



International Chamber of Commerce
The world business organization

Policy statement

Commission on Trade and Investment Policy

World business and the multilateral trading system

*ICC policy recommendations
for the Cancún Ministerial Conference
of the World Trade Organization (10-14 September 2003)*

Paris, 14 May 2003

International Chamber of Commerce

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World business and the multilateral trading system

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World business, as represented by ICC, believes strongly that the rules-based multilateral trading system built up through the General Agreement on Tariffs and Trade/World Trade Organization (GATT/WTO) is one of the central pillars of international cooperation. It has contributed greatly to liberalizing world trade and improving market access, and is a major driving force for global economic growth, job creation, and wider consumer choice.

ICC wishes to take this opportunity to convey key business messages and policy recommendations to trade ministers participating in the 5th WTO Ministerial Conference in September 2003 in Cancún (Mexico).

Now that the war in Iraq is over, ICC urges WTO members to put their divisions behind them and commit themselves to renewed multilateral cooperation for the vital purposes of rebuilding business and consumer confidence and reinvigorating a weak global economy.

It is in the urgent interest of all WTO member countries to work closely together to ensure the success of the Doha Development Agenda, launched at the 4th Ministerial Conference of the WTO in November 2001 at Doha (Qatar). It will be essential for WTO members to make substantial progress on the broad agenda agreed at Doha, in the lead-up to and at Cancún, in order to reaffirm in concrete form the key role of the WTO multilateral system in the management of globalization and in enabling its benefits to spread throughout society in all parts of the world.

ICC urges governments to communicate more effectively to the public at large the benefits of trade liberalization for economic growth and development so as to build more solid support for the rules-based multilateral trading system and progressive trade liberalization. For its part, ICC will continue to contribute the business voice to this effort.

The opportunity at Cancún

ICC strongly believes that the Cancún Ministerial Conference must make concrete advances towards the objective of concluding the Doha Development Agenda by 1 January 2005, as mandated by the Doha Ministerial Declaration, and that this should constitute a key priority for all WTO member governments. Real progress at Cancún would:

- reassure business that governments are committed to further liberalize global trade

and investment and will work to develop multilateral rules that are in line with new business realities and requirements and necessary to the effective management of globalization;

- send a confidence-boosting signal to investors, traders and consumers that, at a time of considerable uncertainty in the face of a weak and fragile global economy, governments from all continents are able to work together not only to resist protectionist pressures but to enlarge the potential for increasing trade and investment links between nations; and
- confirm that governments attach prime importance to liberalizing trade multilaterally through a global institution, the WTO.

Considerable work has already taken place in Geneva on most of the negotiating agenda agreed to at Doha. ICC urges agreement in Cancún to push forward these negotiations and finalize the negotiating agenda to include the key issues of investment, trade facilitation and government procurement. The overall objective of the Cancún Ministerial should be to achieve consensus on clear and forward-looking decisions in order to improve the prospects of achieving a balanced result that all WTO members can subscribe to within the time frame set at Doha. If Cancún is to accomplish this objective, WTO member governments must demonstrate flexibility in the search for a consensus and commit themselves to summon the political will to carry out essential preparatory work for the Ministerial Conference.

Addressing the concerns of developing countries

Of particular importance to ICC is that the Doha Development Agenda addresses as a priority the concerns of developing countries. These countries, which now account for about three-quarters of WTO members, carry increasing weight in that organization. It is clear that if they are to support moving the Doha Development Agenda forward, they have to feel strongly confident of making concrete and reliable gains in access to developed country markets, and especially for products in which they have a competitive advantage, as well as benefiting from further trade liberalization among themselves. At the same time, while the Doha Development Agenda should extend effective market access on a mutually beneficial basis, it must be recognized that many developing countries will require special transition periods and technical assistance to enable them to fulfil their commitments. Technology transfer is also an important concern for developing countries and ICC supports the development of innovative approaches to promote market-oriented transfers of technology.

Policy recommendations for Cancún

On behalf of world business, ICC recommends to WTO member governments the following strategic priorities for the Cancún Ministerial conference.

Tariffs and non-tariff barriers for non-agricultural products

The GATT made immense progress in dismantling tariff barriers to international trade, but its work is by no means completed. Remaining tariffs inhibit trade significantly and cause substantial commercial and economic inefficiencies. Their elimination is one of the largest potential sources of economic benefits to all parties in this negotiation. Thus, ICC believes that WTO members should aim at the elimination of all remaining tariffs on non-agricultural products.

ICC considers that the negotiations on market access for non-agricultural products is of central importance to trade liberalization because of the benefits for all WTO members that such liberalization could bring. In particular, it is strongly in the interest of developing and least-developed countries (LDCs) to eliminate tariff barriers, provided that capacity building and sequencing of tariff cuts are appropriate to individual situations. A large part of the expected gains from tariff elimination will result from tariff elimination by low and middle income countries, with many of these gains resulting from increased trade among these countries.

ICC urges WTO members to agree on modalities for the negotiations on market access for non-agricultural products by end-May 2003, with a view to:

- eliminate or substantially reduce tariffs for all products by specified deadlines using a formula approach starting from applied tariff rates, and supplement this formula approach by other modalities, such as zero-for-zero, harmonization, and request-offer, where they would assist in further liberalization.
- substantially reduce tariff peaks, high tariffs, tariff escalation, and tariff disparities;
- eliminate low tariffs by establishing a tariff threshold, under which tariffs would be set at zero;
- shift all tariff-related measures, including tariff-rate quotas, to ad valorem tariff rates;
- bind 100 percent of tariff headings at the levels negotiated during the round;
- expand member and product coverage of sectoral agreements;
- eliminate or substantially reduce non-tariff barriers and increasingly involve developing countries in the setting of global technical standards; and
- include export duties, restrictions and export bans within the scope of the negotiations.

ICC encourages WTO members to agree to the following considerations for developing and least-developed countries (LDCs):

- credit for autonomous liberalization;
- elimination of industrialized country tariffs for products from LDCs;
- application of the “less than full reciprocity” principle mainly through longer phase-in periods; and
- greater targeting of technical assistance funding for LDCs.

With regards to environmental goods, WTO members should identify a list of commonly agreed objective criteria for the identification of environmental goods. Production and/or process methods (PPMs), as well as the end-use of a product, should be excluded as criteria.

Agriculture

At Cancún, WTO members must achieve concrete progress in reducing export subsidies and the substantial protectionist barriers that severely impede and distort trade in agricultural products, pose a heavy burden on consumers and taxpayers, and have a particularly injurious effect on the export capability of many developing countries. ICC urges WTO members to agree on the modalities for agricultural trade negotiations in the lead-up to Cancún. The overriding aims of the negotiations must be increasingly to expose the sector to international competition through:

- meaningful tariff cuts from applied rates in order to improve market access;
- the progressive elimination and ultimate prohibition of all forms of trade-distorting subsidies, especially export supports;
- further substantial reductions in domestic support measures that encourage overproduction and distort trade;
- the promotion of food safety regulations based on sound science and risk assessment; and
- the avoidance of using non-trade concerns to create new barriers to trade in agriculture.

ICC is of the view that the success of the Doha Development Agenda depends largely on substantial farm trade liberalization, which is an issue of key importance to developing country WTO members. Therefore, if the Cancún Ministerial is to pave the way for a successful conclusion of the Doha Development Agenda within the agreed time frame, WTO members, particularly industrialized countries, must be prepared to make real concessions on trade in agriculture in the lead-up to and at Cancún. It will be essential for industrialized countries to extend effective market access to agricultural exports from developing countries, especially to products in which they have a competitive advantage.

Services

Based on the initial requests and offers submitted by WTO members, ministers at Cancún should confirm their commitment to ensure that the negotiations on trade in services continue to make substantial progress.

- A major priority must be to expand the number and improve the quality of countries' commitments on market access and national treatment under the General Agreement on Trade in Services (GATS) on the broad range of traded services.
- Negotiations should develop multilateral disciplines on the domestic regulation of services for integration into the GATS as legally binding provisions, building on existing work on professional services and the pro-competitive principles accompanying the 1997 WTO Agreement on Basic Telecommunications Services.
- Agreement on international standards for certain services that are highly regulated nationally would greatly facilitate the goal of expanding trade in those services.
- The need to move professional, technical and managerial personnel across national borders for purposes linked to international trade and investment should be treated as a priority issue in the GATS negotiations, and further progress should be made towards the mutual recognition of professional qualifications.
- The liberalization of government procurement of services remains an important objective of world business since it would open up a vast potential market to international competition.

In particular, governments wishing to improve the efficiency of their services sector should make further commitments on the following services, which ICC has identified as key priorities for the Doha Development Agenda. At the same time, ICC welcomes the granting of credit to WTO members who have undertaken autonomous liberalization.

- ICC supports the further reduction of barriers to foreign participation in financial services and insurance and believes that liberalizing trade in financial services will play a critical role in building and enhancing the financial services infrastructures and economies of all WTO members regardless of their stage of development.
- ICC supports efforts to liberalize maritime transport services provided liberalization is substantial and there is no acceptance of "grandfathering" restrictive practices. Meaningful and comprehensive market access commitments, including the free establishment of maritime and related services, by a defined critical mass of countries are essential to any new GATS agreement on maritime transport services.
- Although the air transport sector possesses characteristics that make it peculiarly difficult to liberalize on a multilateral basis, ICC believes that a start could and should be made with air cargo.
- The further liberalization and recognition of express delivery services as a distinct services sector on a fair basis with government suppliers of these services. Express delivery services are a key infrastructure underpinning increasing shares of world trade.

- ICC believes that more commitments by national governments to remove barriers to advertising services under GATS should be a priority. The introduction of competition through liberalization will encourage the advertising industry to evolve to meet the requirements and challenges of consumers and its business users and will provide a stimulus for advertisers to offer choice and quality in their services.

Since an efficient services sector significantly reduces transaction costs, it is a powerful vehicle to strengthen the competitiveness of the whole economy and, in particular, to attract foreign direct investment. Dismantling barriers to trade in services brings particular benefits to small and medium-sized enterprises, who otherwise often lack the resources to overcome these hurdles. Liberalization would also enhance competition and consumer choice in both importing and exporting economies.

Electronic commerce, information technology and telecommunications

Consistent with our view that current WTO obligations, rules, disciplines and commitments -- namely the GATT, GATS, and TRIPS agreements -- apply to e-commerce. ICC has developed the following key principles regarding the negotiations affecting e-commerce, information technology and telecommunications:

- WTO members should implement fully existing commitments and further liberalize all basic telecommunications, value-added and computer and related services including scheduling market access and national treatment commitments for all service sectors without restriction, earlier implementation dates, reduction or elimination of foreign ownership restrictions, adoption of and adherence to the "Reference Paper" for basic telecommunications services only, and compliance with the GATS Annex on Telecommunications.
- WTO members should commit to fully liberalize trade in services sectors associated with the infrastructure needed for business-to-business and business-to-consumer e-commerce.
- WTO members should agree to eliminate duties on all information technology products in line with the goals of full realization of the Information Technology Agreement.
- Whether considered goods or services, digital products should continue to flourish in a liberal and open trade environment, with full market access and national treatment and no imposition of discriminatory measures, quantitative restrictions or other trade barriers.
- WTO members should agree that the interpretation of classifications under existing international classification schemes such as those in the GATS schedules, is sufficiently flexible to capture technological progress and evolution in the delivery of services.
- WTO members should agree that valuation of digitizable products delivered on a physical medium should be based on the value of the physical medium only.
- Intellectual property made available over digital networks should receive strong protection.

- In light of the importance of trade liberalization in digital trade, the moratorium on customs duties on electronic transmissions should be made permanent and binding.
- Where legitimate public policy objectives require domestic regulations that affect e-commerce, any such regulations should be consistent with existing WTO principles. They should be transparent and non-discriminatory, should represent the least-trade restrictive measures available and should promote an open market environment.

Intellectual property rights

ICC attaches primary importance to the effective implementation by WTO members of their commitments under TRIPS, and continues to support this agreement's basic principles.

ICC fully shares WTO members' concerns that adequate measures should be taken so that serious epidemics of infectious diseases such as HIV/AIDS, tuberculosis and malaria in the developing world can be effectively treated. When deciding upon a solution further to paragraph 6 of the Doha Declaration on TRIPS and Public Health, ICC cautions WTO members not to erode the patent system, which could discourage research into drugs for the diseases falling into the scope of the system eventually agreed. More specific recommendations on this issue, as well as on geographical indications, technology transfer and the relationship between TRIPS and the Convention on Biodiversity, can be found in the ICC papers referenced in the conclusion of this statement.

Investment

ICC calls upon ministers at Cancún to launch WTO investment negotiations towards the establishment of a legally binding, comprehensive multilateral framework of rules for investment that would provide for better market access, greater transparency and high standards of investment protection worldwide.¹ Such a framework should reflect in a balanced way the interests of home and host countries, and take due account of the development policies and objectives of host governments, as well as their right to regulate in the public interest, without discriminating against foreign investors. ICC would like to see the following key elements included in a multilateral agreement on investment:

- a broad definition of investment;
- a negative list approach for pre-establishment including national treatment, most-favoured nation treatment (MFN) and market access provisions;
- national treatment and MFN treatment in the post-entry stage;
- a high standard of investment protection;
- transparency;

¹ ICC India does not support the framing of multilateral rules on investment "unless the rules enshrined in BITs are harmonized and the specific concerns of developing countries embodied in BITs on a case-by-case basis are also included in a multilateral framework."

- provisions for comprehensive and unrestricted transfer of funds; and
- an obligation for member countries to provide for investor-to-state dispute settlement procedures.

Trade facilitation

ICC urges WTO ministers to launch negotiations on trade facilitation at Cancún. Such negotiations will be instrumental in ensuring the full realization of the benefits of trade liberalization flowing from successive rounds of multilateral negotiations by further expediting the movement, release and clearance of goods – to the advantage, in particular, of developing and transition economies, and of small and medium-sized enterprises. The largest potential for improvement in trade facilitation exists in developing countries, and they are therefore likely to be the main beneficiaries. A WTO trade facilitation agreement will augment the capacity of developing countries to enlarge their share of international trade, not least their trade with other developing countries.

Trade facilitation is all the more important for business at a time when security requirements risk slowing down cross-border trade. A trade facilitation agreement is fundamental to the establishment of an improved and more efficient management process for international trade in goods on a global basis. All WTO member countries will benefit from it – especially those burdened with the least efficient trading processes, either through infrastructure or managerial limitations or because of procedural barriers being imposed by trading partners. WTO ministers should launch negotiations on trade facilitation regardless of the decisions made on the other “Singapore issues”.

Trade and competition

The WTO’s pioneering work in analyzing the interaction between trade and competition policy in dialogue with the business community should continue in order to advance understanding of the complex issues involved and their ramifications.

To assist WTO members as they decide whether to begin negotiations on a multilateral framework of competition principles, ICC has recently submitted views on the scope and complexity of the issues set out in paragraph 25 of the Doha Declaration. This submission outlines the key matters that require consideration in any discussion of competition policy norms. The issues in question are complex, there are significant differences among WTO members on substantive competition law principles and their application, and the framework for any discussion of competition policy norms is constantly changing. In this context, the issue of the inclusion of a competition framework in the WTO system should be assessed very carefully as WTO ministers revisit this issue at Cancún.

ICC reserves its views on any WTO rules on competition until it becomes clearer what proposals will be made, how they will relate to other policies and objectives, and the modalities proposed for linking the proposals to the overall WTO framework and other policy objectives.

Government procurement

ICC believes that WTO ministers at Cancún should launch negotiations on a multilateral agreement on government procurement with a view to increasing transparency, openness and due process.

Anti-dumping

To prevent abusive use of anti-dumping measures, ICC supports a more harmonized and disciplined approach in the implementation of the anti-dumping instrument.

Dispute settlement

ICC believes that it is of the utmost importance that governments strictly respect the role and authority of the WTO's dispute settlement mechanism. A key aim of any improvements and clarifications of the WTO dispute settlement system should be to ensure that when formal adjudications become unavoidable, WTO decisions are implemented fully and expeditiously, thus minimizing instances of retaliation. WTO members should consider more carefully whether or not to bring a dispute case, and should rely increasingly on mediation and arbitration for dispute resolution.

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The above strategic recommendations for the Cancún ministerial conference are based on more detailed ICC policy statements, which cover key issues in the Doha Round. These policy statements are listed below for easy reference, and are available on the ICC website at www.iccwbo.org:

- “ICC proposals on market access for non-agricultural products”
http://www.iccwbo.org/home/statements_rules/statements/2003/market_access_non_ag_products.asp
- “Agricultural trade and the Doha Development Agenda”
http://www.iccwbo.org/home/statements_rules/statements/2002/agricultural-trade.asp
- “The liberalization of trade in financial services”
http://www.iccwbo.org/home/statements_rules/statements/2000/liberalization_of_trade_2.asp
- “The liberalization of trade in insurance services”
http://www.iccwbo.org/home/statements_rules/statements/2000/liberalization_of_trade.asp
- “The liberalization of advertising services”
http://www.iccwbo.org/home/statements_rules/statements/2002/liberalization_advertising_services.asp
- “ICC's strategic objectives for multilateral trade negotiations to ensure a trade regime that facilitates competition in telecommunications and e-business”
http://www.iccwbo.org/home/statements_rules/statements/2002/eibitt_multitrade.asp
- “Initial views on the post-Doha Agenda of the Council for TRIPS”
http://www.iccwbo.org/home/statements_rules/statements/2002/initial_views_on_post_doha_agenda.asp
- “Further views on cross border compulsory licensing”
http://www.iccwbo.org/home/statements_rules/statements/2002/cross_border_compulsory_licensing.asp
- “ICC expectations regarding a WTO investment agreement”
http://www.iccwbo.org/home/statements_rules/statements/2003/wto_investment_agreement.asp
- “ICC recommendations for a WTO agreement on trade facilitation”
http://www.iccwbo.org/home/statements_rules/statements/2003/trade_facilitation.asp

- “Competition policy in the WTO: Doha Declaration issues”
http://www.iccwbo.org/home/statements_rules/statements/2003/Competition_policy_in_the_WTO.asp
- “ICC proposals for improvements to the WTO Dispute Settlement Understanding”
http://www.iccwbo.org/home/statements_rules/statements/2003/wto_dispute_settlement.asp
- “Regional trade agreements and the multilateral trading system”
http://www.iccwbo.org/home/statements_rules/statements/2002/Regional%20trade%20agreements_multilateral%20trading%20system.asp

Document n° 103/239 rev 3 final EN

14 May 2003 SB/JKM/am

The International Chamber of Commerce

ICC is the world business organization, the only representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.

ICC promotes an open international trade and investment system and the market economy. Its conviction that trade is a powerful force for peace and prosperity dates from the organization's origins early in the 20th century. The small group of far-sighted business leaders who founded ICC called themselves "the merchants of peace".

Because its member companies and associations are themselves engaged in international business, ICC has unrivalled authority in making rules that govern the conduct of business across borders. Although these rules are voluntary, they are observed in countless thousands of transactions every day and have become part of the fabric of international trade.

ICC also provides essential services, foremost among them the ICC International Court of Arbitration, the world's leading arbitral institution.

Within a year of the creation of the United Nations, ICC was granted consultative status at the highest level with the UN and its specialized agencies.

Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well as on vital technical and sectoral subjects. These include financial services, information technologies, telecommunications, marketing ethics, the environment, transportation, competition law and intellectual property, among others.

ICC was founded in 1919. Today it groups thousands of member companies and associations from over 130 countries. National committees in the world's major capitals coordinate with their membership to address the concerns of the business community and to convey to their governments the business views formulated by ICC.