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1. Happy Christmas and New Year

This is the last bulletin of the year, with the final report from the Hong Kong WTO Ministerial Meeting. Jemma Bailey got some media coverage for our views in Hong Kong through Australian Associated Press and Agence France Press (see media release below). Pat Randal did interviews with SBS radio and SBS TV news, had an opinion piece published in the Sydney Morning Herald that is also below.

We would like to thank all AFTINET members for their support this year, and wish you a good holiday. The next bulletin will be in late January.

2. Disappointing deal in Hong Kong: Report from Jemma Bailey 19 December

The 6th Ministerial Meeting of WTO concluded on 18 December. Late in the evening on the final day of the Ministerial, we crowded around a television screen at the Hong Kong Convention Centre to watch the closing ceremony. After a week of all night informal meetings, arm-twisting and spin about 'development outcomes', a deal had finally been struck. A deal that offers little to developing countries. A deal that will further threaten the environment and livelihoods of the world's poorest people. A deal that shows that these negotiations are more about meeting the demands of the most powerful governments and corporate lobbyists, than about development.

The final text can be found on the WTO website
www.wto.org/english/thewto_e/minist_e/min05_e/min05_18dec_e.htm

In return for some small and conditional concessions in agriculture, the Ministerial Declaration paves the way to force developing country governments to open up their markets in services, industrial goods and natural resources. In trade in services (GATS), the Ministerial Declaration makes a major change that was widely opposed by developing country governments and civil society. Until now, governments could choose which services would be opened to transnational investment, and most have not chosen to include essential services such as water, education and healthcare. The deal struck at the Ministerial restricts this flexibility through the introduction of 'plurilateral' and 'sectoral' negotiations. Governments will be pressured to open essential services to transnational investors, and will have less ability to regulate those services in the public interest.

As I watched the closing ceremony of the Ministerial, it became clear that the WTO is in crisis ... despite the general back-slapping between Trade Ministers on the television screen and spin about successful outcomes. Essentially, this Ministerial Declaration is a face-saving deal – watered down to avoid a repeat Ministerial collapse like those in Seattle and Cancun. It sets up a dangerous path for a more aggressive liberalisation across all sectors but delays most of the substantive and controversial decisions until next year. The timetable laid out in the Declaration commits to conclude the Doha Round by the end of 2006 and it looks likely that there will be another Ministerial Meeting or General Council in April 2006.

But what are the chances of so-called progress in the Doha Round in 2006? Countries such as the US, the EU and Japan will redouble their efforts over the next couple of months to force greater opening of trade and the imbalance in current text shows that this pressure is unlikely to be matched with acknowledgement of the special needs of developing countries. However, the level of resistance in Hong Kong, both inside and outside the Convention Centre, shows that many countries and people will object to furthering negotiations that are undemocratic and ignore the social and environmental impacts of trade.

During the week, an alliance of poor countries including the G20, G33 and ACP (African, Caribbean & Pacific) countries – encompassing 120 countries and four-fifths of the world's population – met together in a show of joint solidarity to reaffirm long-standing demands on agriculture issues. Meanwhile, outside the conference, thousands of farmers, migrant workers, local Hong Kong folks and activists converged in Hong Kong for a People's Week of Action to confront negotiators at the WTO about the impacts of their decisions on people and the environment and to discuss positive alternatives to the WTO's corporate agenda. I hope that these social movements will only get stronger as negotiations intensify in the coming year.

During the week, I took part in a peaceful action inside the Convention Centre where we sang to delegates as they entered into the foyer of the Convention Centre. At this action, we held up bottles of dirty water to remind the official delegates that water is life, not a commodity to be traded between countries. Here is the song we sang (to the tune of Beatles "Can't buy me love"):

Our world is not for sale, my friend
Just to keep you satisfied.
You say you'll bring us health and wealth
Well we know that you just lie.

We don't care too much for Portman (US Trade Representative)
Portman can't buy the world.
Can't buy the wo-orld, listen while we tell you so
Can't buy the wo-orld, no no nooo!

No to NAMA in Hong Kong
You know that's just no right.
No arm-twisting delegates
Or Green Rooms through the night.
We don't care too much for bullies
Business can't rule the world.
Can't rule the wo-orld, listen while we tell you so
Can't rule the wo-orld, no no nooo!

An analysis of the deal and process of negotiations follows. The Ministerial Declaration can be downloaded at www.wto.org.

Services – the devil is in the detail on essential services

The most controversial aspect of the Ministerial Declaration is a change to the negotiating structure in GATS, contained in Annex C of the Declaration. In the lead-up to the Ministerial, several countries including Australia made proposals to change the negotiating framework of GATS from a flexible voluntary approach to one that would involve 'benchmarking' or 'targeting' offers to require a minimum level of commitment across a minimum number of services. These proposals were included in the draft Ministerial document in bracketed text, which signifies that there is no consensus on that point. Annex C met with a large backlash from developing country governments, who were concerned that this would force them into making offers in targeted essential service sectors, such as education, water and postal services.

During the Ministerial, a large block of governments from Africa, the Caribbean and the Pacific drafted an amended Annex C. This document was given to the Chair for distribution and the Chair did not table this document as requested. The final version is a slightly watered-down version of the original Annex C to which most developing countries strongly objected. The Venezuelan Trade Minister walked out of the exclusive Green Room negotiations on Sunday morning and said "none of our concerns have been addressed."

The following points are of particular concern:

- The plurilateral approach has been formalised (para 7), which will allow governments with a common offensive interest in services to join forces to devise a model for the level of commitment they want in a service sector and then present those 'requests' to targeted governments. Governments are now forced to "consider such requests". The mandatory language has been removed, but persisting strong language will force countries to agree to participate in negotiations in particular sectors even if they do not want to liberalise them.
- The plurilateral approach to negotiations will be complemented by the 'sectoral' approach (para 1 & 2). Annex C also lists objectives in each of the GATS modes which should "guide" governments "to the maximum extent possible." This works in combination with paragraph 2 as an entry point for sectoral negotiations. A footnote to paragraph 2 refers to controversial report by the Chairman of the

Council for Trade in Services. This report contains a list of liberalisation objectives by countries with offensive exporting interests and specifically lists postal, energy, environmental (water), education and public transport as service sectors that will be targeted in these negotiations.

- The Declaration contains a direction to “intensify” negotiations on government procurement (para 4b).
- The Declaration states that governments “shall” develop the negotiations on domestic regulation, which refers to the negotiations to make licensing, qualifications and technical standards subject to a test that they be least trade restrictive. These rules will cut across all services, not just those specifically committed by governments and would have major impacts on the ability of governments to regulate in the public interest (para 5)

The suggested timetable for the plurilateral negotiations is to present requests to other governments by 28 February and to submit revised offers by 31 July. This is an incredibly tight timeline.

In agriculture, it's all in the end-date ... and not much else

Agriculture has been touted as the big-ticket item of the development package. In particular, the Declaration contains a commitment to remove agricultural export subsidies by 2013 (para 6). All governments were prepared to accept 2010 as the date to eliminate subsidies however the EU refused to set a date until the final day of the conference and, in doing so, set the tentatively agreed date back 3 years. Setting an end date is a positive development however developing countries have been calling for the removal of subsidies for years and another 8 years is still an unacceptably long time to wait, when huge numbers of subsistence farmers are being displaced from their land due to an inability to compete with subsidised products. It should also be noted that the language on export subsidies in the text is incredibly complicated. The EU insisted on including a statement that the 2013 date “will be confirmed only upon the completion of modalities” and implicitly the EU’s consent to an eventual agreement on other controversial issues, such as food aid and export credits.

The main disappointment with the final text was that it did not really move forward on cutting the level of domestic support subsidies. The final agreement settled on the existing EU and US offers from November, which will make only cosmetic cuts in subsidies and will allow the EU and US to retain high domestic agricultural support and export subsidies through their “box-switching” schemes. This subsidisation is leading to massive displacement of vulnerable small-scale farmers who cannot compete with subsidies products from industrialised countries.

West African cotton producers are unhappy with the final Declaration on cotton subsidies. The Declaration states that export subsidies will be removed by 2006, however this represents a small part of the trade distorting domestic subsidies. There are no concrete commitments on the removal of trade distorting domestic subsidies for cotton production, which about to 80 – 90% of the total support for cotton in the US.

NAMA stands for de-industrialisation

Negotiations remained largely blocked in NAMA, except for a couple of worrying developments. The Declaration puts forward a ‘Swiss formula’ to be used as the

formula to reduce tariffs. This formula has been objected to by a large number of developing country governments, as it requires higher cuts on higher tariffs. As developing countries generally have comparatively higher tariff rates, they will be forced to make much deeper cuts to their tariff rates than developed countries. This goes against the principle of less than full reciprocity for developing countries and is a recipe for deindustrialisation of developing countries and job losses worldwide.

In addition, the Declaration formalised the process of 'sectoral initiatives', which are negotiations in targeted sectors to fast-track liberalisation. The targeted sectors include such socially and environmentally sensitive sectors as forestry, automobiles, gems, oil and fisheries. For example, there are serious concerns that liberalised trade in fisheries will damage already depleted fish stocks and will impact on nearly 40 million people who rely on traditional fishing for their food and livelihoods.

Development Package full of empty promises.

At the start of the week, WTO Director General Pascal Lamy indicated that the crowning glory of this Ministerial would be the so-called development package. Essentially, this package was used throughout the week by the US, EU and Japan to tempt smaller vulnerable countries into agreeing to liberalisations demands from developed countries.

The much-touted 'aid for trade' package has been broadly criticised as a bribe to extract concessions from developing countries. It is very problematic to make aid programs conditional on trade concessions. In actuality, this is an expanded version of the IMF structural adjustment programs. A lot of the pledges seem to be either rebadging of old aid or money in the form of loans rather than grants, making this more accurately 'debt for trade'. The aid for trade package is a flawed bribe to force this unfair anti-development package on poor countries.

Another key aspect of the development package was a commitment for developed countries to provide duty-free and quota-free access for products from least developed countries (LDCs) (Annex F). This is hedged with exceptions however. For example, this commitment is not explicitly binding and there are loopholes that this will only apply across 97% of product lines and that developed countries may protect "sensitive products" that are of export advantage to LDCs, such as textiles, rice, sugar and fisheries.

AFTINET Media release: 18 December 2005

Face-saving deal has hidden traps in trade in services

"The WTO Ministerial Declaration released in Hong Kong tonight offers little to developing countries and shows that these negotiations are more about meeting the demands of the most powerful governments and corporate lobbyists, than about development", said Jemma Bailey today. Ms Bailey is the Trade Justice Policy Officer at the Public Interest Advocacy Centre and for the Australian Fair Trade and Investment Network of 90 community organisations.

"In trade in services (GATS), the Ministerial Declaration makes a major change that was opposed by most developing countries. Until now, governments could choose which services would be opened to transnational investment, and most have not

chosen to include essential services such as water, education and healthcare”, said Ms Bailey.

“Now this choice has been reduced through the introduction of ‘plurilateral’ negotiations in particular service sectors. Governments will be pressured to open essential services to transnational investors, and will have less ability to regulate essential services in the public interest. This change is unfair and was heavily criticised during the week’s negotiations by a group of 90 developing countries. This change will also have impacts in countries like Australia, where most people want governments to have the choice of providing and regulating essential services in the public interest”, said Ms Bailey.

“The Australian Government came to Hong Kong claiming to be the friend of developing countries, yet the so-called ‘development package’ will do nothing to assist development”, said Ms Bailey. “During the week, major industrial powers like the US and EU placed a massive pressure on developing countries to open their markets and, in return, have offered only minor concessions to acknowledge the specific needs of developing countries. In return for dubious promises to end agricultural subsidies by 2013, developing countries have to make much deeper tariff cuts on industrial goods than wealthier countries. The tariff free access for least developed countries is hedged with exceptions. The aid for trade package is a flawed bribe to force this unfair anti-development package on poor countries and is mostly rebranding of existing aid.

“There was a serious democratic deficit during the negotiations this week. The deal was crafted in exclusive meetings of only 30 of the 150 WTO member countries. We need more inclusive and democratic trade negotiations and we need to ensure that trade agreements serve the public interest, not only corporate interests. The WTO has failed to deliver this and will remain in crisis until it does”, said Ms Bailey.

3. Sydney Morning Herald Opinion 20/12/05 Quietly trading away our rights By Dr Patricia Randal Public Interest Advocacy Centre

The deal patched together at the World Trade Organisation Ministerial meeting in Hong Kong at the weekend is widely seen as a face saving exercise designed to save the talks from collapse. And there is doubt that the many remaining areas of disagreement can be sorted out by the target date of the end of next year. Officially, the agreement delivers gains for developing countries, especially the prospect of ending the unfair agricultural export subsidies in the EU and US by 2013. But this promise may not be delivered, as it is conditional on finalizing agreements in a number of other areas. And with agricultural subsidies, there are any number of ways these rules could be gotten around in the future.

Still, in return for this conditional promise on agriculture, developing countries agreed to cut tariffs on industrial goods imports resulting in steeper tariff cuts for them than for wealthier countries. Even the tariff-free access for exports from the poorest, least developed countries is hedged with exceptions, and the aid package included in the deal is mostly rebranding of existing aid.

And largely hidden from view is the fact that the deal over trade in services makes a

major change that was opposed by most developing countries, and could damage many industrialized countries like Australia.

The trade in services agreement under the World Trade Organisation is aimed at expanding international trade in commercial services. Until now, governments could choose which services would be included in the WTO agreement and most governments, including the Australian government, excluded essential services such as water, education, healthcare, public transport, telecommunications and postal services.

The reason for keeping essential services out of the agreement is to avoid them being opened to foreign competition and investment under WTO rules. That is, foreign companies would gain full access and treatment the same as existing operators, even in areas such as aged care, so that there could be no limits on numbers of service providers, and no preference for local service providers. The right of governments to regulate these services for equitable and affordable access would be reduced.

Under WTO rules, legislation and government policies on services can also be disputed by other governments on the grounds that they are barriers to trade. US state government laws that restrict access to internet gambling were disputed recently by Antigua, for example. To the surprise of many, the WTO found that these services were subject to the organisations' trade rules. Although an exception was granted, the WTO confirmed the principle that state governments did not have the right to restrict market access to gambling services once the services were listed in the WTO services agreement, even if it was done unintentionally.

The deal reached in Hong Kong reduces the ability of governments to choose what services they will include in the services agreement of the WTO and what level of regulation will apply. It is now planned that smaller groups of countries will be able to reach agreement among themselves about which sectors to liberalise, such as postal or water services. They will then seek to pressure other countries to join these sectoral deals.

These changes were criticized heavily during the Hong Kong talks, but developing countries agreed to it reluctantly, in return for the concessions in agriculture.

This change will also affect countries like Australia, where most people want government to have the choice of providing and regulating essential services in the public interest.

The EU and the US pushed for this change because they want full access for global companies like European water companies and US health care groups to all countries.

Governments should not be trading away their right to regulate essential services behind closed doors. The Australian government only agreed to publish its offer in the WTO services negotiations and to _exclude essential services like water, health and postal services after community campaigning highlighted the dangers. Yet it supported the changes in the area of services demanded by the EU and the US.

We need a more transparent and inclusive trade negotiations process and we need

to ensure that trade agreements serve the public interest, not only corporate interests.