



**United Nations
Conference
on Trade and
Development**

Distr.
GENERAL

TD/B/54/5
6 August 2007

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD
Fifty-fourth session
Geneva, 1–11 October 2007
Item 6 of the provisional agenda

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

Note by the UNCTAD secretariat*

Executive summary

This note reviews developments in negotiations under the World Trade Organization (WTO) Doha Work Programme since its resumption in February 2007. The Doha Round of WTO trade negotiations and the multilateral trading system stand at a critical juncture. An agreement on modalities on agriculture and non-agricultural market access (NAMA) is urgently needed to conclude the round by the end 2007. The round needs to deliver on its development promise including through substantial market access and market entry in agriculture, industrial products and services for developing countries and genuine reform of agricultural trade.

* This document was submitted on the above-mentioned date as a result of processing delays.

I. INTRODUCTION

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

II. TRENDS IN INTERNATIONAL TRADE

2. Continuing steady growth since 2002, the world economy expanded by 5.4 per cent in 2006. In DCs, per-capita income rose by over 5 per cent and their share in world output grew to 23 per cent. World merchandise exports increased by 14.8 per cent, to \$12 trillion and services exports by 9.7 per cent to \$2.7 trillion. DCs increased their share in world merchandise exports from 35.9 to 36.8 per cent and in world services exports from 23.8 to 24.5 per cent respectively. Growth in total exports was the highest in Latin America and the Caribbean (19 per cent), followed by Asia (17 per cent) and Africa (11 per cent). Least developed countries' (LDCs') share of world merchandise trade increased from 0.79 to 0.83 per cent, while their share of world services trade remained unchanged at 0.46 per cent. While commodity prices continued to appreciate for metals, minerals and oil, prices declined for some agricultural commodities (e.g. tea and tobacco) or remained stagnant (e.g. coffee and cotton). South–South trade represented 17 per cent of world merchandise exports, or over 46 per cent of DC exports. Of this South–South trade, 82 per cent was intra-regional while inter-regional trade increased to 18 per cent. The third round of Global System of Trade Preferences (GSTP) negotiations is aimed at strengthening South–South trade.

III. OVERVIEW

3. After seven months of suspension, the Doha Round resumed in February. The resumption, announced after a mini-ministerial meeting at Davos (27 January), was aimed at achieving convergence on “landing zones” for the triangle of issues – market access and domestic support in agriculture, and NAMA. The multilateral process was expected to be inclusive and transparent, and based on a bottom-up approach. Various negotiating platforms including G33, G-20, Cairns Group, NAMA-11 and G-90 intensified their activities. The G-4 ministerial meeting (11–12 April) agreed on the end of 2007 as a target date for concluding the round. This implied an agreement on full modalities on agriculture and NAMA by June or July. DCs have emphasized the importance of fully respecting the Doha mandate as supplemented by the July Package and the Hong Kong (China) Ministerial Declaration, and avoiding setting new parameters for the negotiations.

4. Despite the resumption, positions of major players remained unchanged as of June 2006. Discussions thus continued to centre on the right exchange rate between agriculture and NAMA, and setting numerical targets. In April and May, an impetus was given by the “Challenges Paper” by the chairman of agricultural group, where his assessment of “centre of gravity” was put forward. Negotiations also intensified in other areas to achieve a commensurate level of progress, including services, rules, trade facilitation and the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS). No significant movement was recorded on special and differential treatment (SDT) and implementation issues, despite continued efforts on duty-free and quota-free (DFQF) market access for LDCs. Work continued on the operationalization of Aid for Trade (AfT). The multilateral process was seen as dependent on political bargaining in the G-4 but the G-4 Ministerial Meeting in

Potsdam (19–22 June) failed to produce a breakthrough. Countries excluded from the process (G90-plus and G-10) expressed concern over its top-down nature of decision making. As expectations for a breakthrough at the G-4 summit were not met, attention returned to the multilateral process as the way forward.

5. The Draft Modalities (DMs) on agriculture and NAMA issued on 17 July marked an important milestone in the multilateral process. While the DMs on agriculture were seen as a reasonable basis, the NAMA DMs were largely criticized as not conducive to genuine engagement and consensus. On domestic support, the DMs provided for the overall trade-distorting domestic support (OTDS) reduction of 66 to 73 per cent for countries including the United States, which would reduce its OTDS to \$13–16 billion, as compared to its estimated spending of \$11 billion in 2006. On market access, developed countries including the European Union were called upon to cut high tariffs by 66 to 73 per cent. On industrial products, DCs were proposed to cut their tariffs to below 19 to 23 per cent. The DMs were unable to offer specific texts due to the lack of progress, including on Special Products (SPs), a Special Safeguard Mechanism (SSM), tropical products, tariff escalation and commodities. DCs warned against partial modalities that would sideline issues of their interest. DCs were particularly concerned over the proposed cuts in industrial tariffs and questioned whether the DMs fully met the mandates on “less than full reciprocity” (LTFR) and the balance with agriculture. Possible adverse impacts of proposed industrial tariff cuts on employment and industrial development in DCs were highlighted by civil societies.

6. Intensive negotiations are expected as from September to establish full modalities, convergence on which will be challenging. The modalities would need to be translated into schedules of commitments, which entail substantial work. Commensurate level of progress is needed in all areas to achieve the balance within a single undertaking, while appropriate sequencing amongst different areas would be important.

7. The round has been largely conditioned by the United States’ Trade Promotion Authority (TPA). With its expiration in June, a new TPA is important for the United States’ continued credible engagement in the negotiations while tangible progress in its export interests was considered as prerequisite for the TPA renewal. The recent United States debate on free trade agreements (FTAs) with Panama and Peru revolving around environment and labour provisions, and on FTAs with the Republic of Korea and Columbia, might be indicative of prospects of TPA for the Doha Round. Uncertainty associated with the TPA expiration could dissuade negotiating partners from engaging in real bargaining. United States farm bill reform is also relevant to that country’s ability to improve its offer in domestic support. Negotiations would become more difficult in 2008–2009, when important elections are scheduled in the United States and other countries. In the absence of an agreement in 2007, the negotiations might be deferred until 2009–2010.

8. Given time constraints, various scenarios for a possible Doha package are debated. A maximalist, ambitious approach is increasingly seen as difficult. A minimalist “Doha-light” package might appear practical in meeting the timeframe. The approach presumes calibrating ambitions against sensitivities of countries. The argument has been made that the proposals on the table would yield gains three times greater than those achieved in the Uruguay Round (UR). The case may be stronger given the possible systemic implications of a failed round. DCs are concerned over a partial deal that would sideline issues of their interest, and stressed the importance of the content, rather than timing, given the potential of development gains from market access opportunities as well as developmental implications of negotiating agenda.

9. The protracted Doha negotiations, exceeding the original deadline by three years, warrant reflection on the *modus operandi* of the multilateral trading system (MTS) and the definition of the trading system and its negotiating agenda. The diminishing effectiveness of the multilateral negotiations might lead to increased recourse to dispute settlement or more vigorous pursuit of regional trade agreements (RTAs). Built-in agenda of the UR consisted primarily in agriculture and services, while the Doha mandate incorporated a broader package including NAMA and Singapore issues. This was believed to facilitate inter-sectoral trade-offs. However, the larger agenda proved to be unmanageable with three Singapore issues dropped from the round in 2004. The broadened agenda resulted in diluting the attention from the core issues, namely agriculture. In this light, targeting short-term but more frequent negotiations, focusing on limited core market access issues, may be more conducive to productive negotiations.

10. There is a paradigm shift in the trading system with the rise of DCs that have increased their role and proactivity in the negotiations. Reaching an outcome would require full recognition of such a changing reality, and balanced distribution of benefits and costs. Many have noted that the round suffers from the lack of engagement and leadership by major developed countries. In the previous rounds, the United States played a strong leadership role.

11. A broader international trading system appears to have influenced incentives at play in the round. A large bulk of liberalization has been undertaken autonomously. The autonomous liberalization undertaken by DCs during the 1980s and 1990s, including under the structural adjustment programmes, have resulted in dual tariff structures of higher bound and lower applied rates in many DCs. This has led to increased attention being given to applied rates and new trade flows being created while tariff negotiations were traditionally based on bound tariffs. DCs have thus called for greater recognition and credit to be given to binding as concession. Preference-dependent DCs and net-food importing countries are estimated to incur net loss from the round. Such prospects for potential loss imply the need for deeper concessions and resource transfer as *quid pro quo* in offsetting the expected loss of those countries and providing for adjustment mechanisms. The United States debate on trade adjustment assistance highlights adjustment challenge facing all countries.

12. Accelerating proliferation of bilateral and regional trade agreements – totalling 214 as of 2006 with the prospect of 400 by 2010 – are seen as diverting attention from the MTS, further eroding the most favoured nation (MFN) principle. As RTAs become deeper and broader, North–South RTAs tend to induce DCs to make deeper commitments, thereby posing constraints on their policy options to pursue development. North–South bilateral agreements increasingly target emerging economies or non-traditional partners while excluding some competitive exporters. So far, these agreements were concluded mainly with smaller DCs. Re-emerging North–North RTAs point to greater systemic implications. African, Caribbean and Pacific Group of States (ACP)–European Union (EU) Economic Partnership Agreement (EPA) negotiations conducted in parallel with the Doha Round assumes some strategic linkages, as the Cotonou waiver expires in December and pressure builds for ACP to conclude EPA negotiations by then.

13. An evolution in the concept of SDT is discernible. As compared to the UR agreements, where only limited provisions were provided for countries with special needs other than LDCs (e.g. Annex VII countries under Subsidies and Countervailing Measurements (SCM) Agreement or Net Food Importing Developing Countries (NFIDCs) in Agreement on Agriculture (AoA)), specific needs of DCs, individually or collectively, have become salient in the negotiations, most notably small and vulnerable economies (SVEs), recently acceded members (RAMs), low-income transition economies or individual countries

facing special circumstances. Although they are not deemed to create a new category or precedent, the approach departs from the traditional SDT based on country status as it tends to differentiate among DCs according to specific situations as demonstrated by some criteria with special treatment open to all countries meeting those criteria. With WTO membership increased to 151 with the accession of Tonga, there emerged recognition that the terms of accession are often not commensurate with the level of individual development, financial and trade needs. The DMs provides for some corrective measures for RAMs. The granting of waiver from unsustainable terms of accession (e.g. elimination of export duties on cashmere for Mongolia) is another case in point.

14. WTO increasingly goes beyond the application of the principle of non-discrimination and addresses deeper “behind the border” regulatory and standard-related issues including through a “necessity test” (the requirement that measures not be more trade-restrictive than necessary to fulfil a legitimate objective). This has been an issue in dispute settlement cases and negotiations for disciplines on domestic regulation in services which could have a bearing on regulatory autonomy and right to regulate of DCs, including for legitimate public policy purposes. There is concern that the MTS has increased its scope and depth in regulating different policies, including trade and trade-related policies, e.g. TRIPS. For DCs, this implies that their policy and regulatory regime is becoming increasingly subject to scrutiny by the MTS.

IV. SPECIFIC NEGOTIATING ISSUES

A. Agriculture

15. Agricultural commodities are significant in DCs in their contribution to income, employment, rural livelihoods and food security. The sector represents about 40 per cent of the workforce and a large share of the income from the world’s poor. An UNCTAD general equilibrium study shows annual global welfare gains of \$35 billion from an ambitious scenario, \$20 billion of which would accrue to DCs. Partial equilibrium analysis indicates that major beneficiaries are the highly protected developed countries with major gains among DCs falling upon exporters of protected products in all DC continents (wheat, beef, sugar, rice and dairy products). Net welfare loss of \$143 million per annum is expected for sub-Saharan Africa, due mainly to the effects of adverse terms of trade and the absence of efficiency gains. On the other hand, a more equitable level playing field is expected to stimulate agricultural production and supply response for DCs in general, including for sub-Saharan Africa, with a positive impact on food security and export capacity.

16. Agriculture continues to be key in the overall negotiations. The DMs issued on 17 July provide important yardsticks on key parameters. On **trade distorting support**, the European Union and the United States had offered to reduce their OTDS by 70 per cent and 53 per cent respectively. The recent offer by the United States of \$17 billion fell short of \$12 billion requested by G-20. The DMs proposed cuts by 66–73 per cent for the United States to limit its spending to \$13–16 billion. Recent estimates of the United States OTDS spending in 2006 are under \$11 billion, significantly lower than the previously assumed \$19 billion. The ongoing United States farm bill debate suggests possible modest reduction in the United States spending level while maintaining major support programmes. The European Union reportedly signalled its acceptance of a commitment of €25 billion (cut by 75 per cent) while the DMs provide a cut in the range of 75–85 per cent. DCs are increasingly concerned that the OTDS reductions would have a negligible effect on production in developed countries owing to the binding overhang, the expanded blue box category and the possible box shifting.

An UNCTAD study suggests that green-box support may encourage production and thus distort trade. DCs seek to limit the amount of support on specific commodities through the “anti-concentration” clause. In the meantime, as agriculture negotiations have not yielded the result, the support programmes on specific commodities including cotton and corn, as well as more generally, are being challenged through the WTO dispute settlement mechanism.

17. The Hong Kong (China) Declaration provides that **export subsidies** be eliminated by 2013. There continues to be concern over export credit and state trading enterprises. On food aid, while emergency aid seems less controversial, food aid in non-emergency situations raises more concerns, as support through the local sale of shipped food commodities (monetization) may depress market prices for locally produced staples and discourage local activity.

18. On **market access**, the DMs propose cuts between 66 and 73 per cent for high tariffs in developed countries. This is below the United States proposal of 85–90 per cent and the G-20 proposal of 75 per cent cuts but above the less ambitious European Union, ACP and G-10 proposals. The proposed cuts would lead to overall average cuts in the European Union between 50 and 55 per cent while the G-20 had called for 54 per cent minimum overall cuts by developed countries. The thresholds for the bands are as proposed by G-20, consisting of the top bands at 75 per cent for developed countries and 130 per cent for DCs. DMs make no reference to tariff capping, which was proposed by the G-20 and rejected by the G-10. On tariff cuts by DCs, cuts of two thirds within the bands are suggested. This implies a 47 per cent cut for DCs for the top band if developed countries are subject to 70 per cent cuts. This rule does not lead to an overall average tariff cut of two thirds for DCs due to the different initial tariff structures (table 1). In case the average reduction exceeds 36–40 per cent, DCs are provided with the flexibility to apply lesser reduction across the bands.

Table 1. Average reductions in agricultural bound tariffs

| | EU | USA ^a | G-20 ^b | DMs |
|-------------------------------------|----|------------------|-------------------|-----------------|
| European Union | 39 | 67 | 52 | 55 |
| United States | 36 | 63 | 47 | 52 |
| Japan | 38 | 67 | 53 | 55 |
| Brazil | 29 | 47 | 29 | 38 ^c |
| Chile | 26 | 47 | 26 | 34 |
| India | 36 | 57 | 36 | 43 ^c |
| Indonesia | 30 | 48 | 30 | 38 ^c |
| Kenya | 35 | 58 | 35 | 32 ^d |
| Nigeria | 40 | 58 | 40 | 36 ^d |
| Turkey | 31 | 51 | 31 | 38 ^c |
| Bolivarian Republic of Venezuela | 30 | 50 | 30 | 38 ^c |
| Developed countries | 38 | 66 | 51 | 54 |
| ACP countries | | | 33 | 30 |
| Non-ACP developing countries | | | 28 | |

Notes:

^a The United States proposal does not include specific cuts for DCs. Here, cuts of two thirds for developed countries are assumed.

^b Proposed maximum average of 54 (developed) and minimum of 36 (DCs) are not taken into account.

^c Paragraph 50 on maximum average reduction of 36 or 40 per cent would be applicable.

^d Ten percentage points lower cuts assumed, maximum average reduction of 24 per cent may be applicable.

19. The Challenges Paper proposed to use the UR formula for DCs. The UR formula consists of an average cut of 24 per cent subject to a minimum 10 per cent cut for DCs. The DMs suggest the more ambitious numbers 36 and 15 per cent for DCs, possibly moderated for SVEs and RAMs. The tiered approach differs from the UR approach in its ability to address higher tariffs. UNCTAD research finds that the effects on DCs of a UR formula could be roughly similar to the current tiered formula proposals. For those countries with many high tariffs, the UR formula gives lower average cuts. The impact on applied rates in DCs can in general be lower under a UR formula than the tiered formula.

20. On **SVEs**, the DMs suggest the additional flexibility of reducing tariffs by 10 per cent and having maximum average cuts of 24 per cent for those countries meeting specific criteria including less than 0.16 per cent of world merchandise trade. Apart from the proponents, nine African countries and Suriname meet the criteria, most of which had called for additional flexibilities because they bound their tariffs at high ceiling levels which fall into higher tiers entailing corresponding deeper cuts. For instance, under the G-20 formula, ACP countries would undertake average cuts of 33 per cent, as compared to average cut of 28 per cent by non-ACP DCs.

21. On **sensitive products**, the DMs proposed the number of eligible tariff lines as 4 to 6 per cent of the dutiable agricultural lines while positions had ranged from 1 per cent (United States), 8 per cent (European Union) and 15 per cent (G-10). For those developed countries having a high share of tariffs in the top tier, 6 to 8 per cent eligibility was suggested. For many, agricultural imports are concentrated in a relatively small number of products. UNCTAD estimates show that over half of DC exports to developed countries could be restricted if 5 per cent of tariff lines were exempted from formula cuts. Sensitive products would be subject to tariff reduction of between one third and two thirds of formula cuts. Exporters have pressed for tariff rate quota (TRQ) expansion to compensate lesser liberalization. The DMs adopt domestic consumption bases for TRQ expansion with the proportion of expansion varying according to the deviation in tariff cuts.

22. The selection of **SPs** for DCs is to be guided by indicators of food security, livelihood security and rural development. The Challenges Paper had suggested that SPs be subject to tariff reduction, rather than exemption, while the G-33 disagreed with this approach. The DMs suggest a work based on the G-33 list of 12 indicators including contribution of products to caloric intake and products where a significant proportion is produced on small farms. The concepts such as “significant proportion” would require quantification using internationally collected data or national data that are accessible and verifiable. On the number of eligible products, DMs suggest that either no *a priori* number is determined or that a fixed minimum number be established, which would be higher than the number of sensitive products. G-33 had proposed 20 per cent tariff lines. DCs are concerned over the implication of the paucity of data and quality of proposed indicators for the agreed self-designation principle. Internationally recognized data are available only for seven of 24 sub-indicators proposed by the G-33 relating to national data. The G-33 has proposed that any product that qualifies for at least one indicator be eligible for selection. The proponents noted that excessively stringent eligibility criteria would nullify self-designation principle of SPs, while highlighting the asymmetry that no eligibility criteria are attached to sensitive products.

23. On the **SSM**, the DMs note that the mechanism should only be triggered in special abnormal circumstances. On the quantity trigger, the DMs raise the questions whether a three-to-five year average could be used as a benchmark and whether the trigger quantity could be 110 per cent. On the price trigger, the DMs differ from the G-33 proposal in

adopting a shorter benchmark that would not allow compensating for longer-term price movements, rendering the trigger more difficult.

24. On **preference erosion**, while the Challenge Paper noted the incidence and magnitude of preference erosion is rather limited, the ACP countries argued that they benefit from a wider range of products from preferential access. For them, many products with the highest export revenue consist of products with relatively low MFN rate and thus low preference margins but with significant market value. The ACP had identified a list of 190 products at the six-digit level which they consider to be vulnerable to preference erosion. The DMs contain a subset of the ACP list of products for which the G-20 formula would lead to preference erosion of at least 10 percentage points in the European Union or any loss in preferences in the United States. The European Union list includes beef, bananas, sugar, prepared/preserved fruits, fruits or vegetable juices, tobacco and cigarettes. The list demonstrates that the preference erosion is significant, particularly for 19 tariff lines with the erosion of as high as 127 percentage points (sugar), without taking into account possible deeper cuts for tropical products. Products such as cut flowers also benefit from preferences and account for a significant export revenue. The lists indicate that preference erosion is primarily an issue with the European Union. In respect of trade solution, some lengthening of implementation period is suggested in the DMs. As regards **tropical products**, DMs suggest that the list be expanded from the UR list and the treatment would constitute a tariff cut greater than that in the top tier to satisfy the mandate on “fullest liberalization”, i.e. greater than a 66–73 per cent cut. A significant proportion of tropical products overlaps with ACP lists of preference-vulnerable products.

25. As regards **tariff escalation**, UNCTAD/Economic Commission for Africa (ECA) research shows that for certain tropical products such as cocoa, coffee and tobacco, tariff escalation is found clearly in many developed countries. The Challenges Paper suggested comparing and adjusting final tariffs of related products. For example, tariffs in the United States are 50 per cent for tobacco and 350 per cent for smoking tobacco. The application of the G-20 formula would lead to the new tariffs of 22.5 per cent (cut by 55 per cent) and 87.5 per cent (cut by 75 per cent) respectively. Applying a factor of 1.3 on the reduction of the higher tariff leads to a new bound rate of 8.75 per cent for smoking tobacco as compared to 22.5 per cent for tobacco. There may be the case where the factor 1.3 is not enough to offset fully the escalation.

26. **Cotton** is a major cash crop for African small-scale farmers. The Cotton Four (Benin, Burkina Faso, Chad and Mali) have expressed concern over the lack of progress on the issue, in its trade and development dimensions. The DMs reflect a cotton-specific reduction formula as proposed by the Cotton Four. The formula ensures that the reduction of trade-distorting support on cotton is always above the general aggregate measurement of support (AMS) reduction. For example, if the general reduction of AMS support is 70 per cent, the reduction on cotton is 84 per cent. The implementation period of AMS commitments on cotton would be one third of the general implementation period and the blue box cap on cotton would be one third of the product-specific cap. An element not reflected in the DMs is that the reduction in the OTDS for cotton should lead to the elimination of such support. The development dimension is pursued through the WTO director-general’s consultation with relevant international organizations.

27. **Commodity** dependence remains a major development problem afflicting many DCs, particularly in LDCs and those in Africa. For instance, the share of unprocessed primary commodity in total merchandise exports of LDCs is 62 per cent. Many African countries record a share higher than 80 per cent and some above 90 per cent. The long-term decline and

volatility of agricultural commodities prices remain a serious obstacle for increased and sustained export earnings. The African Group has called for addressing tariff escalation and non-tariff barriers (NTBs) to improve market entry conditions and to support diversification, as well as the clarification of two General Agreement on Tariffs and Trade (GATT) articles (XX(h) and XXXVIII) in order to allow for suitable measures to ensure prices at levels that are stable, equitable and remunerative and to improve technical and financial assistance. The DMs included specific modalities to address tariff escalation based on the African proposal but did not fully address the other issues.

28. On LDCs, while the Challenges Paper made a suggestion for achieving 100 per cent coverage of DFQF market access for LDCs on agricultural products by the end of the implementation period, the DMs omitted the suggestion.

29. Some of the key outstanding issues of interest to DCs include the following:

(a) Full modalities addressing all issues including SP/SSM, preference-erosion, tropical products, tariff escalation and commodities;

(b) Balance between agriculture and NAMA, as well as between domestic support and market access;

(c) Level of tariff reduction across tiers and proportionality, and tariff cap;

(d) Real and effective cuts on OTDS;

(e) Disciplines on “green boxes” to ensure measures are “non- or minimally trade-distorting”;

(f) Ambitious, expeditious and specific treatment of cotton;

(g) Eligibility and treatment of SP/SSM to address food security, livelihood security and rural development;

(h) Food aid;

(i) Flexibilities for LDCs and NFIDCs in relation to export credit;

(j) Preference erosion; and

(k) Commodities problematique.

B. NAMA

30. NAMA outcome has significant impact as manufactures account for over 70 per cent of world merchandise exports with the estimated value of \$7.1 trillion in 2005 as compared to \$0.8 trillion in agriculture. Manufactures account for 66 per cent of DCs’ merchandise exports and their share in the world’s total exports rose from 25 per cent in 1995 to 33 per cent in 2005. Manufactures are even more important for DCs, as imported products represent 72 per cent of their merchandise imports. Forty-six per cent of DCs’ exports were destined to other DCs. Despite the relatively low average tariffs in developed countries, tariff peaks and escalation persist in sectors of export interest to DCs, and DCs’ exports face higher average tariffs (3.9 per cent) than those faced by other developed countries (2.1 per cent). NTBs become salient as tariffs decline. DCs’ tariff structures are characterized by relatively high bound and low applied rates with low binding coverage. The lower applied rates largely reflect autonomous liberalization undertaken in the past. Gains from liberalization are estimated in the range of \$54.2 billion to \$276.8 billion. UNCTAD estimates indicates

welfare gains of \$107 billion globally and \$65.2 billion for DCs with Swiss formula coefficients of 6.8 for developed countries and 25 for DCs.[†]

31. The NAMA DMs of 17 July proved to be controversial in their proposal to adopt coefficients in the range of 8–9 for developed countries and 19–23 for DCs. The degree of liberalization by DCs had been the focus as developed countries argued for substantial liberalization in DCs to create new trade flows. Two harmonizing formulas – simple Swiss formula and ABI formula – had been on the table. Recent discussion has centred on the simple Swiss formula and the value of coefficients. Swiss coefficients determine the depth of tariff cuts and amount to the maximum tariffs rates. Developed countries called for a difference in coefficients for developed and DCs to be no greater than 5 points, i.e. 10 for developed and 15 for DCs. NAMA-11, supported by G-90-plus, called for the difference between the two coefficients to be no less than 25, i.e. 10 for developed and 35 for developing countries. While a coefficient of 18 for DCs was proposed at the G-4 Potsdam meeting, a group of eight DCs (including Chile, Mexico and Peru) proposed coefficients of “between the upper teens and the low 20s” for DCs.

Table 2. Tariff coefficients and reductions

| | Coefficient | Avg. reduction per bound (%) | Avg. reduction per applied tariff (%) | % tariff lines cut on applied tariff |
|--------------|-------------|------------------------------|---------------------------------------|--------------------------------------|
| EU | 10 | 23.4 | 23.7 | 70.2 |
| USA | 10 | 21.2 | 21.2 | 60.0 |
| Brazil | 20 | 58.6 | 13.1 | 58.3 |
| | 25 | 53.3 | 7.7 | 40.5 |
| | 35 | 45.1 | 2.7 | 27.7 |
| India | 20 | 65.0 | 14.8 | 62.1 |
| | 25 | 60.4 | 8.9 | 24.4 |
| | 35 | 52.9 | 6.4 | 22.9 |
| China | 20 | 28.2 | 29.4 | 90.4 |
| | 25 | 24.3 | 25.5 | 90.1 |
| | 35 | 19.1 | 20.5 | 88.8 |
| South Africa | 20 | 42.7 | 18.1 | 41.8 |
| | 25 | 39.1 | 15.1 | 39.2 |
| | 35 | 32.2 | 11.5 | 35.2 |

32. The NAMA simulations show that a coefficient of 10 would lead to a 21 per cent average reduction of bound tariffs for the United States and 23 per cent for the European Union, while the coefficient of 20 would require a reduction of 58 per cent for Brazil, 62 per cent for India, 42 per cent for South Africa and 28 per cent for China. Average bound rates would be reduced from 46.6 per cent to 13.0 per cent for India, 29.8 per cent to 11.7 per cent for Brazil, 9.0 per cent to 5.6 per cent for China and 19.0 to 8.8 per cent for South Africa. Even a coefficient of 35 would reduce average bound rates to a greater degree in most DCs than developed countries, for example, by 45 per cent for Brazil, 52 per cent for India and 32 per cent for South Africa. Applied rates are reduced to a lesser extent (except China) owing to tariff overhang in DCs and the number of tariff lines cutting into applied rates increase with smaller coefficients. The proposed coefficients would require DCs to reduce by approximately two to three times the reduction rates of developed countries.

[†] UNCTAD (2006). *Coping with trade reforms: A developing-country perspective on the WTO industrial tariff negotiations*. Palgrave Macmillan, October.

33. The debate on tariff cuts for DCs hinges upon the interpretation of LTFR and “a comparatively high level of ambitions” between agriculture and NAMA. NAMA-11 emphasized this “double proportionality”. DCs understand the LTFR as requiring them to be subject to lesser percentage reduction in bound tariffs than developed countries. Developed countries consider it sufficient that DCs are allowed to maintain higher applied rates after the reduction. DCs are concerned that ambitious bound tariff reductions could lead to deep reductions in applied rates, and thus contest the notion of “real market access” as having no basis in the Doha mandate.

34. **Paragraph 8** of the July Framework provides for flexibility to undertake less-than-formula cuts on 10 per cent tariff lines or to leave 5 per cent tariff lines unbound under certain conditions (volume constraints, no exclusion of an entire HS chapter). NAMA-11 argued that the eligible tariff lines should be expanded upwards as the conditionality attached constrains flexibility. Those countries with high binding coverage see paragraph 8(b) flexibility as irrelevant to them as they may already have 100 per cent binding coverage. Mexico called for adding 5 points to the coefficient if no recourse is made of paragraph 8 flexibilities. The DMs introduce no change to existing tariff line coverage of 5 and 10 per cent and provide for, in line with the Mexican proposal, new flexibility for those countries foregoing paragraph 8 flexibilities to add 3 points to the coefficient. South Africa has called for special flexibility to address possible negative implications of formula cuts to the operation of the Southern African Customs Union (SACU).

35. Non-linear constant mark-up approach had been agreed in establishing the base rates for tariff reductions in **unbound tariffs** with mark-up with 5-30 percentage points discussed since 2006. Due to the harmonizing effect of the Swiss formula, the difference between a low and a high markup is relatively small but the impact may be significant for countries with low binding coverage, in some cases resulting in a difference of 10 per cent points in average cut. These countries thus insisted on the markup of 30. The DMs called for a markup of 20.

36. **SVEs** applying the formula had called for special flexibilities. The eligibility criterion has been set as the share of world trade in NAMA less than 0.1 per cent. The DMs provide for a tiered approach for tariff binding for SVEs so that their new average bound rates would depend on the initial bound tariff average with new average binding rates ranging from 14, 18 and 22 per cent with a requirement of a minimum line-by-line reduction of 10 per cent on 95 per cent of tariff lines. The flexibilities would be open to all countries meeting the threshold criterion. As regards 16 **RAMs**, six (low-income transition economies and countries most recently acceded) are exempt from the reduction commitment and 10 are subject to formula cuts would be granted a two-year grace period and extension of two years for the implementation.

37. As regards **LDCs**, the DMs suggested implementation procedures of DFQF market access whereby developed countries and DCs concerned notify existing product coverage and timeframe for achieving 100 per cent coverage. LDCs continue to urge the implementation of “transparent and simple” rules of origin.

38. Twelve DCs with binding coverage of less than 35 per cent are exempt from the formula cuts under **paragraph 6** of the July Framework. They were expected to bind 70–100 per cent tariff lines at the overall average of current bound rates of DCs, or 28.5 per cent. The DMs propose a binding coverage of 90 per cent. The countries concerned had made their acceptance of 28.5 per cent binding level conditional on the coverage rate of 70 per cent while developed countries suggested that the binding coverage should be raised to 95 per cent in line with paragraph 8 flexibilities. Paragraph 6 countries expressed concern that overly

stringent binding requirement would require adjustment in their applied rates and affect the operation of customs union.

39. Preference-dependent countries had called for addressing **preference erosion** through trade measures, including lower tariff cuts and a longer implementation period. Trade solution was important for them as preferences directly relate to export earnings, which could not be compensated in the short term by the development solution. Other DCs not benefiting from preferences are opposed to trade solutions as it would delay realizing their market access gains. The ACP identified 170 products (HS-6 digit) vulnerable to preference erosion, including fish and fish products, hand tools, wood, textiles and clothing, and footwear. The DMs provide for limited extension of the implementation period (seven instead of five years) on a limited number of products. The DMs identify lists of products (HS-8 digit) including 23 tariff lines consisting of fish and fish products, and textiles and clothing in the European Union, and 16 lines including textiles and clothing for the United States.

40. **Sectoral initiatives** are based on non-mandatory participation and a critical mass approach. Some developed countries consider it as a key mandate while DCs disagreed. Sectors proposed include auto parts, bicycles, chemicals, electronics/electrical, fish and fishery, forests, pharmaceuticals and medical devices, gems and jewelry, raw materials, sports equipment, hand tools, textiles and clothing, and footwear. Sectoral initiative is significant for preference erosion, as it could eliminate preference margins and several proposed sectors overlap with those where high tariffs prevail in developed countries, including textiles, leather and fish. Preference-dependent countries are concerned that voluntary participation implies that they could not influence discussion. The DMs provided for an indicative timetable on the initiative to keep pace with the general modalities.

41. Addressing **NTBs** is of interest to DCs. DCs experience difficulty in identifying NTBs affecting their exports. A NAMA-11 horizontal proposal sought to establish an independent expert arbitration mechanism focused on problem-solving that is more efficient than a formal dispute settlement mechanism. Vertical proposals have sought to address NTBs, including in electrical, automotive textiles, footwear and woods products pertaining to labelling requirements, customs control, conformity assessment, importer registration, TRQ or international standards. Some proposals sought to reduce or eliminate export taxes and restrictions which DCs found outside the mandate. The DMs suggest the completion of the NTB negotiations before the submission of the draft schedules.

42. Some of the key outstanding issues of interest to DCs include the following:

(a) Swiss formula coefficients consistent with LTFR and the balance with agriculture;

(b) Level of markup for unbound tariffs;

(c) Flexibilities for countries subject to formula cut (paragraph 8 and the proposed addition of higher coefficients for those foregoing paragraph 8 allowance);

(d) Tariff binding coverage for countries with lower binding coverage (paragraph 6 flexibilities);

(e) Full implementation of Hong Kong (China) Decision on DFQF market access for LDCs;

(f) Preference erosion; and

(g) Horizontal and vertical disciplines on NTBs.

C. Services

43. Services contribute significantly to national income, employment and foreign exchange earnings. Services account for 52 per cent of GDP and 35 per cent of employment in DCs, as compared to 72 per cent and over 70 per cent, respectively, in developed countries. Services directly contribute to infrastructure building, productivity growth and increased competitiveness, and perform an important social function through the provision of essential services.[‡] A strong services economy is found to be correlated with the greater share of manufactures in total merchandise exports. Some DCs are successful in exporting services including tourism, transport, construction and business services through Modes 4 and 1. Intraregional services trade accounts for 57 per cent, 71 per cent and 94 per cent of South–South services trade for Africa, Latin America and the Caribbean, and Asia and Oceania, respectively. However, the majority of DCs' services sectors are still at an early stage of development, with 15 top exporting DCs representing 80 per cent of total DCs' services exports. Gains from services liberalization require appropriate design, pacing and sequencing of services policy and regulatory frameworks, supported by flanking policies for supply capacity-building.

44. Seventy-one initial and 30 revised offers have been submitted to date. It is felt that the quality of offers needs to be improved in terms of the number of subsectors and the depth of commitments in the light of the development objectives of General Agreement on Trade in Services (GATS) Articles IV and XIX. Plurilateral negotiations have not as yet produced commercially meaningful offers. Recent discussions have been geared towards determining what would be considered as true progress in services negotiations by identifying “breakthrough sectors” (e.g. financial, telecommunications and distribution). There was a suggestion to undertake national treatment commitments in all committed sectors. This was criticized by DCs for its far-reaching nature and for its inconsistency with GATS flexibilities and the concept of progressive liberalization. Holding a “pledging/signalling” mini-ministerial meeting for improving offers has also been suggested to generate momentum for improved offers. The merit of holding such a meeting was challenged in the light of potential implications for DCs. Moreover, given the existence of negotiating modalities for services (Guidelines for Negotiations and the Hong Kong (China) Declaration Annex C), the need for additional modalities has been questioned. Leadership of developed countries remains important in making commercially meaningful offers in sectors and modes of export interest to DCs.

45. DCs continued to seek commercially meaningful Mode 4 commitments where gains are estimated as high as \$150–250 billion, of which greater gains are expected from movement of low-skilled workers. Worldwide flows of remittances are estimated at \$268 billion in 2006. DCs have called for Mode 4 liberalization in all categories going beyond professionals. LDCs have made two requests outlining their objectives with respect to Mode 4. However, despite some changes, existing Mode 4 offers tend to stop short of being commercially meaningful, with new entries inscribing less than the existing level of openness.

46. Operational and enforceable special priority for LDCs, in the form of preferential market access, is pursued by LDCs as an essential pro-development element of the services package. As a way of operationalizing the Modalities for the Special Treatment of LDCs, LDCs called for, e.g. commitments only in favour of LDCs and assigning priority to imports from LDCs (e.g. allocating specific Mode 4 quotas and relaxing entry and work permit

[‡] UNCTAD, Universal access to services (TD/B/COM.1/EM.30/2, 18 September 2006).

requirements exclusively in favour of workers from LDCs). LDCs also proposed a special mechanism to require developed countries to provide a permanent non-reciprocal special priority to LDCs in sectors and modes of export interest to them. Developed countries had reservations on the proposal. Similar lack of progress characterizes GATS-related SDT, despite continued calls for the Council for Trade in Services (CTS) to regularly review the effective implementation of Article IV.

47. Regarding GATS rules, March 2007 saw a new proposal for an emergency safeguards mechanism (ESM) submitted by the Association of South-East Asian Nations (ASEAN)-minus-Singapore. Some developed countries continued to question the desirability and feasibility of an ESM. For many DCs, an ESM with an effective SDT is important, and for some, is even central for the Doha services package.

48. Discussions on subsidies and government procurement (GP) have seen little progress. The debate on subsidies is still geared towards finding a working definition for trade-distortive subsidies. The proposals by Hong Kong (China) and Mexico highlight the notion of non-actionable subsidies under the SCM Agreement and green-box subsidies in agriculture, and raised questions regarding the extent to which government policy objectives play a role in determining whether certain subsidies should be subject to disciplines; the extent to which infrastructure/public services should be subject to disciplines; how subsidies for structural adjustment should be regulated; and how subsidies for development objectives should be dealt with. At issue from the development perspective is how to strike a sensible balance between the central role subsidies play in achieving social and other development goals in DCs and potentially trade-distortive effects of subsidies. Regarding GP, divergent views remain on the mandate, especially whether it covers market access negotiations. GP plays an important role in DCs in promoting economic, social and developmental objectives. The European Commission has proposed a draft annex to GATS on GP, setting out general principles and obligations with the possibility of making specific commitments on GP in schedules. SDT would consist in a set of transitional measures, limited to a maximum period of 10 years, and longer implementation period.

49. Negotiations on disciplines on domestic regulation mandated under GATS Article VI:4 are now focusing on an April 2007 draft text issued by the Chair of the Working Party on Domestic Regulations. The proposed disciplines address transparency, licensing requirements and procedures, qualification requirements and procedures, technical standards and development issues. While the draft text includes no explicit reference to a necessity test, numerous references provide for operational necessity tests. Examples include “do not constitute *disguised restrictions on trade in services*” in respect of the purpose of the disciplines and “*alternative less trade restrictive means*” in respect of the residency requirement for licensing. Views continue to differ on the need for a necessity test. While the necessity test may potentially constrain domestic policy space and right to regulate, it may also facilitate market entry opportunities, including possible Mode 4 commitments. The suggestion has been made that a necessity test would apply in a differentiated manner, namely as a strictly legally binding obligation to sector and modes of export interest to DCs, and in a best endeavour or phase-in manner for DCs. Another suggestion is to ensure that a necessity test is not applied to DC domestic regulatory measures. Some developed countries also have concerns regarding the necessity text.

50. A pro-development approach to the disciplines includes a strengthened section on development, combined with an effective development angle for each provision. Regarding the application of future disciplines to DCs, the trade facilitation approach, where the extent and the timing of entering into commitments are related to the implementation capacities,

could be considered. Preserving the right to regulate is particularly crucial for DCs where regulatory frameworks are still at an emerging stage.

51. Assessment of trade in services is mandated by GATS Article XIX and the Negotiating Guidelines, including with reference to the objectives of Article IV, so that negotiations would be adjusted in the light of the results of the assessment. The Special Session of the CTS (CTS-SS) is also required to conduct an evaluation before the completion of the negotiations of the results attained in terms of the objectives of Article IV. Such a review would need to ascertain, among other things, the extent to which offers provide commercially meaningful market access to DCs, particularly in Modes 4 and 1. However, this is yet to receive specific attention.

52. Some of the key outstanding issues of interest to DCs include the following:

(a) Improved, commercially meaningful revised offers in modes and sectors of export interest to DCs, particularly Modes 4 and 1;

(b) Full operationalization of Modalities for the Special Treatment of LDCs;

(c) Domestic regulation disciplines which preserve the right to regulate and underpin market access commitments, particularly in Mode 4 with strong SDT;

(d) A workable ESM granting the possibility to temporarily roll back commitments;

(e) Assessment of trade in services and evaluation to ensure the implementation of GATS Article IV with the attendant adjustment of negotiations.

D. Development

53. SDT and implementation issues continue to be essential to the development dimension of the round as addressing imbalance in the MTS on a fast-track basis was part of the balance in the Doha mandate. The initial 88 agreement-specific SDT proposals have seen little progress in making them more precise, effective and operational with progress made on only five LDC-specific proposals. Discussion continued on seven outstanding SDT provisions and the monitoring mechanism on SDT. On implementation issues, no agreement exists on whether or not to launch negotiations on geographical indications (GIs), TRIPS and Convention on Biological Diversity (CBD). The extension for elimination of export subsidies until 2015 for certain DCs was approved. As regards Aid for Trade (AfT), since the WTO Task Force recommendations in July 2006, efforts continued on operationalizing AfT, including the definition of country coverage. Additionality of resources remains an important benchmark for successful AfT. For DCs to take advantage of market access provided by potential liberalization under the Doha Round, additional, predictable and sufficient resources, targeted to building infrastructure, supplying capacity and competitiveness are imperative for DCs. AfT will also be required to cushion adjustment and implementation costs for DCs' reform and liberalization. Progress in AfT must not be linked with progress in the round.[§]

E. Rules

54. The negotiations on anti-dumping rules have addressed outstanding issues such as "zeroing". Negotiations on SCM saw a proposal to broaden prohibited subsidies, among other things, to government payments to companies to cover operating losses, forgiveness of government-held debt, government lending to "un-creditworthy" companies. DCs were

[§] Report of the Secretary-General of UNCTAD to UNCTAD XII (TD/413, 2007).

concerned over its implications for their industrial policies. Fishery subsidies are seen as contributing to the depletion of fishery resources. The discussion focused on broad-based top-down prohibition. Small vulnerable coastal States have called for exemptions for subsidies on the artisanal fisheries, processing industry and access fees. On RTA rules, the agreement on transparency mechanism for RTAs in 2006 shifted the attention to systemic issues, including SDT under GATT Article XXIV, “substantially all the trade” and transition period.

F. Trade facilitation

55. Negotiations moved to the implementation mechanism of possible commitments. Cost implications of some proposed measures remain major concerns, including single window or risk assessment that presumes customs automation. DCs have proposed to categorize future commitments with varying implementation schedules so that different commitments would be implemented in a different timeframe subject to the provision of capacity-building support and their acquisition of implementation capacities, with the creation of a dedicated support unit within WTO to coordinate technical assistance and capacity-building.

G. Trips

56. The TRIPS discussion included biodiversity, GIs and access to medicine. As regards the relationship between TRIPS and CBD, traditional knowledge (TK) and genetic resources, a group of DCs (“disclosure group”) including Brazil, China and Colombia seek to amend the TRIPS Agreement to include mandatory access, benefit sharing and prior informed consent to limit the misappropriation of genetic resources and TK through patents.** The group proposed to insert Article 29 bis on “Disclosure of Origin of Biological Resources and/or Associated Traditional Knowledge” to institute the obligation to disclose the country providing the resources and/or associated TK, and to provide information on evidence of compliance with the applicable legal requirements in the providing country, for prior informed consent for access and fair and equitable benefit-sharing. Norway, while supporting text-based negotiations on a new provision on disclosure of genetic resources and TK in patent applications, is opposed to the revocation of patents in case of non-respect of the new disclosure obligation. Some developed countries are opposed to the proposal, as they see no conflict between TRIPS and CBD, and consider that it would hamper innovation. On GIs, the establishment of a multilateral register on GIs for wines and spirits and the extension of higher level GI protection for products other than wines and spirits have been under discussion. No agreement exists to start negotiations on the latter with European Union expressing strong interest. The amendment of the TRIPS Agreement in 2006 to allow DCs without manufacturing capacity to import generic versions of patent protected medicines is yet to come into force, with only seven countries ratifying the amendment. Concerns still exist over the system’s effectiveness.

H. Conclusion

57. The Doha Round stands at a crossroads. The credibility and viability of the MTS is increasingly the focus of attention. New realities in the world economy and trade flows are reshaping international economic relations and altering the traditional way trade negotiations are conducted. DCs are playing a prominent role in the MTS and their interest and concerns have to be factored into an ambitious, balanced and development-oriented outcome of the round. Tensions have emerged between accelerating bilateralism/ regionalism and

** UNCTAD (2006). Analysis of Options for Implementing Disclosure of Origin Requirements in Intellectual Property Applications (UNCTAD/DITC/TED/2005/14, January 2006).

multilateralism while greater prospects for trade frictions, resurgent protectionism and continued distortion jeopardize international cooperation and solidarity. Leadership by major trading partners is needed for convergence on agriculture and NAMA modalities, and a commensurate level of progress in all areas of interest to DCs.

58. Notwithstanding the urgency, the development ambition and content must be upheld as an essential benchmark of a Doha development package. Key to this remains, among other things, enhanced and predictable market access and market entry for DCs in agricultural and non-agricultural products and services, of export interest to them, particularly commercially meaningful commitments in Modes 4 and 1, substantial reductions in trade-distorting domestic support in agriculture, and improved and development-sensitive fair and equitable rules. The principles of SDT, LTFR and proportionality must be translated into operational and effective provisions to enable DCs, particularly LDCs, to pursue development policies. Safeguarding such development content, combined with ambitious AftT, is indispensable for the round to deliver on its development promise as an essential contribution to the Millennium Development Goals.

59. UNCTAD is providing research and analytical support, technical assistance and capacity-building, and intergovernmental consensus building on issues and negotiations of interest to DCs covered by this note.
