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REVIEW OF DEVELOPMENTS AND ISSUES IN THE POST-DOHA WORK PROGRAMME OF PARTICULAR CONCERN TO DEVELOPING COUNTRIES

Note by the UNCTAD secretariat[1]

Executive summary

The report covers recent developments in, and implications for developing countries of, multilateral trade negotiations under the World Trade Organization's Doha Work Programme since the WTO General Council Decision of 1 August 2004 ("July Package"). Consensus has clearly emerged that the Doha negotiations should fulfill their development promise and be concluded no later than 2006. Pursuant to the São Paulo Consensus, UNCTAD has provided valuable support in building international consensus on the development dimension of the international trading system.

[1] The document was submitted on the above date to take into account developments in the WTO regarding the "July Approximation".

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I. INTRODUCTION

1. Item 6 of the provisional agenda of the fifty-second session of the Trade and Development Board provides an opportunity for the Board to discuss progress attained in the Doha Work Programme (DWP), particularly in areas of interest to developing countries. This note has been prepared by the UNCTAD secretariat to assist the Board in carrying out its review.

II. TRENDS IN INTERNATIONAL TRADE

2. The Doha negotiations have been taking place against the backdrop of trade's increasing role in economic growth and development and the increased participation of developing countries in world trade, giving rise to a reconfiguration of trade. At the same time, developing countries remain vulnerable to external shocks, including policy changes of trading partners, natural disasters and security measures. Strong global growth has boosted energy demand and has led to high oil prices. The world's average trade-to-GDP ratio increased from about 40 per cent in 1990 to 60 per cent in 2003. The value of world merchandise exports amounted to US$ 8.9 trillion in 2004. Developing countries' exports reached US$ 3.0 trillion, accounting for 33 per cent of world exports. It is noteworthy that, in 2004, China replaced Japan as the world's third largest merchandise exporter. In 2004, world exports in commercial services expanded by 16 per cent to reach a total value of US$ 2.1 trillion. The share of developing countries increased from 18.5 per cent in 1990 to 22.5 per cent in 2004. China and four East Asian newly industrializing economies are among the largest service exporters, with their exports valued at US$ 46 billion and US$156 billion respectively. The expansion of these developing countries' trade contrasts sharply with difficulties faced by low-income countries. Merchandise exports of sub-Saharan Africa and LDCs in 2004 stood at US$ 146 billion and $57.8 billion respectively, which represented a modest share in world exports of 1.6 per cent for the former (as compared to 2.0 per cent in 1990) and 0.64 per cent for the latter (0.56 per cent in 1990). These countries' share in world commercial services exports also declined from 1.35 per cent in 1990 to 1.1 per cent in 2004 and from 0.49 per cent in 1990 to 0.44 per cent in 2004 respectively.

III. DEVELOPMENTS IN THE MULTILATERAL TRADING SYSTEM

A. Overview

Doha negotiations and the development imperative

3. Multilateral trade negotiations (MTNs) under the DWP have entered a crucial phase for a successful, timely and development-oriented conclusion. The Sixth WTO Ministerial Conference (MC6) in Hong Kong (China) from 13 to 18 December 2005 is expected to take key decisions on agriculture, non-agricultural market access (NAMA), services, development issues, trade facilitation (TF) and rules aspects of the negotiations. Technical work should be advanced substantially in advance of MC6, as there is evolving international consensus that the Doha round should be concluded no later than the end of 2006. This is critical particularly in view of the prospective expiry of the United States' Trade Promotion Authority in 2007 and in order to contribute through a "development package" to the timely implementation of the Millennium Development Goals (MDGs), combat poverty and promote development. Some essential elements of such a realizable development package could be identified as follows:

- Enhanced and predictable market access for developing countries in industrial and agricultural goods, and services, particularly Mode 4;
- Removal of trade-distorting non-tariff barriers (NTBs) and market entry barriers;
- Elimination of export subsidies and substantial reductions in trade-distorting domestic support in agriculture by a credible end date;
- Urgent elimination of trade-distorting subsidies for cotton and a development package for cotton producers;
- Provision of bound duty-free and quota-free (BDFQF) market access for all exports of LDCs;
- Enhancing utilization of trade preferences by improving preferential schemes;
- Providing adequate financial and technical support to developing countries, including through "aid for trade", to help them meet adjustment and implementation costs, including the erosion of preferences, to ensure sustainability of trade reforms;
- Providing adequate support for building supply capacity and trade-related infrastructure, including TF;
- Ensuring that trade liberalization does not adversely affect the livelihoods of the poor and vulnerable, and universal access to essential services;
- An expeditious and permanent solution on TRIPS and public health to facilitate access to essential medicines.

4. These development imperatives are likely to be taken into account by the UN General Assembly high-level plenary meeting in September 2005, which will review comprehensively the implementation of the UN Millennium Declaration in the last five years. This event will provide the international community with a unique opportunity to inject new political impetus into the global partnership for development, *inter alia* through the pursuit of an open, equitable, rule-based, predictable and non-discriminatory multilateral trading system (MTS), as stipulated in the Millennium Declaration. The UN Secretary-General's Report, *In Larger Freedom: Towards Development, Security and Human Rights for All*, and the UN Millennium Development Project report *Investing in Development: Practical Plan to Achieve the Millennium Development Goals*, both recommended specifically that the Doha round of MTNs should fulfill its development promise and be completed no later than 2006.

5. Both reports advocated that special attention be given to addressing the unique and serious development challenges facing African countries. Furthermore, *Our Common Interest*, the Report by the Commission for Africa established by the UK Prime Minister, recommended a "coherent package" to make serious inroads into alleviating poverty and Africa's continued marginalization. The G8 Summit at Gleneagles agreed on a comprehensive plan to support Africa, including the doubling of aid for Africa by 2010 to US$ 50 billion a year, as well as immediate complete relief of the debt owed by 18 eligible HIPCs to the IMF, IDA and ADF.

Some recommendations of the Commission for Africa

- Make development under the Doha negotiations an urgent and absolute priority for the achievement of the MDGs;
- Agree at MC6 to immediately eliminate trade-distorting support to cotton and sugar, and commit to ending export subsidies and all trade-distorting support to agriculture by 2010;
- Agree at the end of the Doha negotiations to progressively eliminate all tariffs by 2015 and reduce NTBs;
- Agree that developed countries not invoke exemptions for "sensitive products";
- Make special and differential treatment (SDT) work better by making legal recourse to disputes conditional on applying a "development test";

- Apply a development test when designing product standards to assess impacts and minimize barriers they may create, and provide resources to help Africa meet them;
- Shift the resources allocated to OECD agricultural protection (USD 350 billion) away from waste and into rural development and environmental investments;
- Reduce reciprocal demand in WTO and economic partnership agreement (EPA) negotiations to a minimum and allow for appropriate timeframes, up to 20 years or more if necessary. A review of Article XXIV of the GATT may be useful in support of this;
- Prioritize development under EPAs through up-front commitment to the Everything but Arms Initiative (EBA) for all sub-Saharan Africa and reformed rules of origin;
- Immediately extend BDFQF access to all exports from low-income sub-Saharan African countries, and simplify and relax rules of origin to include allowance for "global cumulation" and a minimum value added of 10 per cent in the country of origin for all products.

6. Trade negotiations need to be placed in a broader context of a shared vision of development and an MDG-based international trade policy focusing, *inter alia,* on halving poverty by 2015 through, for example, national economic policy space and institutional innovations, investment in human capital and development-oriented infrastructure, universal access to essential services, supply-side competitiveness, a favourable legal and regulatory environment including for SMEs, access to financial capital, capacity for R&D and science and technology including ICT, and a collective global effort to protect the environment and climate change.

July Approximation and the road towards Hong Kong

7. The post-July Package (JP) negotiations have focused on specific technical issues of the frameworks on agriculture and NAMA with a view to reaching agreement by July 2005 on a first approximation of modalities. Limited progress has been achieved in these areas. Services negotiations, focused on improving initial offers and rule making, have not yet resulted in substantial improvement in market access in areas of interest to developing countries, particularly Mode 4. On development issues, major differences remain on SDT and implementation concerns, with no meaningful outcome. The expectations for the July Approximation were considerably lowered to comprise a stocktaking of all areas of negotiations and a progress report by the Chairman of the Trade Negotiations Committee identifying the critical path to MC6, listing key problems and priorities.

8. Efforts have been made to inject political impetus into the negotiations through a series of mini ministerial meetings, including in Davos, Kenya, Paris and Dalian (China), and an APEC Trade Ministers' meeting. These meetings reiterated the commitment to the DWP and acknowledged unresolved issues. The Second South Summit, the Third African Union (AU) Conference of Ministers of Trade and the Fourth LDC Trade Ministers' Meeting set common platforms for their constituencies for MC6. The G8 Summit called for increased momentum towards ambitious and balanced outcomes in the Doha negotiations as the highest common priority in trade policy for the year ahead. Various coalitions such as the G 33, G 20, Cairns Group and the Five Interested Parties (FIPs) have been active in efforts to broker a deal on agriculture. However, little progress had been achieved by July 2005. There is need to further re-energize the negotiating process through the injection of new political momentum by all, especially developed countries, to take ambitious steps forward in delivering on the development contents of the DWP. It is important to achieve balance and parallel progress within and between areas under negotiation and a development-focused outcome, while keeping in mind that agriculture is the key.

9. In the lead-up to MC6, the negotiations will be intense, with the participation of ministers and capital-based representatives. There is a need to search for middle ground and compromise solutions within the context of a single undertaking, particularly to finalize the modalities in agriculture and NAMA, achieve a critical mass of services offers, and agree on concrete deliverables on development issues and cotton. To ensure coherent management of the negotiating process, it is proposed to avoid informal ministerial meetings outside Geneva, increase involvement of capital-based officials and ministers, conduct a stocktaking in October and reduce the regular work of WTO. Lessons from the Seattle and Cancún Ministerial Conferences indicate the pivotal need to reach agreement on key substantive issues and details in Geneva prior to MC6 and to focus on outcomes of interest to developing countries that most impact poverty.

10. The DWP negotiations may be influenced by developments outside the negotiating contexts. Concerns exist about the resurgence of protectionist tendencies in some markets. The discussion in the EU regarding its budget plan for 2007-2013 is likely to have a bearing on the prospects of the Common Agricultural Policy (CAP) reform. The extension of the Trade Promotion Authority of the United States this year until 1 July 2007 and the US Congress's approval of continued US membership of WTO and the Central American Free Trade Agreement (CAFTA) demonstrate the strengthened willingness of the United States to lead trade liberalization on the global stage. The proliferation and intensification of regional trade agreements (RTAs) have resulted in some 50 per cent of world trade taking place within the framework of RTAs, giving rise to the urgent need to ensure a positive interface between multilateralism and regionalism. Developing countries have been engaged in North-South RTAs, which will transform unilateral preferences into preferences based on reciprocity, such as the Free Trade Area of the Americas (FTAA) and ACP-EU EPAs. North-South RTAs tend to lead to deeper market access and higher regulatory standards than negotiations at the multilateral level and thus will have implications for developing countries. Growing South-South trade provides dynamic opportunities for developing countries. The third round of GSTP negotiations is complementary to MTNs and aims at a package of substantial trade liberalization commitments among participants by November 2006. The process of WTO accession continues to represent challenges for acceding countries, and it is important to ensure fair and equitable terms of accession commensurate with countries' trade, financial and development needs, including through the implementation of the Guidelines on LDC Accession. Work has taken place to frame trade-related responses for fuller integration of small, vulnerable economies into the MTS.

Adjustment support for trade and trade-related shocks

11. Concerns have become salient among developing countries regarding adjustment-related issues in the light of difficulties continually faced in implementing WTO Agreements, the advance of the Doha negotiations, including their implications for preference erosion, the expiration of the Agreement on Textiles and Clothing (ATC), and lack of supply capacity and competitiveness. The sudden increase in exports of textiles and clothing from China following the expiry of the ATC has led to recent tensions and calls for safeguard measures. Some less competitive exporters are facing adjustment issues consequent to quota elimination and require assistance to improve their market access and supply capacity.

Post-ATC observations

While it is difficult to draw any definitive conclusions, available data indicate that most developing country exporters have continued to experience export growth to the US market. Exports from the ANDEAN, ASEAN, the Caribbean Basin Initiative (CBI) and CAFTA countries to the United States increased by 5 to 16 per cent in the period January–May 2005 in relation to the same period in 2004. However, exports from sub-Saharan Africa declined by 6 per cent. LDCs and small exporters (Bangladesh, Cambodia and Sri Lanka) recorded 17 to 23 per cent increases. On the other hand, the performances of the African Growth and Opportunity Act (AGOA) beneficiaries were not so positive. Among those countries, whose apparel exports to the United States accounted for over US$ 20 million, only Kenya and Swaziland recorded an increase in their exports by 8 and 10 per cent respectively. All other countries experienced declines in exports (Malawi (33 per cent), Mauritius (23), Namibia (20), and Lesotho (2)), except Madagascar, whose exports remained constant. A preliminary analysis of US imports by the International Textiles and Clothing Bureau shows that on aggregate, the average unit price of textiles and clothing imports during the period January to May 2005 increased by 1.18 per cent as compared to the same period in 2004. While the average unit price for apparel products declined by 2.44 per cent, the average price of textile imports increased by 3.75 per cent. Within the apparel categories, there was a variation in price trends. On aggregate, unit prices have shown an upward trend, while for main apparel products prices have tended to decline.

12. Similarly, preference-dependent countries will face preference erosion consequent to multilateral and regional reductions of tariffs. UNCTAD secretariat estimates find that the export revenue loss for preference-receiving African ACP States from a 36 per cent cut in MFN duties on agricultural products in the EU would lead to an aggregate loss of $460 million annually. The Commonwealth Secretariat estimates that US$ 1.7 billion will be lost annually in agriculture and textiles and clothing for preference-dependent countries. The JP responded to these concerns by reaffirming the importance of long-standing trade preferences. The solution to preference erosion will require both trade and development measures, including the improvement of preferential schemes and their utilization and the simplification of rules of origin and their adaptation to the industrial profile of beneficiaries.

13. It is widely recognized that adjustment support for trade and trade-related shocks, reform and liberalization, and trade capacity building should be integrated *ex ante* into trade agreements to facilitate the implementation of liberalization commitments and promote beneficial participation of developing countries in trade. The report by the Consultative Board of the Director-General of the WTO (the "Sutherland Report") recommended that new agreements reached in WTO in future should contain provisions for a contractual right, including the necessary funding arrangements, for LDCs to receive adequate technical assistance and capacity building as they implement new obligations. The modalities for TF, adopting this approach, demonstrate that it is desirable and feasible to redirect the driving force of trade negotiations towards development.

New trade "Marshall Plan" for LDCs to help achieve MDGs[2]

An UNCTAD study proposes the following:

- BDFQF treatment should be granted by developed countries to all commodities and manufactured products of all LDCs.
- Preferential schemes should be upgraded through harmonized and simplified rules of origin and administrative procedures and removal of conditionalities.
- Other developing countries in a position to do so should provide preferential treatment, including DFQF treatment , to LDCs in the context of the ongoing GSTP negotiations.
- Action should be taken to discipline NTBs and market entry barriers facing LDCs, especially in the area of SPS/TBT measures, and help build effective standards-related capacity and infrastructure in LDCs to deal with and overcome such barriers.
- A targeted SDT package in services should operationalize LDC priority areas. This would entail two elements: (i) measures to support supply-side capacity and technology transfer, and (ii) commercially

[2] Lakshmi Puri, "Towards a new trade "Marshall Plan" for least developed countries: How to deliver on the Doha development promise and help realize the UN Millennium Development Goals?" (UNCTAD/DITC/TAB/POV/2005/1).

meaningful expansion of market access in Mode 4 at all skill levels and in sectors of key interest to LDCs.

- Additional finance should be provided to help meet compliance and adjustment costs, facilitate trade-related infrastructure building and enable supply-side and export-competitive capacity building in commodities, manufacturing and services.
- This can be achieved through technical assistance, ODA initiatives and public-private partnerships. A specific mechanism to meet a chunk of these financial requirements could be met through the creation of an Aid for Trade fund with seed money of $1 billion. This money could have a multiplier effect, generating development finance up to 15 times its initial value (i.e $15 billion) within two to three years.

The above measures could result in:

- Welfare gains from the grant of DFQF treatment of up to $8 billion ;
- Export gains of up to US$6.4 billion (10 per cent of total LDC exports);
- Gains from a targeted services package of US$10–20 billion.
- US$15 billion from Aid for Trade Fund in 2-3 years.

Reform of WTO

14. The institutional capacity of WTO to manage MTNs will have implications for the direction of the MTS. The "Sutherland Report" recommended political reinforcement of WTO and more efficient processes, including through an enhanced role for the Director General and Secretariat, greater ministerial involvement and frequency of meetings, the establishment of a limited-membership consultative body, and the involvement of capital-based senior policy-makers, *inter alia* by encouraging them to attend General Council meetings every three or six months. The Report also recommends a variable geometry approach in negotiations, with some countries moving ahead at a faster pace if they so wish.

B. Specific areas of negotiation

Agriculture

15. Agriculture is considered an engine for the Doha round. Estimates of the contribution to global welfare gains of completely removing trade barriers in agriculture are as high as $165 billion annually, of which developing countries would receive about one quarter. The objective of the post-JP negotiations has been to reach agreement on the full modalities at MC6 by focusing on technical issues arising from the agricultural framework. Progress in substantive negotiations has not been dramatic owing to the complexity of the technical questions involved and the sensitivity of some of the issues, particularly tariff reductions and domestic support measures. While focusing on technical issues, countries have emphasized the importance of a balance between the three pillars (market access, domestic support and export competition) in relation to the level of ambition, pace and sequencing of concessions. For instance, some countries attach priority to the market access pillar, while others seek concessions on subsidies first. Similar linkages exist with other negotiation issues, especially NAMA and services negotiations.

16. Technical issues on the *market access pillar* included the so-called "gateway issues" of converting volume-based "non-*ad valorem"* tariffs into value-based *ad valorem* equivalents (AVEs). AVEs emerged as key, as they determine the level of the base rate to which tiered-formula cuts are to be applied for products subject to non-*ad valorem* duties. Discussions of the formula for tariff cuts were delayed until the methodology for calculating AVEs was agreed at the Paris mini-ministerial meeting in May and subsequently endorsed by WTO Members. The tariff reduction formula remains a key issue in the negotiations, and positions differ. At the Dalian mini-ministerial meeting, the need was noted to seek a middle ground between the Swiss formula and the Uruguay Round (UR) tariff cut formula

approaches. As negotiations progress, WTO Members are expected to agree on the number of tariff bands, the criteria for setting such tariff bands, and the modalities for reducing tariffs in each tariff band.

G20 proposal on market access

The G20 proposal seeks to constitute the middle ground between the UR formula and the Swiss formula. The purpose of the proposal is to achieve overall proportionality between developed and developing countries by requiring developing countries to cut tariffs by less than two-third of the cuts to be undertaken by developed countries. The proposal establishes five tariff bands for developed countries and four bands for developing countries. Reduction in each band would be based on linear cuts with the element of progressivity across the bands, so that the higher the tariffs, the deeper the cuts. Tariffs will be capped at the rate of 100 per cent for developed and 150 per cent for developing countries. The number of sensitive products and their treatment is yet to be determined. Additional formula would be established to address tariff escalation. The G20 called for binding tariffs only in AVE form. Since the proposal applies different reduction rates to different tariff bands, it would lead to varying degrees of overall average tariff reduction across countries depending on each country's tariff structure. If the majority of tariffs in a country fall into the lowest tariff band, then the average reduction rate of that country will be low, while a country whose bound rates concentrate in higher bands will have a relatively higher average overall reduction rate. Countries that opted to bind their rates at ceiling levels during the UR call for their special circumstances and their contribution to be taken into account. The G20 also called for the elimination of special safeguards (SSG).

17. Other issues with regard to the market access pillar include the treatment of sensitive products and particular aspects of SDT such as special products (SP) and the Special Safeguard Mechanism (SSM). With regard to sensitive products, which may be exempted from full tariff reductions, a major question is how to balance the level of ambition in the tariff cuts and the policy flexibilities available for each country, and how to limit such flexibility available to developed countries. In addition to sensitive products, developing countries can designate products that are essential for promoting food and livelihood security and rural development as SP for further flexible treatment. Discussions have centred on how to identify eligible products, including through the use of appropriate indicators, and the type of flexibility. Developing countries would have recourse to the SSM to address their concern that lowering bound tariffs might reduce their ability to protect themselves against potential instability in the agricultural market arising from import surges. Proponents have maintained that the SSM should be easy to use and be available for all products, including SPs. As for the SSG, used mainly by developed countries, the question as to whether or not to eliminate the measures is still under negotiation.

18. Developing countries enjoying non-reciprocal, preferential market access have called for account to be taken of the preference erosion arising from MFN tariff reduction. The issue has been controversial, as agriculture-exporting developing countries hold the view that addressing preference erosion might impede MFN tariff reduction. A key objective is to identify solutions that would reflect both trade and development interests of affected countries through a comprehensive approach, namely seeking genuine market liberalization in the highly distorted agricultural market and providing adjustment-type support to countries affected by revenue losses from preference erosion. Other sensitive issues include tariff escalation, tariff simplification, tariff rate quota (TRQ) administration and tropical products.

19. In the area of *domestic support,* the immediate focus of the negotiations until July was on the reductions and disciplines to be applied to trade-distorting support (namely Amber Box, Blue Box and *de minimis* support). In terms of the number of tiers of the formula to reduce Amber Box support, there has been some convergence towards three to four tiers, with the EU falling into the highest tier and thus making the greatest cuts. In order to set

meaningful rates of reduction, it is important to take into account that most countries with aggregate measure of support (AMS) commitments do not make full use of the final bound AMS. The AMS reductions will be the core element of the overall reductions in trade-distorting support,. With respect to the *de minimis* support, a large number of developing countries propose an unchanged *de minimis* ceiling level of 10 per cent for developing countries without AMS commitments. On the Blue Box measures, the JP already sets the bound level at 5 per cent of the value of total agricultural production. Further, the review and clarification of the Green Box and the Blue Box criteria constituted another focus, as it is a major concern of developing countries to eliminate loopholes through which trade-distorting measures are disguised as types that are not subject to reduction commitments (box-shifting). The strictness of Blue Box criteria has been linked to the level of overall reductions. Early progress on proposals aimed at making the Green Box more development friendly is also important.

20. As to *export competition*, the essential structure is in place regarding the commitment to the total elimination of export subsidies by a specific end date. Major issues concerned the staging and the exact end date. Agricultural exporters have proposed a front-loading approach whereby cuts would be more drastic in the first years. Suggestions have been made to set the end date within three to five years. Negotiations have focused on parallel commitments in respect of subsidy elements in export credit, food aid and state trading enterprises (STEs). On food aid, while there is a general understanding that food aid should not cause commercial displacement, what constitutes "genuine food aid" remains to be defined. The negotiations also focused on whether food aid in kind shall be allowed or only food aid in cash. As regards STEs, it is generally agreed that no commercial activities of STEs should contain export subsidy elements. Net food-importing countries have called for their interests to be duly taken into account and for the full implementation of the Marrakesh Decision, as they are expected to face increased prices for imported food. Discussions on the introduction of a food import financing facility for net food-importing developing countries and LDCs have made considerable progress in the past two years, at least in terms of a facility’s optimal operational elements. However, political compromise is still elusive. It is critical to address food security, rural development and livelihood of developing countries.

Cotton

21. A sub-Committee on Cotton was established under the Special Session of the Committee on Agriculture. Negotiations are to encompass all trade-distorting policies affecting the cotton sector. Compensation for losses suffered by the West African cotton producers will be considered in the context of coherence between trade and development aspects of cotton. Estimates by the International Cotton Advisory Committee indicate that the withdrawal of cotton subsidies would raise cotton prices by 11 cents per pound, or by 26 per cent. Oxfam finds that the cost to Africa of cotton subsidies in 2001-2002 amounted to $301m, of which eight cotton-producing West African countries accounted for approximately two-thirds ($191m). The proponents of the cotton issue have called for a fast track, front-loading approach to eliminating trade measures affecting cotton, especially taking ambitious, expeditious and specific cotton-related decisions, in particular the elimination of domestic support measures and export subsidies that distort international trade in cotton by the time of MC6, as well as BDFQF access for cotton and its by-products for LDC cotton producers and exporters. African countries have expressed concern over the lack of response to their proposal. It is important that deliverables materialize on the JP ambition to provide concrete and timely relief to the cotton sectors of these countries. Continued decline and volatility in

cotton prices require an urgent response, *inter alia* through the design and implementation of a commodity price stabilization scheme.

NAMA

22. UNCTAD estimates indicate that possible welfare gains for developing countries from the liberalization of trade in non-agricultural products would be in the order of magnitude of US$ 20 to US$ 60 billion and export revenue gains could even in modest scenarios amount to US$ 50 billion annually. Conversely, in the short to medium term, liberalization would lead to shifts in output and employment in key sectors in developing countries. The expected changes are likely to be spread unevenly across developing countries and sectors. The likely adjustments include employment and revenue losses and loss of some flexibilities to use trade policy instruments for industrial development. Preference-receiving countries are likely to face the need for adjustment arising from the erosion of their preference margins. The complexity of the proposals and the lack of agreement at this time on the precise parameters for the negotiations make it difficult for countries to identify their specific implications. Concrete operationalization of SDT and less than full reciprocity in reduction commitments for developing countries has been called for as an integral part of the modalities.

Adjustment costs

UNCTAD analysis of trade liberalization scenarios and the corresponding short- to medium-term adjustment costs finds that, although the aggregate changes are moderate, sectoral changes can be dramatic. Sectors with large changes include labour-intensive sectors, including the leather industry. In some developing countries, the output of some sectors decreases by more than 50 per cent (e.g. motor vehicle parts in Asia). Country studies confirm dramatic changes as a consequence of trade policy changes. The export share of engineering products in Zambia declined, for example, by about 50 per cent during the 1990s. A World Bank study shows that eight out of nine developing countries have higher unemployment one year after initial trade reforms. Studies show that well designed adjustment programmes, with the right sequencing, the coordination of all policies (including exchange rate policies) and the involvement of all stakeholders, are necessary to mitigate adjustment costs.

23. The main focus of the NAMA negotiations has been on the appropriate formula for tariff cuts. Other key issues include the treatment of unbound tariffs, flexibilities for developing countries, participation in sectoral negotiations, trade preferences and NTBs. In relation to the formula, the Chairman of the NAMA Negotiating Group observed that there was acceptance of a Swiss-type formula, which has the effect of compressing higher rates of duty, but there are a range of possibilities within this approach. The main questions remain as to how the coefficients are determined and whether or not they are linked to flexibilities given to developing countries.

24. Six proposals submitted since March 2005 have energized the negotiations, but no convergence of views has emerged with regard to specific parameters and how these should be determined. There are two broad approaches to the formula, namely the "simple Swiss" formula and "Swiss-type" approaches. Some of these proposals link the depth of cut to be made by developing countries to options to use other flexibilities, e.g. the deeper they cut, the greater the flexibility in binding coverage and levels. It has been difficult to progress on the formula without engaging in negotiations on specific numbers to be included as actual levels for the coefficients and the numbers to be used in paragraph 8 of the NAMA framework to provide flexibilities for developing countries. To overcome the impasse on the structure, it has been proposed to start discussion on the numbers. A recent proposal called for a simple Swiss formula with two distinct coefficients for developed and developing countries that are equal to the average bound rates of developed and developing countries respectively. These are about 6 for developing countries and about 30 for developing countries.

Tariff reduction formula

The EU, the United States and Norway each proposed simple Swiss formulas with one coefficient for developed countries and coefficients for developing countries that would be linked to other SDT provisions and flexibilities in respect of binding coverage, participation in sectoral initiatives, implementation periods and the line-by-line application of the formula. The three proposals use the same principle, whereby developing countries not using these flexibilities get a higher coefficient, which leads to lower tariff cuts. Chile, Colombia and Mexico jointly proposed a non-linear formula to reach an ambitious result with one coefficient for developed countries and a limited number of coefficients for developing countries that would also be linked to other flexibilities. In contrast, Argentina, Brazil and India, and the Caribbean countries proposed a Swiss-type formula, where a country's tariff reductions would be linked to its initial average tariff level. Since developing countries have in general higher initial bound tariffs, under these proposals they will get a coefficient leading to less ambitious cuts. In the Argentina, Brazil and India proposal, coefficients would not be linked to other SDT provisions. The Caribbean proposal comprises an extra component where individual developing countries would be accorded credit for commitments such as binding coverage and other factors, e.g. development needs, including revenue dependence, adjustment costs due to preference erosion and economic vulnerability.

25. Other issues relate to the treatment of rates on unbound tariff lines, the extent of binding coverage, the methodology to be used to establish the base rate or final bound rate, and the conversion of specific rates to *ad valorem* or percentage format. Argentina, Brazil and India propose a different treatment of unbound tariffs from that stated in the JP (twice the MFN applied rate and then application of the formula). Instead, they propose to calculate a new average bound rate and give countries the flexibility to choose the bound rates for each tariff line whenever the average is achieved. Other recent proposals involve marking up unbound lines by 5 or 30 percentage points before making them subject to formula cuts. This non-linear mark-up approach has received increasing support.

26. Discussion continues on the possibility of the (voluntary or otherwise) elimination of tariffs in key sectors said to be of export interest to developing countries among a critical mass of key countries. Proposed sectors are chemicals, clothing, electronics/electrical equipment, fish, footwear, forest products, gems and jewellery, leather goods, pharmaceutical and medical devices, raw materials and sporting goods. The arguments for deeper sectoral liberalization in the chemical sector, for example, include the fact that chemicals are inputs into a wide variety of products including agricultural products and that developing countries' share in chemical trade has been increasing. Proposed SDT in sectoral initiatives include "zero for x" and longer implementation periods. UNCTAD analysis shows that the largest impact on economies would stem from sectoral tariff elimination, making it necessary to ensure that developing country needs and concerns are addressed. Discussions have also been inconclusive on NTBs.

NTBs

As tariffs decline, NTBs become important as protection and regulatory trade instruments. NTBs comprise measures directly related to trade (e.g. anti-dumping (AD) measures), those linked to trade (standards), and general public policies (investment restrictions). UNCTAD's database on NTBs indicates a sharply increasing use of measures referring to product characteristics (60 per cent) and decreasing use of other measures. Developing countries and LDCs appear to be the most exposed to NTBs. In 2002, about 40 per cent of LDC exports were subject to NTBs. NTBs of concern to developing countries that are most frequently notified pertain to TBT and SPS measures, as well as customs and administrative procedures, most notably rules of origin and import licensing. In particular, standards are likely to increase production costs and affect trade flows if domestic and foreign producers face different costs or have different abilities to meet requirements. Consumer and producer interests and the difficulties faced by poorer countries in dealing with NTBs have to be taken into account in multilateral negotiations. As regards product standards, a development test needs to be applied in their design to assess their impact and minimize barriers they may create. Also, resources need to be provided to developing countries to help them meet these standards. Some efforts are being made in this regard, including the Standards and Trade Development Facility. These efforts need to be more comprehensive and oriented towards capacity building.

27. A proposal was made by the African Group regarding the treatment of non-reciprocal preferences by way of the incorporation of a correction coefficient in the formula, while ACP countries have called for the use of a “vulnerability index” to identify those products eligible for special treatment. NAMA modalities need to address specific concerns of developing countries relating to preference erosion. Attention needs to be given to improving and enhancing existing preferential schemes for concerned countries and improving market access conditions on an MFN basis. UNCTAD estimates have found that during the period 2001-2002, 61 per cent of exports of LDCs to the Quad countries faced MFN tariffs owing to their exclusion from the GSP or other preferential schemes or their inability to qualify for preferential treatment and the complexity of utilizing the schemes. Lack of supply capacity continued to limit the fuller utilization of preferences. Also, developing countries and LDCs faced 48 per cent higher trade-weighted average tariffs in the Quad markets than in other OECD countries owing to the composition of their exports in relation to the tariff structure of developed countries. In this respect, LDCs have called for the provision of bound duty-free and quota-free treatment for all products of LDCs by developed countries and by developing countries in a position to do so. This alone, with binding in the WTO, can generate welfare gains of up to US$ 8 billion, representing annual growth of around 2-4 per cent for LDCs and export gains of up to US$ 6.4 billion.

Implication of NAMA negotiations for LDCs

NAMA negotiations could affect LDCs although they are exempted from tariff cuts. Firstly, LDCs are expected to substantially increase their level of binding commitments, which would imply a loss of flexibility for development purposes. The Livingstone Declaration stressed the need for greater flexibilities for LDCs. Secondly, LDCs would be negatively affected due to preference erosion and positively due to a likely trade expansion to preference and non-preference giving countries in respect of the share of exports currently not benefiting from preferential tariffs. The reduction of preference margins would most likely not only reduce the received price but also decrease the quantities exported under preferential schemes due to increased competition from developed and developing countries. UNCTAD analysis shows that rents received by LDCs from preferential access to the EU, the United States and Japan could be eroded by 50 or 75 per cent depending on the scenarios. However, more than 50 per cent of LDCs’ exports do not receive preferential treatment, and it can be expected that these MFN exports would increase if bound rates are reduced.

28. Development support, including support through the "aid for trade" initiative, needs to be provided for meeting adjustment costs and helping build sustainable, competitive supply capacities, infrastructure development and diversification. There is a need to adequately address concerns over de-industrialization and revenue implications, as many developing countries rely on tariffs for industrial development and government revenue.

Services

29. Services are a fundamental economic activity in building infrastructure, improving competitiveness and facilitating trade, and promoting economic growth, development, poverty reduction and gender equality. Services also represent an important avenue for developing countries for diversification from commodity dependence and for generating development finance. A well-functioning services economy is thus important for achieving the MDGs. Developing countries, particularly LDCs, face challenges in participating effectively in GATS negotiations in respect of identifying sectors and modes of priority interest to them and designing requests; identifying the measure that act as barriers to their services exports; assessing national interests and designing appropriate offers; and overcoming supply and

infrastructure constraints. Two modes of supply of services are particularly important in generating benefits for developing countries, namely Mode 4 and Mode 1, with the latter being of relevance to the outsourcing of services. Both can help bridge skill shortages and take advantage of the large pools of workers in developing countries, thereby bringing large benefits to both sending and receiving countries.

30. The JP called for those WTO Members that had not yet submitted their initial offers to do so as soon as possible, and for other Members to submit their revised offers by May 2005, and to achieve a high quality of offers, particularly in sectors and modes of supply of export interest to developing countries, particularly in Mode 4. As of July 2005, 68 initial and 24 revised offers, representing 92 Members (of which 54 are developing countries), had been submitted. Despite the increase in offers, improvements have remained limited in terms of the average number of sub-sectors offered and the pattern and depth of sectoral and modal offers. Few have included new sectors/sub-sectors in their offers, especially in areas of interest to developing countries. Those that have introduced new sub-sectors have combined them with limitations that act as effective barriers to entry. Less than half of the offers include improvements to horizontal commitments on Mode 4. Few MFN exemptions have been removed and some 400 exemptions still remain.

31. There emerged a debate on a perceived crisis in light of the "unsatisfactory quality of offers". It is argued that the bilateral request offer method, together with the bottom-up approach, cannot ensure sufficiently ambitious results. Suggestions were made to use a cross-sectoral and modal approach establishing a "common baseline" for the services negotiations whereby the number of sectors and sub-sectors are prescribed from an agreed list for which all countries would be required to take commitments that should be no less than existing levels of market opening. In the view of developing countries, this approach would be problematic and may create or maintain imbalances, as it departs from the positive list approach that allows for progressive liberalization and flexibility, which are key features of the architecture of the GATS and are also embodied in the Guidelines and Procedures for Negotiations and LDC Modalities.

32. There is thus a need to refocus on these development-oriented criteria and use them as benchmarks and baselines for effectively assessing the quality of offers and the progress of negotiations and establishing the key elements of a pro-development outcome. These development benchmarks include GATS Articles IV and XIX (increasing participation of developing countries in trade, *inter alia* through strengthening of their domestic services capacity and market access in sectors and modes of export interest to them (for example, options include removing economic needs tests (ENTs) and other obstacles to Mode 4, and eliminating MFN exemptions) and providing flexibilities in terms of opening fewer sectors and progressively extending market access in line with their development situation.) Paragraph 14 of the Guidelines requires an assessment with reference to the objectives of the GATS, particularly Article IV, in the light of which negotiations would be adjusted, and paragraph 15 mandates consideration of the extent to which Article IV is being implemented to ensure the effective implementation of Articles IV and XIX:2. The LDC Modalities provide benchmarks for LDCs that call for prioritizing market access in sectors and modes of supply of export interest to them, and full implementation of GATS Article IV:3 including through establishment of appropriate mechanisms and facilitating effective access of LDCs' services and service suppliers.

33. Global gains from liberalization in Mode 4 are expected to range from US$ 150 to US$ 200 billion. Much of the gains would come from the liberalization of lower-skill movement. Free high-skill labour mobility worldwide could lead to gains accounting for 3 to 11 per cent of world GDP (US$ 100-400 billion). Developing countries and LDCs have attached importance to Mode 4 and have submitted requests on Mode 4 aimed at commercially meaningful offers. An evaluation by a group of developing countries of initial and revised offers highlights the lack of commercially meaningful offers in Mode 4. While some offers have partly expanded commitments in categories such as contractual service suppliers (CSS) and independent professionals (IPs), they do not extend commitments to (sub)-sectors and categories of interest for developing countries. These offers mostly do not deepen the actual sectoral scope, and often contain market access limitations, including references to immigration and labour laws and laws related to the duration and conditions of stay, numerical ceilings, wage parity requirements or economic needs tests (ENTs). These conditions effectively reduce the commercial value of commitments.

34. Possible approaches to ensure commercially meaningful commitments in Mode 4 include: a framework of common categories and sectoral classification, capturing less skilled movement; strengthening transparency as a cross-cutting issue (e.g. by clarifying criteria for ENTs in schedules); avoiding certain qualification criteria so as to include less-skilled service suppliers; ensuring an appropriate depth of commitments by avoiding limitations that effectively render any commitments meaningless, e.g. ENTs, limited duration of stay or wage parity requirements; adopting clear Mode-4-related disciplines for domestic regulations (DRs); addressing overly burdensome visa requirements and procedures (e.g. through a GATS visa); enhancing mutual recognition agreements (MRAs) (e.g. facilitating the conclusion of MRAs between developed and developing countries, and the accession of developing countries to existing MRAs building upon the Guidelines for MRAs in the Accountancy Sector); creating a special committee dedicated to Mode 4; and facilitating international commitments through national measures by sending countries (e.g. ensuring, *inter alia*, that a temporary stay does not become permanent, including through bonds or by retaining part of the salary until return; or that security concerns are dealt with).

35. The results of the negotiations on an emergency safeguards mechanism (ESM) will enter into effect on a date not later than the date of entry into force of the results of the current round of services negotiations. An ESM would allow countries to cope with import surges and unforeseen developments as a result of services liberalization, thereby encouraging deeper commitments while providing a breathing space to facilitate adjustment. Negotiations on ESM are complicated by the fact that services trade involves complex regulatory issues. These negotiations are still characterized by a divergence in views about the desirability and feasibility of rules on an ESM. Issues being discussed include the availability of data, the situations justifying the trigger of an ESM, domestic industry and acquired rights, the relationship between ESMs and FTAs, and "likeness". An ESM mechanism would need to find the balance between the flexibility and rigidity of the rules so as to allow for adequate discretion for each country to invoke the measures while avoiding their abuse.

36. Progress is limited in negotiations on disciplines on subsidies under Article XV and government procurement (GP) under Article XIII. Discussions on subsidies have centred on information exchange and the search for a definition of trade-distortive subsidies. As regards GP, there is disagreement on the mandate, including whether or not the negotiating mandate covers the market access element. A recent contribution by the EC proposed scheduling commitments and MFN exemptions relating to government procurement in a fifth column to

be added to Members' schedules. Developing countries have expressed concerns over the inclusion of market access in the negotiations. Negotiations on domestic regulation (DR) under Article VI aimed at providing predictability of market access commitments have seen progress. An agreement is expected on a set of elements for the future disciplines by MC6. The issues under discussion include whether future disciplines should apply on a sectoral or horizontal basis; whether they should apply in a general manner or only to sectors subject to specific commitments; types of measures covered; origin of measures covered; transparency; necessity; qualifications and recognition; SDT; and the overall package, including the linkage with Mode 4 commitments. The challenge is to strike an appropriate balance between the right to regulate and specific and clear disciplines on DR. Developing countries have submitted contributions, including on Mode-4-related disciplines, which could form the basis for elements to be agreed at MC6.

Development

SDT and implementation issues

37. SDT is recognized as one of the key principles of the MTS for addressing the development, financial and trade needs of developing countries. There is increasing recognition of the need for an appropriate degree of policy space for experimenting with domestic policy instruments and institutional innovations. A meaningful outcome in SDT would constitute a direct contribution to the achievement of MDG 8. Eighty-eight agreement-specific proposals have been under negotiation since 2001, with no decision taken to date. The deadline of July 2005 set by the JP for reporting by the respective WTO bodies to the General Council with clear recommendations for a decision on these proposals was missed. To date, it is mainly procedural SDT that has been addressed, resulting in 28 non-harvested proposals, leaving the bulk of proposals with substantive development or commercial content for future negotiations.

38. In view of the lack of progress, a new approach was suggested to redraft each proposal according to specific developmental needs of developing countries. The suggestion sought to make available flexibilities under WTO rules on a situational basis with multilateral monitoring of the use of flexibilities, together with enhanced capacity-building programmes. The suggestion also pertained to discussing cross-cutting issues, including the monitoring mechanism, in parallel with agreement-specific proposals. No agreement was reached on this approach. Agreement-specific proposals were taken up with priority given to the outstanding five proposals pertaining to LDCs. These included proposals on the WTO waiver; compensatory adjustment support for preference erosion; removal of NTBs; BDFQF market access for LDCs; exemption from specific TRIMs disciplines; exemption from obligations or commitment that are prejudicial to LDCs' financial, development and trade needs or administrative and institutional capacities; and exemption from reduction commitments in trade negotiations. On "category II" proposals under consideration in specific WTO bodies, the suggestion was made to deal with theses issues in the CTD Special Session to ensure a coherent approach.

39. The original purpose of taking up implementation issues was to identify concrete solutions on a priority basis and in a time-bound manner, prior to developing countries assuming new and additional obligations, for their implementation difficulties, ensuring effective implementation by developed countries of existing commitments, and addressing existing imbalances in WTO Agreements. The JP reiterated the need to redouble efforts to find an appropriate solution as a priority not later than July 2005. No significant progress has

been made owing to the differences between positions, particularly on geographical indications (GIs). Those issues of concern to developing countries, including transition period extension under TRIPS or flexibilities in TRIMs, remain to be addressed.

Commodities

40. Improving the prospects for production and trade in commodities is crucial to alleviating poverty and achieving the MDGs. The JP provided that commodities and other concerns will be taken into account in the context of agriculture and NAMA negotiations. Some African countries have called for urgent consideration of the crisis in trade and development of commodity-dependent countries caused by the secular price decline and fluctuations in commodity prices by, for example, treating the issue systematically in agriculture negotiations, including in the context of tariff escalation, preferences, NTBs, establishment of mechanisms to compensate losses, and export taxes and export restrictions to support supply management. UNCTAD's International Task Force on Commodities provides a platform for a comprehensive approach to commodity issues. The Ministerial Declarations of the AU and LDCs and the Report of the Commission for Africa supported the initiative.

Trade facilitation

41. Transaction costs related to border customs-related procedures can represent significant cost components in the total value of products traded. Pursuant to the TF Modalities, negotiations are progressing aimed at the clarification and improvement of relevant aspects of GATT Articles V, VIII and X and at the enhancement of technical assistance and support for capacity building. Some 35 initial proposals have been submitted to date. The TF Modalities represent a novel approach to trade negotiations in relating and sequencing the level of obligations, the cost of implementation, and the provision of financial and technical resources. While there is recognition of the benefits of TF, there remain concerns over the possible financial, legislative and administrative cost implications of some proposed measures, including infrastructure investment required to implement proposed modern customs techniques and their impact on security, regulation of illegal trade and collection of customs revenue. Concern has been expressed that some proposals go beyond the mandate and do not provide for adequate SDT and capacity building support for developing countries and LDCs, with no commitment to provide new resources. Some Latin American countries have stressed the need to identify the needs and priorities of each county as a compulsory benchmark for future commitments and corresponding technical assistance and capacity building support to be provided.

Rules

42. Negotiations in respect of anti-dumping, subsidies and countervailing measures, including fishery subsidies, have moved to consideration of specific changes to the agreements, but possibilities for internal trade-offs and external linkages are limited, although there are some linkages with agriculture and NAMA. As regards rules on RTAs, progress has been limited to transparency requirements. Substantive systemic issues are yet to be fully addressed, including the key requirement of "substantially all the trade". The ACP countries have called for the formal incorporation of SDT in the application of requirements in paragraphs 5-8 of GATT Article XXIV to ensure equitable treatment of developing countries under North-South RTAs.

TRIPS

43. Technology is an important determinant of economic development. Effective transfer and dissemination of technology at fair and reasonable cost to developing countries is

particularly important. Costs and benefits of intellectual property vary across countries depending on their level of economic and technological development. There is need for appropriate flexibility for each country to design its optimal intellectual property system suited to its particular developmental circumstances.

44. The Decision on Implementation of Paragraph 6 of the Doha Ministerial Declaration on the TRIPS and Public Health adopted in August 2003 temporarily waives the obligations under Article 31(f) for exporting Members supplying medicines to countries with insufficient or no manufacturing capacities. Some countries recently amended their domestic legislation to utilize the August 2003 Decision to enhance access to generic drugs. No country has used the waiver, mainly owing to cumbersome and costly procedures for both producers and users of drugs. The deadline set for amending Article 31 (f) were extended several times recently to May 2005. Discussions have centered on (a) the legal form of the amendment (footnote or additional paragraphs) and (b) whether and how to translate the Chairman's statement attached to the August 2003 Decision. Developing countries argue that any amendment should not include the Chairman's statement, and should be selectively based on key parts of the August 2003 Decision. The African Group has submitted draft texts for the amendment. Developed countries contended that the amendment exercise should refer to the 30 August solution in its entirety. An expeditious solution to this issue needs to be given priority to ensure access to essential medicines to address pandemics. As regards the relationship between the Convention on Biological Diversity (CBD) and TRIPS, developing countries have called for TRIPS to be brought into line with the CBD, while developed countries suggest that the two could be interpreted as complementary and mutually supportive. Recently, several developing countries expressed their wish to include the issue of amending the TRIPS Agreement to incorporate new requirements related to origin disclosure, prior informed consent and benefit sharing in the MC6 package.

Dispute settlement

45. Some disputes shed more light on areas of interest to developing countries in the DWP. The two rulings on *US-Cotton* and *EC-Sugar* found respectively that the level of subsidies provided by the United States and the EC to the relevant sectors were not in conformity with their respective UR commitments. The *EC-Sugar* case raises technical issues regarding the scheduling of reduction commitments, the legal status of modalities and the relationship between domestic support and export subsidies. A recent arbitration award determined that the proposed new EU tariffs on bananas would not maintain total market access for MFN banana suppliers. These would have implications for the EU's ACP preferences. Recent cases *US-Gambling* and *Mexico-Telecommunication Services* pertained to cross-border supply of services, raising issues of classification, and the scope and coverage of commitments. Both cases highlighted the need to schedule intended commitments carefully. *EC-Geographical Indications* is the first case addressing GIs. *US-Anti-dumping (zeroing)* concerned the methodology for calculating dumping margins, including zeroing and sunset reviews.

V. CONCLUSIONS

46. The timely conclusion of the Doha work programme with a substantive development content would make a significant contribution to global growth, combating poverty and promoting development, including through the timely implementation of the Millennium Development Goals. It is imperative for development and for the viability and durability of the multilateral trading system that WTO Members deliver on the development promises

made in the Doha Ministerial Declaration and realize an equitable and fair deal for developing countries. Consistent with the São Paulo Consensus on assuring development gains from the international trading system and trade negotiations, UNCTAD has provided substantive support to preparatory meetings of developing countries for MC6 and regularly supports developing countries in analysing the options and development impact of issues under negotiation.