



## Investment

**Any international agreement on investment should include provisions for both the rights and responsibilities of investors. The WTO has neither the capacity nor the expertise to regulate the social and environmental responsibilities of investors. Negotiations on an agreement on investment within the WTO should not be launched at Cancún.**

The decision on whether to launch negotiations on investment will be one of the central issues at Cancún. Following the collapse in 1999 of talks within the OECD on a proposed Multilateral Agreement on Investment (MAI), the EU and Japan in particular have strongly promoted the inclusion of an agreement on investment within the WTO, now as one of the quartet of so-called 'New Issues'. Negotiations on investment have yet to be launched, and the agreement reached at Doha leaves no doubt that each WTO member remains in a position to prevent these from proceeding after Cancún. Nevertheless, the European Commission continues to claim that there is already Ministerial agreement that negotiations on the new issues will take place.

Foreign Direct Investment (FDI), properly channelled, has a crucial role to play in delivering sustainable development, and there is a need for a multilateral framework to govern investment. However, any international investment agreement can only further the goals of sustainable and equitable development if it balances investor rights with enforceable responsibilities. While any WTO investment agreement would include provisions guaranteeing investor rights, the question of investor responsibilities has not even been included in the issues that the Working Group on Trade and Environment (WGTE) was instructed to consider ahead of Cancún. More profoundly, it is clear that the WTO has neither the competence or the expertise to deal with the developmental and environmental issues at the core of investor responsibilities.

Beyond the question of the appropriate forum in which an international investment agreement might be negotiated, there remain significant concerns that a number of the provisions of any investment agreement could significantly curtail the ability of national governments to set environmental policies, as has occurred under NAFTA. Provisions requiring that regulations be no more 'burdensome than necessary', that national governments do not 'expropriate' investor profits, and that *de facto* discrimination be avoided, have all been highlighted as being in potential conflict with environmentally sound domestic legislation.

Proponents of the WTO approach argue that sufficient flexibility can be built into any investment agreement to allow nations to protect important developmental and environmental interests. However, such an approach ignores the realities of the pressures that will be brought to bear, in particular on developing nations. These pressures have been demonstrated in recent EU demands for the General Agreement on Trade in Services (GATS) to be extended into new sectors. The WTO is simply the wrong forum for an international agreement on investment.

### What Should Happen at Cancún?

Negotiations on an international investment agreement within the WTO or any form of modalities should not be launched.