

Non-Paper on Trade from Singapore (Bonn, June 2011)

Trade – open markets and trade openness – is important for economic development, and economic development is essential for adopting measures to address climate change. Trade restrictions with the purported aim of protecting the climate is a lose-lose proposition for all Parties. It is precisely because open markets and trade openness is so important that we have consistently said that anything we do at the UNFCCC should not undermine the delicate balance of rights and obligations at the WTO. The WTO is the competent body with the requisite expertise to deal with trade rule-making. The UNFCCC is not the competent body to review, rewrite nor reinterpret the WTO Agreements.

Article 3.5 of the Convention states that “The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problem of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade”.

Article 3.5 is unique in that it envisions that Parties should achieve climate objectives through an open international economic system. It is significant that the Convention differs from some other Multilateral Environmental Agreements which contain trade-related environmental measures.

Recognising that measures adopted to respond to climate change – including trade-related response measures – may have adverse economic and social consequences, the COP – through Paragraph 1 (b)(vi) of the Bali Action Plan – mandated that Parties address the economic and social consequences of response measures.

Pursuant to the Paragraph 1 (b)(vi) of the Bali Action Plan, the Cancun COP reaffirmed Article 3.5 of the Convention in Paragraph 90 of 1/CP.16.

Paragraph 90 is a good outcome. It is the right outcome. It is also a sufficient outcome.

First, Paragraph 90 sends the signal that trade restriction is not, and it is never, the answer to the climate problem. Paragraph 90 reaffirms Article 3.5: (a) a supportive and open international economic system is essential for sustainable economic growth and development in all Parties, particularly developing country Parties; and (b) Parties should not adopt arbitrary or unjustifiable discrimination or disguised restrictions on international trade.

Second, through Paragraph 90, the Cancun COP has acknowledged that the future agreement on climate change must be situated in the context of a supportive and open international economic system.

Third, Paragraph 90 is consistent with the Convention. It is also consistent with the WTO Agreements. In keeping with the spirit and letter of both the Convention and the WTO, Paragraph 90 requires **all** Parties, both developed and developing, to adhere to the elements in Article 3.5 of the Convention. The effort by **all** Parties to maintain an open international economic system is all the more important in today's globalised world. This will also help to foster both North-South and South-South trade opportunities and economic development. The WTO has cautioned that trade restrictions of its Members and observer governments have become more pronounced over the past few months. These measures were reportedly also taken on the grounds of environmental protection.

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