



Seattle to Brussels Network



Investment and competition negotiations in the WTO - What's wrong with it and what are the alternatives?



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Published by: Seattle to Brussels Network, <http://www.s2bnetwork.org>

with contributions from 11.11.11, Attac France, Berne Declaration, Corporate Europe Observatory, For the Welfare State, Friends of the Earth Europe, International Coalition for Development Action (ICDA), Oxfam International, SOMO, Third World Network, World Development Movement and World Economy, Ecology & Development (WEED)

The Seattle to Brussels Network gratefully acknowledges financial support for the booklet to Forum Syd, Friends of the Earth Europe, Novib, Oxfam GB and Ireland, SOMO and WEED. We express our thanks to all organisations for their submissions.

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Layout: Nicola Sekler

Printing: Druckcenter Digitaler Medienservice; Benzstr. 12, 12277 Berlin

Printed on recycled paper.

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Brussels/Berlin, October 2002

Preface

Led by the European Union, a number of governments are aggressively aiming to launch investment and competition negotiations in the World Trade Organisation (WTO). After the defeat of the infamous Multilateral Agreement on Investment (MAI) in December 1998, the powerful international trade organisation WTO was chosen by European trade officials and corporate lobbyists as the new forum in which to pursue the essentially unchanged goals of the MAI: these are to further strengthen the rights of multinational companies and to limit the space for governments and societies to regulate their economies.

Investment and competition negotiations would expand an already very troublesome and broad trade liberalisation agenda currently being pursued in the on-going trade negotiations on services (GATS), agriculture and many other WTO-issues. Below the surface of the much-used "sustainability" and "development" rhetoric WTO rules pose a threat to social and environmental concerns. New investment and competition agreements would increase the power of the WTO by extending its remit to many economic, social and environmental decisions. Such agreements would 'lock in' market opening and investment liberalisation for multinational companies into binding and enforceable international rules.

Despite resistance from many developing countries and civil society groups at the 4th WTO Ministerial Conference in Doha in November 2001, the EU pushed through an agreement that governments would launch these additional, dangerous negotiations if they came to an explicit consensus on the so-called "modalities" of such negotiations. Governments will have to arrive at a decision when they convene in Cancun, Mexico for the next WTO Ministerial in September 2003.

European civil society groups and international partners have written this booklet to alert civil society, the general public and parliamentarians about the developmental, environmental, labour and gender implications of future talks on investment and competition in the WTO and about the interlinkages with the GATS negotiations.

The articles have been contributed by individual groups of the Seattle to Brussels Network, a network formed to challenge the corporate-driven agenda of continued global trade and investment liberalisation of the European Union and its Member States (see <http://www.s2bnetwork.org>). Articles do not necessarily reflect the view of all members of the network. However, all groups have launched the Joint Statement by European Civil Society Groups against an Investment Agreement in the WTO (see p. 22), which calls on governments

- to withdraw proposals for investment negotiations in the WTO;
- to fundamentally re-orient the rules of the trade system to promote poverty reduction and sustainable development; and
- to initiate a new system of multilateral rules on multinational companies, including enforceable rules on corporate accountability outside the WTO.

We invite all concerned citizens and organisations in Europe to join us in our European and national campaigns to achieve these key demands (see contact details on the last page)!

For the Seattle to Brussels Network

Alexandra Wandel
(Friends of the Earth Europe)

Peter Fuchs
(WEED)

Abbreviations

BIT(s)	Bilateral Investment Treaty (-ies)
CSR	Corporate Social Responsibility or Corporate Self Regulation
DG	Directorate General (of the European Commission)
DSB	Dispute Settlement Body
EC	European Communities
ERT	European Roundtable of Industrialists
ESF	European Services Forum
FDI	Foreign Direct Investment
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
ICC	International Chamber of Commerce
ICSID	International Centre for Settlement of Investment Disputes
ILO	International Labour Organisation
IMF	International Monetary Fund
IP(R)	Intellectual Property (Rights)
MAI	Multilateral Agreement on Investment
MEA(s)	Multilateral Environmental Agreement(s)
MFN	Most Favoured Nation (Principle)
NAFTA	North American Free Trade Agreement
OECD	Organisation for Economic Cooperation and Development
TNC	Transnational Corporation
TRIMS	Agreement on Trade Related Investment Measures
TRIPS	Agreement on Trade Related Aspects of Intellectual Property Rights
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
UNICE	Union of Industrial and Employers' Confederations of Europe
UNCITRAL	UN Commission for International Trade Law
WTO	World Trade Organisation

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Investment agreements as one-sided enforcement of investor rights

Investment agreements as one-sided enforcement of investor rights I: From Bilateral Investment Agreements to NAFTA to the Multilateral Agreement on Investment (MAI)...

BY MARIANNE HOCHULI
BERNE DECLARATION, SWITZERLAND

BITs	Bilateral Investment Treaties
NAFTA	North American Free Trade Agreement
MAI	Multilateral Agreement on Investment

From BITs....

Many European as well as other governments have negotiated in the past and continue to negotiate bilateral trade and investment agreements which often go beyond existing WTO rules. Currently there are more than 2000 bilateral investment agreements which contain no social or environmental safeguards. It is important to take a closer look at these bilateral agreements as well, and not focus exclusively on the WTO.

From the outset the focus of BITs has been on investment protection; that is on the protection of investments against nationalization or "expropriation", on assurances on the free repatriation of profits and other funds and on provisions for (mostly non-transparent) dispute-settlement mechanisms between investors and host States. Most European BITs do not go as far as to grant investors a right of establishment; this right typically remaining subject to national laws and regulations. However, the USA in its BITs also locks in entry and establishment rights as far as possible. An investment agreement within the WTO would not weaken or substitute any of these questionable BITs; it would only reinforce them and add an additional layer of investment rules.

...to NAFTA...

The North-American Free Trade Agreement between the USA, Canada, and Mexico (NAFTA) extended the term "investment" to include new forms of financial activity. Chapter 11 of the agreement grants investors from NAFTA-countries the right to take legal action against national governments ("investor-to-state dispute resolution") and introduces a system of cash compensation for breaches of contract. Since all damages awarded to investors are paid out of the state treasury, it is essentially the taxpayers of the respective countries who will be footing the bill!

Investor claims are brought against the government of the state in which the rules were violated and must be submitted either to the UN Commission for International Trade Law (UNCITRAL) or to the International Centre for the Settlement of Investment Disputes (ICSID). Both bodies are composed of three judges who pass sweeping final judgments. Since they deliberate behind closed doors, no information about claims filed or ongoing proceedings is made public. Decisions are only published once the case is closed.

Selected NAFTA Chapter 11 Cases

After six years of NAFTA experience some conclusions may be drawn. Two US-organizations, "Public Citizen's Global Trade Watch" and "Friends of the Earth", have analysed all 15 known investor-to-state claims filed so far and published their findings in a report entitled "Bankrupting Democracy"¹. All in all, the total damages claimed by 15 corporations from NAFTA-signatory governments amount to more than 13 billion dollars. Four investor complaints were upheld and awarded a total of 514 million dollars in cash compensation. Two cases were dismissed in favour of the accused governments (Mexico and USA). The remaining cases are still pending. The North-American Free Trade Agreement "is really more of an investment protection agreement than a trade agreement", the authors conclude.

The most important cases from the NAFTA investor-to-state system demonstrate the unusually broad definition of the term "investment" and the system's far-reaching political, social and environmental consequences:

- NAFTA overrides the national laws of its member states;
- Corporate suits are used to challenge or reverse democratic decisions taken by local, regional or national legislative bodies to protect the environment and public health (Methanex, Ethyl, Sun Belt cases);
- The scope for political action taken by legitimate democratic institutions (parliaments and governments) is limited or subverted entirely;
- Policies that promote the local or national economy can be stopped (case of the ADF-group);
- The government's economic policy is subordinated to the interests of private corporations.

....to the MAI

With globalisation progressing rapidly and cross-boundary direct investments growing from 60 billion dollars (1985) to over 300 billion dollars by the mid-nineties, the Organization for Economic Cooperation and Development (OECD) decided that the time had come to take a big leap forward and draw up an internationally binding agreement on investor rights.

After difficult and lengthy internal negotiations the draft for a Multilateral Agreement on Investments (MAI) was made public in February 1998. It was closely modelled on NAFTA rules. Like NAFTA, MAI was not concerned with investors' responsibilities but only with expanding their rights. No serious consideration

was given to principles of environmental protection (Rio) and social security (ILO) which appeared in the draft agreement only as non-committal declarations of intent. A wave of protests initiated by numerous NGOs and trade unions swept the world. This widespread opposition and pressure exerted on national governments eventually prompted the French government to drop out of the negotiations: Thus the MAI had failed - ...but the idea of an investment protection agreement was far from dead.

¹ "NAFTA Chapter 11, Investor-to-State Cases: Bankrupting Democracy. Lessons for Fast Track and the Free Trade Area of the Americas", Washington D.C., September 2001. See: www.tradewatch.org

Investment agreements as one-sided enforcement of investor rights II: What's in the WTO already?

BY PETER FUCHS
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TRIMS	Agreement on Trade Related Investment Measures
GATS	General Agreement on Trade in Services
TRIPS	Agreement on Trade Related Aspects of Intellectual Property Rights

The neo-liberal concept of one-sided investment liberalisation and protection - combined with a flagrant disregard for investor obligations and development needs - was already pushed into the WTO, when during the Uruguay Round of (GATT-) trade negotiations (1986-1993) powerful business interests and Northern governments managed to get three agreements accepted as elements of the future WTO trading regime. These agreements - the TRIMS, GATS and TRIPS Agreements - are the first milestones on a road in the wrong direction, which the EU and others now want to build up even further. Critics of an expansion of WTO-power through new investment negotiations are therefore not arguing in favour of keeping the *status quo*. Far from it! We stress that there is an urgent need to assess and fundamentally change the already existing rules:

The WTO-Agreement on Trade-Related Investment Measures (TRIMS)

Due to the resistance of developing countries during the Uruguay Round the TRIMS Agreement did not become as far-reaching as the EC, US, Japan and Canada wanted it to be, namely a comprehensive investment agreement. However, the TRIMS Agreement refers to and reinforces existing provisions under the GATT (General Agreement on Tariffs and Trade), which prohibit laws, policies or administrative practices which favour local products. This prohibition includes government incentives or requirements *vis a vis* transnational corporations

(TNCs) to encourage the use of domestically made products as a way of creating or protecting local jobs ('local content policies'). The TRIMS Agreement thus constitutes an additional restriction on development strategies of the type used in the past by the rich countries themselves, but which now have been outlawed for developing countries.

The General Agreement on Trade in Services (GATS)

The GATS contains rules for four different so-called "modes of supply" in services trade. The third mode refers to the provision of services through the presence of foreign subsidiaries of service providers and thus regulates foreign direct investment of TNCs in the services sector. Because of this third mode the GATS can be called a first multilateral investment agreement.

Under GATS today there still remains some limited flexibility for governments to decide which sectors of their service economy they want to open up to foreign competition. However, developing countries - and in particular those with profitable markets - face a lot of pressure to open up their economies to foreign investments and to limit their regulatory freedom according to the needs of big business. Such countries may find themselves facing choices such as: "Open up your water sector for European water TNCs or we will not give you any additional market access to European agricultural markets".

Negotiations under GATS aiming at further liberalisation of trade and investment in services are well under way as part of the current WTO negotiations. Although the economic, social and environmental impact of the GATS has not been studied thoroughly, the EU keeps pushing for its expansion.

The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

The TRIPS Agreement makes the protection of intellectual property (patents, copyrights, trademarks, trade secrets etc.) an integral part of the WTO trading system. This would have been

unthinkable without the concerted efforts of US-based corporate executives from the pharmaceutical, software and entertainment industries before and during the Uruguay trade round. In the 1980s a small group of CEOs of US-TNCs had formed a so-called "Intellectual Property Committee (IPC)". Together with their European and Japanese counterparts these TNC-representatives successfully lobbied their governments to strengthen the global protection of intellectual property (IP) through a binding agreement - which became the TRIPS. At the same time they managed to sideline other interests such as distributional and consumer interests, development needs and in particular the need for technology transfer to developing countries. TRIPS raises the price of information and technology by extending the monopoly privileges of rights-holders; it requires states to make dramatic changes in their domestic IP policies and to play a much greater role in the enforcement of

monopoly privileges. As the researcher Susan K. Sell puts it: TRIPS "benefits the few at the possible expense of the many. (...) The industrialized countries built much of their early economic success on appropriating others' IP. With the TRIPS accord, this option is foreclosed."

Sources:

TRIMS: Greenfield, Gerard, (2001): TRIMS, in: Briefing Paper Series: Trade and Investment, Vol. 2, No. 1, Canadian Centre for Policy Alternatives, www.policyalternatives.ca

GATS: See www.gatswatch.org and the S2B-publication "GATS and Democracy", available at: www.wdm.org.uk

TRIPS: Susan K. Sell, *Multinational Corporations as Agents of Change: The Globalization of Intellectual Property Rights*, in: Cutler, A. Claire/Haufler, Virginia/Porter, Tony (Ed.): *Private Authority and International Affairs*, New York 1999.

What is wrong with investment negotiations in the WTO?

The EU case for an investment agreement in the WTO

BY MARC MAES

11.11.11, COALITION OF THE FLEMISH NORTH-SOUTH MOVEMENT, BELGIUM

In the course of its numerous world lobbying tours before Seattle and Qatar, the European Commission must have explained the "EU case for an investment agreement in the WTO" several hundred times. It continues to do so now in the run up to Cancun, the site of the 5th WTO Ministerial Conference. The reason for this continued effort is simple: Whatever the EU Commission may say, the 4th WTO Ministerial in Qatar did NOT take a decision to start negotiations on investments. Such negotiations can only be initiated IF the WTO members in Cancun arrive at an explicit consensus on how they will take place.

What is the "EU case for an investment agreement"? The answer is contained in the numerous Commission documents on the subject, which include a great number of submissions to the WTO. It is also worth noting that the first Commission submission to the WTO containing the EU position on investment negotiations was presented to the WTO by the EU Commission in June 1999, i.e. before the EU Council of Ministers had adopted the overall EU position for the 3rd WTO Ministerial on 26 October 1999. The 26 October Council thus gave *ex post facto* endorsement to all the submissions made by Commission to the WTO during 1999.

The main message clearly emerging from the relevant EU documents and which the EU Commission tries so hard to make everyone accept is that Europe is not seeking a MAI-style agreement, but a far less ambitious "multilateral investment framework". The EU is not seeking to maximise investors' rights or market access, but wants to see the establishment of "a multilateral framework of rules governing international investment, with the objective of securing a stable and predictable climate for foreign direct investment worldwide". The EU wants to focus on direct investment only, to the exclusion of short-term capital flows. The EU finds that existing rules and agreements governing international investment are too numerous and too varied (more than 2000 bilateral investment agreements). A multilateral framework would increase transparency and predictability and increase investors' propensity to invest abroad.

For the EU, the WTO is the best forum in which to negotiate such a framework because of the close interrelation between trade and investment; the WTO's well-established institutional framework (including its dispute settlement mechanism) and the fact that two WTO agreements already contain multilateral

investment regulations, namely TRIMS and GATS (Trade Related Investment Measures and General Agreement on Trade in Services). In fact, so the EU Commission argues, since the GATS agreement already contains investment rules, a multilateral investment agreement within the WTO would only extend the scope of these rules from services, which account for 50% of foreign direct investments, to the primary sector (agriculture and fisheries) and the secondary sector (industry).

The essential elements of a multilateral investment framework for the EU would be: non-discrimination, transparency and predictability, the right to regulate, special and differential treatment for developing countries, focus on foreign direct investment (FDI), investment protection (and responsibilities), dispute settlement and a positive list approach for market access (GATS-type approach).

The "GATS approach" is crucial to the EU argument in favour of investment negotiations in the WTO. Within GATS, WTO members list the sectors to which they wish to offer access. A GATS approach would both fully respect members' right to regulate and offer sufficient flexibility to developing countries because every member can freely choose which sectors it wants to bring under the agreed multilateral rules. Only the Most-Favoured Nations principle (equal treatment for all WTO members) would have to be respected across the board by all members. The National Treatment principle, which requires governments to treat foreign investors at least as favourably as domestic investors, would only apply to the sectors that members have listed; and even then the EU is willing to allow for exceptions.

As regards investors' rights and obligations, the EU does not want an investment agreement in the WTO which would give investors the right to sue governments. In other words, the EU does not wish to expand the "state-to-state" dispute settlement mechanism of the WTO to an "investor-to-state" mechanism as is common in bilateral and regional investment agreements. However, the EU Commission's submissions to the WTO are rather vague as to which kind of investors' rights and investment protection a WTO investment agreement would have to deliver. The Commission is nevertheless clear about investors' obligations - it is proud and satisfied with the voluntary OECD Guidelines for Multinational Companies and does not wish to include any investor obligations in a WTO investment agreement.

Finally the EU is willing to grant developing countries all sorts of technical assistance. The EU paper on technical assistance however clearly demonstrates how burdensome a multilateral investment agreement would be: WTO members

would be required to examine and rewrite all of their legislation "relevant to the operation of foreign investors" to meet the requirements of national treatment and other obligations.

The EU Commission has produced many documents to demonstrate the moderation and feasibility of its proposals for an investment agreement within the WTO. It has spent much less energy on the question that really matters: will such an agreement contribute to a fair world, to sustainable development and to poverty eradication?

The danger of an investment agreement under the WTO

BY OXFAM INTERNATIONAL

The inclusion of investment in the WTO's work programme at the Doha WTO Ministerial, despite strong reservations of many developing countries, is cause for great alarm. Although the EC has promised that a WTO investment agreement would not repeat the mistakes of the defeated OECD Multilateral Agreement on Investment and would instead put development at its heart, the current WTO investment agenda is not reassuring for developing countries.

In line with the principles that underpin Chapter 11 of the North American Free Trade Agreement (NAFTA), current WTO discussions on investment in Geneva continue to focus disproportionately on investors' rights. It is a matter of concern that the growing rights of foreign investors are impinging on the right of developing countries to regulate foreign investment in the interest of national development. Existing bilateral agreements on investment are already weakening governments' control over profit remittances and export performance requirements which, in turn, may have negative effects on their balance of payments. WTO rules, such as the Agreement on Trade Related Investment Measures (TRIMS), potentially preclude government policies aimed at establishing dynamic linkages between foreign investors and local industry, and at increasing the share of export value retained locally. OXFAM fears a new multilateral agreement on investment, in the absence of fundamental changes to the WTO, is likely to restrict even further the ability of developing countries to direct foreign investment flows towards their deprived regions and to implement policies needed to eradicate poverty. The danger is that developing countries will be prevented from using precisely those measures which enabled the East Asian 'tigers' to make foreign direct investment work for development.

If investment rules were introduced at the WTO, the National Treatment principle -which now applies to goods and services- would also apply to investment. Yet governments may need to treat foreign companies differently in order to promote sustainable development: foreign and domestic investors are not in practice alike or equal, nor are their host countries. The application of the National Treatment principle to investment is dangerous because it could require governments to ensure:

Sources:

EU-documents on Investment in the WTO are accessible via <http://docsonline.wto.org> (submissions to the WTO) or <http://europa.eu.int/comm/trade/miti/invest/contrib.htm>
For a more complete list of these documents check the S2B-website: www.s2bnetwork.org

1. The right of foreigners to invest in any sector, unless explicitly exempted.

The economies of many developing countries are often dominated by sectors, such as mining or agriculture, which require careful management if they are to generate long-term benefits for local people and not be over-exploited for short-term gain. OXFAM research shows that investment in the extractive sector can have adverse consequences for the environment and long-term development, locking countries into patterns of export activity that are prone to boom-and-bust cycles which generate weak gains for human development. Many governments consequently restrict foreign ownership of these key industries, require approval for such acquisitions, or insist that they be carried out as joint ventures. For example, Honduras previously restricted foreign investment to a minority stake in commercial fishing, direct exploitation of forest resources and areas benefiting directly from agrarian reform. More broadly, both South Korea and Taiwan restricted TNC operations in their territories, allowing foreign direct investment only as a means of getting access to new technologies, or promoting exports. The aim was to avoid dependence on imported technologies and to create an environment in which local firms would undertake research and development.

2. The right of foreign investors to receive the same treatment as domestic companies, including in the privatisation of state-owned assets, unless explicitly exempted.

This implies that any benefit offered to domestic companies, such as preferential tax breaks or interest-free loans, should also be made available to foreign investors. Yet governments may want to foster local businesses as a means of generating local skills, productive capacity and markets. Or they may want to retain some control over major public utilities to ensure they meet important public goals. For example, the Philippines, has insisted on 60 per cent local ownership of public utilities.

3. A ban on performance requirements going beyond those already in TRIMS, i.e. a ban on measures which require foreign investors to achieve certain outcomes to foster development, such as reinvesting a portion of profits domestically, technology transfer, or operating for a minimum period of time. It is important for governments to be able to impose such

requirements when foreign plants or subsidiaries do not bring substantial economic benefits or linkages to the host country so as to guarantee that investment works for development.

There are other reasons to call for keeping investment out of the WTO. Complex negotiations on the “new issues” increase the pressure on many developing countries, already struggling to keep up with a massive WTO agenda. They also distract attention from the more pressing trade problems faced by the poorest countries and communities, especially the implementation of existing WTO obligations. Greater progress needs to be made in areas such as the reduction of agricultural export subsidies in industrialised countries, the removal of barriers to developing countries' textiles exports, and the reform of the TRIPS agreement so that it effectively puts development and public health above the protection of intellectual property rights of large corporations.

The widespread conviction that foreign investment is good for development and a guaranteed road to success in world

trade has led governments of rich and poor countries, along with international financial institutions, to prioritise quantity over quality. The result has been a preponderance of investments marked by weak linkages to domestic firms, and characterised by low-productivity and low-wage employment. In order to escape the Mexican or Bangladeshi model of export-processing zones, governments need to be able to pursue strategies that generate good-quality investment and develop local productive capacity.

OXFAM strongly believes that all countries stand to benefit from the stability that a rules-based system can provide – and developing countries stand to benefit most. Lacking the economic power and the retaliatory capacity to pursue their demands outside such a system, they need multilateralism to work. For multilateralism to work, however, it has to be fair and balanced. It has to protect weak countries from the abuse of economic power, rather than concentrate advantage in the hands of rich countries and corporations.

How an investment agreement in the WTO will harm people and the environment

BY ALEXANDRA WANDEL

FRIENDS OF THE EARTH EUROPE, BELGIUM

The activities of multinational corporations have adverse impacts on natural resource use, the environment and local communities all over the world. Friends of the Earth International, a worldwide federation of environmental groups in 70 countries, has collected testimonies of communities around the world which are negatively affected by the irresponsible behaviour of transnational corporations¹.

The strong push for an investment agreement in the WTO as led by the EU runs counter to a vision for a sustainable planet. Sustainable societies require a worldwide reduction of natural resources use below the earth's carrying capacity and the equitable redistribution of benefits to all the world's people. Instead, an investment agreement would empower multinational corporations to enter all markets and give them rights to override environmental regulations and restrictions established by local communities and governments. The proposed WTO investment agreement would serve to enable rich industrialised countries to consume even more than their share of land, water, wood, minerals and other resources.

At the local and national level, it is essential for communities around the world to have a set of environmental controls and screening procedures on foreign investors. These regulations could be challenged before the WTO as illegal if an investment agreement were agreed. The WTO's basic trade liberalisation principles would restrict the ability of governments to regulate.

The EU wants to see the **national treatment** provision to foreign direct investment applied under such an agreement. This would require governments to treat foreign corporations the same way as local companies. In order to conserve natural resources, some national and local governments restrict foreign corporations' access to public land and forests, excluding them from environmentally sensitive sectors such as toxic waste disposal and similarly sensitive sectors. National treatment rules also allow foreign governments to challenge national laws with discriminatory effects. This could affect the use, including the legally mandatory use of the latest environmental technologies.

In addition, proposed WTO investment rules would affect **performance requirements** such as requirements to take on local partners, hire a certain number of local employees, invest a minimum amount in the local community and transfer environmental technology to the government or to local companies.

If an investor to state **dispute settlement procedure** were to be set up in the WTO as in the North American Free Trade Agreement (NAFTA) *as currently proposed by Chinese Taipei* corporations would be able to sue governments at the WTO.

Even without an investor to state dispute settlement procedure, corporations can complain to their own governments which can take the other country to court in the WTO. Arbitration consists of a few trade experts hearing the dispute in a closed process, without opportunity for citizens of either country to comment. The dispute panel decides whether the governments are violating the agreement and will require governments to amend laws and award damages to the country or company which brought the complaints. Challenges filed under NAFTA between Canada, the US and Mexico, many of them against environmental laws, already exceed \$ 13 billion dollars.

If the draft MAI's rules on **expropriation and compensation** were to be applied through the WTO, the right of governments to regulate in order to protect the environment would be nullified². NAFTA's investment chapter highlights the dangers of expropriation: A case in point is Metalclad, a US company which sued Mexico for \$90 million. Metalclad bought land in Mexico to open a hazardous waste treatment facility. The company claims that delays imposed by the Mexican state government of San Luis Potosi and the creation of a protected ecological zone which includes Metalclad's site have prevented the company from opening the facility thereby expropriating the company's property and initial investments. Another case demonstrating how environmental, health and consumer concerns are undermined is illustrated by the \$251 million lawsuit filed by US chemical corporation Ethyl under NAFTA. Ethyl lodged a complaint based on environmental and health reasons against Canada's import ban on a toxic US gasoline additive called MMT. Ethyl's lawsuit succeeded in reversing Canada's ban on MMT³.

In a nutshell and from a sustainable development perspective, an investment agreement based on the WTO's basic principles would be hopelessly flawed. Given the WTO's track record in terms of the environment and development this would be unacceptable. International regulations on investors are needed but the WTO is not the appropriate forum. An investment agreement in the WTO increases privileges of corporations without requiring investors to operate in an environmentally and socially responsible manner.

People and the environment need strict international controls on international investors established within the United Nations, not further deregulation under the WTO (see FOEI article on p. 20).

¹ See <http://www.foei.org/corporates/activities.html>

² Friends of the Earth: License to Loot. The MAI and How to Stop It, 1998.

³ Public Citizen and Friends of the Earth: NAFTA chapter 11 Investor to State Cases: Bankrupting Democracy. Lessons for Fast Track and the Free Trade Are of the Americas, September 2001.

The investment issue in the WTO from a development perspective

BY MARTIN KHOR
THIRD WORLD NETWORK, MALAYSIA

An international agreement on investment in the WTO is ultimately designed to maximise foreign investors' rights whilst minimising the authority, rights and policy space of governments and developing countries.

Among the main aims of developed countries is to eventually establish international binding rules on investment that:

- Provide foreign investors the rights to enter countries without conditions and regulations, and to operate in the host countries without most conditions now existing, and be granted "national treatment" and MFN status.
- Performance requirements (e.g. regulating equity, obligations for technology transfer, investment incentives) would be prohibited.
- Regulation of mobility of funds into and out of the country would be prohibited.
- The original definition of investor (e.g. in the proposed OECD MAI) would include FDI, portfolio investor, creditors, even IPR holders and non-commercial organisations, and in all sectors except security and defence.
- There would also be strict standards of protection for investors's rights, in relation to "expropriation" of property. A wide definition is given to expropriation in the MAI model; it includes "creeping expropriation". The NAFTA experience is very pertinent. Expropriation is likely to include the loss of goodwill and future revenue/profits of a company or an investor, as a result of a government measure or policy.
- Governments are prohibited by international law to impose the prohibited regulations or conditions, and can be brought to a panel in WTO for violations.

This design is in the original EC paper (1995) proposing the agreement, and the elements are also in the OECD draft of the MAI (Multilateral Agreement on Investment), which is the prototype of the proposed investment agreement.

This has serious consequences in terms of policy making in economic, social and political spheres, affecting the ability to plan in relation to local participation and ownership, balancing of equity shares between foreign and locals and between local communities, the ability to build capacity of local firms and entrepreneurs, etc. It would also weaken the bargaining position of government vis-à-vis foreign investors (including portfolio investors).

Due to the particular features and effects that foreign investment can have, there is a need for government to retain the option for regulation. Among the effects are:

- a) possible effects on balance of payments (especially increased imports and outflow of investment income, which

has to be balanced by export earnings and new capital inflows; if the balance is not attained naturally, it may have to be attained or attempted through regulation);

- b) possible effects on competitiveness and viability of local enterprises;
- c) possible effects on balance between local and foreign ownership and participation in the economy;
- d) possible effect on the balance of ownership and participation among local communities in the society.

An investment agreement of the type envisaged in the WTO would make it more difficult to have a policy that includes the required regulations. It is argued by proponents that an investment agreement will attract more FDI to developing countries. There is no evidence of this. FDI flows to countries that are already quite developed, or where there are resources and infrastructures, or where there is a sizable market (e.g. to China even when there were not high standards of rules). A move towards a binding investment agreement is thus dangerous as it would threaten options for development, social policies and nation building strategies.

It is thus proposed that the strategy to be adopted, should be to prevent the investment issue from entering the mode of "negotiations." In the working group, cogent points should be put forward on why an agreement on investment rules is not suitable nor beneficial for the WTO. In the discussion on "clarification" and on "modalities", points should be made towards this end.

It is proposed that the following position be taken:

- a) Investment is not a trade issue, and thus bringing it within the ambit of the WTO would be an aberration and could cause distortion to the trade system. It is certainly not clear that the principles of WTO (including national treatment, MFN) that apply to trade in goods should apply to investment, nor that if they apply that it would benefit developing countries. Traditionally developing countries have had the freedom and right to regulate the entry and conditions of establishment and operation of foreign investments; restricting their rights would cause adverse repercussions. An agreement in WTO is likely to be of the type proposed by developed countries. It would be profoundly anti-development.
- b) Whilst Doha recognised the case for a multilateral framework on investment, it can be argued in the working group that it can also be recognised that there is a case against a multilateral framework, depending on what the framework is. An appropriate framework may be a balanced one, with the main aim of regulating corporations (instead of regulating governments); it could be one that is not legally binding; and it could be one that is located in the UN and not the WTO.

Labour and investments

BY ASBJØRN WAHL

CAMPAIGN FOR THE WELFARE STATE, NORWAY

The history of the trade union movement is a history of struggle. Every step towards better working conditions, better living conditions, better welfare, more democracy and social security has been achieved through confrontations and struggle. What the trade union movement has learnt during its history is that social development is not a result of good intentions, but of power relations, of the balance of power between labour and capital, between market forces and civil society.

We can learn a lot from our history in this regard. Let us go 120 years or so back in time, when workers started to organise in our part of the world. By means of trade union and political struggle, labour and trade union rights were gradually improved and formally institutionalised through labour laws and through agreements between trade unions and employers. What took place was a gradual shift of the balance of power between labour and capital – in favour of labour. Labour market regulation was introduced and enforced as a result of the increasing power of organised labour.

However, the strength of labour was not only reflected in labour laws and regulations. Probably more important was the general taming of market forces. The power of capital was reduced in favour of politically elected bodies. Competition was restrained through political interventions in the market. Capital controls were introduced and financial capital became strictly regulated. Through a strong expansion of the public sector and the welfare state, a great part of the economy was removed from the market altogether and made subject to political decisions. It was this fundamental shift of power in society which made possible the improvement of working conditions and trade union rights.

The welfare state as we know it in Western Europe is a product of this social struggle. It was built under the protection of capital control. Investors' rights were restricted. Their rights had to be curbed in favour of governments' increased power to intervene in the market. It is a well-known and widely accepted fact that unrestricted market forces contribute to the concentration of wealth and resources. The regulation of investments was therefore a necessary precondition for increased democracy and an equal distribution of wealth. Capital control made it possible for governments to pursue a policy of national and social development without continually being confronted with capital's exit strategies i.e. where big corporations threatened to flag out if their interests were hurt. Investment and capital were indeed regulated, and they were regulated in a way which restricted their rights in favour of democratically elected bodies.

This development culminated in the 1970s. Then, in the aftermath of a deep international economic crisis, market forces

went on the offensive and the current era of neo-liberalism started. What we have been facing over the last twenty years, is the abolition of capital controls and fixed exchange rates, the deregulation and liberalisation of markets, the privatisation of public services, the increased use of competitive tendering and outsourcing, the downsizing of the workforce to the absolute minimum, with the consequent increasing labour intensity, and the flexibilisation of labour employment. In short, an immense shift in the balance of forces between labour and capital has taken place, and this time in favour of capital. This is the main reason for the brutalisation of work and the undermining of trade union and labour rights which we are now facing in the developed as well as in the developing world.

In this new world economic order we are told that there is a need for a rules-based system for investment at the international level. At first glance, this may sound attractive. However, under the current balance of forces, with corporate interests on the offensive, this rules-based system in fact serves to cover a policy where regulations are imposed on governments but not on investors. In other words it is not a question of regulation or non-regulation, but of what kind of regulation, in whose interests and under which power relations. Therefore, completely contrary to what happened during the post WWII-period, international regulation of investments today means introducing restrictions on governments and increased rights for investors.

As a result of this development, violations of trade union and labour rights have been increasing over the last 10-15 years all over the world. A dominant part of the international trade union movement has responded to this situation by demanding that minimum labour standards be included in all kinds of international agreements and institutions and observed by multinational corporations. This policy is an illusion. Formal rules cannot balance the forces of increased market power. The result will be further deterioration of working conditions. Good intentions represent very little power when they collide with the iron economic laws of market liberalism.

We must identify and attack the causes of the present situation if we are going to improve working conditions and thereby the quality of life for working people. Working conditions are not being undermined primarily because there is a lack of formal labour standards, but despite the existence of relatively strict labour laws and regulations in many countries. It is mainly a question of power, and it cannot be changed only by formally introducing labour standards; in other words formal rules are not enough.

I often use the following picture to illustrate this problem. To liberalise and deregulate the markets and thereby give a free hand to investors, and then think that you can protect the workers by introducing formal labour standards, is like opening the floodgates of a regulated waterfall and then forbidding the water to fall. Indeed, this is not a very productive exercise. We can counteract this development only by limiting the power of

the multinational companies, by regaining and strengthening democratic control of financial capital, by restricting the rights of investors, by fighting the neo-liberal policies of the World Trade Organisation, the IMF, the World Bank, as well as of our own governments.

The speculative waves experienced over the last ten years indicate that further liberalisation of capital markets is not what is needed. On the contrary, we need more regulation and restriction of the free movement of capital. Investment agreements which strengthen investors at the cost of governments and democratically elected bodies must therefore

be opposed. What we need are measures such as the Tobin tax and different forms of capital controls– rather than increased protection of investors.

These can be achieved only through a real social struggle, a struggle which empowers workers and strengthens trade unions, a struggle which is aimed at shifting the balance of power between labour and capital. That means fighting neo-liberal policies, fighting investment in the WTO, fighting a new MAI wherever they try to establish it – as a first priority. This is also the best way of protecting labour standards.

A WTO investment agreement as a threat to democracy

BY MARC DELEPOUVE

ATTAC FRANCE

Translation from French by Christine Pagnouille

The defeat of the Multilateral Agreement on Investment followed by the utter failure of the WTO ministerial conference in Seattle led transnational corporations and the supporters of neo-liberal policies to devise new strategies on the delicate issue of investment (see CEO contribution, p. 12).

The United States and the European Union are currently exerting strong pressure on countries of the South; despite objections by countries such as India, negotiations on investments are slated to be launched again at the next WTO ministerial conference in Cancun. Furthermore, the Doha Declaration states that such negotiations should conclude an agreement like the GATS. Countries would then supposedly be able to adapt progressively to the new agreement and the GATS-type clauses concerning investment (mode 3 concerning commercial presence) could be incorporated.

One can only be struck by the hold of transnational corporations on governments, by the pressure exerted by powerful countries on countries of the South, by the opacity of the negotiating processes as well as by the total absence of consultation of the citizens of the countries concerned. Preparations for the negotiations on investment are identical to the anti-democratic practices that are common coin at the WTO and concur with transnational corporations' demands. These negotiations now cover virtually all areas of human activity from farming to handicrafts including the development of natural resources and the entire range of services. Since the Cancun ministerial aims to combine negotiations on investment with negotiations on other WTO issues, it might well launch a global round which would advance neo-liberal policies with unprecedented efficiency all over the world. This would happen 'far from the madding crowd', away from the limelight of press coverage and beyond the reach of democratic control.

What are the consequences for democracy?

The WTO's Dispute Settlement Body (DSB) settles disputes between governments. So if a company considers that it suffers because a government has allegedly failed to implement some WTO rules, its own government must lodge a complaint in order for the case to be examined. This procedure involves some small measure of democratic accountability. For instance, the Clinton administration refused to lodge a complaint against the Brazilian government for producing generic anti-AIDS drugs.

Now Taiwan proposes¹ that a WTO body should directly settle investment disputes between companies and governments. Companies would then be in a position to lodge complaints against governments within the WTO. The mere threat of using this weapon would considerably strengthen the corporations' hold on governments, particularly in poor countries. Moreover, corporations would enjoy the same status as governments within this multilateral body - where democratic accountability ought to apply.

Even without this new dispute settlement body involving companies and governments, a WTO agreement on investment would mean another blow to democracy. On the one hand, local and national democratic bodies have little or no control over international investors; on the other hand WTO rules will enforce the "most-favoured nation" and "national treatment" clauses securing non-discrimination and equal treatment of foreigners and nationals within each country in order to "*secure transparent, stable and predictable conditions for long-term cross-border investment*".² For instance, without a special dispensation from the WTO, no government will be in a position to favour producers who show a special concern for the environment, workers' rights, cultural diversity or democracy. It would be naive to hope that somehow WTO rules would make up for this loss of local, national or even European democratic power. WTO practices are anything but democratic.

Finally, GATS-type agreements are virtually irreversible. Today's commitments will have to be enforced tomorrow and thus continue to weaken democracy.

An overriding objective of supporters of market liberalisation is to establish the domination of the large corporations and of the global financial actors, gradually dismantling the very foundations on which democratic power is based. But new democratic forces are reappearing, growing and flourishing all around the planet. In a manner unforeseen in the neo-liberal anti-utopia, the spirit of Seattle and of Porto Alegre reminds us that history may repeat itself, yet remains unpredictable. Created by the human being's sense of freedom and dignity, this spirit will not submit to the power of investors and to the laws of competition, always accompanied by repressive measures devised to counter growing frustrations in the face of blatant inequalities.

From Seattle to Porto Alegre, in the South as in the North, in the East as in the West, democracy is opening new avenues and creating new possibilities.

¹ WT/WGTI/W/145 on www.wto.org

² Ministerial declaration at the Doha Conference

Gender, investment and the WTO: Is there a light at the end of the tunnel?

BY ANJALI RAMACHANDRAN
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The WTO is one of the many world institutions continuously under close scrutiny. And not without reason: being the global decision-making body for trade, it is possible for the views of some powerful interests to be advocated there more forcefully than those of the less powerful and more deserving ones.

At the global level women are making their presence felt in more than one field. However many of their activities, such as child-rearing, home-based activities such as sewing and weaving, and their huge contribution in agriculture especially in third world countries often go unnoticed and unacknowledged. Economic restructuring and a transition to cash economies have obviously affected women the most in view of their triple role (reproduction, production and community management).

The gender-unfriendly trade policies of the WTO have already drawn considerable criticism from Women's Caucus groups all around the world (Geneva WTO Ministerial 1998). The danger of women being more affected by trade liberalization than men has also been proved (Evers, 1999). Moreover, the extension of the WTO's mandate is alarming to say the least: from tariffs and quotas on manufactured goods, its remit has extended to agricultural products and services, 'trade-related' issues such as intellectual property rights, and foreign direct investment (Women's Edge Executive Summary).

There is a serious case for keeping investment out of the WTO: in many cases, investors can get the upper hand over national governments; and ultimately, commercial institutions operate for profit. This has negative consequences in the third world, especially for women.

The European Commission's DG Trade held an *ad hoc* gender and trade meeting in 2001 where NGO representatives voiced their concern about gender issues in the EU's trade policies. Investment was brought up for good reason: for example, there is a high level of foreign direct investment in Export Processing Zones where women form a large part of the labour force and face exploitative working conditions. Capacity building in developing economies, though considerable, still fails to protect women and in many cases is negated by the power wielded by businesses. For example, a recent law in Sri Lanka imposes longer working hours on women. Labour Minister Mahinda Samarasinghe justified this by citing a number of letters from Sri Lankan garment manufacturers who claimed that major international garment buyers, such as the UK-based Marks & Spencer and the American GAP stores, had threatened to take their business elsewhere. These multinational giants pointed to the failure of Sri Lankan factories to adhere to the country's labour laws, referring to breaches of the overtime provisions in particular. Apparently, as long as the level of overtime is within the law, they are satisfied.

There can be no real sustainable development without women and investment does not seem to realise this. This glaring discrepancy between investment, development and gender-friendly policies must be addressed before it is too late.

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Corporate lobbying for a 'MAI' in the WTO

BY OLIVIER HOEDEMAN
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Since the beginning of the 1990's a WTO agreement on investment has been a top priority for lobby groups such as the European Roundtable of Industrialists (ERT), the European employers federation UNICE and the International Chamber of Commerce (ICC). The collapse of the negotiations on the Multilateral Agreement on Investment (MAI) within the OECD due to NGO and grassroots opposition was a first serious setback, followed by the failed WTO Ministerial in

Seattle. In their campaigns for including investment talks into a new round of WTO negotiations, corporate lobby groups have adapted both their discourse and their short-term ambitions.

UNICE, for instance, uses a far more pragmatic approach than was the case pre-MAI. Knowing that "free access to markets for investment is not a realistic short-term objective for the WTO", UNICE's priority is to get WTO talks on investment started in order to "introduce the first welcome steps in this direction"¹. Instead of aggressive calls for full-scale global investment deregulation, UNICE now asks questions, such as asking who can be opposed to "transparency in existing national rules and the obligation not to discriminate between foreign and

local investors"? The group is calling for the GATS-model of "progressive liberalisation based on commitments freely entered into by each country"².

It is no coincidence that UNICE's newfound rhetoric closely mirrors that of the European Commission: the two sides co-operate closely in building support for WTO investment negotiations. Apart from the partnership with UNICE, the Commission also uses other channels for mobilising European business as a campaign ally. In 1998, the Commission initiated an "informal network" of 50+ large transnational corporations³. At seven meetings of the Investment Network in the run-up to the Doha Ministerial, Commission officials briefed business about its attempts to convince sceptical Southern governments, asked for strategic feedback but also for active campaign support⁴. An example is the Commission's call on EU-based corporations to work with US businesses to increase the US government's enthusiasm for WTO investment talks⁵. The launch of the Investment Network not only reflects the Commission's eagerness to allow corporate priorities to define its WTO policies; the close co-operation with powerful corporations is also intended to increase the effectiveness of EU negotiating strategies. The Commission follows a similar approach in the GATS negotiations, where it works with the European Services Forum (ESF)⁶.

As the Commission prepared its negotiating goals, it asked the Investment Network members to fill in a questionnaire to "assist the Commission in tentatively identifying business priorities". The next step was a survey among no less than 10,000 large EU-based companies to find out exactly what EU business wants from WTO investment talks. Released in March 2000, the survey shows that European corporations are eager to get rid of a wide range of policy instruments used by Southern governments to ensure that foreign investment benefits the local economy. Examples are obligatory joint ventures, limits on ownership of local subsidiaries, local content requirements and exchange controls on capital transfers⁷.

After a couple of active years, the Investment Network has not met at all in 2002. According to European Commission official Robert Madelyn this means that *de facto* it does not exist anymore⁸. According to Madelin, the network was no longer needed after Doha, as a decision was made there to start talks on investment in 2003. Hardly a convincing explanation: not only was no such decision made in Doha, the Commission is campaigning harder than ever to convince the remaining sceptical governments. The Investment Network going into hibernation may reflect the fact that large parts of European industry downgraded their ambitions for a WTO investment agreement in the run-up to the Doha Ministerial. Fearing another Seattle-style failure, the European Roundtable of Industrialists (ERT) in particular appears to have sacrificed its investment ambitions for the short-term in order to ensure the launch of a new round of trade liberalisation talks. ERT

chairman Morris Tabaksblat presented this message at a major industry conference in April 2001⁹. In the light of Southern government opposition, insisting on including these issues in a new round "would be a recipe for failure", Tabaksblat said.

The more relaxed attitude to WTO investment negotiations among parts of European business reflects the reality of "autonomous liberalisation". The race to attract foreign investment, fuelled by crippling debts, financial crisis and IMF-imposed structural adjustment, makes Southern governments scrap the very same investment rules which corporations wanted a WTO investment agreement to get rid of. In 2000, the ERT released a survey on "investment conditions" which documented how Southern governments are removing obstacles to TNC investments at full speed¹⁰. "It is important to note", the ERT report states, "that all the liberalisation measures identified by our survey have occurred despite the failures in Paris with the Multilateral Investment Agreement (MAI) and in Seattle with the omission of investment on the agenda".

The ERT's new-found patience is based on the expectation that the continuing process of "autonomous" investment liberalisation is likely to overcome Southern government opposition to investment talks in the WTO. When the time is ripe, the ERT hopes, WTO rules will emerge to effectively lock in the deregulation process and "protect against backsliding from the levels reached by individual countries".

¹ "Restatement of the UNICE position on WTO Negotiations on Investment", June 12 2000.

² "Why launch a new round of multilateral trade negotiations?", speech by Georges Jacobs in the European Parliament, September 27 2001.

³ "How the EC and Business Prepared for WTO Investment Talks in Seattle", Corporate Europe Observer, Issue 6, April 2000, <http://www.corporateeurope.org/observer6/investmentnetwork.html>

⁴ Minutes of the Investment Network meetings are available on the DG Trade website: <http://europa.eu.int/comm/trade/miti/invest/civil.htm/>

⁵ US corporations are generally unexcited about WTO talks on investment rules, which they fear will not deliver the far-reaching levels of investment deregulation and dispute-settlement possibilities secured in the North American Free Trade Agreement (NAFTA) and in the US government's numerous bilateral investment agreements.

⁶ See for instance <http://www.gatswatch.org/>

⁷ "Survey of the Attitudes of European business to International Investment rules", summary, 29 March 2000, http://europa.eu.int/comm/trade/pdf/sofres_en.pdf

⁸ Telephone conversation with Robert Madelin, August 30 2002.

⁹ "Investment, public procurement and competition, said Tabaksblat, "are issues that are highly relevant to the business community. But attempting to include all of them in an agenda, within the time frame just mentioned, would, I think, be a recipe for failure". "Liberalising Trade and Investment: business Perspective on the Need to Move Ahead", speech by Morris Tabaksblat at a conference organised by the Evian Group, April 21 2001.

¹⁰ "Improved Investment Conditions – third survey on improvements in conditions for investments in the developing world", European Roundtable of Industrialists in co-operation with the United Nations and the International Chamber of Commerce, June 2000.

What is wrong with competition negotiations in the WTO?

The problems of a competition policy agreement in the WTO

BY MYRIAM VANDER STICHELE
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Competition policy is about laws and rules which forbid certain activities by companies. Although companies lobby for a free market where all enterprises can compete, many carry out anti-competitive practices. For instance, companies agree among themselves in secret to fix prices so that a certain product is not available at a cheaper price in the market. They can also manipulate the price by agreeing on output restrictions so that scarcity of the product keeps its market price high. Another example of malpractice is that of companies agreeing among themselves which company enters which market/country, or has a certain group of customers, while the other companies promise not to compete in the same market. Competition policy also deals with monopolies, when only one company exists to provide a certain product or service. Such a company can abuse its dominant position to enforce high prices, restrict distribution or provide bad quality. Cartels can do the same when a few dominant companies agree to do everything to prohibit new competitors from entering the market.

Competition policy is a basic principle of free market theory but industrialised countries have been slow to pass legislation or introduce enforcement mechanisms at national and European level. Even now there are many flaws. Competition policy issues have been discussed at the international level since the 1960s, especially from the perspective of protecting developing countries against the abuses of multinationals. But due to pressure from business no enforceable rules were established. Only non-binding mechanisms now exist: (1) "The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices International Mechanism" is an agreement which prohibits most of the anti-competitive behaviour of companies and which countries can impose on their companies. (2) The non-binding OECD guidelines on investment by multinationals also include an article which discourages some forms of above mentioned "restrictive business practices".

New discussions for a binding international agreement on competition policy have been taking place at the WTO since 1996. The development perspective, however, is almost gone. A wave of cross-border mergers and consequently concentration of products/services on the world markets in the hands of a few companies has taken place in recent years, however the approach at the WTO does not primarily try to tackle the problems posed to developing countries by these mergers and concentrations. The EU, which has been aggressively pushing a competition policy agreement in the

WTO, mainly wants all developing countries to legislate for basic rules of national competition policy. This would avoid foreign companies being prevented from entering developing country markets due to (public) monopolies and especially cartel practices. Moreover, the EU wants the main WTO principles to apply to competition policy, such as non-discrimination (between national and foreign firms or among foreign firms i.e. no selection of a foreign company can be made) and transparency of national laws (including possibilities for foreign firms to enter complaints against governments). However, the measures most needed to tackle international competition problems and help developing countries deal with them, such as cooperation from the Northern home countries of multinationals to provide information about their behaviour to Southern countries, would only be on a voluntary basis. In other words, the burden of adjustment, new regulations and enforcement mechanisms would be on Southern countries since the North has already most basic legislation in place and would not be compelled to provide the requested information.

Worst of all, the proposals circulating in the WTO are not suited to the needs of developing countries. Competition policy theory is designed for a fully developed free market, which is not the situation in developing countries. Some "anti-competitive practices" might be needed to help target certain development goals or to achieve economies of scale. A good balance between co-operation and competition is needed in developing countries. Above all, companies of developing countries often have to compete against large transnational corporations with a world-wide presence and far better access to finance or global marketing networks. Conferring national treatment to those transnational companies would be unfair to companies of developing countries. UNCTAD is currently supporting developing countries in designing competition policy rules more suited to development needs: there is no reason why the WTO should enforce national competition policy in developing countries to suit Northern interests.

There is an urgent need for more transparency as well as a crackdown on the anti-competitive behaviour of many Northern companies which accompanies the huge merger and acquisition wave. The North should first put its own house in order and prevent the fallout of these practices in the South (see the difficulties of suing Microsoft). The current proposals and the power games in the WTO do not give developing countries a guarantee that a WTO agreement on competition policy would address their needs and tackle malpractices of Northern companies in the international market.

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Why there should not be negotiations in the WTO on a competition agreement: The clash of frameworks in the competition issue in the WTO

BY MARTIN KHOR
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As with the investment issue, the Doha Declaration states that negotiations on the interaction between trade and competition policy will take place after the Fifth Ministerial on the basis of a decision on modalities. Similarly with investment, it is not clear that a decision has been made to negotiate an agreement on competition policy in the WTO. In 2001, most developing countries had voiced opposition to the establishment of a WTO agreement on competition policy. This opposition was very clear in the months before as well as during the Doha Ministerial conference. However, their views were not represented in the drafts or final text of the Doha Declaration, due to the manipulative methods used, particularly by the EU.

The proposal of the proponents of a WTO agreement, especially the EU, is to have multilateral rules that discipline Members to establish national competition law and policy. These laws/policies should incorporate the "core principles of WTO", defined as transparency and non-discrimination (MFN and national treatment). Thus, the location of the venue of the competition issue and the agreement within the WTO would bias the manner in which the subject and the agreement is to be treated.

The US and the EC made it clear that for them the objective of having a competition agreement in the WTO is to gain greater market access for their corporations to the markets of developing countries. A 1999 EC paper on application of core WTO principles to competition explains this "market access framework" more clearly, that a competition policy framework in WTO should provide "effective opportunity for competition" in the local market for foreign firms. This framework would adversely affect the needed flexibility for developing countries to have their own appropriate model or models of competition law/policy. It would discourage or prohibit domestic laws or practices in developing countries that favour local firms, on the ground that this is against free competition as they discriminates against foreign goods and firms. Thus pro-local practices and policies are to be targeted for phaseout or elimination in negotiations for a competition agreement.

Instead of this "market access" view, we require a paradigm to view competition from a development perspective. Competition law/policy should complement other national objectives and policies (such as industrial policy) and the need for local firms and sectors to be able to successfully compete, including in the context of increased liberalisation. A competition and development framework requires that local industrial and services firms and agricultural farms must build up the capacity to become more and more capable of competing successfully, starting with the local market, and then if possible internationally. This requires protection from the "free" and full force of the world market during a long time frame. It also

requires a vital role for the state, which has to play the role of nurturing, subsidising, encouraging the local firms.

This means that development strategy has to be at the centre, and competition as well as competition policy has to be approached to meet the central development needs and strategy. In particular, developing countries must have the flexibility to choose the paradigm of competition and competition policy/law that is deemed to be more suitable to their level of development and their development interests. This is especially important in the context of globalisation and liberalisation where local firms are already facing intense foreign competition.

But this competition-and-development perspective is opposite to the one the EC is pushing at the WTO. Given the power the EC has in WTO, it is thus dangerous for Cancun to decide to start WTO negotiations on competition. If a multilateral approach is needed, there are other venues that are more suitable, for example, UNCTAD which already has a Set of Principles on Restrictive Business Practices. Moreover, if the objective is to arrange for cooperation among competition authorities of countries, then it is unnecessary and inappropriate for the WTO to be the venue.

In the meanwhile, more intensive discussions are scheduled on the issue in the WTO. The Doha Declaration (para 25) mandates that in the period until the Fifth Ministerial, the Working Group on the Interaction between Trade and Competition policy will focus on clarification of: (1) core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; (2) modalities for voluntary cooperation; and (3) support for progressive reinforcement of competition institutions in developing countries through capacity building.

As the list of issues in the Declaration is not an exhaustive one, developing countries can also add other issues for discussion. The trade expert B.L. Das has suggested that the following additional issues could be put forward:

- Obligations of the foreign firms to the host country.
- Obligations of the home government to ensure the foreign firms fulfill their obligations.
- Competitiveness of domestic firms: to consider measures to be undertaken by domestic firms, government and a possible multilateral framework to enable local firms (especially small firms) to remain or to be competitive and to grow.
- Competition impeded by government action (for example, anti-dumping action).
- Competition impeded by IPR protection
- Global monopolies and oligopolies and their effect on local firms in developing countries.
- Big mergers and acquisitions (by TNCs) and their effects on developing countries.

NGOs and developing countries should forcefully argue that the competition issue should be looked at in the framework of development needs and interests of the developing countries. It will be clear that this is not the view being pushed by the developed countries. Thus there cannot be agreement on how

competition is to be treated in the WTO, and there should not be a decision to start negotiations on this issue in the WTO. Indeed, it should be made clear that the WTO is the wrong venue to negotiate on competition at all.

The wrong forum: Competition policy in the WTO

BY THOMAS FRITZ
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When advocating negotiations on the „Singapore issues“, i.e. investment, competition and government procurement, the European Union and its Member States repeatedly have stressed that the inclusion of competition policy into the new round of trade negotiations would also serve developing countries' interests. Several papers prepared by the European Commission have dealt with the „development dimension“ of competition policy and law. One of the communications submitted to the WTO gives several examples of TNCs restrictive business practices and their harmful effects on developing countries.

For example, a Pakistani corporation issued an international call for tender for the purchase of electrolytic tinplate. Having received bids from six foreign firms, the corporation realised that the three lowest bids from firms located in the UK, Germany, and Japan exactly matched the required quantity of 4.600 tons of tinplate. Suspecting a price-fixing cartel, the Pakistani competition authority initiated an investigation, but was unable to gather enough evidence because of the absence of co-operation of British, German and Japanese competition authorities. The European Commission concludes that establishing a competition agreement within the WTO „would give competition authorities of developing countries direct access to an extensive network of competition authorities to which they could address requests for assistance on specific enforcement cases“ (WTO 2000: 9). This argument is not at all convincing. Why should Northern anti-trust authorities not be able to co-operate with their counterparts in the South, independently of a possible competition agreement in the WTO?

If industrialised countries really had an interest in tackling the impacts of international cartels they could have done so already. However, OECD members failed to reach agreement in 1998 on banning so-called „hard core cartels“; instead, they merely agreed on a set of non-binding recommendations against such severe abuses of market power (OECD 2001: 54). Furthermore, certain malpractices such as export cartels are explicitly exempted from most OECD countries' competition laws. While their negative impacts on foreign markets are ignored, export cartels tend to be perceived as valuable export promotion tools. As long as such cartels do not restrict competition at home, Northern governments deny there is any reason to act.

On the other hand, developing countries suffer huge losses from such conspiracies. A report commissioned by the World Bank suggests that in 1997 developing countries imported US\$ 81 billion of goods which had been affected by price-fixing cartels. These goods represented 8,8% of total imports in the poorest countries. According to that report, the real amounts might have been even higher since only a small fraction of existing cartels can be revealed. In 1999 the US Department of Justice unveiled a spectacular conspiracy, the vitamin cartel, involving several pharmaceutical companies from Switzerland, Germany, France, Japan, and the US. For a period of nine years this cartel allocated markets and fixed prices for global vitamins sales, which in 1999 reached US\$ 2 billion. Since then, dozens of lawsuits have been filed; for instance, Hoffman-La Roche was convicted to pay US\$ 500 million, the highest criminal fine in the US. Although importers and consumers in developing countries have also been affected by that cartel, EU and US anti-trust officials never shared their findings with colleagues in the South (Levenstein/Suslow 2001).

Thus a competition agreement in the WTO would seem unlikely to assist in overcoming Northern governments' unwillingness to prosecute export cartels or to share information with developing countries' anti-trust authorities. On the contrary, the proponents of multilateral competition rules primarily aim at further market access opportunities. As stated by the World Bank experts, Bernard Hoekman and Peter Holmes, „efforts to put competition-related issues on the WTO agenda are largely driven by classic producer interests in major OECD countries. (...) To oversimplify, trade officials from exporting countries want to force competition officials in importing countries to assist in opening markets“ (Hoekman/Holmes 1999). In addition, the overarching WTO objective of removing trade barriers undermines the main aims of competition policy, such as shielding „infant“ industries from unfair competition by powerful transnational corporations. For this reason, anti-competitive behaviour should be regulated outside the WTO.

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What are the alternatives to trade and investment liberalisation?

Investment regulation – The alternatives

BY PETER HARDSTAFF
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Most of those in the 'investment debate' see a need for international rules. The critical issue does not, therefore, concern being 'for' or 'against' rules, it concerns the way in which those rules balance investor rights and obligations and whether those rules impinge on government flexibility to regulate in the public interest.

While FDI can bring a range of benefits to developing countries such as employment, new technology and tax revenue, it can also have costs including displacement of local companies, unemployment, environmental degradation and tax avoidance. Despite the potential downsides, 'maximising FDI' is being promoted as an end in itself rather than FDI being seen as one part of the development toolkit. As South Korea and Taiwan demonstrated, FDI is not necessarily 'central' to development - domestic savings/investment and active industrial policy can be an effective route out of poverty.

Therefore, although FDI can play a useful role in development, governments need to carefully regulate investment in order to maximise the benefits and minimise the costs to society. This regulation - including regulation of transnational corporations (TNCs) - requires a range of different approaches.

Governments need to have the flexibility to effectively regulate FDI at the national level. Examples of regulations that can be effectively implemented at the national level include:

- Appropriately regulating FDI to secure benefits for the local/national economy (e.g. joint ventures with local companies and requirements to employ local people or use local inputs).
- Legislating to make corporate influence over government policy transparent (e.g. regulations on corporate donations to political parties and rules to ensure Government-business contact is in the public domain).
- Regulating markets (e.g. appropriate competition laws) to achieve public benefits.

The need for this flexibility requires abandoning both the existing WTO Agreement on Trade-Related Investment Measures (TRIMS) and plans for a new WTO investment agreement. This does not, however, mean that international rules are not needed. Quite the contrary, international regulation is required to address issues where action by individual

governments is made difficult, or impossible, by the international nature of FDI. Examples include:

- Acting to reduce wasteful competition to attract FDI (e.g. Government tax breaks and subsidies).
- Creating an international mechanism to deal with abuse of market power by TNCs (e.g. transferring profits from one country to another in order to avoid paying taxes, cartels etc.) whilst encouraging the flexible development of national competition law.
- An international agreement to regulate investment - including establishing minimum social and environmental standards¹; transparency, consultation and reporting requirements; basic rights for investors²; a liability regime to make companies accountable; and rights of redress for citizens.

Looking at the above lists of national and international actions, there is clearly no single 'silver bullet' to address the various challenges presented by FDI and transnational corporations. A range of initiatives is required. The key point is, in contrast to the twin myths that a WTO-style agreement is the 'only way' to attract and regulate FDI to improve livelihoods, and opposing it is equivalent to being 'anti international rules', a variety of alternatives exist including possible international agreements.

A critical first step is to establish the aim of any investment agreement(s). The principle reason for objecting to an investment agreement in the WTO is that its main focus would be the liberalisation of investment based on 'non-discrimination'. As already mentioned in previous contributions, there are a number of reasons why governments may want to discriminate between investors in order to promote poverty reduction. 'Non-discrimination' is therefore not a sound basis on which to develop an international agreement. The WTO's 'liberalisation objective' also does not allow for a balance to be achieved between national sovereignty, the rights of investors and the responsibility of investors to the communities and society in which they operate.

Principles for a fair agreement on investment have been developed by a United Nations expert working group³. These could form the basis for a set of core principles and an eventual agreement on international investment. These 'criteria for the development friendliness of investment frameworks' emphasise the role of rule-based systems in allowing the discrimination of investment according to its 'quality', particularly the contribution that it makes to development aims. The criteria also call for a balance between the rights and the responsibilities of both

government and investors.

As for dealing with the potential abuse of market power, this has been recognised for some time and has been included in agreements such as UNCTAD⁴ Rules for Control of Restrictive Business Practices and the OECD Guidelines on Multinational Enterprises. The challenge is to convert these voluntary agreements into something binding.

And finally, on the issue of standards, liability and redress, a UN sub-commission on the Promotion and Protection of Human Rights has been mandated to develop a code of conduct for companies based on human rights standards, including draft principles. Also, a number of organisations have proposed possible international mechanisms to regulate the activities of TNCs and provide legal recourse for people affected by these activities.

It is clear, therefore, that there is no shortage of evidence to back up the need for regulation. It is also clear that there is no

shortage of alternative suggestions and workable policy ideas. It is political will that is now needed to follow through on these ideas and make good the new commitment to international regulation made at the Johannesburg World Summit on Sustainable Development⁵.

¹ These could be based largely on existing international social and environmental agreements.

² This could include, for example, compensation in cases of direct expropriation of assets. This should not include, for example, rules on 'non-discrimination' and investor-state dispute resolution.

³ UNCTAD Commission on Investment, Technology and Related Financial Issues, 1 October 1997, '*Criteria for the development friendliness of investment frameworks*': Geneva: UNCTAD 28-30 May 1997.

⁴ United Nations Conference on Trade and Development

⁵ At the WSSD Governments agreed to: '*Actively promote corporate responsibility and accountability, based on Rio Principles, including through the full development and effective implementation of intergovernmental agreements and measures, international initiatives and public-private partnerships, appropriate national regulations, and continuous improvement in corporate practices in all countries.*'

Flexibility in international investment agreement

BY SABINA VOOGD
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Liberalization of investments gives business the room to move as it likes, unhindered by government regulations. Liberalization takes means for making policies that lead to development out of the hands of governments. Liberalization of investments is often regulated in international investment agreements or treaties between governments.

As an alternative to investment liberalization the United Nations Conference on Trade and Development (UNCTAD) developed the concept of "flexibility".

Flexibility is the recognition that a developing country has both the right and responsibility to **regulate** investment in order to ensure that foreign direct investment serves its development priorities. In order to recognise flexibility in international investment agreements one looks at:

Objectives and principles stated in the preamble.

Is the only goal the protection, regulation and liberalization of investment, or does the agreement consider development objectives or sustainable development as well?

Substantive provisions.

What is the scope of the agreement? Is the definition of investment broad or narrow? Does full Most Favored Nation and National Treatment apply or is state control permitted? Are Performance Requirements allowed? Are standards of protection of investment included? Is there a binding dispute settlement mechanism, and if so, who is permitted to use it, and against whom?"

To summarize: To what extent are countries allowed to discriminate in the treatment of foreign investment and pursue their own development objectives?

Mode of implementation.

Does the treaty provide for exceptions, temporal derogations to the treaty obligations, so developing countries have more flexibility to implement treaty provisions ?

Structure of the treaty.

Does the treaty mirror the structural economic differences through a formal distinction between developed and developing countries and by a bottom-up approach, so developing countries can progressively liberalize?

After examination of these elements one can distinguish between less and more flexible investment treaties.

Less flexible investment treaties share the following elements:

- They focus on the objectives of liberalization, protection of investment.
- They are usually extensive in their scope, by means of a broad asset-based definition of investments, sometimes even including portfolio investments.
- The tools to guarantee non-discriminatory treatment and the free flow of international investments are provided for by the core principles of freedom of entry, National Treatment, Most Favored Nation treatment and investment protection.
- they are usually characterized by a top-down structure in combination with standstill and rollback obligations that lock a country into a rigid liberalization scheme. Because of the long duration of the agreement, it is difficult for signatories to withdraw.
- Standards are legally binding through an investor-to-state dispute mechanism.

The **more flexible investment treaties** share the following elements:

- They focus on the object of promotion of investments (to developing countries) next to the aim of liberalization, regulation or protection.
- They are limited in their scope, by a transaction-based definition or a broad-asset based definition or the definition is narrowed down for instance to a specific sector or by state control.
- They often make explicit reference to flexibility. National policies are permitted to correct the structural inequality between the contracting parties.
- They acknowledge limited exceptions to Most Favored Nation and National Treatment, the right to regulate by Performance Requirements and allow selective liberalization and the right to discriminate.
- They confer promotional measures such as technology transfer and technical and financial assistance, although these promotional provisions do not always confer real rights, but are often mere expectations.
- they specify the means to promote technical assistance and advice.
- In general they are characterized by a bottom-up structure which allows countries to liberalize selectively and gives more weight to the formal acknowledgment of asymmetry in levels of development between the members.

Most existing investment agreements aim for protection of the investor and contain very few flexibility elements. In bilateral treaties (which are the most common for regulating investments) it is often difficult for a developing country to demand flexibility in the agreement with a rich country with potential investors.

A multilateral agreement under the WTO does not promise to give much space for flexibility-elements. The EU has put forward a proposal with flexibility-elements for such an agreement under the WTO, but no exceptions are allowed to the Most Favored Nation treatment and National Treatment.

Maybe it is an idea that developing countries consider establishing a regional framework for investment-agreements which they can negotiate amongst each other before talking to countries with possible investors. An investment-protocol under SADC or NEPAD with flexibility-elements could be a possibility.

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Big business rules - Are multinationals in charge, or do we need rules to hold them to account?

BY MATT PHILLIPS
FRIENDS OF THE EARTH INTERNATIONAL

Multinationals have become devotees of a new cause they promote as eagerly as their products - 'CSR'. It is sometimes hard to tell whether CSR really stands for Corporate Social Responsibility or Corporate Self Regulation. But the arrival of this fashion has stimulated a substantive debate on the need for multinational rules to deal with multinational corporations:

Growing power

Recent years have seen the growth in the scale of multinationals. UNCTAD says 29 of the World's top 100 economic entities are corporations. Up five in just ten years. Their power is far greater than that of small and medium enterprises - which cannot threaten to relocate to another country with lower operating standards. Yet there are few controls on this power, so corporations can dwarf countries where they operate and carry huge influence in the Global North.

Bad practices

The positivism of big business PR has seduced governments. Proponents of corporate social responsibility

indicate it is a process of moving forward. This process, however, is all too often presented as proof that all business is already behaving responsibly. According to UNEP the "majority" of corporations have not embraced sustainability (see www.unep.org). The oil, mining, forestry, clothing, and a host of other sectors have all been subject to extensive detailed and robustly researched criticism (see for example FoEI's report *Clashes with Corporate Giants* at www.foei.org). Yet the policies of governments and corporations are the same – it should be up to the voluntary will of chief executives to change this situation.

Nature of multinationals

Governments talk about businesses being Indonesian, or British. But such terms carry little meaning when companies can be listed and operate in many countries. Society hands corporations the right to limit liability. Liabilities are further hidden behind a corporate veil of subsidiaries, affiliates and investments which mean a multinational can avoid being liable for bad practices. Corporations are principally accountable to their shareholders. Not to workers, consumers, suppliers or affected communities. As a result there has been a fundamental failure to secure justice for affected communities and individuals. In comparison no corporate veil is shed over the repatriation of profits to shareholders.

Business-friendly government

International lobbyists such as the International Chamber of Commerce argue business should be regulated, but only at the national level. National lobbyists argue national regulation makes it impossible to compete with 'cheaper' foreign countries. Because business has such a powerful voice this twin-track lobbying strategy has worked. Governments have re-regulated in favour of business interests and the economic environment they promote is designed to attract multinationals. The consequences are felt by overwhelmed local economies and through the inability of the public to democratically decide the laws and standards they want.

Corporate rights

The growth in scale of multinationals has occurred because governments, not markets, made it happen. The World Trade Organisation has liberalised markets in the interests of multinationals. The IMF has forced countries to privatise services in the interests of multinationals. The World Bank and other International Financial Institutions lock in the power of multinationals by providing them with public money – corporate welfare that helps them take increased share of markets. The allocation of rights to corporations has been in stark contrast to the lack of accountability.

Reliance on voluntarism

Governments have relied on voluntary measures such as the Global Compact and OECD Guidelines for multilateral enterprises as mechanisms for change. But such mechanisms are rarely independently verified, are often devised by corporations themselves, do not empower affected citizens to challenge claims, are not enforced and have plainly not been sufficient to deliver sustainable development.

What is needed?

Three principles govern what is needed to respond to these trends. Rules to secure accountability need to be international. The corporate veil, the existence of international agreements and the downside of economic globalisation all mean international rules are essential. Secondly the failure of voluntarism demonstrates the need for legally enforceable binding rules. The third principle is that fora such as the WTO where rights are being given to transnationals are inappropriate for developing such a framework. There are too many problems with the neoliberal model for such a crucial issue to be subservient to free trade dogma.

But what issues should such rules cover? Accountability captures a range of themes: rights for communities to protect their natural resources and to challenge bad practices. Empowerment of communities to seek legal redress. Enhanced transparency. Obligations to international standards such as labour and environmental and human rights conventions. Direct liability to puncture the corporate veil. Binding rules such as these would need direct application through an international framework as well as indirectly through national enabling laws with full enforcement.

Such a regime needs international political commitment. The Johannesburg World Summit on Sustainable Development saw some new commitments, but these remain ambiguous. Governments set the international climate within which corporations operate and must deliver sustainable development. It is ultimately up to them to ensure corporations are not left to regulate themselves and are made responsible for their practices.

Joint Statement by European Civil Society Groups against an Agreement on Investment in the WTO

As members of European civil society, we call on our governments and the European Commission to drop their proposals for investment negotiations within the World Trade Organisation (WTO) as they reflect the narrow commercial interests of EU multinational companies and undermine EU goals of poverty reduction and sustainable development.

The introduction of investment negotiations in the WTO has been consistently opposed by thousands of groups in civil society and by most of the WTO's members in the preparatory phase to the WTO Ministerial Conference in Doha in 2001. The EU's partial success in securing agreement to consider this issue at the next Ministerial Conference in Cancun in September 2003 reflected the exercise of negotiating power by the minority of powerful members over the majority of developing country members. This was a process of forced acquiescence, not consensus.

The aims of the proposed agreement on investment are essentially unchanged from the failed Multilateral Agreement on Investment (MAI), abandoned in 1998. The central aim to remove so-called 'barriers' to foreign investment does not reflect the most urgent priorities in the global economy. Recent experience with the NAFTA Chapter on Investment and other investment treaties has demonstrated the threat that this kind of agreement poses to the public interest. As shown by examples such as the misbehaviour and corporate abuse of Enron, there is no lack of power or rights for multinational companies. What is lacking are the enforceable rules that will ensure that all companies abide by internationally agreed environmental, social, labour and human rights standards and corporate accountability to the societies within which they operate.

At the heart of the proposed negotiations is the restriction of governments' right to regulate in the public interest. In particular, the development experience of OECD countries and the Asian 'tiger' economies has demonstrated the importance of government intervention to promote domestic industry and place conditions on foreign investment. The EU's investment proposals will restrict the powers of developing country governments to maximise the benefits and minimise the costs of foreign investment, thereby restricting the ability of the poorest nations to diversify and develop their economies.

The rights of foreign investors are accorded priority over the promotion of poverty reduction. "Favourable investment" conditions in many cases are accompanied by unfavourable working conditions, including exemptions from national labour laws and shrinking social protection. This affects in particular women workers, who in many developing countries find themselves in the majority of labour intensive, export-oriented zones without social security and other social benefits.

Similarly, at the heart of sustainable development is the need for governments to intervene to ensure that patterns of investment promote, rather than undermine, sustainable development. The need for ecological limits, for example, could be challenged as an 'unnecessary barrier' to foreign investors; and the creation of incentives for sustainable use by local communities could be challenged as discriminating against foreign investment. The promotion of poverty reduction and sustainable development should be at the heart of any international agreement on multinational companies, not liberalisation.

The international trade system is under intense criticism, including from its developing country members. The EU's trade policies, and the WTO itself, have lost the confidence of civil society. Deep reform is the overwhelming priority. The EU should not attempt to extend the WTO's unfair and unsustainable rules from trade in goods to huge new areas of the global economy, such as investment and government procurement – each accounting for more economic activity than international trade.

The EU has been unable to prove that a multilateral agreement on investment is necessary and that it should be included in the WTO.

Members of European civil society reiterate our call to

- **fundamentally re-orient the rules of the trade system to promote poverty reduction and sustainable development and to**
- **withdraw proposals for investment negotiations in the WTO.**

Instead, the EU should take a leadership role in initiating a new system of multilateral rules on international companies, including enforceable rules on corporate accountability.

Signatories:

1. Afrika Europa Netwerk, the Netherlands, member of AEFJN international
2. Africa Faith and Justice Network - AEFJN
3. Anti-Globalisation Network, UK
4. Arbeitsgemeinschaft Entwicklungszusammenarbeit - AGEZ, Austria
5. Attac Austria
6. Attac France
7. Attac Germany
8. Berne Declaration, Switzerland
9. BothENDS, the Netherlands
10. Campagna per la Riforma della Banca Mondiale, Italy
11. Cardiff Friends of the Earth local group, Wales
12. CC OMC, France
13. CEE Bankwatch Network
14. Center for Encounters and Active Non-Violence, Austria
15. Centro Nuovo Modello di Sviluppo (Italy)
16. Christliche Initiative Romero (CIR), Germany
17. Corporate Europe Observatory (CEO), the Netherlands
18. Dachverband entwicklungspolitischer Organisationen in Kärnten- (Umbrella Network of Development Policy Organisations in Carinthia), Austria
19. EQUIVITA, Comitato Scientifico Antivivisezionista, Italy
20. Halton Friends of the Earth Group, England
21. Greens Against Globalisation, UK
22. Friends of the Earth Europe, Belgium
23. Informationsgruppe Lateinamerika (IGLA), Austria
24. Institut de recherches de la FSU, France
25. Institut pour la Relocalisation de l'Economie I.R.E., France
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27. Intermon Oxfam, member of Oxfam International
28. Leeds Central World Development Movement, UK
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31. Novib, member of Oxfam International
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42. VIRUS, Austria
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44. Weltladen-Dachverband (German Worldshop Association), Germany
45. Weltumspannend arbeiten, Austria
46. WIDE (Women in Development Europe), Belgium
47. World Economy, Ecology & Development (WEED), Germany
48. World Development Movement, UK

To sign on please send the name of your organisation and the country to FoEE, wto@foeeurope.org

Updated list of signatories will be posted until the Cancun WTO Ministerial in September 2003 at <http://www.s2bnetwork.org>

ABOUT THE SEATTLE TO BRUSSELS NETWORK - Taking Action Against Corporate Globalisation

The Seattle to Brussels (S2B) Network is a pan-European NGO network campaigning to promote a sustainable, democratic and accountable system of trade that benefits all. Our network includes development, environment, human rights, women's and farmer's organisations as well as research institutes. The S2B network has formed in the aftermath of Seattle to challenge the corporate-driven agenda of continued global trade and investment liberalisation of the European Union and other European governments. S2B has also developed as a response to the increasing need for European co-ordination among NGOs. Active groups in the Network are all supporters of the 'Our world is not for sale' statement and network. In this statement groups call on governments to roll back the power and authority of the WTO and to develop a sustainable, socially just and democratically accountable trade system.

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The website of the Seattle to Brussels Network is
<http://www.s2bnetwork.org>

Website of the global "Our world is not for sale" network:
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