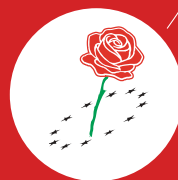


# A LONG AND WINDING ROAD: from Doha to Cancun

addendum to the April 2001 PES Group position paper  
"A New Direction in World Trade"



June 2003



A LONG AND WINDING  
ROAD: FROM DOHA  
TO CANGJUN





## A LONG AND WINDING ROAD: FROM DOHA TO CANGUN

Two years ago, in preparation for the WTO Summit in Doha, the PES Group published ***A New Direction in World Trade: Towards a WTO Round for Development, Democracy and Sustainability***, calling for a radical reform of the world trade system. The preface spelt out the urgency of this task:

*Our central conclusion, set out in detail in this paper, concerns the need for a new direction in world trade. The upsurge of public interest and concern, and the new assertiveness of developing countries in the WTO - both dramatised by Seattle - have irreversibly transformed the politics of international trade. The trade specialists' agenda of market-opening has been overtaken by a new "people's agenda", whose chief demands are fairness and democracy in the global trading system.*

*Beyond the narrow world of trade diplomacy, the next trade Round will be, above all, a defining moment in the debate on globalisation which dominates the politics of this new century. Underlying this debate is the question: will globalisation subordinate all other values to the economic, or can democratic choice prevail in an era of global interdependence, global rules and global institutions?*

In particular, the Group emphasised:

- the new trade round must be a development round, including strengthened special and differential treatment, with an explicit link to the UN Millennium Goals of cutting absolute poverty and hunger in half by 2015;
- there must be negotiations on key environmental and food safety issues;
- rights of access to medicines in developing countries must be made clear;
- the link between trade and labour rights must be on the agenda;
- developing countries must rapidly achieve much better access to the markets of industrialised countries, especially in crucial but heavily protected sectors, such as agriculture, whilst securing the existing preferential access for vulnerable developing countries;
- democracy and openness in the WTO must be strengthened, and the WTO's relationship with other international organisations and agreements must be clarified in a more balanced and democratic global governance.

At the same time, the Group emphasised its support for a new trade Round, its belief in the benefits of trade, the need for international rules to ensure that trade is fair, and the EU's vital economic interest in expanding European export opportunities. The PES Group sees the current trade round as an opportunity to build the foundations for new jobs and greater prosperity for its own citizens and for those of its trading partners, and to defend and promote European social and environmental standards.

The Group welcomes the leading role that the EU has taken in the negotiations. We share the commitment of Trade Commissioner Lamy to achieving a balance between further market-opening and better regulation, and his commitment to making these negotiations, in outcome rather than rhetoric, a development round.

## WHAT DID DOHA DECIDE?

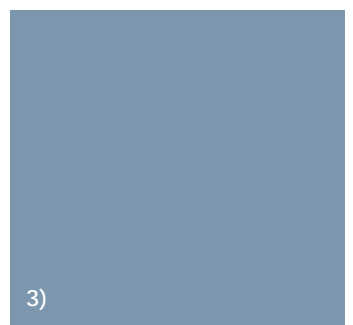
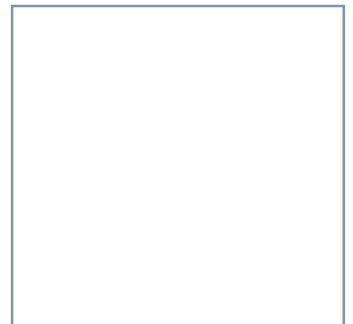
The WTO's Doha Summit in November 2001 launched negotiations on:

- Agriculture
- Services
- Non-agricultural market access
- Intellectual property rules (TRIPs)
- Trade and the environment
- Disputes settlement procedures
- "Implementation issues".

In addition:

- in response to public outrage over lack of access in developing countries to life-saving medicines, a decision was agreed on TRIPs and Public Health (see box on page 4), which asserted the primacy of public health over intellectual property rights;
- chiefly at EU insistence, it was agreed that, following the Cancun summit, negotiations would start on **investment, competition, public procurement and trade facilitation** – known as "the Singapore issues" – "on the basis of a decision to be taken, by explicit consensus at that Session, on modalities of negotiations";
- the WTO gave its approval to the EU's transitional régime for banana imports, and agreed a waiver to its rules to permit the EU-ACP Partnership Agreement to go ahead.

Finally, the Doha Summit agreed that the negotiations should be completed by 1<sup>st</sup> January 2005, and set a series of intermediate deadlines, from December 2001 onwards, on specific topics.





## A LONG AND WINDING ROAD: FROM DOHA TO CANGUN

### TRIPS AND PUBLIC HEALTH

*The Declaration on TRIPs and Public Health was a big victory for developing countries. Throughout 2001, fierce legal and political battles had been fought over pharmaceutical patents and their impact on affordable access to lifesaving medicines. World opinion was mobilised by the scandal of people in poor countries dying in their tens of thousands from treatable diseases, while patents held by multinational pharmaceutical companies blocked their access to cheap drugs.*

*Those battles made access to medicines one of the key issues at the WTO Ministerial Conference in Doha, in November 2001, which launched a new round of multilateral trade negotiations. Developing countries displayed a new tenacity to win the Declaration on TRIPs and Public Health, which asserted the primacy of public health needs over intellectual property rights. The Declaration left one major loophole, however, with a commitment to close it by the end of 2002. In the event, thanks to US blocking of an agreement, the deadline was missed (see Annex, section on TRIPs).*

### SO ... IS IT A NEW DIRECTION?

The PES Group took the view, immediately following the Doha summit, that its conclusions represented important progress on several of the priorities set out in *A New Direction*:

- the agreement on **TRIPS & Public Health** was a great victory for developing countries, and for all those campaigning to make the global trade system more responsive to the wider objectives of public policy;
- the terms of reference for the new trade negotiations – particularly on the key issue of agriculture, and on market access for industrial products - strongly reflected developing country interests;
- the Doha summit agreed that all the so-called “implementation issues” raised by developing countries, concerning imbalances and injustices in the trade rules established in 1995 by the previous, Uruguay, trade round would be addressed as part of the Doha Round;
- for the first time, the WTO agreed to negotiations on the relationship between trade rules and the environment; the scope of the negotiations was less than the PES Group had demanded, but in the face of strong opposition, above all from many developing countries, the agreement to negotiate was a breakthrough.

On two Group priorities, however, the Doha summit failed to deliver:

- On trade and labour, no real progress was made. Many developing country governments expressed fierce opposition even to modest proposals to ensure recognition in the trade system of social and labour issues. And among developed countries, the issue was simply not pressed strongly enough for any chance of progress.
- Issues of democracy and transparency remain highly controversial among WTO members, and barely featured in discussions in Doha.

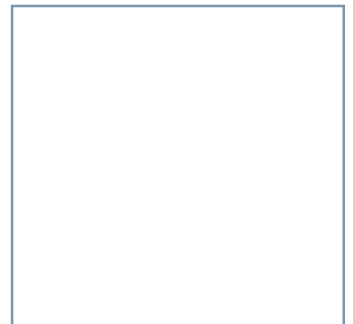
In addition, many developing countries, together with trade unions and NGOs, expressed serious concerns about the commitment to launch negotiations on **investment** and on **competition rules** after the Cancun summit.

## AFTER DOHA: MAINTAINING PRESSURE

Since the launch of the Doha trade round, the PES Group has continued to push strongly for the radical reforms set out in *A New Direction in World Trade*.

To maintain pressure and to build alliances, the Group's leadership - together with its specialists on trade, development, agriculture, environment, social affairs, consumer protection and other relevant issues - have met regularly with representatives of European civil society, business and trade unions; developing countries; the EU's trade negotiators; Member State governments; and Parliamentarians from around the world.

We have organised public hearings and seminars on key issues, promoted internet dialogue, met regularly with EU Commissioners and their staff, initiated debates in the European Parliament, and won the Parliament's support for much of our reform agenda. The annex to this update reports on five issues – agriculture; GATS; TRIPs; investment; and democracy & transparency – to which the Group has given particular attention since Doha.





## A LONG AND WINDING ROAD: FROM DOHA TO CANGUN

### TRADE, THE EUROPEAN PARLIAMENT AND THE PES GROUP

*The work of the PES Group to influence the trade agenda has been pursued against a background of limited formal European Parliament powers on trade. Our impact is testimony to the power of dedicated campaigning – and to strong lines of communication with EU Trade Commissioner Pascal Lamy, drawn from our own political family, who has shown a commitment to Parliamentary accountability beyond the obligations laid down by the EU Treaties.*

*The combination of Parliament pressure, initiated and led by the PES Group, and Commission support are reflected in many welcome EU initiatives – including **Anything But Arms** (which gave duty and quota-free access for all non-military exports from LDCs to the EU), sustainability impact assessment, and the EU insistence in Doha that, without negotiations on environment and trade, there would be no trade Round. The Parliamentary dimension has achieved steadily greater recognition, with regular reporting by Commissioner Lamy and his officials to the EP's Trade Committee; strong EP representation in the EU's delegation to trade summits in Seattle, Doha and Cancun; and a steady gathering of support – within the EU and internationally – for the campaign which the PES Group launched in 1999 for a WTO Parliamentary forum.*

*It is also the persistent pressure of MEPs, led again by PES Group members, which has finally focused the attention of the **Convention on the Future of Europe** on the need to remedy the democratic deficit in EU trade policy making, by giving the European Parliament formal powers over the launching and conclusion of international trade agreements.*

*The PES Group firmly believes that the European Parliament, representing the citizens of the world's biggest trading bloc, and with ready access to EU negotiators, has a major role to play in monitoring the way world trade is reformed, and ensuring that promises are kept.*

## MID-TERM REPORT: IS DOHA DELIVERING?

The WTO's decisions in Doha – with the partial exception of the Decision on **TRIPs & Public Health** – did no more than set an agenda, terms of reference and a timetable. The real test of whether Doha represents a new direction for the WTO will be what the negotiations now underway actually deliver. Will the outcomes reflect a new responsiveness, both to the interests of developing countries and to wider public concerns over the impact of trade rules on environment, health, labour rights, public services and other issues?

The evidence so far is discouraging. Deadline after deadline has been missed. On many issues, WTO Members seem still to be far from agreement, and the positions taken by most industrialised powers – including, on some issues, the EU – are far from offering the radical rebalancing of the system in favour of the developing world that the PES Group and others have identified as the over-riding priority of these negotiations.

## DEAD DEADLINES

THE DOHA SUMMIT COMMITTED WTO MEMBERS TO THE FOLLOWING DEADLINES:

### ***Special and Differential Treatment – deadline missed***

*The WTO's Committee on Trade & Development was instructed to carry out a review of all S&D measures, consider which should be mandatory, examine other ways of strengthening them, and report to the General Council by July 2002 "with clear recommendations for action". The deadline has been repeatedly extended, repeatedly missed, and no decision has yet been taken.*

### ***Textiles – deadline missed***

*The Council for Trade in Goods was instructed to agree on revised procedures for implementation of the Agreement on Textiles and Clothing, more favourable to the interests of developing countries, and to report to the General Council by July 2002. No solution has been found.*

### ***Declaration on TRIPS and Public Health – deadline missed***

*The TRIPS Council was instructed to recommend solutions to the General Council, by the end of 2002, to extend the benefits of the TRIPs & Public Health Decision to WTO members whose manufacturing capacity was insufficient to allow them to make effective use of compulsory licensing. Agreement has been reached among 145 of the WTO's 146 members, but blocked since December 2002 by the USA.*

### ***Outstanding Implementation Issues – deadline missed***

*The relevant WTO bodies were instructed to report by December 2002 to the Trade Negotiations Committee, with recommendations for action, on their work on implementation issues for which the Ministerial Declaration did not provide a specific mandate. No agreement has been found between developing and developed countries on how to redress these developing country grievances.*

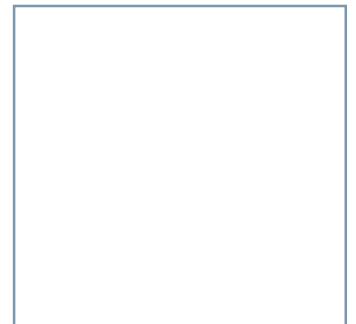
### ***Agricultural Trade Modalities – deadline missed***

*The Committee on Agriculture was instructed to agree by March 2003 on the "modalities" – i.e. procedures, detailed terms of reference and objectives – of the agricultural trade talks. WTO Members' positions remain far apart.*

### ***Dispute Settlement Understanding – deadline missed***

*Negotiations on reform of the DSU, launched in Doha, were supposed to be concluded in May 2003.*

On many issues, the EU has played a leading role in proposing progressive solutions, in line with Doha priorities. Worth mentioning in this context, for example, are the EU's submissions to the WTO on TRIPs/biodiversity, geographical indications, anti-dumping & subsidies, disputes settlement, government procurement, relationships with MEAs, eco-labelling.







## A LONG AND WINDING ROAD: FROM DOHA TO CANGUN

In terms of the volume of trade affected, one of the most significant issues on the negotiating table is non-industrial market access, where the EU's proposal contains welcome provisions to reduce tariff peaks and tariff escalation, with special and differential provisions to respond to developing countries' circumstances and enhanced market access for least developed countries in particular. We note, however, the concerns of developing countries concerning the tariff reductions which the EU proposal would require them to make, and urge the EU's negotiators to consider seriously developing countries' requests for less than full reciprocity, where genuine development issues are at stake. The PES Group welcomes the lead that the European Union has taken on all these topics, and urges its negotiators to pursue them with tenacity.

On the big issues, however, the jury is still out. In particular, the EU, USA and other developed countries have still to show signs of delivering on key priorities of developing countries such as: special and differential treatment and other "implementation issues"; industrial market access; full implementation of the TRIPs and public health agreement; a wider review of TRIPs; and - above all - agricultural trade. On industrial market access - another vital topic - it remains to be seen whether other developed countries - and the USA in particular - are ready to match the EU's sensitivity to developing country interests.

## CANGUN - A TEST OF OUR PRIORITIES

The Doha Round hangs in the balance. Reports from negotiators and observers suggest that the trade talks are approaching a moment of crisis. Developing countries, in particular, take the view that the time since Doha has seen little progress, and some backpedalling, on their priorities. More generally, negotiations on most topics have been moving at glacial pace, with little sign of willingness by WTO Members to bridge the wide gaps that still divide them.

### THE NEGOTIATIONS MUST NOT FAIL

Some seasoned observers take the view that multilateral talks in the WTO and its predecessor, GATT, have always followed a similar pattern, with little movement until the last moment. But this time, we have the added complication of the current international political climate. There is a risk that transatlantic tensions, building up over a series of issues since the start of the Bush Presidency, and culminating in the Iraqi conflict, will make a meeting of minds on trade more difficult. The USA's commitment to multilateral institutions and agreements is also increasingly uncertain, and the subject of domestic political controversy.

In order to reach a conclusion and to avoid the failure of the Doha Round, it seems that the European Union must take up its responsibilities by going on the offensive. At the same time, precisely because of the uncertainty of the US commitment to multilateralism, the success of the Doha Round takes on a new and profound global political importance. And current economic circumstances reinforce the importance of a successful outcome: most of the world's leading economies are experiencing slow growth and rising unemployment. The outcome of the Doha Round could help make the difference between early recovery and a slide into recession.

## RISING TO THE CHALLENGE?

For all these reasons, the European Union has an urgent responsibility to help achieve a successful outcome to the Doha Round. By the political criteria set out by the PES Group in *A New Direction*, however, the test of success will not simply be whether the negotiations are brought to fruition – it is the nature of the outcome which will count. We have argued from the start that the Doha Round is a great test of the capacity of democratic politics to rise to the challenge of globalisation. We proposed a triple benchmark of success:

- Will the negotiations lead to a substantially fairer distribution of the gains from trade, especially between North and South?
- Will they provide evidence that the trade system serves, rather than subordinates, our citizens' aspirations for environmental and social progress, human rights, food safety, good public services, core labour standards, and a wide range of non-trade public goals?
- Will they strengthen the transparency and accountability of the WTO, and its integration into the wider system of global governance?

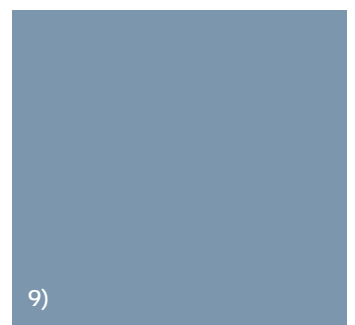
**This is the big picture which should inform and guide the priorities of the European Union's negotiators in Cancun.** These triple priorities must be pursued in parallel with the classic commercial objective, which the PES Group strongly shares, of promoting export opportunities for EU producers. We insist, however, that the latter goal must be pursued with respect for the special circumstances of developing countries, and their economic and social development strategies.

## ESSENTIAL TESTS OF SUCCESS

The PES Group has spelt out detailed positions on a number of key topics in *A New Direction* and in the Annex to this update. Rather than restate those positions here, we concentrate on spelling out a clear political message about where we believe the priorities must lie in the negotiations in Cancun. The priorities must be twofold: to promote export opportunities for EU producers, which will create jobs for EU citizens, and to pass the "big picture test" outlined above, concerning reform of the international trade system.

To pass the "big picture" test, **it is essential** that EU negotiators make very substantial offers to developing countries in the areas of industrial market access; implementation issues including special and differential treatment; and – above all – agricultural trade; and that they demand an equal commitment from the USA and other developed countries.

**It is essential** that, at Cancun if not before, the WTO finally honours the promises it made in Doha on extending the benefits of the TRIPS and Public Health Decision to countries with little or no pharmaceutical industry – which the USA alone has been blocking since December 2002.





## A LONG AND WINDING ROAD: FROM DOHA TO CANCUN

**It is essential** to ensure in the GATS negotiations the rights of each WTO member to regulate public services. The PES Group recalls the demands of the European Parliament in its resolution of 12th March 2003 that developing and least developed countries should not be pressured to liberalise services, in particular public services, that access to and management and allocation of water resources must remain in the public domain, that freedom of action in the sphere of audiovisual policy obtained at the Uruguay Round must be preserved, that the GATS rules on cultural services should not jeopardise cultural diversity, and that the negotiating process must be made more transparent, including full access to EU negotiating documents for all Members of the European Parliament.

**It is essential** to send the right message about the relationship between trade and non-trade issues. That means that the modalities to be agreed for the agricultural trade negotiations must fully respect the sovereignty of WTO members in setting food standards and must allow sufficient room for public authorities to promote public goods, such as rural development, environmental protection and animal welfare. It means also that clear progress must be seen on the trade and environment agenda launched in Doha; that the ongoing review of the TRIPs agreement (under Article 71.1) must be given new impetus and a clearer focus on redressing the balance of rights and obligations in favour of developing countries; that the *impasse* on the relationship between trade and core labour standards must be broken; and that, in the context of cross-border movements of workers in particular<sup>1</sup>, they are fully observed, together with the national labour laws of the host country, and any applicable collective agreements. So far as the EU is concerned, the PES Group is pleased to have played a role in helping the Commission find a position on this issue which reconciles increased opportunities for developing countries with security for EU workers.

On the issue of labour standards, the ICFTU has continued, since Doha, to do extremely valuable work in identifying ways of advancing the common interest of employees from North and South in securing basic labour rights, without provoking fears among developing country governments of “social protectionism”. WTO negotiators should use the Cancun summit to build on this work and must reiterate their commitment to the respect of core labour standards, as part of continuing efforts to achieve the EU objective of setting up a WTO/ILO Standing Working Forum.

**It is essential** that the task of strengthening the transparency and accountability of the WTO is put firmly back on the negotiating agenda. The European Parliament has set out detailed proposals on this issue, adopted by a large majority with the support of all the major European political families (see Annex, section on Democracy and Transparency). The Parliament will expect to see the issue of democracy in the world trade system treated with the seriousness it deserves, in a new century when globalisation presents a challenge to the very principles of democracy.

<sup>1</sup>In trade jargon, “ Mode IV delivery of services” under the GATS agreement.

## MAINTAINING FOCUS: WHAT MATTERS TO THE CITIZEN?

By contrast, in the political and economic context which we have described, the PES Group is not convinced that it is essential that Cancun launches negotiations on the Singapore issues – even if the EU's aims in such negotiations are laudable<sup>2</sup>. Since the EU itself has insisted that the Doha Round must be a Development Round, the simple test we propose is this: on those of the Singapore issues where the EU has won widespread support among developing countries, let negotiations go ahead. But the EU's negotiators should not spend valuable political capital on coaxing reluctant partners into negotiations on the Singapore issues. We call instead for a ruthless concentration by our negotiators on the triple priorities outlined above – priorities to which the Singapore issues are, at best, of secondary importance – and on enhancing export opportunities for EU producers.

## AGRICULTURE – THE HEART OF THE MATTER

The PES Group is convinced that agriculture is the key to the success of the Doha Round. Agriculture employs over 65% of the labour force in low income countries, including most of the world's poorest people. The World Bank estimates that liberalising agricultural trade globally would boost developing country incomes by \$150 billion, and developed country incomes by a further \$100 billion. It is therefore through fairer rules on agricultural trade that the Doha Round can make its biggest contribution to the fight against world poverty, to sustainability, and to the demands of the EU's citizens for safe, high-quality food and a healthy, prosperous rural environment. *A New Direction*, and the Annex to this update, set out in more detail the reforms of the Agriculture Agreement which we believe are needed.

A willingness to support a radical and balanced opening of agricultural markets and scrapping of export support by all developed countries would give the EU enormous negotiating power. EU governments must face up to their responsibilities – the responsibility to play their part in making a success of the Doha Round, the responsibility to make it a genuine development round – by taking the necessary decisions on CAP reform, before Cancun, to give their negotiators that power, and by reinforcing substantially Community policy on development cooperation. In turn, the EU's negotiators must of necessity obtain a strengthening of the non-trade aspects of the Agriculture Agreement, better protection of Geographical Indications, and ensure tangible and substantial progress on the other essential issues this paper has highlighted: labour standards, TRIPS review, environment and food safety, and transparency and accountability in the WTO.



<sup>2</sup>And on competition policy, though not on investment, the PES Group has some sympathy with the Commission's position, as argued in the Annex.



# ANNEX: FIVE KEY NEGOTIATING THEMES

## AGRICULTURE

*A New Direction argued that “the over-riding objective must be to establish rules which are not only fair and market-oriented, but consistent with sustainability, environmental protection, biodiversity, food security, poverty alleviation, rural development, food safety and quality and animal welfare”.*

*To achieve these goals, the paper called for:*

- *a radical reduction, by all rich countries, in barriers to agricultural exports from poor countries.*
- *reduction of export subsidies and all forms of export assistance worldwide, leading to their elimination by all countries in parallel.*
- *a balance between trade and non-trade considerations, recognising the multifunctional character of agriculture and fully safeguarding the non-trade objectives of the European Union, and of developing countries.*

### **Doha decisions**

The Doha Ministerial Declaration said on agriculture:

*“We commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.”*

The PES Group verdict: this mandate mirrors closely the Group's priorities and we call on all WTO Members to honour it in letter and spirit.

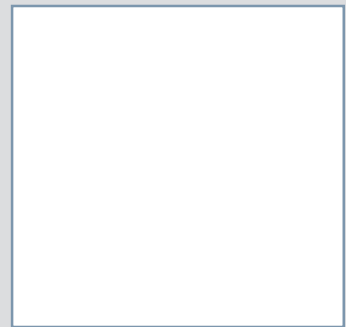
### PES Group activity

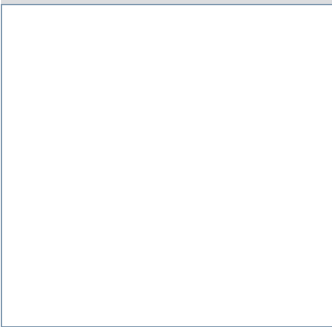
In February 2003 the PES Group, together with APRODEV - an association of European development organisations associated with the World Council of Churches - organised a seminar to look at the case for agricultural market opening, decoupling farm subsidies from production, and ways of targeting farm support to promote the multifunctionality of agriculture. The seminar brought together representatives of governments and civil society from both industrialised and developing countries, EU trade negotiators and representatives of European farmers.

The seminar confirmed the overwhelming importance of agriculture throughout the developing world, as the main source of employment, of sustenance and of export earnings. Witnesses from developing countries were unanimous in identifying agriculture as the crucial issue of the Doha Round. The seminar also acknowledged the special cultural, social and environmental importance of agriculture, and the need for agricultural trade rules to allow governments sufficient autonomy to pursue a wide range of non-trade objectives, while guarding against the dangers of disguised protectionism.

The PES Group initiated a debate in the European Parliament, one week after the seminar, on the WTO's agricultural trade negotiations. Focusing on the proposals which the European Commission had just made to the WTO, the Group tabled a resolution re-affirming the call made in *A New Direction* for radical reform of agricultural trade rules.

Despite stiff opposition from other political groups, the PES Group mobilised a majority in favour of pro-development, pro-environment, pro-consumer, pro-rural development, pro-animal welfare reform.





## WTO: state of play

The Doha Ministerial Declaration set a deadline of 31 March 2003 for agreement on the “modalities” of the agricultural trade negotiations, defining detailed objectives and methodologies and committing WTO Members to certain targets on market access etc. In January and February, Stuart Harbinson, the chair of the negotiating group, presented proposals as a basis for agreement<sup>3</sup>.

By 31 March, however, Members were still far from agreement. It is now expected that no agreement will be reached until the Ministerial Conference in Cancun in September. If WTO Members do not show the necessary flexibility, the entire trade round may fail.

The European Commission has criticised the Harbinson proposals as “unbalanced against the weakest of the developing countries and in favour of the strongest exporters”. The PES Group notes that the Harbinson proposals on market-opening and export competition are more ambitious than the European Union’s, but we believe that the key issues on which EU negotiators must focus, in seeking to improve on the Harbinson proposals are:

- to strengthen the recognition given to non-trade issues;
- to provide for all WTO Members to expand market access further and faster for produce from all developing and least developed countries than for produce from industrialised countries;
- to ensure that all forms of support for exports, including food aid and export credits – abused by some of our trading partners - are as rigorously disciplined as export subsidies;
- to seek agreement that all developed countries will match the duty and quota free access for all produce from least developed countries which the EU already provides;
- to further strengthen special provisions for developing countries, particularly the least developed and other particularly vulnerable groups;
- to provide stronger protection of geographical indications for agricultural produce (see section on TRIPs).

We stress that markets in developed countries must be more open to all agricultural exports from all developing countries, so that all farmers from those countries will be able to benefit from greater participation in world trade. The interests of EU producers and consumers, as well as the interests of the world’s poor, lie not in resisting change, but in implementing measures for regulating production and trade, which would contribute to a balanced and sustainable development. This would be based on a multifunctional agriculture throughout the world, which would respect quality, the environment, labour and the geographical balance.

<sup>3</sup>Harbinson’s proposals can be found at: [http://www.wto.org/english/tratop\\_e/agric\\_e/negoti\\_mod2stdraft\\_e.htm#marketacces](http://www.wto.org/english/tratop_e/agric_e/negoti_mod2stdraft_e.htm#marketacces)

## GATS

*A New Direction, noting that the further dismantling of barriers to trade in services could generate a major increase in trade and investment, called for steadily higher levels of market access, while respecting the objectives of national policies and recognising the differing levels of development of WTO members. It insisted on detailed and binding commitments, including capacity-building measures and amendments to the GATS agreement, to encourage a rapid and substantial increase in developing country exports. At the same time, the paper underlined the importance of ensuring that GATS rules do not infringe national sovereignty over the regulation of public services and, more broadly, services of general interest, calling for clarification of those provisions of the GATS agreement which may cast doubt on the right to regulate.*

### Doha decisions

The Ministerial Declaration said:

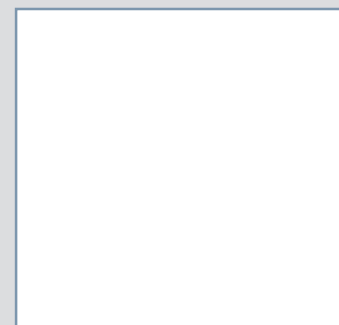
“The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries.... Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.”

### PES Group activity

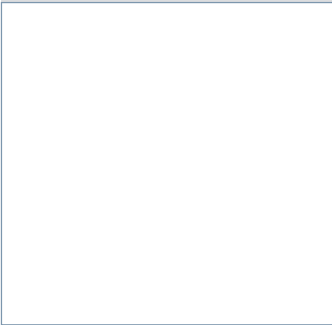
The PES Group took the initiative of proposing a hearing of the European Parliament’s Trade & Industry Committee, held in November 2002, on the GATS negotiations. Following PES Group advice the seminar looked both at the interests of EU exporters, recognising that the EU is the world’s leading exporter of services; and at concerns in developing countries, and in European civil society, about the possible threat of the GATS agreement to sustainable development in the South and the right to regulate, notably public services, in the North. And in March 2003, again on a PES Group initiative, the European Parliament held a debate and carried a resolution whose main points included:

- a recognition of the potential contribution of market-opening to prosperity;
- insistence on maintenance and clarification of the right of governments to regulate services;
- insistence that the EU should not pursue market-opening in developing countries in areas where the government concerned has genuine development-based objections;
- insistence that certain service sectors, such as water and sanitation, have a special status in developing and least developed countries, impacting directly and dramatically on people’s daily lives, and therefore require special treatment;
- a call for continued recognition in GATS of the possibility of regulation designed to preserve and promote cultural diversity;
- a call for greater openness and stronger Parliamentary scrutiny of GATS negotiations.

In response to a proposal from the PES Group, the EP’s Trade and Industry Committee agreed to hold a further mini-hearing in June 2003 on delivery of services involving cross-border movement of workers, known in the jargon as “GATS Mode IV”, which is emerging as one of the key issues of the GATS negotiations. A number of developing countries, for whom remittances are a highly important source of foreign exchange revenues, have substantial interest in freer movement of workers; while trade unions and civil liberties groups draw attention to the need to ensure that labour market conditions and human rights in host countries are fully respected.







# ANNEX

## **WTO: state of play**

WTO Members submitted in June 2002 their requests, addressed to fellow WTO members, for market opening; and by March 2003 (or soon after) presented their initial market-opening offers. The process has been the subject of intense controversy within the EU, with concern expressed by parliamentarians and civil society over the confidentiality of the request-offer procedure, and over the possible impact of GATS on the freedom of governments to regulate services. More dramatically, some critics have argued that GATS is in practice a means of pressure for privatisation and deregulation of services, and have drawn attention to the negative impact of some privatisations on the cost and accessibility of essential services – including water supply, health and education - in developing countries in particular.

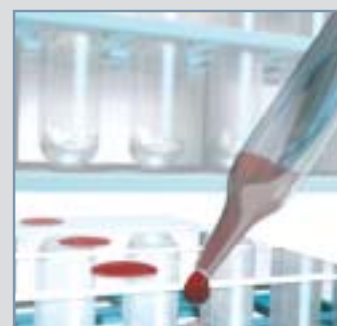
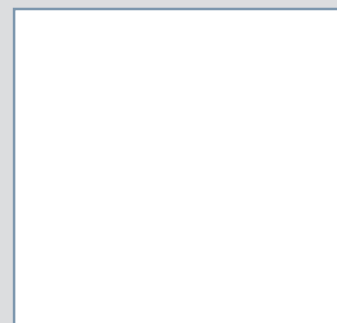
The European Commission has argued strongly, in return, that such fears are misguided. Trade Commissioner Lamy has drawn attention to the fact that the EU offer fully preserves European public services and in particular European health and social services, education and audio-visual services, where the EU is making no offer. In response to concern about transparency the EU has become one of the first WTO members to publish the full text of its GATS initial offers. The Commission has also argued that its offers are strongly angled towards meeting the requests of developing countries, notably for improved conditions of access to the EU of foreign workers for the purpose of providing services.

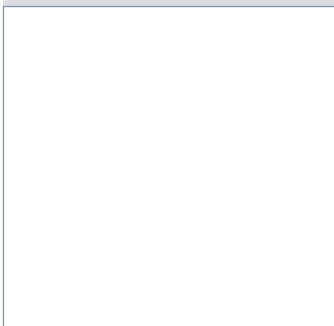
## TRIPS

*A New Direction argued that flaws in the WTO's TRIPs agreement, which lays down global minimum standards of intellectual property protection, could present a barrier to the economic development of poorer countries. It called for a broad review of the agreement.*

### Doha decisions

- further to the Decision on TRIPs and Public Health (see main paper), the TRIPs Council was instructed to find, by December 2002, an expeditious solution to extend the benefits of the Decision to countries with insufficient manufacturing capacity, who therefore faced difficulties in making effective use of compulsory licensing;
- negotiations to be concluded by Cancun on a system for protecting **geographical indications of origin (GIs)** for wines & spirits;
- examine the **extension of similar GI protection to other products** and make recommendations by end-2002;
- continue a review of the **implementation of TRIPs** and a review of the rules on **patenting of genetic materials**;
- include in these reviews an examination of the relationship between TRIPs and the **Convention on Biodiversity**, the protection of **traditional knowledge and folklore** and other developments raised by Members;
- WTO bodies should be guided in this work by the principles and objectives in Articles 7 & 8 of TRIPs and should take fully into account the development dimension.





## **PES Group activity**

In the light of the persistent difficulties within the WTO in reaching agreement on rules for extending the benefits of the TRIPs and Public Health Decision to countries with little domestic pharmaceutical production, the PES Group has worked closely since the Doha Summit with developing country representatives, Médecins sans Frontières and other NGOs to press the case for the full implementation of the Doha decision. The PES Group's position is set out in a December 2002 Press Release:

*"Agreement must not be limited only to communicable diseases - still less to only HIV/AIDS, TB and malaria. Cardiovascular disease for instance, is the world's leading cause of death. The solution must cover all illnesses. The agreement must not be confined only to medicines: it must also cover medical devices and vaccines. The solution must benefit all developing countries. And the solution must be permanent, sustainable and economically viable. Safeguards against abuse must not be so weighty and bureaucratic that they prevent a rapid response by developing countries to public health problems. The EU, Japan and above all the USA are insisting on imposing conditions and restrictions on the implementation of the Doha public health agreement. We call on them now to forget that they are trade negotiators, and to respond to a higher imperative. To fail will be to compound the despair of developing countries, and of our own citizens, that the WTO can ever be made to respond to their priorities."*

The PES Group has given the issue of access to medicines the highest priority. It is a humanitarian issue of huge urgency, and is a critical test of the good faith of industrial countries. The Group has therefore sponsored a full European Parliament debate on this issue, with the adoption of a Resolution strongly supporting our position; we have obtained a Legal Opinion discrediting some of the objections made by the USA and others to the solution advocated by developing countries. And we have met regularly with the EU Trade Commissioner and his staff to make clear the strength of parliamentary and public feeling on this issue. We deplore the action of the US government, responding to pressure from the US pharmaceutical industry, in unilaterally blocking a WTO agreement on this issue since December 2002.

On the broader issue of the North-South impact of the TRIPs agreement, the PES Group hosted a public seminar in June 2002 with participants from developing countries, from European business and civil society, and from the European Commission. The aims were:

- to examine the balance struck in the TRIPs agreement between the rights of intellectual property holders and the wider public interest, particularly as it affects developing countries;
- to consider what should be the agenda of the two reviews of TRIPs, particularly with regard to its North-South dimension, and its impact on the transfer of technology.

The evidence presented to the seminar provided further confirmation of the need for radical reform of the TRIPs agreement. It cast doubt on whether the TRIPs agreement, in its present form, has served the interests of developing countries, identifying the substantial costs TRIPs imposes on them and finding little evidence of benefits.

In the 21st century, prosperity will depend increasingly on access to knowledge. In its present form, the TRIPs agreement risks widening the North-South knowledge divide and raising a new and formidable barrier to development. A Political Report on the seminar, published on the PES Group website, sets out detailed proposals for reform, designed to find a better balance between the need for incentives to research and development and the imperative of sharing its benefits more widely.

#### WTO: state of play

On both aspects of Geographical Indications, the EU has tabled detailed proposals to strengthen the system. The extension of stronger protection to products other than wines and spirits, in particular, enjoys strong support from developing countries who see names traditionally associated with their products – such as basmati rice, Ceylon tea or Blue Mountain coffee – being pirated by western producers. The EU has also taken a lead in setting out useful proposals for clarifying the relationship of TRIPs with the Convention on Biodiversity, traditional knowledge and folklore, and for strengthening farmers' rights.

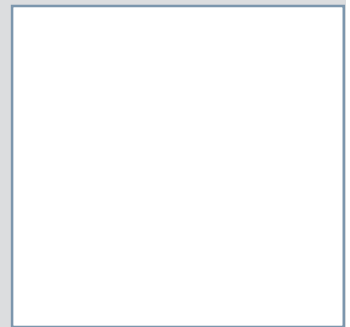
The PES Group welcomes the Commission's proposals in these areas, and regrets that discussions on all of them seem to be deadlocked. At the same time, we would like to see stronger measures, particularly to strengthen respect for the Convention on Biodiversity, traditional knowledge and folklore, and farmers' rights. We regret that there is little sign of steps towards a wider review of the impact of TRIPs on developing countries, which we believe should be the principal focus of the Article 71.1 review of the implementation of TRIPs. We believe that at Cancun this wider issue must be given a more central role in the DDA, if the latter is to be genuinely a development round.

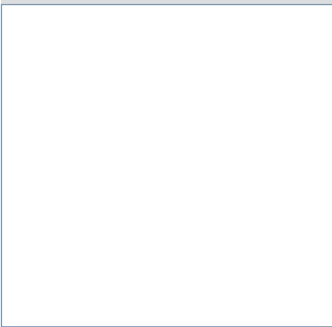
## INVESTMENT AND COMPETITION

*In A New Direction, the PES Group advocated a plurilateral approach to investment rules: that is, an agreement among those WTO members who considered such an agreement had something to offer them. We also insisted on the potential benefits of international competition rules, while recognising the major political and administrative challenges involved.*

#### Doha decisions

The proposal to add investment and competition rules to the negotiating agenda was controversial in Doha, where the EU was the main advocate, but many developing countries were reluctant. On both, the Ministerial Declaration agreed that "negotiations will take place after the Fifth Ministerial Conference [i.e. Cancun] on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations". This gave the EU the decisions in principle which it had sought, while more sceptical members, such as India, could argue that the start of negotiations was subject to prior agreement on modalities, on which every member had a potential veto.





## PES Group activity

For the PES Group, the proposal to create a framework of **global rules for cross-border investment** poses stark questions about the future of globalisation. Such rules could have far-reaching implications for the future balance of rights and responsibilities between investors and host countries, between employer and employee, between North and South, between business and government, between national and global governance. To address issues such as these, the Group hosted an international seminar in September 2002 on *Social Democrats & Global Investment Rules*.

In favour of a multilateral investment treaty, the seminar heard that cross-border investment was a principal motor of growth and development, but was being hindered by the complexity, non-transparency and insecurity of investment rules, particularly in developing countries. And without a multilateral treaty, investment was governed by over 2000 bilateral treaties. These often reflect a huge imbalance between the parties (usually an industrialised country and a developing one) in negotiating power – and their sheer number and diversity is in itself a barrier to investment.

The seminar also heard from EU negotiators that a multilateral treaty should avoid many of the dangers feared by critics, by:

- covering only foreign direct investment;
- excluding investor-state disputes procedures;
- confining negotiations to a few key principles: transparency, predictability, non-discrimination;
- using narrow definitions of concepts such as national treatment.

Against this, the seminar heard that:

- the importance of investment treaties was overstated: Brazil, with no investment treaties, was the world's no.2 recipient of FDI; China, with only a few, was no.1;
- concepts such as national treatment would deny to developing countries the option of nurturing domestic sectors which had been the development route used by most of the now industrialised countries;
- transplanting trade concepts such as "like treatment" to the much more complex field of investment could create regulatory nightmares;
- many developing countries were already overstretched in trade negotiations and resented having to make scarce resources available to negotiate on an issue which represented a priority for the EU, but not for them.

Above all, the seminar heard arguments, from PES Group Members and guests, that the world should not contemplate adopting a multilateral agreement on investment which gave new rights to investors, without corresponding – and enforceable – responsibilities. One of the great imbalances in global governance is between the growing power and autonomy of international business, and the erosion of democratic mechanisms to ensure respect for the rights of the citizen. No agreement which took us further in that direction would be acceptable.

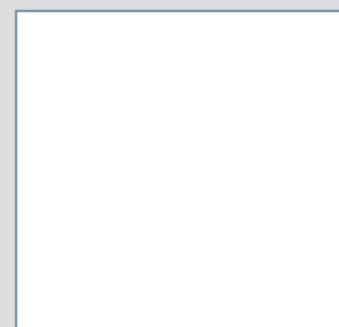
The PES Group also considered evidence of a growing problem of abuse of economic power – including monopolies, market sharing and price cartels – by large multinational corporations, most often at the expense of developing countries. We believe that international competition rules are needed to control restrictive business practices by multinational companies (particularly regarding trade in primary commodities, which is frequently concentrated among a handful of companies) and to ban hard-core cartels. We recognise, however, the concerns of many developing countries that WTO competition rules might undermine development strategies, by removing their right to apply different treatment to domestic companies (both state monopolies and private companies) with regard to market share.

In the view of the PES Group, if negotiations are launched on global competition rules, with widespread support from developing countries, they must have as their priority the regulation of anti-competitive behaviour by multinational corporations. They should prohibit hard-core cartels, and focus on basic principles of competition policy, such as transparency, equal treatment, procedural fairness and voluntary cooperation between anti-trust authorities. The development dimension must be a central feature, allowing developing countries, in particular, the flexibility they need to determine their own industrial development strategies; and providing the necessary technical support and capacity-building. We believe that the EU should also show sensitivity to the views of those developing countries which have argued that, facing an already heavy negotiating agenda, they are reluctant to pursue negotiations on an issue which they do not consider a high priority.

#### **WTO: state of play**

The WTO's Doha summit mandated the working group on trade and investment, in preparation for Cancun, to focus on clarifying the scope and definition of investment; transparency; modalities for pre-establishment commitments; development provisions; exceptions; balance of payments safeguards; consultations and disputes procedures. Similarly, the working group on trade and competition policy was mandated to clarify the core principles that might be covered; voluntary cooperation provisions; and capacity-building.

Negotiators and observers report that in both working groups, progress has been made in clarifying the positions of WTO Members – and, on some issues, of identifying areas of possible consensus. Many differences of approach persist, however, and significant numbers of developing countries continue to oppose the opening of negotiations.





## DEMOCRACY AND TRANSPARENCY

*A New Direction argued that the new trade round must address potential conflicts between WTO rules, Multilateral Environmental Agreements, ILO standards and development agreements such as the Cotonou agreement. It called for improvement in internal WTO democracy, to ensure that all WTO members have the same access to information and opportunities to participate in negotiations. And it called finally for measures to strengthen the transparency and accountability of the WTO, including a WTO Parliamentary Assembly; closer dialogue with civil society; wider and earlier derestriction of documents; and opening of disputes procedures to external, non-trade expertise.*

### Doha decisions

The Ministerial Declaration expressed support in general terms for WTO cooperation with international environmental and development organisations, and for internal and external transparency, including better and prompter dissemination of information and improved dialogue with the public. In more concrete terms, however, the main decisions taken were:

- to instruct the WTO Budget Committee to commit funds for capacity-building (aimed in part at improving the ability of smaller and poorer countries to participate effectively in the WTO);
- to negotiate also on improvements and clarifications of the Dispute Settlement Understanding.
- negotiations on the relationship between WTO rules and the trade obligations set out in Multilateral Environmental Agreements; on exchange of information between WTO and MEA secretariats; and on criteria for granting observer status.

### PES Group activity

The Group's commitment to putting the issue of democracy and transparency more firmly on the political agenda led the PES Group to sponsor a report, adopted by the European Parliament in October 2001 – just days before the Doha trade summit – on *Openness and democracy in international trade*<sup>4</sup>. In this report, the European Parliament:

- drew attention to the obstacles to effective participation by smaller and poorer countries in the WTO and called for a series of reforms;
- called for meetings of WTO bodies to be open to observers from international organisations and from civil society;
- set out detailed proposals for a more open disputes procedure;
- proposed the creation of a WTO Parliamentary Assembly, together with measures to strengthen local parliamentary control over the trade policy of individual WTO Members;
- called for clarification of the rules governing the relationship between the WTO and other international organisations and agreements.

<sup>4</sup>Report no. A5-0331/2001, rapporteur, PES Group Member, Harlem Désir

**WTO: state of play**

The WTO established the *Doha Development Agenda Global Trust Fund* in December 2001 to finance technical assistance and capacity-building, WTO Members pledging more than 30 million Euros. Reports suggest that there has been an improvement in the quality and quantity of WTO capacity-building, but that sharp differences remain among WTO Members on the scope of capacity-building and the appropriate relationship between the WTO and other agencies in its delivery.

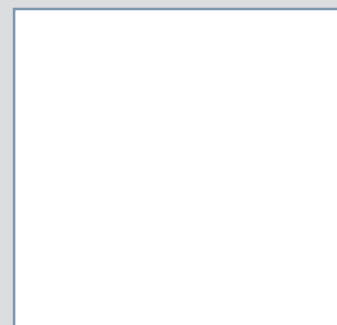
A number of the proposals put forward in the context of the negotiations on the disputes settlement procedure raise issues of transparency. Among these are the EU proposals regarding *amicus briefs* (the right of third parties, such as civil society groups, to submit unsolicited briefs to WTO disputes panels) – which go in the direction called for by the PES Group. So far, there is widespread opposition from developing countries, fearing that this device would be exploited above all by well-funded Northern business interests – a danger pointed out, pre-Doha, by the PES Group<sup>5</sup>, which has argued for safeguards against such abuse. The USA has proposed opening dispute settlement hearings to the public and making submissions and briefs publicly available, as also advocated by our Group.

Developing and least developed countries have pointed out the imbalance in the remedies available under the WTO's disputes system. Trade measures taken by the EU or USA against a small developing country, on grounds of its non-compliance with a disputes panel finding, could be crippling; but trade sanctions in the reverse direction would barely be felt. Various groups of developing and least developed countries have proposed introducing mandatory compensation – either through trade concessions or through financial compensation. Others have suggested a "principle of collective responsibility", giving all WTO Members the right and responsibility to enforce the recommendations of the disputes settlement body. The PES Group will watch with interest the progress of such proposals. The Doha Round must address the injustice of a disputes settlement system which provides effective remedies only to its more economically powerful members.

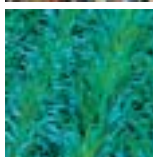
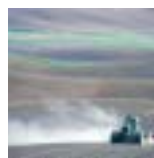
Regrettably, there is now little prospect that agreement will be reached on reform of the disputes procedure by the mandated deadline of May 2003.

On the relationship between the WTO's rules and secretariat and those of the Multilateral Environmental Agreements, the EU has put forward progressive proposals, but it is not yet possible to see what sort of outcome the negotiations are likely to produce.

<sup>5</sup>Desir report, see above







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