators were chosen.

In the light of the above, a review of the WTO negotiating process should probably also include a change in the procedure for choosing chairpersons, with a view to enhancing the transparency and democracy in the negotiating process, while ensuring that the Chair is somebody who has been involved in the negotiating process and who has a deep understanding of how the WTO system works. This is certainly also applicable to the process for the selection of ‘facilitators’ and chairpersons of negotiating working groups in general (also in Geneva).

In addition, reflection is needed on the efficiency and practicality of continuing to hold biennial ministerial meetings in different Members’ capitals instead of in Geneva. Indeed, moving the WTO negotiating machinery away from Geneva each time is not only highly costly in financial terms but also creates tremendous uncertainty with regards to whether the process will find the strong leadership required to successfully reach agreements.

d) The role of the Secretariat

Some have complained that the WTO Secretariat was much too involved in the preparation of the facilitators’ texts. But one has to take into account the fact that if some of the facilitators were Ministers who were not directly involved in the Geneva preparatory process and, therefore, not necessarily familiar with the technicalities of the issues at hand (nor with the complexities of these negotiations) then, by helping the facilitators, the Secretariat staff was doing nothing but their job.

The active role of the Secretariat is an essential part of a negotiating process, but to ensure there is no perception that it is overplaying its hand, it is vital that chairpersons and/or ‘facilitators’ are not chosen by accident, but rather on the basis of their capabilities and experience to efficiently manage the trade negotiating process. In addition, it must be ensured that it is the Members who negotiate and/or take decisions so as to reinforce the legitimacy and transparency of the WTO negotiating process.

4. What are the lessons from Cancún?

Many lessons can certainly be drawn from the Cancún meeting. Such lessons concern both developed and developing countries alike.

²¹ It is worth mentioning that during the preparatory process the ‘facilitator’ tool was not employed.

a) The importance of alliances

One distinct aspect of these negotiations was the creation of multiple coalitions, in particular amongst developing countries. The formation of alliances is a natural part of any negotiating process. Contrary to some perceptions, in the GATT/WTO there has never been a distinct division between the North and the South, but rather there is a tangled mix of alliances depending on the issue at stake. The Cairns Group is an excellent example of a successful coalition of developed and developing countries in the trade area.²² However, at the Cancún meeting the coalition dynamics turned into an almost declared confrontation between developed and developing countries, most notably in the area of agriculture and around the Singapore issues.²³

The most marked alliance amongst developing countries was the ‘G-21’, lead by Brazil, India and, the newly acceded developing trading power, *China*. As mentioned above, this coalition was formed at a late stage of the preparatory process in response to the alliance created by the US and the EU over agriculture and it was consolidated during the Cancún talks.²⁴ Accusing the EU-US proposal for far too minimally ‘freeing’ farm trade,²⁵ the G21 demands, formally expressed in a counterproposal to the Ministerial text put forward by Pérez del Castillo, focused mainly on the across-the-board elimination of export subsidies to agricultural products of particular interest to developing countries.²⁶

Another alliance at the agricultural negotiations, which was initially formed by the Dominican Republic, Honduras, Kenya, Nicaragua, Panama and Sri-Lanka, grew to 33 countries. This group sought agreement only on a framework for self-designated ‘Strategic Products’ (SP) and a Special Safeguard Mechanism (SSM), but not on market access (i.e. tariffs) liberalization.

²² The Cairns Group of 17 agricultural exporting countries, formed in 1986, has effectively put agriculture on the multilateral trade agenda. The Members of the Cairns Group are: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand, and Uruguay.

²³ Most details presented in what follows, regarding the formation and position of the different coalitions observed at Cancún, were found in ICTSD, Bridges Daily Updates, Op.cit (Issues 4 and 5 in particular).

²⁴ The original countries of the G-21 are: Brazil, India, China, Argentina, Mexico, South Africa, Egypt, Ecuador, Costa Rica, Bolivia, Chile, Colombia, Guatemala, Paraguay, Peru, Philippines, Thailand. See the full current membership of the G21 in footnote 11 above.

²⁵ Though the ‘framework’ proposed by the US and the EU in their joint proposal circulated on August 13 entails some farm reform, it practically ignores most of the objectives and compromises established in the Doha Development Agenda, in particular those regarding the elimination of export subsidies.

²⁶ According to *The Economist*, in the opinion of the G21 Members, rich countries, being the most profligate agricultural subsidizers, should make a greater effort to cut subsidies and free farm trade. Indeed, the level of support given to farmers by the rich OECD countries has remained more or less unchanged (at over \$300 billion) for the past 15 years. Refer to “The WTO under fire”, Op.cit.

A new and large coalition of developing countries was created in Cancún over the negotiations on agriculture, formed by the African Union (AU), the African, Caribbean and Pacific (ACP) countries and the least-developed countries (LDCs). Fearing that freeing farm trade would mean losing their special preferences, this group, known as the ‘G-90’, presented its own position paper, calling for self-designated ‘SP’ for developing countries as well as an SSM and the preservation of existing preferential access schemes. They suggested a market access method for the reduction of high tariffs, tariff peaks and for tariff escalation. Part of this group (i.e. Africans) was equally engaged in the discussions around the ‘Cotton Initiative’ put forward by four West African countries, calling for the elimination of cotton subsidies worldwide (mainly in the US and, to a lesser extent, in the EU) in order to ensure the survival of the cotton sector in West and Central Africa, where cotton contributes to 80% of export earnings.²⁷

As for the ‘Singapore issues’, a group of over 70 developing countries, led by India, formed a coalition opposing the launch of negotiations.

On the developed countries’ side, the most notable coalition was the one formed by the EU and the US. It was created upon submission of their joint proposal on agriculture less than one month before the opening of the Ministerial meeting, with the alleged purpose of ‘energizing the negotiations’.

Also in the area of agriculture, another group known as ‘Friends of Multifunctionality’, formed by the EC, Switzerland, Norway, Japan and Mauritius, pushed for consideration of non-trade concerns, such as environmental protection, etc.

Even though the coalition formation observed in Cancún created an undisputed confrontation between developed and developing countries, the alliances remained issue-based. Some thought that the interplay between the G-21, the G-33 and the new AU/ACP/LDC group would be a critical factor in how the agricultural negotiations developed, and that an ever-increasing number of united developing countries would have changed the balance of power within the WTO in their favor.

On the contrary, others have questioned the solidarity of various developing country coalitions. For example, some think that the ‘G-21’ was created only for ‘strategic’ reasons, as it covers very diverse interests (for instance, while Brazil and Argentina are very big and competitive exporters seeking deep and accelerated farm reforms world wide, other G21 members such as India are not in a position to lower tariffs on farm goods) and are convinced that this group would have disintegrated if negotiations on agriculture had entered into a substantive-bargaining stage.

It is worth mentioning that, in Cancún, the CAIRNS group has practically evaporated, most of its developing country Members have switched their efforts to ‘G-21’ work. This has

²⁷ See more details in footnote 7 above.

no doubt been very disappointing to the group's developed-country members, like Australia, but also to developing country Members such as Uruguay. Almost certainly, Uruguay was not part to any of the developing country groupings for reasons of neutrality, Ambassador Pérez del Castillo being the current WTO Chairman of the General Council and main manager of the Cancún preparatory process. Although, there can also be substantive reasons, i.e. this country does not share the positions of some members of the 'G-21' (like India), nor of those asking for 'SP' and SSM and rejecting negotiations on market access (i.e. tariff reductions) for agricultural products. "We need to have market access also to the developing country markets", said informally a delegate from Uruguay. Indeed, South-South agricultural trade is very important and vital for many developing countries. In view of this and if it is true that the 'G-21' has been created only for strategic reasons, it is possible that the Cairns group revive when the time for real bargaining negotiations comes.

But then, it could also be said that the EU-US alliance has been formed only for 'strategic' purposes for, as it is well known, the real substantive positions between these two blocks in the agricultural area are quite divergent. Actually, during the Cancún talks, US Deputy Trade Representative Peter Allgeier said the US would be willing to adjust domestic support if the negotiations resulted in increased market access, particularly in the EC, Japan and other developed countries. As for further opening of the US market, he said the US was willing to liberalize where others did.²⁸

*Although different alliances were never tested in real negotiations, due to the abrupt end to the process at Cancun, there is no questioning that coalition building was, indeed, an essential feature in these negotiations. Alignment between the US and the EU in trade talks is not new. What has been really remarkable is the capacity displayed by developing countries, including the poorest, smallest and only recently acceded among them, to create alliances, and their resolution to maintain their positions vis-à-vis the apparently equally inflexible position (in real substance) of the big trading powers. Alignment between Brazil and India is not a new sign either. What has been a tremendous novelty is having China actively participating in a round of multilateral trade negotiations and becoming part of developing country alliances, which has no doubt changed the power play in the WTO. These are certainly lessons that developed countries will need to take into account in future talks.*²⁹

²⁸ Quotation extracted from ICTSD, Bridges, Daily Update—Issue 2, 11 September 2003.

²⁹ During the Conference, the US government has been strongly criticized by a group of NGO's for the threats and attacks that, in their view, the US made against the 'G-21'. In a letter, these organizations called the US to refrain from using bilateral pressure as a mean to strong-arm other nations, including backroom coercion, calls from the White House and threats to terminate other trade benefits and stop on-going negotiations with these nations. If this is true, it shows that, by being united, developing countries can stand more compellingly before the big trading powers.

b) *The Importance of the Ownership of the Trade Negotiating Agenda by All WTO Members*

Another possible lesson for developed countries is the fact that developing countries showed they were no longer prepared to accept their initiatives unconditionally, such as the inclusion of new issues, in which they are not necessarily interested or ready to discuss. (Some of these countries still complain, for example, that the TRIPs Agreement was entrenched into the WTO system to essentially satisfy US lobby interests.) Nor are they prepared to see their vital interests ignored.

In addition, developing countries equally proved they have their own issues to address. As the negotiations in Cancún on implementation, S&D, agriculture and cotton evolved, it became clear to these countries, particularly to the LDC and African countries, that there was nothing really substantial for them to gain.³⁰ Therefore, one can question what their interest would have been in accepting any one of the proposed new issues which, after all, were not even part of the Doha Round ‘Single Undertaking’.³¹

In the same way as the process, the ownership of the substance of the trade negotiating agenda should rest on all the WTO Members, and not only on a few of them. All issues discussed need to be of interest to all the Members, and the issues proposed by all Members need to be taken seriously into consideration.

c) *The Importance of Capacity Building*

In contrast to the strength developing countries demonstrated in creating coalitions at Cancun, an important weakness was equally observed in terms of developing countries failing to prepare adequately for these negotiations. This can be said, in particular, for the African/LDC countries with regards to the so-called ‘Singapore issues’. Indeed, it needs to be acknowledged that, to a great extent, the persistent resistance of many developing countries

³⁰ Despite longstanding demands by developing countries to address the systemic imbalances that cut across the WTO Agreements, the Derbez’ Draft Ministerial Text makes clear that these demands have again fallen on deaf ears. Certain ‘Development’ issues, including implementation and S&D treatment, have seen little air-time in Cancún, and the commodity issue was completely omitted in the draft. In addition, while the number of S&D ‘decisions’ increased from 24 to 27, the heavy watering down of the original proposals left little, if any, meaningful economic value. As a result, some developing countries suggested putting them in the ‘fridge’, while continuing to work on the package in Geneva. –These comments were extracted from ICTSD, Bridges –Issue 5, Op.cit.

³¹ The single undertaking means that practically every item of the negotiation is part of a whole and indivisible package and cannot be agreed upon separately. That is, nothing is agreed until the whole negotiating package is agreed. . The political understanding which guided the launching of the new round of trade negotiations, was that the so-called ‘Singapore issues’ were not part of the Doha Round package. In return for agreeing to a mandate for Doha agricultural negotiations, the EU and other main demandeurs were successful in committing others to discuss four proposed new issues. However, opposition from developing countries, led by India, made future negotiations subject to a decision to be made, by *explicit* consensus, at the 5th Ministerial Conference. See the Doha Ministerial Declaration.

to discuss new issues was due to the lack of substantive knowledge on these issues, combined with an absolute lack of human resources and domestic supporting institutions, which already hinders opportunities for these countries to actively participate in negotiations on current issues.

Further meaningful efforts will need to be deployed in order to assist these countries create the capacities necessary to be prepared to discuss and, eventually, negotiate these new issues in the future, as well as strengthen their ability to participate more pro-actively in the WTO system in favour of their vital trade interests.

d) *The Importance of Going Beyond Initial Positions*

Whatever the reasoning behind what happened in Cancún, developing countries will probably need to build on their already exhibited determination to stand up to the big trading powers. They –in particular the LDCs– will probably need to give up their defensive stand and become more enthusiastic and engaged active participants.

Some have criticized certain countries for having used “rhetoric” as opposed to “negotiation” at the Cancún talks,³² and are of the opinion that, although a few developing country delegates were vigorous and highly competent negotiators, too many others did no more than engage in ‘tactical posturing’.³³ At the same time, others think that some developing countries went too far in resisting negotiations on the Singapore issues, and believe that if they had agreed to at least one of them (i.e. trade facilitation), the talks would not have collapsed. This, of course, will never be known. But one thing for sure is that, at the end of the day, developing countries went back home empty handed, knowing that they probably have the most to lose if the trade talks cannot be resumed shortly.³⁴

³² U.S. Trade Representative Robert Zoellick, quoted in “Rich-Poor Rift Triggers Collapse of Trade Talks”, Washington Post Foreign Service, September 15, 2003. “Whether developed or developing, there were ‘can-do’ and ‘won’t-do’ countries here”; “the rhetoric of the ‘won’t-dos’ overwhelmed the concerted efforts of the ‘can-dos’”, Zoellick said in a statement. See Idem. “No one can live off rhetoric”, Derbez said as well after the talks collapsed.

³³ According to The Economist’s Special report on the Doha round, “some of the posturing was tactical: for all their public rhetoric, for instance, the G21 group was actively negotiating with both [the US and the EU]. But others, particularly some African countries could not get beyond their radical public positions. Anti-rich public rhetoric became more important than to reach agreement.” Op.cit.

³⁴ “Maintaining the status-quo does nothing but perpetuate poverty in the South”, said deeply disappointed a delegate from a developing country not part of any of the coalition groups formed at Cancún, after the collapse of the trade talks. –According to the World Bank, for example, over 70% of the benefits that developing countries might see from the Doha Round would come from freeing trade with each other. This last figure was extracted from “Cancún charming outcome”, in The Economist, Op.cit.

Developing countries will need to reflect on what happened in Cancún and realize that negotiations provide an occasion to further a country's national interests, and not merely an opportunity to defend them. Negotiations are essentially bargaining processes. Therefore, a fair distinction has to be made between initial positions, including transaction chips to be exchanged (traded-off) and a country's fundamental position, on which there cannot be any compromise.³⁵ Developing countries may still have an opportunity to draw concrete and substantive gains from negotiations if they can develop a renewed, constructive attitude. By learning not to just block negotiations but instead tabling constructive win-win proposals, developing countries can move towards gaining their legitimate position in the Doha Round.

e) *The Importance of 'Trust Building'*

A lesson that concerns both developed and developing countries alike, is the urgent need to build *trust* between and amongst Members and develop the necessary skills and means to build such trust. Indeed, the argument that the hard 'no-give' position adopted by some developing countries regarding the Singapore issues, which finds its main rationale in the lack of knowledge about those new issues, is only partly true. The fact that an important group of developing countries maintained their unwillingness to agree to any deal, which included any of the Singapore issues, in spite of reports that the EC was prepared to drop investment, competition and even government procurement,³⁶ is probably a sure sign that what certainly lacked in these negotiations was TRUST.

Substantial efforts are needed therefore on this front, probably through collective learning activities and dialogues among negotiators. Let us not forget that though trade in services was a really controversial subject at the Uruguay Round, current negotiations in this area have been moving very smoothly, and developed and developing countries are demonstrating an unprecedented level of interest.

5. *Is the Multilateral Trading System in danger?*

When the Cancún talks collapsed, certain US representatives, like Bob Zoellick, head of the US delegation at Cancún, warned that their country did not intend to wait for the multilateral process, rather the US would aggressively pursue bilateral and regional trade agreements

³⁵ This view is based on an analysis by T.N. Srinivasan who, in an article of The Financial Times: "India Must Stop Being Purely Defensive in WTO" (September 4, 2003) is of the opinion that asking for concessions from others in exchange for what is obviously in a country's interest to do unilaterally is not a credible bargaining position, and points out that India has just passed a strong competition law and has made public procurement more transparent. In spite of this, India opposed to negotiations on competition policy and on government procurement.

³⁶ Indeed, as mentioned above, by Sunday 14 morning, Pascal Lamy announced that the EU was prepared to take investment and competition out of the Doha Round and WTO –and eventually also government procurement.

(FTAs).³⁷ Zoellick claimed that even as the meeting was falling apart, countries had approached him pushing for bilateral deals.³⁸ Does this mean that the multilateral trading system is at risk of being substituted by bilateral and regional agreements?

In view of recent events at different international forums (like the UN Security Council, the Kyoto Protocol, etc.) many fear that, indeed, ‘multilateralism’ in general is under threat. It is certainly true that any revival of the multilateral trade talks is now subordinated by many decisive political factors, and that the absence of political impulse to make the Doha Round succeed could lead to severe consequences for the WTO itself. It is equally true that bilateral and regional trade liberalization does not have the same potential as multilateral liberalization to produce worldwide economic gains.³⁹

One also needs to take into account that, to successfully negotiate FTAs, countries need multilateral rules and benchmarks that can serve as a framework/basis for those agreements. Indeed, national reforms cannot be undertaken as a result of diverse arrangements with only a few countries. In fact, as some recognized at Cancún, the set back of trade talks could severely complicate negotiations at the November 2003 ministerial gathering for the Free Trade Area of the Americas (FTAA), where agriculture is expected to be a major issue. Apparently, some Latin American countries have allegedly asked for such negotiations to narrow their scope.⁴⁰ In any event, in view of the present world situation, from a mere political angle, a country like the US could very probably not afford the price of working only with some countries on trade liberalization, while alienating others.

In sum, it is most likely that the WTO will continue to remain an indispensable institution, which can in no way be substituted by bilateral or regional deals. Most Members know this and, therefore, they also know that it is in their own interest to deploy all means possible to reanimate their trade talks, with the view of building an even stronger multilateral trading system.

³⁷ See “Rich-Poor Rift Triggers Collapse of Trade Talks”, Op.cit. In addition, Sen. Charles E. Grassley (R-Iowa) stated “I will use my position to “carefully scrutinize” countries’ behavior in Cancún; the US evaluates potential partners for free trade agreements on an ongoing basis. I’ll take note of those nations that played a constructive role in Cancun, and those nations that didn’t”, Idem.

³⁸ See “The WTO under fire”, Op.cit.

³⁹ However, it is worth mentioning that, aside from some activist NGOs that considered the collapse of the Cancún talks a triumph, certain economic analysts are equally content with the stalemate of trade liberalization at the multilateral level, although for different reasons. “FTAs are a potentially good option for liberalizing services trade”, said Harry Freeman, Chairman of the Mark Twain Institute, a Washington think tank dedicated to work on economic statistics. “The FTAs with Singapore and Chile are particularly noteworthy. Those agreements accomplished a method of liberalization –the ‘negative list’– that has eluded negotiators at the multilateral level. So prospects for positive movement on services trade liberalization is good, maybe better than at the multilateral level where the approach of the ‘positive list’ seems entrenched. And let’s not forget the Free Trade Area of the Americas”, Freeman notes (See www.marktwaininstitute.org).

⁴⁰ ICTSD, Bridges Daily Update, Issue 6, Op.cit.