



Special Report on the WTO Cancun Ministerial, Number 6:

“WTO Talks Collapse in Cancun: A Splash of Cold Water, or Dead in the Water?”

SUMMARY

WTO Members on Sunday afternoon, September 14, 2003 failed to agree on a Ministerial Declaration that would have given much needed momentum to the Doha Development Agenda (or “Round”). Discussions at the Cancun Ministerial collapsed due to numerous factors, including:

- ***Complications created by shifting agricultural alliances*** – The emergence of the “G-21+” group of developing country exporters (and declining relevance of the Cairns Group) created a new North-South dimension to agriculture negotiations. Coupled with African countries’ demands on the reduction of cotton subsidies (an emotional issue which received a clumsy response), agriculture polarized the atmosphere for negotiations on a broader scale.
- ***ACP’s rejection of EC concession on Singapore issues*** – The EC offered to remove investment and competition (the two more controversial Singapore issues) from the agenda on the last day, but perhaps too late. Despite the EC’s major concession, the African Caribbean Pacific (ACP) group, angered by the cotton issue and spurred by anti-trade non-governmental groups (“NGOs”), refused negotiations on any of the four issues. Many countries have criticized the motive behind the ACP’s resistance, which did not materialize until Cancun.
- ***Chairman’s questionable decision to end talks*** – Chairman Derbez of Mexico called off talks early on Sunday, to the surprise and disappointment of many participants. The EC and others have questioned the Chair’s decision and tried to revive talks, but it was too late.
- ***Conspiracy theories?*** – Some observers speculate that the talks were called off early due to developed countries’ unwillingness to negotiate on agriculture. Some believe that certain NGOs exploited the ACP’s anger over cotton and persuaded the group to scuttle talks.

Most participants were surprised by the sudden collapse of talks, which happened during the “Green Room” meeting among 30 countries. The US warned throughout the week that certain Members’ demands were based on rhetoric and not the willingness to negotiate. USTR Robert Zoellick expressed frustration at the breakdown and warned that the US would pursue more aggressively bilateral and regional free trade initiatives. The EU criticized the WTO’s decision-making process, and what it described as unreasonable positions of certain Members. Many of the G-21+ countries tried to distance themselves from the breakdown, and asserted that they intended to negotiate constructively.

WTO Members agreed to reconvene in Geneva at the Senior Officials level before December 15, in order to salvage the talks. It remains unclear whether the draft texts prepared at Cancun will be preserved to some extent, and serve as the basis for eventual agreements on modalities for outstanding issues such as agriculture, non-agricultural market access (“NAMA”) and the Singapore issues.

It is now more obvious than ever that the December 2004 deadline for the Round is unattainable. History will tell if Cancun was a needed dose of cold water (and a wake up call to the developing country dimensions of trade), or a setback on the magnitude of the disastrous Seattle Ministerial.

ANALYSIS

I. Chairman Derbez Ends Talks Suddenly: Premature Decision, or a Good Call?

Mexico’s foreign minister and Chair of the Ministerial Conference Luis Ernesto Derbez around 3pm on Sunday called an abrupt end to the Cancun talks, to the surprise of many including the EC, developing countries and ministers leading the five negotiating groups. Derbez was at the time chairing the “Green Room” meeting of about 30 countries, and discussion had dragged on beyond schedule over whether to launch negotiations on the Singapore issues. These issues were dealt with first on the agenda at the insistence of the EC, which did not expect negotiations to be so difficult (especially after the EC dropped its demands on investment and competition).

The negotiations collapsed even before ministers proceeded to discussion of agriculture – the most critical item on the agenda. Most delegations at that stage assumed negotiations would resume after the Green Room process, and would continue well into the night and into Monday. Until the release of the second draft Ministerial Declaration the day before¹ (Saturday afternoon around 1:30pm), many participants felt that serious negotiations had not yet taken place.

Some observers have commented that Derbez made a good call by ending negotiations before the situation became worse, especially due to the hardened positions of various country groupings like the ACP.

A. EC Concession: Not Too Little, But Too Late?

Derbez called for a short break at lunchtime, after some indication from EC Trade Commissioner Pascal Lamy that he might have additional flexibility on unbundling the four Singapore issues. Lamy then met briefly with Member States across the street in a 133 Committee, and returned to the Green Room to announce that the EC would be willing to remove investment and competition from the agenda – a major concession (despite resistance from France and Germany, and uncertainty over the lack of the 133 Committee’s mandate on this issue). Lamy interpreted the lack of explicit opposition from the 133 Committee as a mandate to move forward.

The EC’s concession on investment and competition prompted a flurry of responses. Malaysia, a traditional opponent of the issues, made a tactical maneuver and suggested that it could agree to trade facilitation and competition (and not transparency in government procurement). Later, Malaysia took a

¹ JOB(03)/150/Rev. 2, dated 13 September 2003.

harder line against negotiations on procurement. Sources indicate that India, Malaysia's ally on the Singapore issues, was ready to move forward on both trade facilitation and procurement, and was thrilled by the EC's sudden concession. Then Botswana, speaking on behalf of the ACP, said the group would reject all four issues including trade facilitation because "not enough was on the table." The Chair called for a short break, but positions did not change. In reaction, Korea, a traditional supporter of the EC on these issues, stated its continuing support for negotiations on all four issues. It is debatable, however, if Korea (and Japan) would have continued to stake out a hard line without the EC's backing.

B. ACP Rejects EC Concession; Cheers the Collapse of Talks

The ACP grouping², surprisingly, refused to accept the EC's concession and insisted that all four issues must be rejected – even the least controversial issue of trade facilitation. The strong stand by the ACP grouping prompted Chairman Derbez to call a sudden halt to talks and announce that a closing ceremony would follow. The announcement caught many by surprise, especially since a large majority of the WTO's Members were not present in the Green Room meeting. Upon this announcement, the ACP ministers in the Green Room started cheering the apparent collapse of talks. The Kenyan minister proceeded downstairs to the common area and made the announcement, to the surprise of many including other ministers. As a result, confusion ensued while anti-trade NGO groups began to celebrate loudly over the collapse of the talks. Within an hour, an announcement was posted that Derbez would convene a heads of delegation meeting (for all 148 Members), followed by the closing ceremony.

C. G-21+, EU and US React with Dismay

The G-21+ was the first group of countries to react, and held a press briefing by the ministers of Argentina, Brazil, Ecuador, Egypt and South Africa. The G-21+ countries, which had taken a hard line on negotiations much of the week, did not celebrate the collapse of talks, but emphasized that the group was a negotiating force that must be dealt with seriously.³ The group insisted that WTO discussions must move forward in order to achieve agriculture reform. The underlying message was that the group should not be blamed for the collapse of negotiations, even though it made a strong stand on agriculture throughout the week (and month prior). Our sources among the G-21+ countries indicate that many of its members were upset at the ACP grouping in particular and believed that its members obstructed talks, starting at the heads of delegations meeting on Saturday evening. Many G-21+ countries felt that talks on agriculture were progressing constructively despite significant differences after the release of the second draft Ministerial text, and that intense negotiations could have produced a deal at Cancun.

USTR Zoellick and Agriculture Secretary Veneman were the next to hold a briefing, and expressed their frustration towards what they described as a lack of cooperation from certain Members.

² The African Caribbean Pacific ("ACP") grouping consists of over 70 countries that are a beneficiary of the European Union's preferential market-access programs, as originally provided by the Lome Convention and later renewed by the Cotonou agreement.

³ The G-21+, led by Brazil, China and India, also includes Argentina, Bolivia, Chile, Colombia, Costa Rica, Ecuador, El Salvador (later withdrew), Guatemala, Mexico, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Venezuela. At the start of the Cancun Ministerial, Egypt, Senegal and Turkey joined. Indonesia and Nigeria joined towards the close of Ministerial.

Zoellick stated bluntly that the “can do” was overwhelmed by the “won’t do,” but did not mention any countries in particular.⁴ The US throughout the week directed its anger at Brazil, the leader of the G-21+ and argued that the group was basing its demands on rhetoric and was unwilling to engage in constructive talks. Zoellick stated repeatedly that the US would continue bilateral and regional trade initiatives with countries that were ready to negotiate (and implicitly, dismiss countries that are not).

EC Commissioner Lamy and Agriculture Commissioner Franz Fischler held the next briefing, and directed most of their criticism towards the WTO’s “medieval structure.” Lamy questioned the Chair’s judgment to end the talks early, and suggested the need to review the organization’s decision making. Fischler stated that the EC’s concession on Singapore issues should have allowed for progress on agriculture, and also believed that negotiations had ended too abruptly.

D. Conspiracy Theory: Intentional Delay of Agriculture Liberalization?

Many participants including from the G-21+ countries and others privately expressed outrage at the Chair’s decision to end talks early. Many participants had changed their travel plans to remain in Cancun until Tuesday, and expected talks to extend well past the scheduled deadline of Sunday at 6pm. Due to the sudden turn of events, some have suggested that the motives of the Chairman were driven by other factors, and possibly developed country efforts to thwart agricultural reform. Although their theories are not based on any apparent facts, speculation has persisted since the collapse of talks.

II. **Singapore Issues: No Longer Two Problems, But the Major Stumbling Block**

The four Singapore issues – Investment, Competition Policy, Trade Facilitation and Transparency in Government Procurement – proved to be the stumbling blocks that caused the collapse of talks at Cancun. Canada’s trade minister Pierre Pettigrew facilitated the discussions on the Singapore issues at Cancun and proposed a compromise that would have allowed the two less controversial issues to proceed, along with eventual negotiations on investment, but not competition.

The EU and Japan have been the main *demandeurs* for negotiations on investment and competition since discussion on these issues was launched at the Singapore Ministerial in 1996. The two less controversial issues of trade facilitation and transparency in government procurement had been ready for negotiations since the Seattle Ministerial in 1999 (where talks also collapsed), and were delayed again at the Doha Ministerial in 2001 when the EC and Japan insisted on bundling the four (presumably to gain leverage in order to resist reform of their agricultural regimes). Investment in particular provoked the most criticism from other WTO Members, and especially developing countries.

A. Draft Proposes Eventual Negotiations on Investment, Not Competition

The second draft Ministerial Declaration released on September 13 favored the EC/Japan position on investment. The text stated that “modalities that will allow negotiations on a multilateral

⁴ At an address in Washington shortly after the Cancun Ministerial, Zoellick stated that talks broke down after African and Caribbean countries walked out on efforts to launch negotiations on trade facilitation – which he described as a necessary modernization of agreements to facilitate customs and other procedures reached back in 1947 with the creation of the GATT.

investment framework to start shall be adopted⁵ no later than the decisions on modalities for agriculture and industrial/NAMA negotiations.⁶ The draft, however, relegated competition policy to further study.⁷

The language of the second draft also left vague the completion date for investment negotiations and did not specify whether negotiations should be part of the single undertaking of the current Round, or should be completed at a later date.

Several developing country Members, chiefly India and Malaysia, criticized the language on investment as going too far, and not representing the sentiment of most Members. The US had also warned previously that the EC/Japan demands on these two issues did not reflect reality.

B. Draft Proposes Launch of Trade Facilitation and Transparency Negotiations

The second draft proposed that negotiations move forward on transparency in government procurement and trade facilitation.⁸ Unlike the language on investment, the draft made explicit references to the Doha mandate for these two issues and stated that negotiations should conclude as part of the Round. These two issues have been far less controversial than investment and competition, and most Members were ready to proceed with negotiations.

The ACP and other groupings also criticized the Singapore issues, but their opposition to all four issues was not evident prior to Cancun. It appears that the poorly worded draft on the cotton initiative (discussed below) provoked their anger – especially since the EC and Japan gained a major concession on investment. Some participants, including among the G-21+ countries, noted that the ACP opposition to trade facilitation in particular is baffling, and not representative of their interests (*e.g.*, trade facilitation would provide more technical assistance to the lesser developing countries than any others, and they would have been granted longer implementation periods).

The failure to launch modalities on all four Singapore issues does not mean that they have been removed from the current Round. WTO Members can make decisions on any or all these issues in a General Council meeting in Geneva, or at the next Ministerial (to be hosted by Hong Kong, China at the end of 2004, or later.) The issues of investment and competition, however, are probably off the agenda as the EC has withdrawn its support and will find it hard to insist on them again.

III. **Cotton Subsidies Initiative: An Emotional Debate Spirals Out of Control**

Prior to Cancun, four West African producers of cotton – Burkina Faso, Benin, Chad and Mali, had pleaded for the consideration of a sectoral initiative to reduce and eliminate cotton subsidies. The first draft Ministerial text reflected this concern with some general language on cotton issues. The

⁵ JOB(03)/150/Rev. 2, at paragraph 14.

⁶ JOB(03)/150/Rev. 2, at footnote 1.

⁷ JOB(03)/150/Rev. 2, at paragraph 15.

⁸ JOB(03)/150/Rev. 2, at paragraphs 16-17.

initiative by itself was outside the context of agriculture negotiations and therefore perhaps unrealistic, but nevertheless drew attention to the plight of some of the WTO's poorest Members. The US, EU and China are heavy subsidizers of cotton, with the U.S. paying cotton growers an estimated \$2.5 to \$3 billion a year and the EU an estimated \$700 million.⁹

The cotton initiative was placed on the Cancun agenda at the urging of the four West African countries. The US previously had resisted inclusion of the cotton initiative in the draft Ministerial Declaration, arguing that the Doha agenda did not make specific mention of it, and that the initiative would be more appropriate to address as part of agricultural negotiations.

The second Ministerial draft reflects much of the language of the U.S. proposal. The text suggested that cotton was part of a more complex range of issues and that several WTO bodies should "address the impact of distortions that exist in the trade of cotton, man-made fibres, textiles and clothing to ensure comprehensive consideration of the entirety of the sector."¹⁰ The text's most inflammatory language suggested that international bodies "direct existing programmes and resources toward diversification of the economies where cotton accounts for the major share of their GDP."¹¹ African countries perceived the message as saying they should stop growing cotton.

The angered West African countries, prodded by anti-trade NGOs, sought support for their initiative from the ACP countries. Afterwards, the enlarged group demanded an end to all export subsidies in three years, the end to production subsidies in four years starting in 2005, and in the interim period, payments of up to \$300 million a year to African countries affected by subsidies. Some Members like the EU provided an initial response, pledging to reduce subsidies. Others saw the demands for compensation as extortion, and coming from countries where transparency was lacking. But, the situation appeared to have spiraled out of control and turned into an emotional debate.

At the "heads of delegations" meeting on Saturday evening (among all 148 WTO Members), African and Caribbean countries one after another made statements emphasizing political and development issues, rather than practical approaches to their trade concerns. Canada's minister Pierre Pettigrew commented that, "I felt like I was at a U.N. parliamentary session." It appears that many of these statements were drafted after consultation with NGO advisors who were keen for the WTO talks to fail. Sources report that these countries' positions hardened after they left the room, presumably to consult with NGO advisors.

⁹ Figures cited by the Wall Street Journal, "Trade Talks Fail Amid Big Divide Over Farm Issues", 15 September 2003 and the Financial Times, "Talks Unravel Over Cotton," 16 September 2003.

¹⁰ JOB(03)/150/Rev. 2, at paragraph 27.

¹¹ *Id.*

IV. Emergence of the “G-21+” Complicates Agriculture and Other Negotiations

In the month leading up to the Cancun Ministerial, the traditional alliances of agricultural producers were transformed in reaction to the US-EU proposal of August 13, and the counterproposal from developing countries later known as the G-21+ countries, dated August 20. The traditional alliance of agricultural exporters, the Cairns Group (including developing and developed countries), found that its influence was greatly diminished in the run-up to Cancun.

A. Emergence of G-21+ Polarized Negotiations at Cancun

The emergence of the G-21+ group complicated negotiations at Cancun by polarizing the debate into a North-South struggle, led by Brazil. The US, EU and other countries directed strong criticism towards the G-21+ countries throughout the week, asserting that Brazil and other countries made demands based on rhetoric and were not willing to negotiate constructively. Reports abounded at Cancun that the US and EU were attempting to weaken the group since some in the group were more protectionist or liberal than others. The group, however, did not weaken at Cancun and instead presented an unexpected show of force – which complicated the prospects for serious negotiations at Cancun (thereby encouraging the ACP to demonstrate similar resistance towards developed countries).

B. Draft on Agriculture Favors US-EU; Criticized by G-21+

The facilitator for agriculture negotiations at Cancun, minister George Yeo of Singapore, presented in Annex A of the draft Ministerial text, a compromise text which seemed to favor more the US-EU positions than some of the G-21+ positions.¹² For example, Annex A contained few specific targets but proposed some caps for reductions of domestic support and export subsidies, and proposed the extension of the “peace clause” – the moratorium on disputes applicable to certain subsidy programs set to expire at the end of 2003. The target for reducing “blue box” subsidies was up to 5 percent of total agricultural production in 2000-2002, which would have allowed the US to maintain the level of subsidies provided by the Farm Bill, but too low for the EU to avoid changes to its subsidy regime.¹³

Some G-21+ members including Brazil and India criticized several elements of the draft, but did not dismiss it as a basis for reaching a deal. The group gathered on Saturday the 13th to draft a paper proposing significant revisions to the text in Annex A. Among their major objectives, they sought: (i) further reduction of “blue box” domestic support from the proposed 5 percent to 2.5 percent; (ii) reduction of export subsidies by including export credit programs in the proposed reductions; and (iii) elimination of the extension of the peace clause.

¹² Senator Charles Grassley, Chairman of the Senate Finance Committee issued a statement on September 14, indicating that although the US would have preferred more ambitious reform, he believed the administration was prepared to accept the agricultural reforms proposed in Annex A as a “constructive text” in which to move forward.

¹³ The EU’s proposed reforms to the Common Agricultural Policy (“CAP”) would have shifted subsidies from the more distorting amber box programs to the less distortive “blue box” programs. The proposed cap of even 5 percent of production could have posed a serious problem to the EU.

Several G-21+ country participants informed us that the group believed a deal was within reach despite the significant gaps on agriculture. The group had intended to engage in serious negotiations in the Green Room meeting on Sunday, and beyond if necessary. These participants were greatly disappointed by the collapse of talks in the Green Room, and even before discussion on agriculture took place. We understand that the facilitator for agriculture suggested before the abrupt end of the Ministerial that the Chair declare a recess in order to proceed on discussion of agriculture (since Members went well beyond the time scheduled on Singapore issues). In any event, the opportunity to move agriculture negotiations forward at Cancun was lost. With the upcoming expiration of the “peace clause” next year – the provision in the Agriculture Agreement that exempts many subsidy programs from dispute settlement – a proliferation of disputes will probably result.

V. No More Fun in the Cancun Sun – A Long Cold Spell Ahead?

Developing countries as a whole can claim some degree of success at their growing prominence in the global trading system. Major trading powers must take groups like the G-21+ and ACP seriously; otherwise, decisions at the WTO in Cancun and elsewhere cannot be made. But, the question now arises on whether the WTO will be considered the most effective forum to achieve meaningful trade liberalization. Many signs indicate that serious WTO negotiations will be on hold for some time ahead. The sunny window of opportunity in Cancun was ideal for a deal, but that window is closing fast with the coming cold spell. If so, the touted victory at Cancun will be bittersweet as less developed countries become increasingly marginalized by the lack of trade liberalization.

For major players like the US and EU, WTO negotiations would require making major concessions on agricultural reform and other sensitive areas. In the US, protectionism is growing due to increasing competition from imports and the lack of major economic recovery. Political sensitivities attributed to the economy and trade policy will be heightened in a presidential election year. The EU, which would be forced to make the deepest concessions in WTO talks, will also experience a turnover in leadership next year. Moreover, the EU will expand by ten new members and thereby come under enormous pressure to reallocate existing subsidies to the new Member States, rather than to cut subsidies overall. The possible change in trade representatives in both the US and EU might also diminish US-EU leadership at the WTO. USTR Zoellick and Commissioner Lamy have managed to cooperate in difficult situations, including the deals reached on the bilateral bananas dispute, the launch of the Round at Doha, and a compromise text on agriculture. It is uncertain whether US-EU cooperation in the WTO will continue at this ambitious level.

After the collapse, WTO Members agreed in Cancun to convene a Senior Officials level meeting in Geneva no later than December 15, 2003. Members will attempt in Geneva to revive negotiations. It is uncertain, however, whether Members can achieve real progress on the Round. In past experiences, meetings of Senior Officials (usually deputy ministers) have rarely moved significant decisions forward, such as the ones required to revive the Round.

There is also much talk that the WTO as an institution has become unmanageable due to its consensus-based system that provides the smallest Member the same rights as larger trading powers. Unlike in the IMF and other multilateral institutions, there is no weighted voting. Although the WTO process is more democratic, it is prone to abuse, as was the case in Cancun.

OUTLOOK

The collapse of WTO talks at Cancun was an unfortunate setback that could have been averted. Warning signs abounded, including the growing frustration of the West African countries (and later the ACP group) towards the lack of a considered response on the cotton initiative. Although a US proposal prompted the hard-line response on the cotton initiative, the EC as the main granter of preferences to the ACP should have detected their frustration. None of the leaders of the Ministerial stepped in to defuse the volatile situation and the ACP's anger made them susceptible to exploitation by anti-trade NGOs, leading the ACP to reject all of the Singapore issues. At least, the anti-trade NGOs can call their efforts a "success" and are emboldened by the failure of talks.

The EC and the *demandeurs* of investment and competition probably made a tactical error on the Singapore issues by holding on to these bargaining chips for far too long. Even more sympathetic Members like the US criticized the EC and its supporters for not recognizing the political reality, *i.e.*, the overwhelming resistance towards launching negotiations on these two issues. Although the EC came around on the last day and dropped its demands on these two issues, it was too late given the hardened position by the ACP group against all Singapore issues.

The emergence of the G-21+ also complicated negotiations at Cancun by polarizing the North-South debate on the most sensitive issue in the Round – agriculture – and perhaps undermined overall negotiations. The collapse of talks at Cancun was indeed a "splash of cold water" and acknowledgment of the strength of developing countries in the global trade negotiations system. These complex new dynamics make the deadline of December 2004 more unattainable than ever.

More worrisome, the collapse at Cancun has sent the WTO into "intensive care" (as described by the EC's Lamy), a condition that might persist for quite some time. In the wake of the collapse, the US and other countries that are eager to open markets will engage more intensively in bilateral and regional trade initiatives.¹⁴ Unfortunately, the poorest countries will have much to lose as a result of the global trading system's critical state.

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¹⁴ USTR Zoellick in a speech after Cancun stated that many ministers approached him after the collapse to consider bilateral free trade agreements, and indicated that the US is open to any countries that are serious about trade liberalization.