

Don't let big business rule the world

Key recommendations for the 5th WTO Ministerial Conference in Cancun, 10-14 September 2003

Friends of the Earth Europe (FoEE), as part of Friends of the Earth International (FoEI) – the world's largest grassroots environmental network - reiterates our serious concerns about the current position of the EU for the upcoming 5th WTO Ministerial Conference.

The EU must take the lead in calling for fundamental changes to the world's trading system in line with its own sustainable development and human rights objectives. The EU must review its overall position for the Cancun Ministerial. Instead of more rights for big business, greater rights for people and the environment must be created.

Europe should:

1. Withdraw proposal for the negotiation of investment, competition, government procurement and trade facilitation (no new issues);
2. Halt the GATS negotiations and conduct an environmental and social assessment instead;
3. Shift negotiations on the relationship between WTO rules and Multilateral Environmental Agreements (MEAs) to the UN and strengthen their dispute settlement and compliance mechanisms;
4. Commit to eliminate export subsidies and dumping and promote food security, food sovereignty and non intensive agriculture instead;
5. Resist US pressure to let trade rules trump genetically modified food and farming precautions, defend the 'right to know' and promote the Biosafety Protocol as the right forum to address GMO questions;
6. Reform the dispute settlement body so that it takes account of the precautionary principle, other UN treaties and does away with any "necessity test" for environmental measures;
7. Commit to full transparency and enhanced democracy, enabling the full participation of developing countries, civil society and parliamentarians;
8. Review the impacts of WTO rules on environmental sustainability, development, democracy and the lives of women and indigenous people and rectify existing agreements;
9. Develop a truly sustainable and equitable trading system.

Detailed recommendations for the European Union to ensure a successful outcome of Cancun:

<p>Greater rights for people, not for big business</p>	<p>The EU must take the lead in calling for fundamental changes to the world's trading system in line with its own sustainable development and human rights objectives. The EU must review its overall position for the Cancun Ministerial. Instead of more rights for big business, greater rights for people and the environment must be created.</p> <p>Specifically the following steps are needed:</p>
<p>Investment</p>	<p>Withdraw proposal for the negotiation of an investment agreement</p> <p>The EU has been the main driver for a WTO investment agreement despite worldwide opposition from many developing countries and civil society groups from around the world.</p> <p>The introduction of investment rules at the WTO will grant multinational companies increased rights, while also restricting the ability of governments to maintain and create strong regulatory frameworks and rights for citizens and communities. Protection of the environment and promotion of social and economic equality depend on government action to ensure that patterns of investment promote, rather than undermine, sustainable development.</p> <p>The EU has asserted that investment negotiations at the WTO would be flexible and limited in scope. Yet past experience with other investment agreements and the WTO system itself demonstrate that the EU's assurances are far from convincing. Even supposedly limited non-discrimination disciplines provide substantial rights to multinational investors and can be used to inappropriately challenge environmental and development policies. Therefore, the EU should explicitly withdraw its proposal for any investment negotiations.</p> <p>Instead, the EU should take the lead in developing rules to regulate multinational business including by introducing effective international legislation outside of the WTO to set high minimum standards for corporate activities, placing legal requirements, concerning community consultation and redress and personal legal liability, on companies and their directors respectively and preventing the formation and consolidation of monopolies, oligopolies and cartels.</p>
<p>No new issues</p>	<p>Refrain from launching negotiations on the Singapore issues</p> <p>In addition to investment, the EU will also be calling for the launch of negotiations on competition, government procurement and trade facilitation (the so-called Singapore issues). Explicit consensus is necessary to move forward on this. Given that these new agreements would have negative impacts for developing countries, the development of sustainable economies and environmental protection and given the concerns of many developing countries as well as from civil society groups all around the world, the EU must withdraw its proposal for launching such negotiations. Mandated trade negotiations already underway are sufficiently controversial and complex and need to be reviewed and rectified.</p>

<p>GATS</p>	<p>Halt the GATS negotiations and undertake a proper assessment</p> <p>The EU has been a key driver of the GATS negotiations, by submitting requests to 109 countries to open up their services, including in the field of environmental sensitive sectors such as water, waste, energy, tourism and transport. The EU has also taken the lead in expanding general obligations of the services agreement. The expansion of service operations and commitments will have substantive environmental and social impacts. Governments will be increasingly constrained in their efforts to protect the natural world from harmful service operation of big companies.</p> <p>The EU should halt the GATS negotiations and instead</p> <ul style="list-style-type: none"> • support the conduct of a proper independent assessment of actual and potential environmental and social impacts, including on local communities and developing countries in all sectors. • propose to re-examine the commitments already made under the GATS provisions that are in fact multinational investment disciplines (Mode 3 - “commercial presence”) and explicitly reject any further such commitments. • create clear and strong across the board exceptions are adopted so that no environmental law or regulation will be undermined by GATS rules • exclude any services related to natural resource extractions (water, energy, minerals, timber etc) as well as nuclear energy • remove article VI provisions, including any necessity test, that restricts the right of governments to adopt laws and regulations protection the public interest and the environment.
<p>MEAs vs WTO rules</p>	<p>Shift WTO negotiations on MEAs to UN and strengthen MEAs</p> <p>Considering the risks for international environmental governance engendered by WTO negotiations under paragraph 31(i) of the Doha ministerial Declaration, Friends of the Earth calls on governments meeting at the 5th WTO’s Ministerial to recognize these risks and take the initiative to halt the WTO negotiations on the relationship between WTO rules and MEAs and to transfer them to the United Nations immediately. WTO member states should recommend the UNEP Governing Council to initiate negotiations on the relationship between WTO rules and MEAs, building on and strengthening existing initiatives and providing an appropriate platform for the negotiations.</p> <p>In addition, governments must recognise that it is essential to establish a mechanism of international environmental governance that is independent of the WTO and that therefore:</p> <ul style="list-style-type: none"> - countries are not prevented from complying with their MEA obligations due to WTO rules or other economic interests; - the treatment of non-MEA parties vis-à-vis MEA trade provisions is determined solely by the provisions of the MEA concerned; - MEAs' compliance and dispute settlement mechanisms are reinforced; - relevant provisions of MEAs are reformulated to ensure that they effectively protect the environment and promote social justice; - only the UN has the authority to consider and adjudicate on any potential and actual conflicts between the two governance systems; and - information exchange arrangements between environmental bodies and the WTO need to be improved and institutionalized

	<p>Critically, WTO member states must not permit international environmental governance (through the MEAs) to be made subject to economic and trade considerations. Nor should they allow the WTO to encroach upon areas of international policy in which it has no competence. To this end, governments must not mandate the WTO to:</p> <ul style="list-style-type: none"> - set rules or criteria that might in any way define or restrict the use or national implementation of any trade measures agreed to in MEAs; - set rules or criteria for national implementation of MEAs resulting in a limitation of government's rights to regulate in favour of the environment, such as through <i>least trade restrictiveness tests</i>; - define a set of MEAs, or a set of trade measures, that are WTO-consistent thereby making others WTO-inconsistent regardless of their merits; - agree to any principles other than those that clearly recognize the primacy and authority of MEAs. <p>In order to achieve this goal governments meeting at the 5th WTO's Ministerial must:</p> <ul style="list-style-type: none"> - grant UNEP and the Secretariats of MEAs with trade-related provisions, objectives, or obligations permanent observer status in all relevant bodies of the WTO. - call for an independent, comprehensive and participatory social and environmental impact assessment of trade liberalization to ensure that all WTO negotiations reflect and address environmental and development concerns (see point review).
<p>Agriculture, GMOs and patents</p>	<p>Promote food security, food sovereignty and non intensive agriculture, not multinational agro-industry, genetically modified crops, and patents on life</p> <p>In the short-term and as a first step the EU should make immediate and unilateral efforts to eliminate all forms of export support and stop the dumping of agricultural products as part of measures to signal genuine intentions towards the developing world. It should fundamentally reform of the Common Agricultural Policy to support rural development and agri environmental measures.</p> <p>Furthermore multilateral rules need to support sustainable methods of agriculture and a trading system that does not favour large-scale export oriented, fossil fuel and pesticide dependent farming and multinational agro-industry but rather meets the needs of people and the environment.</p> <p>Diverse sustainable agricultural practices should be supported that reduce and reverse the loss of biodiversity, including by:</p> <ul style="list-style-type: none"> • phasing out domestic subsidies that promote unsustainable land use and inequitable land tenure patterns; • encouraging socially, environmentally and economically sustainable farming techniques through the use of targeted domestic subsidies, controls and other incentives for local varieties and local consumption; • recognising countries' rights to implement import controls for agriculture products which are harmful for the environment and human health , including tariffs, in food and agriculture, to support sustainable food production for local consumption; • introducing “non trade concerns” to support sustainable agriculture; • and banning all forms of patents on life.

	<p>Furthermore, the EU should continue and further promote the use of clear and accurate labelling of food and agricultural products neglecting pressures from the US and other countries to constrain the citizen's 'right to know' as part of the WTO agenda.</p> <p>Following recent US pressure to liberalise trade in GMOs, governments' right to ban or otherwise restrict the production of and trade in genetically modified seed, food, animal feeds and related products must be respected and protected. Given the past agreement of Commissioner Lamy for the establishment of a biotechnology working group at the Seattle Ministerial Conference, the EU should ensure that the Biosafety Protocol - and only the Biosafety Protocol- is the acknowledged body for any negotiations relating to trade in biotechnology.</p> <p>The EU should also support an independent Sustainability Impact Assessment on the social and environmental impacts of the implementation of the AoA, TRIPS, SPS and TBT agreement.</p>
<p>Forests</p>	<p>Stop further trade liberalisation in the forest sector, including negotiations on non agricultural goods on both tariffs and non tariff barriers.</p> <p>Forests are under severe pressures worldwide. Just over one fifth of the world's original forests remains in large, relatively undisturbed ecosystems. Sectoral negotiations to reduce tariffs on forest-products to zero may lead to increased wood consumption and the prohibition of new government tariff schemes to promote more sustainable forest management. The EU should reject these trade negotiations and agreements also consider that the elimination of non trade barriers might threaten legitimate conservation measures such as stimulating the recycling of wood products, log export bans, forest certification and eco-labelling as trade barriers. They are necessary to ensure that the remaining forests of the world are not further degraded and destroyed as a result of increased trade pressures.</p>
<p>Dispute Settlement</p>	<p>Reform the dispute settlement body</p> <p>Current dispute settlement procedures are undemocratic and secretive and usurp the rulemaking and legislative role of nations. Therefore, the EU should request the dispute settlement procedure to</p> <ul style="list-style-type: none"> • take cognisance of the precautionary principle as a customary norm of international law; • do away with any “necessity test” for measures sought to be justified on public health or environmental grounds; • ensure that the burden of proving that a disputed measure is adopted solely for trade-protectionist or trade-discriminatory purposes rests on the country challenging the measure; • ensure that the disputed measure is deemed to be prima facie compliant with international trade rules in the absence of substantial evidence being presented regarding the trade-protectionist or trade-discriminatory intent or impact of the measure; and • take cognisance of existing customary norms of international law and provisions of other multilateral treaties in force - such as those relating to the environment, human rights, and health standards - as part of the body of international law that should be relevant to and must be taken into account in international trade dispute settlement cases.

<p>Democracy</p>	<p>Commit to full transparency and enhanced democracy</p> <p>The EU must ensure that national trade and economic policy-making undertaken as a result of their WTO obligations must be done in an open, transparent, and genuinely publicly participatory manner that encourages the participation of their domestic civil society and community and peoples' organisations. In the EU vastly increased scrutiny for all international trade negotiations by parliamentarians from the European Parliament and national parliaments is urgently needed. Furthermore input from the private sector needs to be decreased and input from civil society groups increased in the formulation of the EU's policies. In the WTO, developing countries need to be able to fully participate in the conduct of the negotiations. In addition to additional technical assistance and capacity building to developing countries, Mini Ministerial Conferences and Green room sessions should be abandoned.</p>
<p>Review</p>	<p>Review the impacts of WTO rules and rectify existing agreements</p> <p>As outlined in paragraph 51 of the Doha Ministerial Declaration, the Committee on Trade and Development and the Committee on Trade and Environment shall each act as a forum to 'identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.' In order to do so, an independent review of WTO decisions and rules is necessary to determine whether they support and promote the development of sustainable societies and to ensure that they are compatible with existing UN treaties on the environment and human rights in general. Such an assessment needs to be carried out before the launch of any and all trade negotiations by UNEP and other appropriate UN institutions. Governments should also undertake national independent sustainability impact assessments. Northern governments must provide capacity building and technical assistance for them.</p>
<p>Towards Sustainable Economies</p>	<p>Develop a truly sustainable and equitable trading system</p> <p>At the beginning of the 21st century, the world needs trade rules that reflect society's current values and needs. Our existing trade rules and institutions and indeed the current global economic system are out of date and do not do this. Instead, they undermine biological and cultural diversity. They are still based on the pursuit of profit regardless of social and environmental costs; and inequitable access to and the overuse of limited natural resources. Current rules also prevent the maintenance and development of locally-appropriate and sustainable systems of commerce.</p> <p>For these reasons, it is vital that the EU withdraws proposals to expand the mandate of the World Trade Organisation. Instead, governments should agree to review and rectify both the current trade system and the economic context within which that system operates.</p> <p>It is time to develop a system of international trade that promotes self-determination, environmental protection, sustainable livelihoods, equity and cultural diversity, amongst all nations and people. A new and sustainable framework for the regulation of trade for the twenty-first century needs to be based on the principles of democracy, equity, reduced consumption, co-operation and precaution.</p>