

'The aims of our trade policy should be to achieve better market access for European goods and services worldwide'

Trade Commissioner Peter Mandelson, February 2005²

The push to deepen global 'free trade' is being led by Peter Mandelson, the EU's Commissioner for Trade responsible for all the EU member states' trade policy. In numerous speeches over the past few months, Commissioner Mandelson has openly outlined the EU's basic liberalization goals.

Opening markets

In July 2005, for example, Mandelson stated that 'we want to liberalise trade and grow markets in which to sell European goods and services. Multilateral negotiations [in the World Trade Organisation] offer the biggest prize in achieving this'.³ He has stated that 'our goal should be to open up markets' and that the EU's primary goal in the WTO negotiations is to 'open markets for industrial goods, services and agriculture, including between developing countries'.⁴ 'Our goals for the DDA [ie, the 'Doha Development Agenda, or WTO negotiations] remain ambitious, to reduce the tariff and non-tariff barriers to trade for all those countries in a position to do so and to assist with the means for those who need a more progressive integration to the global economy'.⁵

'We need market access elsewhere in the world', the Commissioner told a high level EU seminar on European trade and competitiveness in February 2005, and continued by stating:

'The greatest potential for improving the competitive position of EU industry is in addressing the barriers to EU exports of goods and services to third countries... Overcoming market access restrictions today encompasses not just tariffs on goods. Non-tariff barriers are becoming just as obstructive, including behind-the-border restrictions on goods and, crucially, services. They can take the form of national "norms" and standards, restrictions on competition or discrimination in public procurement'.⁶

Writing in the *Financial Times*, Commissioner Mandelson stated that the key in the WTO negotiations was for all countries to commit 'to offering new, real

17 ways the European Commission is pushing trade liberalization on poor countries

Mark Curtis¹

In the run-up to the World Trade Organisation meeting in Hong Kong in December, the European Union is leading a big push to deepen 'free trade' in poor countries and open their economies to business exporters in rich countries. This grab for new markets is taking place behind an enormous amount of rhetoric about the EU's commitment to development and the right of poor countries to 'special treatment' in global trade rules. This report outlines the nature of the European Commission's big push and 17 ways it is pushing trade liberalization on poor countries.

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business opportunities to economic operators from other countries, be it in industry, agricultural or services'.⁷

There can be no doubt that the EU's push for liberalization is intended to serve the interests of European business by securing access to new markets (see also section x below) and is based on the fact that 'we are the world's leading exporter of goods and services and the world's leading investor abroad'.⁸

Commissioner Mandelson also sees free trade as a moral cause: 'The other argument we have to make against protectionism is therefore a moral one: that open trade is in fact the single most effective tool for ending global poverty and achieving sustainable development'.⁹ 'Open markets and free trade is the route to prosperity and justice, in both the developed and developing world', Mandelson has stated.¹⁰

The EU's approach to trade policy, according to Mandelson, 'can best be described as "progressive liberalization" and rests on three principles:

1. 'better market access for and between developing countries', including into EU markets
2. 'more effective development assistance' to enable poor countries to expand their trade
3. 'development friendly trade rules and more flexibility for some developing countries'.¹¹

It is certainly welcome that the Commissioner is championing greater access to EU markets for poor country exports. But the big problem is that the EU is also pushing for poor countries to lower or abolish their trade barriers in numerous policy areas. There are also problems with the other two planks of the EU's approach – 'aid for trade' is also part of the EU's push for liberalization (section 7), while the EU's concept of 'more flexibility' is in reality very limited (see section 17).

Commissioner Mandelson has clearly stated his opposition to both protectionism (including in developing countries) and even managed trade: 'I am not, as a matter of basic conviction, in favour of intervention in markets or managing trade. In the long run this is a cul de sac. It inhibits innovation and adjustment. It entrenches uncompetitiveness'.¹² This flies in the face of much historical and contemporary experience of successful development: countries, such as in East

Asia, that have eradicated poverty through trade have done so precisely through managing trade and pursuing, at times, policies of protection.

Across the globe

It is also important to realize the extent of the EU's push for liberalization. As detailed in the sections below, it covers trade in agricultural produce, industrial goods, services, investment policy, public utilities, the role of companies, intellectual property, competition policy, and government procurement. Many of these areas in reality go well beyond countries' trade policy as such; the EU's push for liberalization is in reality a push to promote neo-liberal domestic economic policies in all countries. It is to deepen the process of corporate globalization primarily to benefit businesses in the rich world.

All regions of the world are targets of the EU's big push for liberalisation:

Africa

Commissioner Mandelson has stated that 'through regional market building and the Doha Development Round of trade negotiations, we need to chip away at the tariff walls that still surround many individual developing countries in Africa'. He continued by saying that 'sometimes these tariffs protect vulnerable industries and need to be lowered with care, and they can be an important source of government revenue. But they also encourage reciprocal barriers which are a massive disincentive to trade and thus a greater drag on fiscal revenue'.¹³

Asia

The Commissioner has stated that 'with Asia, we should drive forward market-opening with the aims of increasing EU-Asia trade and seizing the immense opportunities for greater export and investment'.¹⁴ Also, 'what should be of greatest concern to Europe is the task of maintaining and increasing our market share in the new Asia. There are legitimate worries here: and they raise questions not just of European competitiveness but of trade policy such as protection of intellectual property, the opening up of public procurement, genuine – not commitments on paper – market access for European service businesses and in some cases, persistently high industrial tariffs'.¹⁵ 'The EU is the world's leading exporter of goods and services and the world's leading investor abroad', Mandelson has stated, and 'Asia and its growth is the means of sustaining this performance'.

Latin America

The EU's push for free trade in Latin America is evidenced in the free trade agreements that already exist between the EU and Chile and Mexico and the current negotiations to establish a free trade area with Mercosur (comprising Argentina, Brazil, Paraguay and Uruguay). Mandelson also notes that 'the EU may start free trade area negotiations with the Andean and Central American countries when those countries have reached a sufficient degree of regional integration'.¹⁶

Mediterranean

Commissioner Mandelson has stated that 'I will endeavour to deepen trade liberalisation' with Mediterranean countries by extending the current Euro-Med association agreement 'to new sectors (eg services)'.¹⁷ By a declaration in 1995, EU and Mediterranean countries have been committed to establishing a free trade area by the target date of 2010.

Commissioner Mandelson and the EU often distinguish between 'more advanced developing countries' and other developing countries, including the least developed countries. While the latter are sometimes to be accorded particular special treatment, the EU has made clear that it is expecting the 'more advanced' developing countries to deepen economic liberalization. Mandelson has stated, for example, that:

'Significant responsibility lies on the shoulders of the more advanced developing economies... They need to make real and not paper commitments to market opening in sectors that are vital to the development of their own economies... We need serious new commitments in four key areas: industrial tariffs, agriculture, services and rules'.¹⁸

A major impetus behind the EU push is the rise of China as a major exporter (and thus as an increasing economic competitor to the EU) and also as an increasingly large potential market for EU exports. Mandelson has stated that we are in 'the middle of an economic revolution in Asia – the like of which the world has not seen since the rise of the United States as a great industrial power at the end of the nineteenth century'. Therefore, 'in a rough, tough world Europe should be strengthening not diminishing its external economic leverage'.¹⁹ The rise of China is 'one of the most persuasive modern arguments for Europeans acting together through the EU in order to enhance our strength and influence in a world where our relative position is bound to be in decline'.²⁰

The wider context here is the EU's 'Lisbon strategy' – begun by the European Council meeting in Lisbon in 2000 – which calls on the EU to make itself 'the most dynamic and competitive knowledge-based economy in the world' by 2010 and which lays stress on creating 'growth and jobs'. A European Commission report on the Lisbon strategy from February 2005 states:

'European companies are facing more and more international challenges and EU trade policy needs to ensure that they can have access to third markets and compete on a fair basis with clear rules. In summary, open markets, both in Europe and globally, are crucial to generating higher growth rates'.²¹

It is likely to be the poorest who pay the price for this new drive.

17 WAYS THE COMMISSION IS PUSHING TRADE LIBERALISATION

1. Through unfair deals

EU statements have made it clear that poor countries will only receive EU aid and improved treatment on trade if they sign up to deepening liberalization. It is important to realize that this is the overall 'deal' on offer to poor countries. In a speech in Mali in April 2005, Commissioner Mandelson spelt out an 'overall package' between the EU and developing countries. In return for African, Caribbean and Pacific (ACP) countries agreeing to open their markets and negotiate regional 'economic partnership agreements' with the EU, then 'the opportunity for improved access to the EU will be on the table' along with aid to help developing countries develop their trade capacity.²²

The European Commission has also explicitly stated that:

'The Commission considers that trade liberalization in favour of developing countries should be part of a North-South partnership according to which these countries apply the appropriate policies. In that respect, further opening of the EU market will be closely related to progress made in regional integration, as a tool for improving the internal policies'.²³

European Commissioner for Development, Louis Michel, for example, has stated that:

'Both developed and developing countries must assume their responsibilities: developed countries should further open their markets, particularly in agriculture and other areas of export interest to developing countries; developing countries should reform their own policies in order to take advantage of industrial countries market opening, and in order to strengthen trade among themselves'.²⁴

This overall package is deeply worrying - one might think that countries where many people struggle to survive and who have few basic services have no 'responsibilities' towards the rich world. But in this EU view, they do, and they are about opening up their economies to rich countries' corporations. Unless they

do this, they are unlikely to receive improved trade treatment, such as the EU opening its markets.

There are other deals currently on offer in the WTO negotiations. For example, the EU has committed itself - without so far specifying a date - to ending the use of export subsidies, which cause so much damage in developing countries by dumping produce at cheap prices undermining local producers. Yet the EU is using this as a bargaining tool to secure greater market access in developing countries for industrial goods and services. Peter Mandelson has stated, for example, that export subsidies are 'on the negotiating table', that 'it is now up to others to show their hand', and that 'market access in industrial products... and services too are key issues in the Round. Without progress on these issues, there can be conclusion to the Round'.²⁵

The Commissioner has spelt out how the EU will try to use its negotiating muscle to get its way with developing countries. He has stated that the EU should reduce its protection against imports from developing countries but that 'it is much better from our point of view that we do this multilaterally, not unilaterally. Europe needs to maintain the necessary "negotiating capital" in the WTO/DDA and in bilateral negotiations'. So the answer is to 'press trade partners to open their markets, using our possibilities for movement on our own trade protection as negotiating leverage... We must maintain ambitious designs regarding tariffs, non-trade barriers, services, geographical indications and rules'.²⁶

2. Through Economic Partnership Agreements (EPAs)

A second very significant way in which the Commission's big push is being made is through Economic Partnership Agreements (EPAs). The EU is in the process of negotiating EPAs with six regional groupings among the African, Caribbean and Pacific (ACP) group of states, which are intended to create free trade areas. NGOs have been actively lobbying against the current form of these EPAs, which have enormous defects. A reciprocal free trade agreement is likely to benefit EU companies much more than developing country regions, while many of the poorest countries will lose significant tax revenues from cutting tariffs on imports, meaning even less resources for services such as health and education - Sierra Leone and Uganda, for example, earn 50% of their total tax revenue from import duties.²⁷ Opening up to imports of agricultural and industrial products could devastate further the economies of many vulnerable countries. Although developing countries have signed up to the negotiating

process, it is clear that there is an imbalance of power in it and that the EU is pushing for much faster outcomes than is in developing countries' interests.

And the EU is also expecting EPAs to commit developing countries to deepening liberalization not only of trade in agricultural and industrial goods, but also in services, investment and even government procurement – thus including some policy areas which developing countries have already rejected negotiating in the WTO.²⁸ The European Parliament has called on the Commission to make fundamental changes to the EPAs, notably not to pursue reciprocal trade liberalization until the EU has abolished its trade barriers and only after the capacity of developing countries to trade properly has been built.²⁹

EU officials have consistently stressed that EPAs are primarily intended to promote development, and there are some provisions in the EU's negotiating mandate that support this and will be of benefit to developing countries. The EU lays great stress on the importance of increasing regional integration among developing countries and the creation of stronger regional markets. But Commissioner Mandelson has stated that 'let me stress, up front, that our EPA agenda is emphatically not about opening markets to our own exports'.³⁰ This statement is, however, contradicted by other EU statements. EPAs can indeed be seen as a key part of the EU's push for liberalization and securing access to new markets.

The senior Trade Commission official responsible for negotiating EPAs has stated that 'regional markets can offer far greater attraction to local and foreign investors and transparent, predictable and non-discriminating regulations will further add to attract the much needed private investment'.³¹ The Commission's website page on 'trade and competitiveness' states:

'Europe's market must be open to cheap supplies of intermediary goods and raw materials for European producers of value-added products. Restricting this flow of goods raises costs for European companies', and

'We should contribute to the long term creation/development of export markets for EU exports, both by encouraging the integration of larger regional markets as well as promoting institutions and policies that favour "inclusive" development strategies in emerging countries'.³²

The whole point of EPAs, according to the Commission, is in 'facilitating the transition of the ACP countries to a liberalized global economy'.³³

These statements can be seen as providing a rather explicit rationale for EPAs. As Christian Aid pointed out in its recent report on EPAs, since colonial times ACP countries have been locked into feeding cheap raw materials into Europe.³⁴ The overwhelming majority of EU imports from the ACP countries are raw materials and agricultural produce, especially oil, diamonds, cocoa, fish, wood and sugar. EPAs now also offer the prospect of duty-free market access to 77 new markets for EU exports (which mainly consist of manufactured goods such as machinery and mechanical appliances, boats, transport equipment and chemical products). Seen from Brussels, this strategy might have a new urgency in light of the rise of international competitors like China and ongoing trade competition with the US. Negotiating regional (and bilateral) free trade agreements such as EPAs has advantages compared to the much longer process of negotiating multilateral, global trade agreements.

ACP ministers are currently expressing mounting concerns about the EPA process. In July 2005, they declared their 'grave concern that the negotiations have not proceeded in a satisfactory manner having failed to start addressing most issues of interest and concern to the ACP regions'. They also condemned 'the disconnect between the public statements of the Commissioners of Trade and Development on the development aspects of EPAs and the actual position adopted during EPA negotiating sessions'. They called on the EU 'to adopt a non-mercantilist approach and put development first and make it integral to the EPA negotiations' and to allow each country and region 'to make its own decisions on the timing, pace, sequencing and product coverage of market opening in line with individual countries' national development plans'.³⁵

3. Through bilateral trade agreements

The EU is also pushing free trade through a variety of bilateral processes. EU Association Agreements involving trade liberalization are currently being negotiated or have recently been signed with Syria, Egypt, Lebanon and Algeria. Negotiations began with Mercosur in 2000 on creating a free trade area and are ongoing. According to the Commission, the issues under discussion include reciprocal liberalization of goods and services, improving access to government procurement markets, encouraging an 'open and non-discriminatory investment climate' and the protection of intellectual property rights.³⁶ The Commission also states that during the review of the EU-South Africa free trade agreement, which is taking place in the second half of 2005, 'more ambitious market access

provisions such as on goods, investment, services and government procurement could also be envisaged'.³⁷

Existing free trade agreements that the EU has recently negotiated indicate how deep the liberalization commitments by developing countries can go. The EU-Mexico free trade agreement, which came into effect in 2000, is very comprehensive, involving liberalization of industrial products, agricultural products, services, investment and government procurement. With regard to government procurement, the Commission notes that 'EU operators will have guaranteed access to Mexico's lucrative markets on the best terms'. Access to markets at federal government levels 'includes most government enterprises and key sectors' such as petrochemical, electricity, dredging, construction and information technology.³⁸ The EU-Chile agreement, which came into effect in 2003, also involves reciprocal liberalization in goods, services, government procurement, investment and capital flows.³⁹

4. By pushing for market access for agricultural exports

The European Commission is strongly pushing to increase its farm exports to developing countries through the WTO and even more particularly through negotiating free trade areas under EPAs. The effects of this push have been well-documented by civil society organizations for many years. Cheap food imports can flood into developing countries, often devastating already poor and vulnerable farmers and undermining whole sectors of the agricultural economy. In Ghana and Senegal the enforced lowering of import tariffs on products such as tomato paste and chicken parts and meat has been followed by a deluge of imported products from Europe. These were sold at cut-throat prices, undercutting locally-produced goods, causing factories to close down and increasing poverty.⁴⁰

The European NGO network, Aprodev, has recently documented with an African partner organization the terrible human effects of the same policy in Cameroon. There, a massive increase in imports of frozen poultry has thrown tens of thousands of people into unemployment - mainly poultry farmers suffering the decline of chicken prices on local markets, making it impossible for them to compete. Similar effects have been experienced from cheap chicken imports from Ghana and Ivory Coast to Benin and Togo.⁴¹ It is for this reason that farmers' representatives from 14 countries in Eastern and Southern Africa recently gathered to express their opposition to EPAs, saying that small-scale dairy farmers in Kenya and Tanzania were under threat from imports of dairy

products from the EU. Farmers in Namibia and Botswana are also threatened by EU beef being dumped on their markets. They are calling for EPAs to be stopped.⁴²

Given the long standing effects on human beings of such calculated EU policies, it could only be with breathtaking arrogance that Peter Mandelson could recently say to China that 'I think that some moderation and caution in the rate of growth of Chinese textile exports - pacing it over time - will help ensure harmonious adjustment to this new global trading environment'.⁴³

Indeed, while pushing for increased market access for its own exports, the EU is increasing its ability to keep out developing country exports. The EU has insisted in the WTO negotiations on introducing a new category of 'sensitive products', on which the EU can maintain high import tariffs - a kind of special treatment for developed countries. This is likely to mean that the EU can hang on to high import tariffs on products like sugar, dairy and meat products that are heavily dumped in developing country markets.

The EU claims to have cut its domestic subsidies over the years but in reality there has been no substantial reduction, simply a re-labelling of existing support. The agreement that the EU and US secured at the WTO enables them to actually *expand* their ability to support their own farmers. Developed countries have managed to change the criteria that would allow them to provide support to their farmers under the 'blue box'¹, involving shifting their domestic support arrangements from one box to another, and meaning that their overall level of domestic support has not declined. This was done mainly at the behest of the US, but it is estimated that it allows the EU to increase its trade-distorting support by E28.8 billion a year.² This is in direct defiance of the WTO's agreement for reductions in domestic support.

5. By pushing for market access for industrial goods

The EU, and other rich countries, are currently making a big push to break into developing country markets for industrial (or 'non-agricultural') goods, an issue which is one of the most contentious in the run-up to Hong Kong. The EU has

¹ These are domestic support programmes that are linked to production-limiting programmes, for example if the level of payments is based on fixed areas and yields or per head of livestock.

² Oxfam, *A round for free: How rich countries are getting a free ride on agricultural subsidies at the WTO*, 15 June 2005, p.4

explicitly highlighted this area as a priority in the WTO negotiations, and along with the US and Canada is trying to force the pace of the negotiations. It is forcefully demanding that developing countries open up their markets to industrial exports as the price, as noted above, for the EU moving on export subsidies and domestic protection of agriculture.

Commissioner Mandelson has stated that 'in the case of market access in industrial goods, there is a growing consensus in favour of a tariff reduction formula that will genuinely open up new business opportunities, including in the markets of faster growing, emerging nations'.⁴⁴ This consensus may exist in the corridors of the Trade Commission in Brussels, and also in Washington, but it certainly doesn't exist in too many places in the South. Rather, there is currently major opposition from the G90 group of 90 developing countries to the drive for industrial market access.

The Commission states that 'industry needs certainty' and that 'this is why' the EU wants developing countries to 'bind' imports tariffs (ie, to agree not to raise the tariff on industrial imports).⁴⁵ It states it will continue to press in the latter half of 2005 'an ambitious formula for tariff dismantling' on industrial goods especially for 'key EU priority sectors, in particular textiles and clothing, footwear and leather'. Its overall aim is for convergence among WTO members 'around the lowest possible levels of protection'.⁴⁶

Opening up developing countries to such imports will expose their infant industries to cheap imports which could have devastating effects, particularly major job losses, and undermine their industrial development strategies. An assessment undertaken for the European Commission notes in a section on West African manufacturing, an important source of employment, that removing protective tariffs through liberalization 'will accelerate the decline' of the industry which has been caused by imports which have already entered the regional market.⁴⁷ Indeed, there is a long history of de-industrialisation occurring after countries have introduced policies of industrial sector liberalization.⁴⁸ Countries such as Zimbabwe, Bangladesh, Ecuador, the Philippines and Ghana – have seen manufacturing capacity decline and the bankruptcy of many firms after liberalizing industrial imports. A study by the UN's trade body, UNCTAD, shows that from a sample of 40 countries, half experienced de-industrialisation in the aftermath of trade liberalization.⁴⁹

Some special treatment is on offer to poor countries. Non-least developed developing countries are to have a longer time-scale than rich countries to reduce

their industrial tariffs. And the least developed countries (and another group of 12 countries) can be exempt from actually reducing their tariffs. However, the tariff reductions for the non-least developed countries will be deeper in some areas than those that rich countries have to undertake (since they are currently have higher tariffs); and they are also being pushed to increase the number of industrial product lines which have tariff bindings, thus removing a potential key policy tool.⁵⁰ And the least developed countries are also being pushed to increase their tariff bindings, thus removing a key tool in industrial policy.

Alternative proposals by developing countries are in effect being blocked or stalled by the EU and other developed countries. For example, in July 2005, a joint paper from some Caribbean countries (Antigua and Barbuda, Barbados, Jamaica and Trinidad and Tobago) proposed an alternative to the tariff reduction formula being discussed in Geneva. This was based on the need for developing countries 'to have the flexibility and policy space to vary their tariff levels in line with developments and needs such as changes in economic priorities or circumstances' and 'to be able to adopt measures that lead to successful industrial development'.³ This proposal was welcomed by several countries such as India, Kenya, Bolivia and Argentina but the EU reportedly expressed misgivings, stating that its suggestion on the tariff reduction formula was not acceptable and that the proposal would prove a stumbling block in the negotiations.⁴

A joint proposal by Congo, Cote D'Ivoire, Cuba, Kenya, Mauritius and Zimbabwe has called for countries with current import binding coverage of less than 35 per cent to be exempt from tariff reductions, to be allowed to increase their bindings and to bind their tariffs at levels 'consistent with their individual development, trade and fiscal needs'. Another paper by Armenia, Georgia, Kyrgyzstan and Moldova – countries which have recently acceded to the WTO – has also called for their economies to be exempted from tariff reductions. 'Developed countries did not take too kindly to these proposals', it has been reported, with both proposals receiving a negative reaction from the EU, US and others.⁵

³ Communication from Antigua and Barbuda, Barbados, Jamaica and Trinidad and Tobago, 'A development oriented approach to tariff reduction', July 2005, at www.namawatch.org

⁴ Tetteh Hormeku, 'Trade: Caribbean countries propose new formula at NAMA meeting', TWN-Africa, 5 July 2005, at www.namawatch.org

⁵ Tetteh Hormeku, 'Major differences in NAMA talks', TWN-Africa, 8 July 2005, at www.namawatch.org; 'New Caribbean formula stirs up NAMA talks', BRIDGES, 6 July 2005

Similarly, developed countries have also opposed a joint proposal by Argentina, Brazil and India for an alternative tariff reduction formula that would enhance special treatment for developing countries and not require them to make deeper tariff reductions than developed countries. The US and the EU were reportedly concerned that the proposal would not reduce existing applied tariffs; the EU stated that 'end rates are of primary importance for EC companies'.⁶

6. By trying to open up markets for services

The EU has embarked on a big push to establish new markets for its companies exporting services, such as financial services, telecommunications and transport. This means that developing countries would have to allow foreign service providers to enter their markets and eliminate any measures that discriminate in favour of domestic companies, processes which have often led to foreign companies dominating local markets and, focused on short term profits, repatriating profits to the home country.

Formally, developing countries are not *required* to liberalise their service sectors and can choose to do so voluntarily. But developing countries are in reality under massive pressure to provide 'offers' in response to the 'requests' made on them (and, in the EPA process, they will only receive EU development assistance as part of the package that will likely include services liberalization). Moreover, the EU is now pushing for a new approach to services liberalization that would lead to faster commitments than in the request-offer process. Under a strategy of 'benchmarking' countries are being put under pressure to agree a minimum level of liberalization commitments for key sectors and sub sectors. This approach is actually in defiance of the GATS and the current WTO negotiating guidelines which state that the request-offer process is the main method of negotiations.⁷ While developing countries have repeatedly rejected benchmarking, it continues to return to the negotiating table.

In the EPA process, the EU has established a more aggressive strategy than in the WTO, in trying to force the pace of negotiations by getting the ACP states to agree to 2006 'at the latest' as the start date for negotiations on services liberalization. This is a much faster timetable than in the WTO; the EU is therefore trying to push regionally what it has not able to do so quickly

⁶ Goh Chien Yen, 'Trade:divergencies over modalities to tariff reduction in NAMA talks', 8 June 2005, at www.namawatch.org

⁷ Sabrina Varma, 'GATS: Tweaking "benchmarks" misses development', *South Bulletin*, 30 June 2005, p.312

multilaterally. This approach also directly contradicts one of the principles of the WTO's GATS agreement that sector liberalization is to be agreed on a case by case basis rather than on a blanket basis.⁵¹

The Commission has asserted that ACP states not be allowed to impose any *further* 'discriminatory measures' against EU services companies now that the negotiations on EPAs have started – this means that poor countries are already constrained in their ability to protect their services from international competition. And although the Commission acknowledges that liberalization will take place 'on an asymmetrical basis', it notes that ACP countries will only be allowed 'a certain measure of flexibility depending on their development'.⁵²

In contrast to the EU's speedy approach to open up new markets in ACP countries for its service companies, the European Parliament states that 'there is a huge inequality between the EU and the ACP countries in terms of their ability to provide services'; this issue therefore needs to be tackled with 'the utmost caution'.⁵³

Back at the WTO, Commission has recently stated that 'for the EC the principal aim of the services negotiations is to improve market access for European services exporters in foreign markets and to secure a more transparent and predictable regulatory environment for services'. In January 2005, the EU submitted to the WTO a list of 'requests' for liberalization by other countries, in sectors such as financial services, tourism, environmental/water services and construction. The EU asserts that it is not seeking liberalization commitments that would dismantle or privatize public services such as water supply. Yet the requests do cover 'all environment sub-sectors' such as water collection, purification and distribution services and sewage services, and some requests seek liberalization commitments in 'traditional public services (notably municipal services)' in the water and waste sectors.⁵⁴

Commissioner Mandelson is consistently expressing the EU's disappointment at the current slow pace with which developing countries are offering to liberalise their services sectors. He has noted that the process is 'depressingly slow' and, in a comment directed to African countries, 'I urge you, in your own interest, to make offers'.⁵⁵ But the reason why African countries have made few offers, is precisely that such liberalization is recognized to be against their interests.

Ominously, the EU has recently declared that ‘a number of important developing countries have still not submitted any offers and there is growing concern about what to do about those members that have so far refused to engage’.⁵⁶

7. By using aid to promote trade liberalization

The European Commission makes much of its development assistance to help countries build their capacity to trade and take advantage of export opportunities. In 2001-2003, it committed E2 billion for this purpose. It is certainly the case that many developing countries need assistance to develop their capacity to trade and to participate effectively in trade negotiations. Yet a close look at the EU ‘aid for trade’ programme shows that much of this ‘aid’ is really about further pushing developing countries to promote trade liberalisation.

EU aid in this area includes, for example, ‘support for the implementation of existing and future WTO agreements’ and ‘support for policy reforms and investments necessary to enhance economic efficiency and to ensure greater participation in the world economy’.⁵⁷ Developing countries are therefore being aided to implement several trade agreements they opposed negotiating in the first place and to reshape several areas of their domestic policy-making to do so. Obviously if aid is on offer, and there is no alternative, there is an incentive to take it, but it has hardly been a level playing to reach that situation.

The Commission also states that its aid in this area helps the ‘promotion of sound macroeconomic, sectoral and tax policies that improve the investment climate, as well as support for private sector development’. Aid should help with ‘commitments with a real or potential impact on the domestic regulatory and business environment’. It also helps with ‘identification, in conjunction with the business community and all other stakeholders, of priority sectors for increasing regulatory convergence to international standards, in order to reduce barriers and improve access to markets’. In the area of services, aid helps in ‘supporting the establishment of a domestic pro-competitive regulatory framework... necessary to undertake and benefit from liberalization of services’. On investment it helps promote ‘open and non-discriminatory rules for investors’ and ‘very much on the overall investment climate’.⁵⁸

The Commission states that around 70 per cent of its aid for trade is ‘support for the private sector’. It notes that ‘in order to support the repositioning process and to increase the competitiveness of the private sector in developing countries’,

some new initiatives have been set up. One of these is called PROINVEST, a programme funded out of the European Development Fund and managed by the Centre for the Development of Enterprise under the supervision of EuropeAid in the Commission. Its advisers include the Association of Chambers of Commerce and Industry and UNICE, the EU’s main employers federation, both major corporate lobbyists in Brussels.

A report commissioned by PROINVEST on East Africa and the Indian Ocean notes major ‘investment opportunities’ for European companies, identifying one of these as public utilities: ‘government authorities are increasingly open to forms of PPP (concessions, management contracts etc) and EU operators could play a significant role’. This includes ‘management and rehabilitation of water and sewage systems in major urban centres’ – ie, the privatization of water supply. The report also states that ‘PROINVEST could promote and/or support initiatives aimed at analyzing the complex policy and operational issues related to PPP in public utilities, bringing a more balanced “European” view to the table’.⁵⁹ A report on West and Central Africa notes investment opportunities in health and education, concluding that ‘this sector could offer interesting niche opportunities for European investors’.⁶⁰

8. Through its ‘Trade barriers regulation’

The Trade Commission’s website states that ‘it has become necessary to create trade policy instruments aimed not only at protecting the EC market but also at opening third country markets’.⁶¹ This statement succinctly sums up the EU’s double standards when it comes to protecting the home market while forcing open others.

The reference here is to the ‘trade barriers regulation’ which is the EU’s legal instrument that gives a company in the EU the right to lodge a complaint with the Commission if it thinks another country is violating trade rules and failing to provide access to its market. The Commission describes it as ‘an instrument which provides industry with indirect access to WTO rules and allows it to participate to [sic] the definition of the EC’s priorities’. Put simply, it is another tool for business to break into foreign markets with the support of the Commission. Since 1996, 24 cases have been initiated against 10 countries, five of whom are developing countries (Argentina, Brazil, Chile, Colombia and Uruguay). These cases all involve policies such as import protection or domestic subsidies put up by countries that discriminate against imports from the EU.⁶²

governance... The EU's aim is that EPAs offer a framework where these important issues can be addressed in a development friendly way'.⁶⁵

9. Through the WTO's 'Dispute settlement' mechanism

The WTO's Dispute Settlement mechanism allows WTO members to file complaints against others for alleged violations of WTO rules. The Commission notes that 'WTO members, including the EU, are consistently making use of the mechanism'.⁶³ While the mechanism is much more difficult for poor countries to use – it can be expensive and require legions of lawyers – it can be used by the EU to hold developing countries to the letter of the law when it comes to securing market access for EU companies. The EU's website lists 39 offensive cases the EU has launched. As of July 2005, the EU was involved in 17 cases it had launched, including against several developing countries (Argentina, Brazil, India, Mexico and Thailand), over measures enacted by these countries to restrict EU imports.⁶⁴

10. Through pushing new issues onto the agenda

At the Doha WTO summit in 2001, developing countries succeeded in preventing three new issues being added to negotiations in the new trade round – the so-called 'Singapore issues' of investment, competition policy, and transparency in government procurement – despite huge pressure from rich countries to subject these to liberalization commitments. This was a major success for developing countries, but the response of the EU was to continue to push the issues outside of the WTO, through the EPA process. This means that developing countries are now having to fight the same battle again, though from a weaker bargaining position. ACP states have declared their opposition to including such issues in EPAs, partly because of the likely implementation costs of agreements in these areas and partly due to their likely adverse impacts - but the Commission is pushing on. The Commission is being quite duplicitous in this strategy since the Cotonou agreement between the EU and the ACP, which provides the basis for the EPA discussions, makes no mention of including these new issues for discussion. The Commission's view is:

'We recognize the concern among NGOs that the EU is "trying to reintroduce the so-called Singapore issues by the back door". However everyone should acknowledge that investment, public procurement and competition policy are essential parts of successful economic

But the real issue is again access to markets. The Commission also states that 'a more transparent and non discriminatory international environment in respect of these policy areas also carries important market access benefits for our traders and investors'.⁶⁶

11. By seeking to liberalise government spending contracts

On the issue of one of the 'Singapore issues', government procurement, the Commission is seeking liberalization commitments from developing countries that go far beyond what was being asked of them in the WTO. The WTO negotiations in this area concern *transparency* in government procurement – essentially a set of rules that require governments to make decisions on awarding government spending contracts more transparent. What the EU is seeking in the EPA negotiations, by contrast, is commitments to liberalise government procurement itself – that is, to enable foreign firms to receive the same treatment as domestic firms in bidding and receiving government spending contracts.⁶⁷

This would be a massive prize for European businesses. As Commissioner Mandelson has said, 'public procurement is another example where national preferences impede market access. Counting for up to 15% of GDP, it probably represents the biggest sector of trade sheltered from overseas competition'.⁶⁸ The Commission states that 'we should launch new initiatives to improve market access in public procurement. We must examine the approach of applying reciprocity against third countries which fail to open up their public procurement markets'.⁶⁹

Indeed, it is clear that the Commission also regards the WTO discussions on transparency in government procurement as a step leading into the direction of full liberalization. The Commission has stated that the key is 'the development of multilateral disciplines to ensure that public procurement procedures are transparent and that opportunities exist to bid for foreign contracts'.⁷⁰ It has also noted that: 'A future multilateral agreement on TGP [transparency in government procurement] which, as agreed at Doha, will be limited to transparency, will not open up new markets or increase existing ones. In some case it could encourage entities to accept foreign bids, but this would only happen on a case by case basis'.⁷¹

Moreover, at the WTO the Commission is also actively pushing for an annex to be added to the GATS agreement on services to 'open up to international competition government procurement in services'.⁷² This means it is seeking commitments from developing countries to subject government spending on services to foreign competition (although the Commission states that the same process would apply as on GATS, ie that offers would be purely voluntary). The Commission has its eye particularly on construction services where it says that government spending accounts for as much as a half of the total demand for construction services.⁷³

12. By seeking new rules on international investment

Much the same strategy applies to investment, where the EU is also seeking to push liberalization of investment rules in the EPA process having failed to secure multilateral agreement through the WTO. The Commission states that 'we would like the WTO to negotiate a framework based on the principle that domestic laws should be non-discriminatory, transparent and predictable'.⁷⁴ The Commission's priority to make 'non-discrimination' the basis of agreement in this area would mean requiring developing countries to allow in foreign investors, outlawing the ability to discriminate against foreign investors in favour of domestic investors, and restricting their ability to buy up national companies. This threatens to abolish another key development instrument available to developing country governments.

13. By seeking new rules on competition policy

The EU is pushing for agreements that would outlaw developing countries from discriminating against foreign firms in favour of domestic firms, such as giving them preferential importing or marketing rights. The Commission has identified this as one of a number of 'important issues for the WTO and for improving both trade performance and economic governance in WTO members, in particular developing countries and emerging economies'. It says that an agreement on non-discrimination 'carries important market access benefits for our traders and investors'.⁷⁵ Worries for developing countries in this area also concern the costs and capacity implications of implementing any agreements.

14. By seeking to strengthen intellectual property rights

Protecting intellectual property rights, or patenting, is a form of protectionism for corporations, which has been pushed through the WTO by rich country

governments. It is also clearly a way of gaining access to and control over new markets, whether it be pharmaceuticals or seeds. The trade-related intellectual property rights agreement (TRIPS) of the WTO contains some provisions for developing countries, for which they had to fight hard. One danger currently, however, is that the EU may push for 'TRIPS plus' standards under EPAs that require developing countries to go beyond the WTO commitments. The wording of the Cotonou agreement, for example, leaves the door open for intellectual property standards that are harsher than TRIPS and, depending on national patenting laws, could be interpreted as forcing the patenting of plant genes, potentially preventing farmers from sharing seeds.⁷⁶ Thus African Union trade ministers are calling on the EU not to introduce into the EPA negotiations any 'TRIPS plus' proposals that would compromise any flexibilities. 'If such proposals are advanced', the ministers have stated, 'they should be rejected'.⁷⁷

A further danger relates to the use by rich countries of investment agreements to promote stringent intellectual property protection for rich country firms. A recent analysis by the South Centre in Geneva, for example, notes that 'there is a conscious and increased use of investment agreements by developed countries to undermine the provisions of the TRIPS that provide exceptions and flexibilities for developing countries and to circumvent the resistance by these countries at multilateral forums'.⁷⁸

15. By promoting business interests

Referring to China and Asia, Peter Mandelson has said that 'of course, the opening up of the once furthest reaches of the world should be seen for what it is – a tremendous business and economic opportunity for those whose commercial orientation is international and global'.⁷⁹ The EU's big push is based on securing the interests of EU corporations, to access new markets and secure higher profits.

The Brussels corporate lobbying scene now numbers over 1,000 lobby groups as well as hundreds of public relations companies, corporate-funded think tanks and law firms offering lobbying services. Most of the more than 15,000 professional lobbyists estimated to work in Brussels represent the interests of big business. Organisations like UNICE (the European employers federation, whose British member is the CBI), the European Roundtable of Industrialists (consisting of the most influential transnational corporations in the EU), Eurocommerce (representing EU retail and wholesale companies), the European Services Forum (representing service companies), the International Chamber of Commerce, and the Transatlantic Business Dialogue (representing major EU and US

corporations) have major corporate lobbying strategies, close connections to Commission officials and frankly appear to dictate many of the EU's policies and certainly the general thrust of the EU's big push.⁸⁰ The links between the Commission and business and lobbying groups in Brussels have been well-documented by groups such as Corporate Europe Observatory.⁸¹

During the drafting process of the EU's 'requests' for liberalization of services, the European Services Forum played a key role in exchanging emails and phone calls with Commission officials: 'without ESF input the exercise risks becoming a purely intellectual one', one email from a Commission official to the ESF read.⁸² Corporate groups have recently been heavily lobbying the EU and US in the industrial market access negotiations; in March 2005 a whole corporate delegation flew to Geneva to press WTO delegations to agree substantial tariff reductions. It is no coincidence that demands for a reduction of all industrial tariffs to a maximum of 15 per cent by the end of the current trade round made by UNICE now represents the official EU position.⁸³

Most of the organizations mentioned above produce numerous position papers and undertake extensive lobbying on EU trade policy. A close reading of these papers suggests that their positions are near-identical to the Commission's. Their goals are across the board liberalization in services, investment, agricultural goods, industrial goods, and government procurement along with non-discrimination and the establishment of favourable investment climates in other countries. Added to this is support for some special treatment and capacity building aid for the poorest countries to enable their transition towards full liberalization.

These organizations have their eyes on especially lucrative markets as yet untapped given the lack of liberalization commitments – for example, a recent joint paper by 18 business federations, including UNICE and Eurocommerce, identified the global public procurement market as worth E2,000 billion, and that 'the EU has a large number of highly efficient and competitive companies in the public procurement market'. Tellingly, this paper is called *Support the Commission initiative for growth and jobs*.⁸⁴ Eurocommerce, meanwhile, is lobbying for 'far reaching liberalisation' especially 'for liberalization of agricultural trade worldwide'.⁸⁵ UNICE's goals in the WTO negotiations are market access for industrial goods, services liberalization, investment liberalization and a multilateral agreement on trade facilitation, all key Commission priorities.⁸⁶

16. By decreasing regulation of corporations

Civil society organizations have issued long standing calls for governments to enact much more far reaching regulation of companies to ensure they abide by human rights and other standards. Yet the EU is moving in the opposite direction. The whole thrust of the EU's Lisbon strategy and its big push for global liberalization is to reduce company regulation and give business freer rein in the global economy. A High Level Group review of the Lisbon strategy that reported in November 2004 called for 'reducing the total administrative burden' on European businesses and 'creating an environment more favourable to business'.⁸⁷ Indeed, the Commission is calling, in the light of increasing international competition, for a 'new approach to regulation... to remove burdens' which should be 'a cornerstone for decision making at all levels of the Union'.⁸⁸

Thus the Commission is putting all its faith in 'corporate social responsibility' – a voluntary approach that companies themselves can choose, or not, to promote to improve their activities from an ethical standpoint. 'Adopting CSR is clearly a matter for the enterprises themselves', the Commission states.⁸⁹

The European Parliament has said to the Commission that it should monitor the activities of European companies during the EPA negotiations to 'uphold human rights and the rights of minorities'.⁹⁰ Yet the costs of the European Commission's current failure to do this, and ensure adequate business regulation, can be measured in lives. Profits from diamonds, timber and other minerals have sustained brutal civil wars in countries such as Liberia and Sierra Leone, and most notably in the Democratic Republic of Congo, where such conflict trade had led directly to the deaths of perhaps over 3 million people. European companies have often been involved. Thus conflict zones are often trading areas and profitable places, with conflict commodities often easily brought into global markets, and much of the trade that sustains conflict is entirely legal. Yet there is no legislation in the EU (or elsewhere in the OECD) that prevents a European country from importing, say, the products of illegal timber operations.⁹¹ The mechanisms to adequately curb the conflict trade do not exist. The role of private companies is critical, yet there is no framework of formal regulation of private companies to constrain their activity; rather, only ad hoc mechanisms have emerged.⁹² The EU bears a key responsibility for ensuring this state of affairs.

17. By offering not very special treatment

The European Commission has built in some provisions for special treatment for poor countries as a key aspect of most of its current policies. In public statements and positions it lays great stress on this, arguing that development concerns are a priority in its external trade policies. Longer time frames to implement liberalization commitments are usually on offer to developing countries while least developed countries can be exempt from being required to meet all or some liberalization measures. But despite this, special treatment is in reality limited, and is a key aspect of the big push for liberalization.

The very negotiation of free trade agreements under EPAs violates one key principle of special treatment enshrined in the WTO, that developing countries should not be expected to provide reciprocal access to their markets. The Commission has stated that a 10 year transition period for tariff dismantling would be 'the normal rule' but that it should be prepared to go beyond that 'where this is required by economic and social constraints of the countries concerned'.⁹³ But ten years, or slightly beyond, is historically an extremely short period of time for countries with a fraction of the income levels and trade capacity to compete with the richest, most powerful states in the world; it has taken centuries for European states to reach their current economic positions in the global market. The UN Economic Commission for Africa has stated that 'the best way to configure the EPAs is by first undertaking deep integration within the African market and thereafter have unrestricted access to the EU market without reciprocity'.⁹⁴

The Commission has also made clear that special treatment provides only a temporary and not permanent opt-out for the poorest countries from meeting the full liberalisation commitments required by all other countries. It has stated, for example, that 'special and differential treatment, while essential, should reflect' the WTO's basic principles 'and be a step on the road towards full participation on equal terms'.⁹⁵ In other words, Burkina Faso must soon be required to meet similar global liberalisation commitments as Germany. The idea that countries might or should be able to pursue strategies not based on liberalization is not on the EU's agenda, and therefore in reality the scope for poor countries to do this is very limited.

Although Commission statements sometimes claim that developing countries will be accorded the full right to protect their economies from imports, actual EU

policies contradict this. Currently, the EU is actively blocking or stalling developing country proposals for improved special treatment at the WTO negotiations in Geneva. For example, the group of least developed countries has recently proposed a revision to the WTO's agreements to ensure that the 'extent and pace of liberalisation shall be determined in consultation with the government' of LDCs, taking into account that LDCs should not be required to take liberalisation measures that conflict with their development or financial needs. The most controversial part of this proposal is the suggestion that LDCs be allowed, if warranted by their economic and trade situation and stage of development, to make no tariff reductions in the agricultural or industrial sectors, and bind the tariff rates reduced in the negotiations at levels consistent with their needs. However, it has been reported that developed countries including the EU are unwilling to concede to such a comprehensive exemption owing to fears that this would create a precedent of exceptions to the rule and different treatment of different developing countries'.

It might also be noted that these discussions were taking place in Geneva just a few days before many of the same countries gathered in Gleneagles to express their support in front of the cameras for African development and the right of poor countries to decide their own policies. In the real world, developed countries are even refusing to implement existing special treatment agreements until what they term the 'more advanced developing countries' are graduated out of receiving special treatment.⁹⁶

In June 2005, the G-33 group of countries (which actually consists of 42 developing countries) issued a communiqué calling for 'more meaningful special and differential treatment' in the WTO trade negotiations and calling for a framework on 'special products' and a 'special safeguard mechanism' (SSM) to be agreed by the Hong Kong ministerial. This called for developing countries to decide a category of special food products based on food security concerns, which should be exempt from tariff reduction commitments. The SSM would be a mechanism to protect developing countries from import surges and price depressions when imports flood their markets and undermine local producers.⁹⁷ These measures are urgently needed, but the EU (and US) is in effect opposed. Brussels is saying that it opposes exempting special products from tariff reductions.⁹⁸ While the EU has said it supports the SSM in principle, it believes it should be used to deal with import surges only (not price depressions) and should not be able available for all agricultural products (only a few, to be negotiated).⁹⁹ Such qualified 'support' seem in reality to be more like opposition.

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