



Responsible: erwin.schweisshelm@fes.de

Democracy, Transparency and Progress in Poverty Eradication and Sustainable Development -

Demands

of the

GLOBAL UNIONS¹

for the

5th WTO-Ministerial Conference

Erwin Schweisshelm, Friedrich Ebert Stiftung

_

¹ The term "GLOBAL UNIONS" comprises the International Confederation of Free Trade Unions (ICFTU), the Global Trade Union Federations of industrial and sectoral unions (formerly: International Trade Secretariats) and the Trade Union Advisory Committee at the OECD (TUAC-OECD). But the statement of the GLOBAL UNIONS is also endorsed by the Christian World Federation of Labour (WFL) and the European Trade Union Confederation. It is retrievable in several languages under www.icftu.org

The world trade round agreed in Doha in 2001 was euphorically celebrated as the "Development Agenda" – a rhetorical concession which was made, amongst other things, with a view to avoiding a failure of the negotiations in Doha. Meanwhile, people have been brought down to earth again because there has been no progress in any of the major issues of the negotiations nor is there sufficient reason to assume that the developing countries are benefiting from the Doha negotiations in a sustained manner.

The round of negotiations is to be concluded by the end of 2004. An important date in this process is the 5th WTO-Conference of Trade and Economic Ministers – the "WTO-General Assembly" which is scheduled for the 2. week in September in the Mexican city Cancun. The ministers will discuss the current state of the negotiating process and decide whether the negotiation mandate of Doha is to be expanded to cover additional sectors.

In April 2003, i.e. five months before the 5th Ministerial Conference of the World Trade Organisation WTO scheduled for September in Mexico, the GLOBAL UNIONS presented their position to the public. It addresses the questions of what kind of reforms are necessary to make the WTO more transparent and democratic and of how to strengthen the negotiating position of the developing countries. It enumerates measures with which to protect workers' rights and describes how to ensure that elementary goods and basic services serve the public interest and are not exclusively driven by profit interests. The GLOBAL UNIONS' trade agenda is broadly-based and takes into account the interest of the poor in developing countries; it does no longer merely deal with the problem of how trade and social standards can be interlinked. The following paper describes major implications of the GLOBAL UNIONS' position and reflects, whenever possible, the current state of the debate with special reference to the German and European positions.²

Michaela Eglin: The General Agreement on Trade in Services (GATS) – A Background Note, FES Occasional Paper No 4 (Geneva), 2003.

Sophia Murphy: The Uruguay Round Agreement on Agriculture and its Renegotiation, FES Occasional Paper No 5 (Geneva), 2003.

Eva Hartmann/Christoph Scherrer: Negotiations on Trade in Services – The Position of the Trade Unions on GATS, FES Occasional Paper No 6,(Geneva), 2003

² Further information is available in the following papers which formed the basis of a conference organised by the Geneva office of the Friedrich Ebert Stiftung in April 2003. To be ordered from: Dr. Erfried Adam, fes.geneva@ties.itu.int

1. Democracy, Transparency, Consultation and Reform of the WTO

Since the establishment iof the WTO in 1995, the civil society has been calling for greater transparency and democracy in the functioning of the WTO and for a properly-balanced power relationship between the industrial and developing countries in this context.

- In order to enable smaller countries to take part in the WTO-negotiations and procedures, substantial financial support needs to be made available to them.
- The WTO is asked to institutionalise its dialogue with the civil society. This applies first of all to greater involvement of parliaments.

Only recently, both the EU Parliament and the German *Bundestag*³ complained that the schedules and forms of participation proposed by the Commission and national governments were absolutely inadequate, especially as far as it concerned the GATS-Agreement.

 Similarly, a formal consultation process should be initiated with trade unions and non-governmental organisations in connection with both the dialogue with the General Council of the WTO and the ministries responsible at the national levels.

A great deal was certainly made available voluntarily in the past, but an institutionalised mechanism would be less arbitrary. For example, the GATS-process in the Federal Republic has so far been marked by a great deal of intransparency for interested citizens. The Economic Ministry responsible refers to conditions set by the WTO-members in this context, while passing on information selectively to the various associations concerned.

 The regular "trade policy review mechanisms", in other words the monitoring of trade policies of member States, are to be expanded to include environmental, gender-related and social issues, including compliance with core labour standards. And finally the GLOBAL UNIONS demand that a crucial WTO-body, notably the dispute settlement mechanism, be opened to public information and participation.

Considering the extensive powers and crucial mission of this body, this is certainly one of the most far-reaching demands. Negotiations on the adaptation of the dispute settlement mechanism (which do not adress the points raised by the unions, though), which were agreed in Doha, are to be concluded by May 2003; however, it is becoming increasingly less likely that this schedule can be kept.

-

³ In a historically unique move, the German *Bundestag* expressed its parliamentary reservations about the unacceptable information policy in connection with the ministerial statement of the Ministry for Economic and Labour Affairs (BMWA) for the EU.

2. The Development Agenda

According to the GLOBAL UNIONS, the Doha trade round must promote, in particular, the development of the countries of the South – a goal difficult to achieve in view of the fact that deadlines have so far not been met. This includes:

 results in the TRIPS-discussions which would ultimately provide the developing countries with access to inexpensive medicine,

As early as by the end of December 2002, the working group responsible was expected to present proposals to the General Council of the WTO. However, no consensus could be reached yet and it is doubtful whether this will be possible in the run-up to Cancun.

 implementation of the "special and differential treatment" and extension of the deadlines of the Uruguay Round in order to take into account the special economic and social situation of these countries,

The original deadline (July 2002) for this issue has already been extended several times without any concrete recommendations being submitted to the General Council.

- review of non-tariff trade barriers,
- progress in the negotiations on industrial tariffs in order to facilitate market access for the developing countries.

At least some rapprochement was achieved at a meeting between Pascal Lamy and US Trade Representative Zoellick in April 2003 concerning the dismantling of industrial tariffs in order to evoke a "positive agenda" for Cancun.

The view that the developing countries' concerns are reflected in the current negotiations in an absolutely inadequate manner is held not only by the GLOBAL UNIONS and major parts of the international civil society; the Director General of the WTO himself, Dr. Supachai Panitchpakdi from Thailand, stated in a speech on March 24th at the National Confederation of German Industry (BDI) which is itself probably not too critical of the WTO: "I regret that members were unable to reach consensus at the end of last year on a certain number of issues that are of direct interest to the poorer countries. These include special and differential treatment, implementation issues related to the Uruguay Round Agreements, and an agreement which would ensure access to essential medicines for people in developing countries which lack production capacity to manufacture essential drugs while at the same time protecting the patents which are so vital for continuing research and development. Because of its importance to reach agreement in humanitarian terms, the failure to reach agreement on access to medicines has cast a particularly dark cloud over our work in other sectors. This is why there is today a sense among developing countries that the development-related issues which make up the core of these negotiations have not yet been adequately advanced."

5

3. Workers' Rights

In this context, the GLOBAL UNIONS are particularly concerned with the protection of workers against governments and corporations who are gaining an advantage in international trade by violating fundamental labour standards rather than with the introduction of minimum wages or similar matters. Respect for core labour standards⁴ is the basis of a sustainable, socially-equitable and democratic development of the economy. The GLOBAL UNIONS demand in detail that the WTO-ministerial meeting:

- organise for the first time a joint meeting of trade and labour ministers with employers' associations and trade unions,
- regulate unambiguously that under international law UN-agreements, such as the ILO-Convention on core labour standards, take precedence over trade regulations; this would require an amendment of the relevant GATT-articles⁵,
- set up an official joint working group of WTO and ILO mandated to explore the connection between trade and social development, for example the effect of trade policy measures on working conditions of women and migrants,
- include core labour standards in country analyses on trade policy (TRPMmechanism, s. item 1),
- affirm that facilities such as free trade zones, in which fundamental workers' rights are deliberately disregarded for the sake of expanding the export volume, are illegal under the WTO-regime because they distort trade.

Attention needs to be drawn to the fact that no progress whatsoever as regards workers' rights was made at the 4th WTO-Ministerial Conference and that it was barely possible at the time to maintain the status quo, i.e. for WTO-members to acknowledge the importance of core labour standards, while leaving their implementation completely in the hands of the International Labour Organisation. It appears rather improbable that even protagonists such as the EU will strongly insist on addressing the issue in Cancun in view of the difficult state of negotiations. Yet it would be politically wrong for the GLOBAL UNIONS to simply drop their justified demands as a result.

⁴ Core labour standards are fundamental rights of all workers worldwide, irrespective of the existing level of development of the countries concerned, and comprise the following principles which were adopted by the International Labour Organisation in 1998 with an overwhelming majority, thus incorporating them in the universal human rights: freedom of assembly and the right to collective bargaining, the ban of discrimination at work and in employment, the ban of all forms of forced labour and the practical abolition of child labour, including its cruellest forms.

⁵ The Friedrich Ebert Stiftung has commissioned an expert opinion about the implications of this under international law; it is planned to be concluded in the summer.

4. Negotiations on the Liberalisation of Services (GATS: General Agreement on Trade in Services)

The GATS-negotiations - one of the major elements of the WTO-process in the eyes of GLOBAL UNIONS - started in January 2000 as a result of the Uruguay Round. WTO-members were expected to inform their trading partners by June 2002 about what they hoped to achieve in the negotiations in respect of market access in services. Conversely, they were expected to list offers for the opening-up of their own markets which they intended to make available in response to the demands of their trading partners by March 31st 6. The GATS-negotiations are planned to be concluded by January 1st, 2005 as part of the complete Doha package ("single undertaking"). They deal with basic services such as education, health, water and energy supply, telecommunications services, post, transport etc. in which millions of people are working - in the EU ⁷ some 66% of all workers generating two thirds of the GDP⁸, while in the developing countries more than half the GDP is being generated in services; even the LLDCs are producing a larger share of their GDP in services than in agriculture. The World Bank estimates that, given certain conditions, liberalisation of trade in services will result in increases of income by a factor of 4.5 compared to just opening up commodity markets. In other words, developing countries also have a strong interest in liberalising trade in services.

To leave it to governments to decide autonomously how and, in particular, with what form of ownership they wish to organise basic public services⁹ (especially education, health, social services, public water supply etc.) is a core demand of GLOBAL **UNIONS**, including specifically:

- the 5th WTO-Ministerial Meeting should amend the GATS-Agreement in a manner so as to exclude the basic services listed above from all future GATSnegotiations,
- and see to it that the relevant GATS-Articles are amended which provide opportunities for taking legal action against states which introduce regulatory measures in order to protect their public services. Social and ecological principles must have more weight than so-called "free trade" and be excluded from the dispute settlement mechanisms of the WTO as a cause for court action.

⁷The EU negotiates as a bloc at the WTO-meetings and is represented by the Trade Commissioner (at present Pascal Lamy) who acts on the basis of a mandate previously agreed by the EU-member states. However, EUgovernments are represented by delegations in the negotiations and need to decide unanimously on negotiation

⁶ By early 2003, practically all WTO-members had received demands for liberalisation made by some 30 states, most of them developed countries and major developing countries. Both the EU and the USA have made demands in respect of the majority of the 12 service sectors. Developing countries such as India demand better modalities under Mode 4 from the industrial countries, in particular. The less developed countries made almost no demands at all, amongst other things because they lack the negotiating capacities for the corresponding

⁸ The EU is the largest importer and exporter of services worldwide with a 24% share of world trade in services

⁽merely 19% of trade in commodities).

9 Often also called "public existential provisions" which are somewhat vaguely defined in the GATS. As soon as public services are competing with private providers, the GATS-Agreement is applicable.

- The so-called "Mode 4"10-negotiations regulating "temporary cross-border movements of natural persons", i.e. labour migration for a limited period of time, are particularly important for trade unions. Mode 4 is of particular interest to developing countries, from which the EU has received a large number of demands, especially from India and China. The GLOBAL UNIONS are greatly concerned 11 that national labour legislation and collective agreements may be undermined as a result. They call for compliance with national labour regulations under mode 4, and also for the protection of migrant workers against discrimination and their inclusion in the social security systems. The ILO is to be involved in the drawing-up of the relevant regulations.
- The DGB demands that liberalisation under mode 4 be offered to specific sectors only and that a cross-sectoral general labour market proviso be included in the draft offer of the EU.
- GATS-negotiations must not jeopardise national programmes for the protection of cultural diversity and identity. The EU mentions "audio-visual services" in this context and excludes them explicitly from liberalisation offers; this affects, for example, national film industries.
- Negotiations in sectors such as post and telecommunications must not jeopardise the availability of general services at uniform and affordable prices ("universal services").

From the EU's point of view, the GATS-negotiations have nothing to do with the decision of governments to privatise services; access to service markets demanded by the EU from other countries does not entail a privatisation of such services. It concerns trade in services, not their form of ownership, according to the EU. In addition, demands are not reciprocal under the GATS-rules, in other words if a country offers to open its healthcare sector, it cannot demand that other countries respond automatically by opening their health services 12.

The EU itself describes its attitude vis-a-vis other countries as one that excludes education, healthcare, public provisions, social services and "audio-visual services" as potential markets to be opened up. At the same time, it has demanded that the USA liberalise its system of higher education. And the national Ministry of Education

mode 2: consumers using the services of other countries in those countries, e.g. tourists (consumption abroad) mode 3: enterprises from the service sector open branches or set up subsidiaries in other countries, such as banks (commercial presence)

mode 4: individuals travelling to other countries in order to supply services in those countries, e.g. engineers, computer specialists etc.(temporary movement of natural persons), and also workers from a construction company, for example.

company, for example.

11 Trade unions from industrial countries pursue, of course, very clear-cut interests in this context, for example in Germany. The statement of the German trade unions reads: "the DGB cannot accept the demand made by developing countries for the opening-up of markets for service workers with low qualification."

¹² However, from the point of view of developing countries, the relevant passages of the GATS-Agreement must be defined much more sharply.

¹⁰ According to WTO-terminology, services are rendered in four different ways (modes): mode 1: cross-border services, e.g. international telephone calls (cross-border supply)

considers at least areas such as further education and correspondence courses to be GATS-relevant sectors.

In principle, this view is being shared by the GLOBAL UNIONS; this has been the result of a conference about GATS organised by the FES-office in Geneva recently. If, in the course of negotiations, a government explicitly affirms in written form that it does not intend to include its basic public services in the process of liberalisation, this would provide sufficient grounds for excluding these sectors from the WTO-process in future. The ICFTU therefore holds the view that it is, in particular, the task of the trade unions at the national levels at present to lobby their governments, while negotiations are still conducted bilaterally. The DGB, the construction workers' union IG BAU and the service union ver.di have drawn up their own detailed statements on GATS, generally following the global unions' arguments, and presented them in public hearings. For example, the DGB considers it to be problematic if commitments undertaken within the framework of GATS will be irrevocable, i.e. if negative effects which could not be anticipated cannot practically be reversed. The DGB therefore calls for a social impact assessment of commitments already entered into or planned before final decisions are taken within the framework of GATS.

However, this does not answer the question of how the poorer developing countries can fend off the pressure to privatise exerted by big corporations if the latter are even supported politically by their governments in the industrial countries¹³. Moreover, mention needs to be made of the fact that as regards their water policy many of these countries are practically dependent on the World Bank which still considers privatisation as the ideal solution to ensure the provision of efficient and inexpensive services. Going by past experience, there is undoubtedly little cause for hoping that poor countries can, in fact, continue to operate their basic services, for example the supply of water, as affordable universal services. The EU has demanded the opening-up of the water sector 14 from 72 of its trading partners, arguing that this would ensure a permanent supply of water to the 1.1 m. people who have not yet access to it today. However, according to the EU this would not undermine the authority of national governments to regulate their own water management and to guarantee equal and affordable prices for everyone, including the poor. Will the big multinational water companies which will successfully bid in the international tenders share this view?

Many developing countries continue to complain that the comprehensive survey and stock-taking of trade in services provided under the GATS-Agreement, which were supposed to supply the guidelines for the negotiation round, have not been carried out. In addition, the differential treatment of the least developed countries is not yet clearly structured.

As regards mode 4, the EU is willing to make concessions to the developing countries according to reports in the press. It intends to increase the period for "temporary work" from three to six months, and that of trainees from six to twelve months. The so-called "necessity test", in particular, is to be no longer applied as a

¹³ But also the pressure by corresponding PPP-projects within the framework of German development cooperation: German DC has opened up the public water supply systems in several developing countries to major German water companies by providing public funds.

¹⁴ Liberalisation of drinking water supplies had not yet been categorised separately within the framework of GATS.

result. In other words, the regulation will be abandoned which excludes those areas from mode 4 in which the EU-countries believe to have sufficient local experts of their own. Although it is planned to introduce numerical restrictions, the number of workers employed under mode 4 in Europe will probably increase significantly in the process.

5. Investment, Trade and Competitive Policy, Public Procurement and Trade Concessions: the "Singapore Issues"

The question of how to protect investment, and also issues such as trade and competition, public procurement and trade concessions are all part of the so-called "Singapore Issues", i.e. trade issues which were "put on hold" at the first Ministerial Meeting in Singapore in 1997 without a decision on concrete steps to be taken in the negotiations. The EU and other industrial countries would like to see a decision in Cancun in favour of starting negotiations on these issues. Conversely, many developing countries, and also many organisations of the civil society, regard such negotiations as premature in view of the other problems of the Doha Round; indeed some of them believe that the World Trade Organisation is not the appropriate body to deal with these issues in the first place.

- In principle, the GLOBAL UNIONS 15 are in favour of multilateral investment rules. The current trend towards bilateral investment agreements benefits strong countries and large corporations rather than the developing countries; proof of this is the explosive growth of free trade zones in which foreign investors are exempted from labour and environmental protection standards and are frequently offered tax incentives and loopholes in national legislation. However, the trade unions demand that agreements of this kind should not interfer with the right of governments to protect public interests even in the case of investments. Similarly, they demand that a multilateral investment agreement include binding and enforceable social and ecological commitments on the basis of the core labour standards, the ILO-declarations and the OECD-guidelines for multinational corporations, amongst other things.
- The demands of the German Trade Union Confederation go beyond this: it calls upon the German Government to work for a multilateral agreement outside the WTO with social, ecological and human rights minimum standards.

Against this background, the proposals which are currently on the table within the framework of the WTO do not meet the approval of the international trade union movement. 39 papers have so far been presented to the WTO on these issues. The EU is one of the major advocates of an investment agreement under the WTOsystem, emphasising the need for transparent rules. hdia, Zambia, Zimbabwe and Uganda have explicitly spoken up against a regulation within the WTO-framework. Little is known about the willingness of states to also adopt rules on workers' rights as part of such an agreement if it materialises. The Korean business community is clearly opposed to it – but that is not altogether surprising.

¹⁵ Even the International Chamber of Commerce, an international association of employers, just recently spoke up in favour of a multilateral investment framework, although probably with other objectives in mind.

- As regards trade and competitive policy, the GLOBAL UNIONS call for multilateral negotiations on the monitoring of international mergers with an emphasis on employment, working conditions and compliance with core labour standards. In addition, they believe that for the foreseeable future it is indispensable to grant developing countries the right to protect their domestic industries. Future negotiations must not restrict the right of governments to regulate or to control economic competition or result in regulations on how to settle disputes between investors and the State. Again, they do not hold the view that current negotiations on competitive policy at the WTO are moving in the right direction.
- As regards negotiations on greater transparency in public procurement, the GLOBAL UNIONS emphasise, in particular, the potential positive effects in the fight against corruption. However, they also demand that core labour standards and more extensive national statutory regulations be firmly included in public tenders as binding criteria for awarding the contract. This calls, amongst other things, for an amendment of the existing "Government Procurement Agreement"¹⁶. The ban on application of "non-economic" criteria must be cancelled in order to be able to include, for example, ethical, social and developmental aspects in the decisions on awarding public contracts.
- The goals of the debate concerning trade concessions (reducing customs procedures to a minimum and speeding up the administrative handling of goods) are endorsed by the GLOBAL UNIONS. However, this is where the lack of technical and staffing capacities on the part of the developing countries have a severe effect. This is why the trade unions call for the necessary technical support for the developing countries instead of introducing complex and expensive WTO-rules in this field.

6. Sustainable Development under the Global Trading System

Trade was one of the elements of sustainable development defined in terms of three fundamental pillars at the World Social Summit in Johannesburg in 2002. Accordingly, the GLOBAL UNIONS hold the view that the WTO must genuinely contribute to sustainable development as well. In the eyes of the trade unions, this would include the following measures:

- Negotiations on multilateral environmental agreements (MEAs) need to regulate in binding form that MEAs, such as the Protocol on Biodiversity, take precedence over WTO-rules.
- Sustainability impact assessments need to be carried out with a focus, for example, on the impact of trade on compliance with core labour standards and on the special strain for women.

¹⁶ Governments which have signed the Agreement (mostly OECD-countries) undertake to comply with the WTO-rules in public procurement tenders. This applies, amongst other things, to non-discrimination of foreign companies.

- Implementation of the "principle of prevention" needs to ensure that consumers' health and safety must not be negatively affected by WTO-rules.
- The Ministerial Conference needs to state unambiguously that eco-label systems, such as forest certification, cannot be disputed under the WTO-system.

7. Agriculture 17

Since the inception of the WTO, agriculture has been one of the most controversial issues. In principle, everyone agrees that it is undoubtedly a severe distortion of trade to pay more than 300 bn. US \$ per year in agricultural subsidies and that while this affects the developing countries, in particular, even in the industrial countries it benefits big agrobusinesses rather than the poorest farmers. The GLOBAL UNIONS clearly demand:

- the discontinuation of all forms of subsidies to agriculture,
- a reorientation of agricultural grants towards healthy rural development, in particular in the South,
- improved permanent market access to the agricultural markets of industrial countries for developing countries,
- an active preferential and differential treatment of developing countries in agricultural negotiations with regard to domestic consumption, poverty eradication, land reforms and food security,
- and also targeted technical aid for the least developed countries.

Agricultural negotiations are either a "deal-maker" or a "deal-breaker" depending on the outcome, at least for the developing countries, and at the same time a problem affecting the political credibility of industrial countries in the WTO-negotiations. According to the World Bank, the lifting of trade restrictions in the agricultural sector (and in the textile industry) is a necessary precondition for achieving the Millennium Development Goals. This view is shared by the Secretary General of the WTO. At the meeting with the German Confederation of Industry (BDI) on March 24th, he described the current state of agricultural negotiations by stating: "If the deadline of modalities is not met, it will put a question-mark over progress in all other areas of the negotiations, including sectors of direct interest to this business audience – even in such areas which have so far progressed reasonably well like services or market access for industrial products."

 $^{^{17}}$ A very comprehensive and extensive statement on this subject has been presented by the construction and agricultural workers´ union, IG BAU

However, it is, in particular, the USA and the EU - the latter strongly influenced by the French - who take opposing positions on this issue. France insists on exhausting the entire five-year negotiation mandate agreed in Doha.

At any rate, the draft paper submitted by the negotiator Stuart Harbinson for the deadline on March 30th, 2003, was not consensually agreed upon. The US-Administration blames, in particular, the EU and Japan for this failure.

It will be an essential question if the compromise reached end of June on the reform of the "Common Agricultural Policy" of the European Union which contains a reduction on subsidies, will be a sufficient basis for the WTO-negotiations.

Harbinson wishes to continue talks in the WTO-Agricultural Commission in June and July. But it is not really conceivable that substantial decisions and compromises will be reached to be used as points of reference at the Ministerial Meeting in Cancun.

The WTO is thus being confronted with a continued crisis of credibility and legitimacy. If it is not able to reform its functioning and to keep the promises made to the developing countries of creating a fair and socially-equitable trading system, an increasing number of critical voices will question the *raison d'etre* of the WTO altogether.

.-.-.-.-.-.-.

Erwin Schweisshelm, Tel: 0228/883-518; e-mail: Erwin.Schweisshelm@fes.de (verantwortlich) Lisette Klöppel, Tel. 0228/883-517, e-mail: Lisette.Kloeppel@fes.de.

Friedrich-Ebert-Stiftung

Internationale Entwicklungszusammenarbeit, Globale Gewerkschaftspolitik Division for International Cooperation, Global Trade Union Program

Godesberger Allee 149, 53175 Bonn

Fax: 0228/883-575

 $Sie \ finden \ den \ Kurzbericht \ zum \ Herunterladen \ auf \ http://www.fes.de/gewerkschaften$

To download the paper please use: http://www.fes.de/gewerkschaften