

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

**DEVELOPMENTS AND ISSUES IN THE
DOHA WORK PROGRAMME**

**OF PARTICULAR INTEREST TO ARAB COUNTRIES IN
THE CONTEXT OF MILLENNIUM DEVELOPMENT
GOALS**

**Mina Mashayekhi, Bonapas Onguglo, Ralf Peters and
Taisuke Ito**



**UNITED NATIONS
New York and Geneva, 2006**

Note

- Symbols of the United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates reference to a United Nations document.
-
- The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.
-
- Material in this publication may be freely quoted or reprinted, but acknowledgement is requested, together with a reference to the document number. A copy of the publication containing the quotation or reprint should be sent to the UNCTAD secretariat (c/o Administrative Secretary, Division on International Trade in Goods and Services, and Commodities, Palais des Nations, 1211 Geneva 10, Switzerland).

UNCTAD/DITC/TNCD/2005/9

UNITED NATIONS PUBLICATION

Copyright, © United Nations, 2006
All rights reserved

CONTENTS

	Page
Abbreviations	iv
EXECUTIVE SUMMARY and ACKNOWLEDGEMENTS	v
I. ECONOMIC TRENDS AND PERFORMANCE OF ARAB STATES	1
II. RECENT DEVELOPMENTS IN THE DOHA WORK PROGRAMME	7
III. SPECIFIC AREAS OF NEGOTIATION.....	15
A. Agriculture	15
B. Cotton.....	21
C. Non-agricultural market access (NAMA).....	22
D. Services	28
E. Development issues.....	36
F. Trade facilitation	42
G. WTO Rules.....	44
H. TRIPS	45
IV. DISPUTE SETTLEMENT	49
V. WTO ACCESSION	51
VI. REGIONAL TRADE AGREEMENTS AND SOUTH-SOUTH COOPERATION...	53
CONCLUSION	57
Annexes	
I. Table 1. Merchandise exports of Arab countries (1995, 2000, 2003) and major partners	59
Table 2. Merchandise imports of Arab countries (1995, 2000, 2003) and major partners	61
Table 3. Major Arab services exporters, selected sectors.....	63
Table 4. Sectoral composition of services exports of Arab countries	64
II. Amman Declaration adopted on 28 September 2005	67
III. Hong Kong Outcome	77
IV. Hong Kong Ministerial Declaration	81

Abbreviations

AD	anti-dumping
AMS	Aggregate Measurement of Support
AMU	Arab Maghreb Union
ASEAN	Association of Southeast Asian Nations
ATC	Agreement on Textiles and Clothing
CAEU	Council of Arab Economic Unity
CAFTA	Central American Free Trade Agreement
CAP	Common Agricultural Policy
CBD	Convention on Biological Diversity
CBI	Caribbean Basin Initiative
COMESA	Common Market for Eastern and Southern Africa
DWP	Doha Work Programme
ENTs	economic needs tests
ESM	emergency safeguard mechanism
EU	European Union
FIPs	Five Interested Parties
GAFTA	Greater Arab Free Trade Area
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GIs	geographical indications
GSTP	Global System of Trade Preferences among Developing Countries
IFIs	international financial institutions
IMF	International Monetary Fund
ITCB	International Textiles and Clothing Bureau
LDC	least developed country
MAFTA	Mediterranean Arab Free Trade Area
MC6	sixth WTO Ministerial Conference
MDGs	Millennium Development Goals
MFN	most favoured nation
MRA	mutual recognition agreement
MTS	multilateral trading system
NAMA	Non-agricultural market access
NFIDCs	net food importing developing countries
NTBs	non-tariff barriers
OECD	Organisation for Economic Co-operation and Development
OIC	Organization of the Islamic Conference
RTAs	regional trade agreements
SDT	special and differential treatment
SPs	special products
SPS	sanitary and phytosanitary
SSM	Special Safeguard Mechanism
STE	state trading enterprise
TBT	technical barriers to trade
TRIMs	trade-related investment measures
TRIPS	trade-related aspects of intellectual property rights
TRQ	tariff-rate quota
WTO	World Trade Organization

EXECUTIVE SUMMARY

This report has been prepared at the request of Arab States for the High Level Arab Expert Group Meeting and the Arab Ministerial Meeting on the WTO Sixth Ministerial Conference and MDGs, held in Amman from 26-28 September 2005. It reviews developments in multilateral trade negotiations under the WTO Doha Work Programme since the WTO General Council Decision of 1 August 2004. It examines issues of interest to Arab countries in their preparation for the Sixth WTO Ministerial Conference, 13-18 December 2005, Hong Kong (China) in the context of the achievement of MDGs. The Doha negotiations need to realize the development promises made at the Doha Ministerial Conference and contribute to achieving the MDGs. UNCTAD has provided valuable support to Arab countries during its 40 years of existence. The Spirit of São Paulo and the São Paulo Consensus (SPC), two major outcomes of UNCTAD XI, further enhanced UNCTAD's mandate on the integrated treatment of trade and development and its role in the implementation of MDGs. To that end, UNCTAD will continue to support Arab countries in their efforts at assuring development gains from the international trading system and trade negotiations.

ACKNOWLEDGEMENTS

The report benefited from contributions and comments by Lakshmi Puri, Elisabeth Tuerk, Miho Shirotori, Verona Collantes, Michiko Hayashi, Lucian Cernat, Thomas Mathew, Wojciech Stawowy, Deepali Fernandes and Umer Ali.

I. ECONOMIC TRENDS AND PERFORMANCE OF ARAB STATES

The 22 Arab States,¹ six of which are least developed countries (LDCs), form part of the most diverse and rich regions in the world, not only on a cultural and geographic level but economically as well. These countries have differing systems of governance, economic and trade policies and comparative advantages. The Arab States participate in various trade initiatives in support of their wider development. Eleven countries – Bahrain, Egypt, Jordan, Kuwait, Morocco, Oman, Qatar, Tunisia, the United Arab Emirates (UAE), Djibouti and Mauritania – are Members of the WTO. Seven countries – Algeria, Iraq, Lebanon, Libyan Arab Jamahiriya, Saudi Arabia, Sudan and Yemen – are in the process of acceding to the WTO. The Syrian Arab Republic applied for membership to the WTO in 2001. Many Arab States are involved in various bilateral and regional trade and/or integration initiatives. Several have concluded and are implementing free trade agreements with the EU and recently are negotiating agreements with the United States. Among Arab States, intra-regional integration has intensified including through the Greater Arab Free Trade Area (GAFTA), the Gulf Cooperation Council (GCC), the Arab Maghreb Union (AMU) and other schemes. Owing to Arab States engagements in various trade liberalizing arrangements, in general, they have relatively open trading regime, but this openness has produced mixed results.

In terms of their economic weight, the aggregate GDP of Arab States in 2003 was valued at US\$ 692 billion, which accounted for 1.9 per cent of world's total GDP of \$36 trillion. The total Arab population of about 303 million accounts for 4.8 per cent of world population. Saudi Arabia has the largest economy among Arab States, with a GDP of \$ 207 billion representing some 30 per cent of the total Arab GDP. It is followed by Egypt (11.0 per cent), UAE (9.6 per cent), Algeria (9.4 per cent) and Morocco (6.5 per cent). Among the smallest economies are Comoros, Djibouti, Mauritania, Somalia (all LDCs) and Palestine.

Generally, the incidence of poverty may not be as extensive in Arab States as in other parts of developing countries, but it nevertheless exists. A recent ESCWA report notes that poverty in the ESCWA region is widespread, further aggravated by unemployment and violence, and thus remains a challenge to be addressed.² Unemployment, especially among women and young men, is a major problem in the Arab States, further augmented by rapidly growing populations. The per capita GDP of Arab States is US\$2,282, well above \$1,438 for all developing countries. However, there is significant variation in the income level at the sub-regional level, and among and within countries. West Asian countries in general enjoy relatively high per capita income with an average of about \$4,171. Some of them register particularly high income level, including Qatar (\$34,684), UAE (\$22,130), Kuwait (\$13,641), Bahrain (\$12,543), Saudi Arabia (\$8,561) and Oman (\$7,388). Per capita incomes of North African countries are considerably lower than those in West Asia, averaging around \$1,346 and close to those of developing countries as a group. Also eight Arab States have GDP per capita income levels lower than \$1,000. Four LDCs have rather low income levels with per capita incomes averaging around \$249.

The diversity in economic size among Arab States is also reflected in their trade and economic structures. Eleven of them, mainly in West Asia, are major exporters of petroleum

¹ Algeria, Bahrain, Comoros (LDC), Djibouti (LDC), Egypt, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Mauritania (LDC), Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia (LDC), Sudan (LDC), Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen (LDC).

² ESCWA, *Survey of Economic and Social Developments in the ESCWA Region 2005* (E/ESCWA/EAD/2005/5/Rev.1, 28 April 2005).

while the economies of other countries are relatively more diversified into agriculture and manufacturing. Arab States in West Asia (as well as Algeria and the Libyan Arab Jamahiriya) are characterized by a high reliance on the extraction of natural resources, particularly petroleum. Industrial activity (which include mining and quarrying but also construction), accounts for around 33 per cent of their GDP;³ it is the most important contributor to the GDP after services sector (48 per cent). Industrial activity other than manufacturing accounts for 63 per cent of GDP for Qatar, 57 per cent for UAE, 52 per cent for Saudi Arabia, 42 per cent for Kuwait and 45 per cent for Oman. For North African countries in general, GDP is composed of 14 per cent from agriculture, 23 per cent from industry activity, 14 per cent from manufacturing, and 46 per cent from services. Manufacturing represents a significant source of economic activity for Egypt (20 per cent of GDP), Tunisia (19 per cent) and Morocco (17 per cent). Arab States have important rural populations of between 30-60 per cent, with a few exceptions (less than 20 per cent in Lebanon and Libyan Arab Jamahiriya).

In several Arab States, agricultural production remains among the primary source of income including for Comoros (42 per cent of GDP), Somalia (65 per cent), Iraq (32 per cent), Sudan (31 per cent) and Mauritania (23 per cent). The services sector is increasingly becoming the biggest contributor to gross domestic income and employment in most of the Arab States. It accounts for 74 per cent of Lebanon's GDP, 66 per cent for Bahrain, 65 per cent for Iraq, and 64 per cent for Jordan and Kuwait.

Broadly for Arab States, the period from the 1970s to 1980s was marked by reasonably good economic growth and positive social and public welfare gains leading to further income equality. This growth was spurred on largely by high oil revenues, labour migration and remittances, foreign assistance and state run governance enabling the delivery of development objectives. By the end of the 1980s however falling oil prices, growing population, rising unemployment and high public spending meant that Arab States were not able to sustain their high growth rates and development focused expenditures. Region wide GDP growth for the period 1981-1990 stood at 2.4 per cent. Economic performance generally improved between 1991 and 2002 and thereafter. GDP growth rates rose to 3.1 per cent and by 2003 they stood at 5.1 per cent, once again facilitated by a sharp rise in oil prices, an increase in crude oil production for the oil economies and improved agricultural conditions for the Maghreb region.⁴

In 2004, Arab States on the whole registered a steady economic growth performance, as compared to a 4 per cent growth of the world economy and between 5 to 5.5 per cent for developing countries. Among Arab States, some registered high economic performances while others performed poorly. West Asia⁵ performed strongly, attaining 6.2 per cent growth rates as compared to 5.2 per cent in 2003. Particularly strong growth was recorded by UAE (6.0 per cent), Saudi Arabia (5.5 per cent) and Jordan (5.0 per cent). This is directly related to the injection of windfall revenue from high oil prices flowing into oil exporting countries. Other neighbouring Arab States benefited indirectly from the oil-exporting countries through increased demand for their exports, capital inflow and workers remittance. Economic growth rates in 2004 for North African Arab States averaged around 5 per cent, slightly lower than

³ Including Turkey and the Islamic Republic of Iran.

⁴ World Bank: Middle East and North Africa Region Strategy Paper, updated June 2004. Please note that the World Bank includes the following countries: Algeria, Djibouti, Egypt, Iran, Iraq, Jordan, Lebanon, Morocco, Malta, Syrian Arab Republic, Sudan, West Bank and Gaza, Tunisia, Yemen, Oman, Qatar, Saudi Arabia, Kuwait, Bahrain, Libyan Arab Jamahiriya and the UAE.

⁵ Including Turkey and Islamic Republic of Iran.

the 5.5 per cent rate in 2003. It included a growth rate of 4.0 per cent for Morocco, 5.0 per cent for Tunisia and Egypt, and 7.5 per cent for Algeria. Their positive economic performance was supported by increased commodity prices. The four African LDCs recorded low growth rates in 2003 that ranged between 2.4 per cent to 5.4 per cent (Djibouti 3.0 per cent, Comoros 2.4 per cent, Mauritania 5.4 per cent, and Somalia 3.5 per cent). As can be noted, with a very few exception, the economic performance of Arab States – while rising and healthy in some cases – is still falling short of the annual growth rate of 7 per cent that is needed for the timely attainment of the MDGs.

In respect of trade performance, the aggregate merchandise exports of Arab States stood at \$374 billion⁶ in 2004, accounting for about 4.2 per cent of the world's total exports. Among Arab countries, Saudi Arabia is the largest exporter with its exports of \$107 billion accounting 29 per cent of total Arab exports (or 1.2 per cent of the world total), followed by the UAE (21 per cent), Algeria (9 per cent) and Kuwait (9 per cent). African LDCs remained marginalized from world trade and face difficulties in integrating fully into the international trading system. Exports of Mauritania, Somalia, Djibouti and Comoros account for an insignificant share of Arab exports (less than 0.1 per cent of total Arab exports). In 2004, Arab exports increased by 28.5 per cent as compared to 19.4 per cent in the previous year. Exports of North Africa grew by 29.7 per cent, and those of West Asia by 28.2 per cent. The most dynamic exporters included the oil producing countries of Iraq (60.5 per cent), Kuwait (58.7 per cent), Sudan (48.6 per cent), Libyan Arab Jamahiriya (40.8 per cent) and the UAE (36.9 per cent). In the previous years during 2000 to 2003, the dynamic exporters were Djibouti (with exports growing by 72 per cent annually), Lebanon (27 per cent), Jordan (21 per cent), Comoros (18 per cent) and Sudan (14 per cent).

Merchandise exports from Arab States are characterized by a strong concentration in fuels. This is particularly the case for the GCC countries, as well as Algeria, Egypt, Libyan Arab Jamahiriya, Sudan, Syrian Arab Republic and Yemen. Three petroleum products (HS 27.09-11) account for 97 per cent of Algeria's exports, 94 per cent for Kuwait, 87 per cent for Qatar, 86 per cent for Saudi Arabia, 80 per cent for Oman, 79 per cent for Sudan, 71 per cent for Syrian Arab Republic, 68 per cent for the UAE and 41 per cent for Egypt. Crude petroleum (HS 27.09) alone represents 84 per cent of Saudi Arabia's exports, 68 per cent for Oman, 63 per cent for Syrian Arab Republic, 58 per cent for Kuwait, 51 per cent for the UAE and 46 per cent for Algeria. Bahrain and Sudan rely on non-crude petroleum (HS 27.10) for 71 per cent and 78 per cent of their total exports, respectively. Lebanon, Jordan and Bahrain export substantial quantities of ores and metal (gold, aluminium and iron). The concentration of few export products is less pronounced for non-petroleum producing countries. Their export revenue is derived primarily from the manufacturing sector, which accounts for 82 per cent of total exports for Tunisia (in 2002), 65 per cent for Jordan and Morocco and 63 per cent for Lebanon and 35 per cent for Egypt. Major exported products are textiles and clothing that represent 30-60 per cent of total exports of major manufacturing exporters. The export structure in these countries is, however, marked by a relative absence of high technology and manufactured exports.

The concentration on export markets is also notable for Arab States. For eleven Arab States, the largest single export market absorbs more than 50 per cent of their exports. This share rises to 85 per cent for Libyan Arab Jamahiriya, 80 per cent for Tunisia, 76 per cent for Morocco and 71 per cent for Bahrain. The EU is the single most important export destination

⁶ Not including Palestine.

for eight Arab countries, particularly for North African countries. The United States is the largest export market for Iraq (55 per cent) and Jordan (22 per cent); and Japan for UAE (31 per cent) and Qatar (29 per cent). Exports to developing countries particularly outside the region are also remarkable with Taiwan, Province of China being the major export destination for Saudi Arabia (31 per cent), and China for Sudan (65 per cent) and Yemen (31 per cent). Intra-Arab trade remained modest as compared to trade with non-Arab countries. The ratio of intra-Arab States' trade to its total trade during the period 1998-2002 averaged 8.4 per cent. Nevertheless, as oil constitutes a major portion of Arab exports (70 per cent) destined for world markets, and mostly non-Arab States, this hides the steady growth in intra-Arab non-oil trade. However, it is worth noting that intra-Arab States' trade to its total trade grew by about a significant 50 per cent between 1998 and 2003.

As regards merchandise imports, the total amount of merchandise imports into Arab States stood at \$255 billion in 2004, representing 3.3 per cent of world's total goods imports. The largest importer of the region is the UAE that absorbs \$60 billion, or 23.7 per cent of the total Arab States' imports, followed by Saudi Arabia (17.5 per cent), Algeria (7.1 per cent), Morocco (6.9 per cent) and Iraq (5.2 per cent). The region as a whole recorded a merchandise trade surplus of \$120 billion in 2004, or 47 per cent of the total imports, mainly accounted for by the major oil producing countries, including Saudi Arabia with the value of \$59 billion, the UAE (\$22 billion) and Algeria (\$11 billion). Egypt, Lebanon, Morocco, Tunisia and Jordan recorded trade deficits of between \$3 and 9 billion. The four net food importing developing countries (NFIDC) among Arab countries – Egypt, Jordan, Tunisia and Morocco – recorded a deficit of \$4.7 billion in 2002 in food items and raw materials. Agricultural imports reached \$25 billion or 6 per cent of the international trade in agricultural products, largely exceeding agricultural exports which are estimated at \$6 billion dollar, or 1 per cent of international exports in agricultural products.

The product composition of imports of Arab States shows less concentration as compared to exports. The top 20 imported products account for 30-40 per cent of total imports. These included fuel (petroleum), food (wheat, maize) chemicals, manufactured goods and other miscellaneous manufactures and machinery and transport equipment. At the same time, the concentration of import sources is significant. The EU is the largest supplier for 19 Arab States, and its importance is particularly significant in the case of Tunisia (73 per cent of total imports), Libyan Arab Jamahiriya (64 per cent), Morocco (59 per cent), Mauritania (58 per cent) and Algeria (57 per cent).

Tariffs are relatively low for many Arab States. Tariff rates averaged 3.8 per cent in Kuwait, 4.2 per cent in Qatar, 5.8 per cent in Lebanon, 6.1 per cent in Saudi Arabia, 7.8 per cent in Bahrain and 8.1 per cent in Oman. Other Arab States maintain tariffs ranging from 14 to 30 per cent including Algeria (18.5 per cent), Egypt (19.1 per cent), Jordan (14.1 per cent), Morocco (30.1 per cent) and Sudan (24.1 per cent).

In 2003, the total export of services of the Arab States was valued at \$34 billion, or 1.9 per cent of world services exports, showing a slight decline from 2001 when the value stood at \$43 billion (2.9 per cent of world export of services). The share of the Arab States in the world services trade has declined since 1980 when it accounted for some 5 per cent of the world total. Major exporters of services include Egypt, Morocco, Saudi Arabia, Tunisia and UAE. The importance of services exports is relatively less pronounced as compared to other countries. Services on average account for 13 per cent of total exports of those Arab States for which data are available, as compared to 20 per cent for the world. However, some countries

are particularly dependent on services exports, and this is the case with Egypt (67 per cent), Morocco (37 per cent), Jordan (31 per cent) and Tunisia (27 per cent). Services imports of Arab States amounted to \$53 billion, or 2.9 per cent of the world's services imports in 2003. Major importers included Saudi Arabia (39 per cent), the UAE (19 per cent), Kuwait (12 per cent), Egypt (12 per cent) and Morocco (5 per cent).

II. RECENT DEVELOPMENTS IN THE DOHA WORK PROGRAMME

Overall progress in the Doha negotiations

The launching of the Doha Work Programme (DWP) by the fourth WTO Ministerial Conference in Doha (Qatar) in November 2001 marked an important milestone for the multilateral trading system (MTS). It launched a new round of trade negotiations to continue the process of multilateral liberalization but with particular attention to placing the needs and interests of developing countries at the heart of the negotiations. Despite intensive technical work, substantive progress in implementing the DWP has been slow. Moreover, the fifth WTO Ministerial Conference in Cancun (Mexico) in September 2003 ended in a setback which introduced a measure of uncertainty on the prospects of the Doha negotiations and the viability of the MTS itself.

It was in this rather pessimistic context that the agreement was reached on 1 August 2004 by the WTO General Council on a Decision on frameworks (the July Package),⁷ which brought the Doha negotiations back on track. The Decision was a culmination of complex and difficult negotiation processes, involving intensive consultations in Geneva, capitals and elsewhere and critical trade-offs among trading partners, including issue- and concern-based coalitions and groupings (G20⁸, G10⁹, G33¹⁰, G90¹¹ and the Five Interested Parties).¹² The strengthened coalitions of developing countries have been successful in focusing the Doha negotiations on the core trade agenda and in advancing their specific development concerns. Arab States, individually and through their membership to regional groupings, including African Union, LDCs, ACP, landlocked developing countries and G20, have actively participated in the negotiations. As the first major intergovernmental conference held after the fifth WTO Ministerial Conference, UNCTAD XI in June 2004 and the São Paulo Consensus instilled a constructive spirit and confidence among governments that created a positive atmosphere for WTO negotiations in the lead-up to the adoption of the July Package.

The July Package sets out the framework, structure and direction for future negotiations in four core areas, namely agriculture and cotton, non-agricultural market access (NAMA), services, and development issues. It reaffirmed the importance of longstanding trade preferences and of addressing the issue of preference erosion and of cotton. By explicit consensus, the July Package launched negotiations on trade facilitation. It was significant that the Decision explicitly dropped the three Singapore issues¹³ from the DWP by providing that 'no new work towards negotiations' would be undertaken during the Doha Round and they would not form part of the single undertaking. A significant development was that the Modalities for Negotiations on Trade Facilitation (Annex D of the July Package) incorporated

⁷ *General Council Decision of 1 August 2004 (WT/L/579, 2 August 2004).*

⁸ Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, Egypt, El Salvador, Guatemala, India, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Venezuela.

⁹ Bulgaria, Israel, Japan, Korea, Liechtenstein, Mauritius, Norway, Switzerland, Taiwan Province of China.

¹⁰ Antigua and Barbuda, Barbados, Belize, Botswana, Cuba, Dominican Republic, Grenada, Guyana, Haiti, Honduras, Indonesia, Jamaica, Kenya, Korea, Mauritius, Mongolia, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.

¹¹ G90 essentially comprises ACP States, Africa and LDCs.

¹² Australia, Brazil, EU, India and the United States.

¹³ The other three Singapore issues included trade and investment, trade and competition, and transparency in government procurement.

ex ante commitment to capacity-building, and provided that the extent and timing of entry into commitments would be related to the implementation capacities of developing countries. The Decision provided a flexible and realistic timeframe for the conduct and conclusion of the negotiations by extending the deadline for negotiations beyond 1 January 2005, and at least until the sixth WTO Ministerial Conference (MC6), setting timelines for aspects of the work programme, including special and differential treatment (SDT) review (July 2005), implementation-related issues and concerns (July 2005), and services (May 2005 for submission of revised offers). As regards agriculture and NAMA, no mid-term timelines were set before the conclusion of the negotiations. WTO Members subsequently reached a consensus on developing first approximations of modalities for agriculture and NAMA by July 2005.

The July Package marked the beginning of a new and more difficult phase of the negotiations, as a number of specific issues and key parameters were left to be negotiated at a later date. A comprehensive debate that took place at the fifty-first session of the Trade and Development Board of UNCTAD in October 2004 confirmed that the new phase of negotiations would be technically and politically more challenging, and stressed the need for maintaining and reinvigorating the negotiating momentum regained in the immediate process leading to the July Package. UNCTAD member States emphasized that a major challenge was to deliver, through substantive negotiations, the Doha commitment to place the needs and interests of developing countries at the heart of the work programme.

Negotiations since August 2004 have focused on technical details and parameters that were left out of the Frameworks on agriculture and NAMA. Services negotiations continued on the basis of request and offer, focusing on the improvement of initial offers, particularly on Mode 4 and rules negotiations. In accordance with the July Package, negotiations were launched on trade facilitation. The sub-Committee on Cotton was established under the auspices of the Special Session of the Committee on Agriculture. Discussions were re-launched on SDT and implementation concerns. The immediate objective of post-July Package negotiations was to reach agreement by July 2005 on a first approximation of modalities on agriculture and NAMA and agree on a package of elements in other negotiating issues.

Political impetus was injected by a series of mini-Ministerial meetings, including in Davos (23 January 2005), Kenya (2-4 March), Paris (3-4 May) and Dalian (12-13 July). The G8 Summit in Gleneagles (6-8 June) called for increasing momentum towards ambitious and balanced outcomes in the Doha negotiations as the highest common priority in trade policy for the year ahead. The South Summit (12-16 June), the AU Conference of Ministers of Trade (5-9 June), the Ministerial meeting of LDCs (25-26 June), as well as the Meeting of the Ministers of Landlocked Developing Countries Responsible for Trade (10 August) set out common platforms of their constituencies for the sixth WTO Ministerial Conference (see Box 1). The Arab States Ministerial Conference (Amman, Jordan, September 2005) will further contribute to the specific priority interests of Arab States and provide a common negotiating platform. Various coalitions such as the G33, G20, Cairns Group and the Five Interested Parties (FIPs) have been active in efforts to broker a deal on agriculture. New groups are being formed such as 'new QUAD', which is composed of the EU, the United States, India and Brazil to find compromise solutions to difficult issues. In addition to these WTO-focused events, the DWP negotiations may be influenced by external developments. These include concerns about the resurgence of protectionist tendencies in some markets; the implications of the EU discussions regarding its budget plan for 2007-2013 and the likely

reform of the EU's CAP; and the welcomed extension of the Trade Promotion Authority of the United States this year until 1 July 2007, and the US Congress' approval of the continued US membership to the WTO and the Central American Free Trade Agreement (CAFTA), demonstrating the strengthened willingness of the US to trade liberalization on the global stage.

Box 1. Some provisions of the Cairo Declaration and road map on the African Union's Doha Work Programme (9 June 2005)

Agriculture

- Appropriate policy space to pursue agricultural policy that are supportive of development goals, poverty reduction strategies, food security and livelihood concerns, while ensuring improved market access both primary and processed forms.
- A credible end date for the elimination of all forms of export subsidies on agricultural products. This elimination shall be without prejudice to S&D treatment of (net food importing developing countries (NFIDCs) and LDCs.
- The urgent implementation of the Marrakech Decision on NFIDCs and LDCs and a clear reflection of the SDT component of any disciplines to be developed on export credits.
- Fully take into account the interests of food aid recipients in development disciplines on this issue.
- Meaningful and effective reductions in the subsidies granted by the major trading partners.
- Exclusion of African countries from reduction of *de minimis* support.
- Specific and concrete solutions to the problems of preference erosion within the WTO context.
- The full operationalization of the principle of proportionality in the reduction of tariffs, as well as meaningful modalities on Special Products (SPs) and the Special Safeguard Mechanism (SSM).
- Bound duty-free and quota-free market access for agricultural products originating in LDCs.

Cotton

- Eliminate all export subsidies and domestic support measures on cotton.
- Set up an emergency support fund for cotton and meet the commitment on the development-related aspects of the cotton initiative.
- Grant bound quota- and duty-free market access for cotton and its by-products from African LDCs that are cotton producers and exporters.

NAMA

- Policy space and flexibility to remove the risk of de-industrialization and negative consequences on poverty reduction.
- Appropriate formula or tariff approach that would allow to undertake industrial policy and diversification objectives and take as priority the principles of non-reciprocity, SDT and less than full reciprocity, and parallel negotiations on non-tariff barriers.
- Flexibilities for African countries to determine their binding coverage.
- A mechanism for addressing preference erosion within the WTO.

Services

- Ensure that the Guidelines and Procedures for negotiations continue to remain the basis for the negotiations.
- Substantial improvements and commercially meaningful outcomes in market access in modes and sectors of export interest to African countries, particularly in Mode 4.
- Conclude the multilateral assessment exercise with specific outcomes that would ensure appropriate adjustment in negotiations.
- Expeditious establishment of an emergency safeguard mechanism.
- Effective implementation of GATS Article IV and increased and targeted technical assistance African countries in the request/offer phase.

Development issues

- Completing the review of all outstanding S&D agreement-specific proposals, and implementation related issues and concerns. The amendment of the TRIPS Agreement to incorporate the 30th August 2003 Decision on TRIPS and Public Health.

Trade facilitation

- Synergy between the level of commitments, the cost and availability of resources to implement any possible outcome and the provision of financial and technical resources for build the capacity of developing and least-developed countries.

Rules

- Address principles of less than full reciprocity, asymmetry in market access and development concerns of African countries entering into regional trade agreements with developed countries under GATT 1994 Article XXIV and GATS Article V.

LDCs

- Exemption from undertaking any reduction commitments.
- Enhanced support towards improving the export competitiveness of LDCs including capacity to meet sanitary and phytosanitary (SPS) measures and other standards.

Accession

- Call upon all WTO Members to facilitate and accelerate the accession of African countries to the WTO.
- Underscore the urgent need to effectively implement the accession guidelines for LDCs adopted by the General Council in December 2002.
- Stress that acceding countries must neither be compelled to negotiate concessions going beyond generally accepted rules within the institutions nor subscribe to any exigencies on the clauses still under discussion within the framework of the Doha Round.

However, little progress had been achieved by July 2005, particularly in agriculture. The so-called gateway issue of AVEs methodology for delayed discussions in all areas of agricultural negotiations, and eventually in other negotiations issues. Accordingly, expectations were considerably lowered as the end of July approached, and the Chairman of the WTO Trade Negotiations Committee reported to the General Council on the status of negotiations in all areas in which he noted that "... progress made has been insufficient".¹⁴ Basically, WTO members were not able to achieve as mandated by the July Package, a first approximation of the modalities on agriculture and on NAMA; a critical mass of qualitative offers in services; important progress in rules and trade facilitation; a critical mass of commercially meaningful SDT proposals and other development issues; and clear conclusions from the work programme on issues such as small, vulnerable economies, trade, debt and finance and trade and transfer of technology. This further delay in expected interim outcomes of the negotiations increased the workload and pressure on WTO members to elaborate a comprehensive deal in time for the sixth WTO Ministerial Conference.

Success at the sixth WTO Ministerial Conference is essential

There is international consensus that the Doha agenda negotiations needs be concluded no later than the end of 2006 so that trade can play an important stimulating role in economic growth, employment and development for all countries and particularly for developing countries including Arab States. For example, the High-level Plenary Meeting of the UN General Assembly of September 2005 ("the 2005 World Summit"), comprising Heads of

¹⁴ WTO, TN/C/5, 28 July 2005.

State and Government, reiterated their commitment to expeditiously work towards implementing the development dimensions of the DWP (see Box 2).¹⁵

**Box 2. Key development elements of the outcome of the 2005 World Summit
(14-16 September)**

- We strongly reiterate our determination to ensure the timely and full realization of the development goals and objectives agreed at the major United Nations conferences and summits, including those agreed at the Millennium Summit that are described as the Millennium Development Goals, which have helped to galvanize efforts towards poverty eradication.
- We reaffirm our commitment to eradicate poverty and promote sustained economic growth, sustainable development and global prosperity for all. We are encouraged by reductions in poverty in some countries in the recent past and are determined to reinforce and extend this trend to benefit people worldwide. We remain concerned, however, with the slow and uneven progress towards poverty eradication and realization of other development goals in some regions. We commit ourselves to promote the development of the productive sectors in developing countries to enable them to participate more effectively in, and benefit from, the process of globalization. We underline the need for urgent action on all sides, including more ambitious national development strategies and efforts backed by increased international support.
- We resolve to: (a) Adopt, by 2006, and implement comprehensive national development strategies to achieve the internationally agreed development goals and objectives, including the Millennium Development Goals;
- A universal, rule-based, open, non-discriminatory and equitable multilateral trading system, as well as meaningful trade liberalization, can substantially stimulate development worldwide, benefiting countries at all stages of development. In that regard, we reaffirm our commitment to trade liberalization and to ensure that trade plays its full part in promoting economic growth, employment and development for all.
- We are committed to efforts designed to ensure that developing countries, especially least-developed countries, participate fully in the world trading system in order to meet the needs of their economic development, and reaffirm our commitment to enhanced and predictable market access for the exports of developing countries.
- We will work towards the objective, in accordance with the Brussels Programme of Action, of duty-free and quota-free market access for all LDCs' products to the markets of developed countries, as well as to the markets of developing countries in a position to do so, and support their efforts to overcome their supply-side constraints;
- We are committed to supporting and promoting increased aid to build productive and trade capacities of developing countries and take further steps in that regard, while welcoming the substantial support; already provided.
- We will work to accelerate and facilitate the accession of developing countries and countries with economies in transition to the World Trade Organization consistent with its criteria, recognizing the importance of universal integration in the rules-based global trading system;
- We will work expeditiously towards implementing the development dimensions of the Doha Work Programme.

The realization of this international consensus requires a successful outcome at the sixth WTO Ministerial Conference (MC6) in Hong Kong, China, which is being held from

¹⁵ A/59/HLPM/CRP.1/Rev.2.

13-18 December 2005. MC6 is expected to take key decisions to fully implement the July Package. The report by the Chairman of WTO Trade Negotiations Committee to the WTO General Council in July 2005 identified the 'critical path' to MC6. It highlighted that, in the lead up to MC6, the negotiations would be intense with the participation of ministers and representatives based in capitals. There is a need to search for the middle ground and compromise solutions within the context of a single undertaking, particularly to finalize the modalities in agriculture and NAMA, as well as 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 was proposed to avoid informal ministerial meetings outside Geneva, increase involvement of capital-based officials and ministers and reduce regular work of WTO. Lessons from Seattle and Cancun Ministerial Conferences indicate the pivotal need to reach agreement on key substantive issues and details in Geneva before MC6 took place and to focus on outcomes of interest to developing countries that most impact poverty.

Thus, in the run-up to MC6, there is a need to further re-energize the negotiating process by injecting new political momentum by all members, 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 negotiations and development-focused outcome. Substantive progress in agriculture negotiations is a pre-requisite to a break through in the overall negotiations. A strong development content in the negotiations, as mandated by the Doha Declaration, is also crucial.

Arab States have adopted policies of integration into the multilateral trading system to benefit from it. As noted previously, 11 out of 22 Arab States are WTO members and seven are in the process of acceding to the WTO. Arab States have hosted two of the successful WTO Ministerial Conferences, namely the Marrakech Conference of the GATT Contracting Parties in 1994 that concluded the Uruguay Round and the Doha Conference in 2001 that launched the Doha negotiations. Arab States have high stakes in the Doha negotiations (as also discussed below in respect of achievement of the MDGs), and thus need to clearly identify their priority concerns and determine the strategies to advance their priorities in the negotiations. While recognizing the need for a successful outcome to MC6 that fully meets the ambition of the Doha agenda negotiations including in terms of prioritizing the needs and interests of developing countries, like Arab States, in the outcomes.

The Multilateral Trading System and MDGs

International trade can contribute to the generation of resources and development gains that can assist in the achievement of the MDGs. In fact trade is inextricably linked with the realization of MDGs. This link – that trade can be a positive force in promoting development and reducing poverty – is clearly manifested from the consensus which emerged in the context of the United Nations Millennium Declaration, the Monterrey Consensus, the Johannesburg Plan of Implementation and the São Paulo Consensus, as well as the recent UN General Assembly World Summit. The common denominator of these processes is that trade is an important engine for growth, development and poverty reduction.

Increasing trade and attracting investment are among the key factors to achieve economic growth and create adequate job opportunities in Arab States; this will, in turn, be

important in achieving the MDGs. A UNDP report¹⁶ shows that Arab States have made progress towards achieving MDGs in past decades, but important challenges still remain. In general, Arab countries are not meeting MDG targets: ESCWA's recent report concludes that "It is unlikely that the Arab region as a whole will succeed in eradicating poverty and hunger, particularly in LDCs."¹⁷ (See Box 3).

Box 3. MDGs and Arab countries

The challenges facing Arab countries in meeting MDGs include addressing poverty, unemployment, the gender gap, illiteracy, regional disparities, war and conflict, as well their beneficial integration into the international trading system. There is sharp regional diversity in the progress made towards achieving MDGs in the Arab region. The high-income GCC countries are relatively well placed while the degree of attainment varies across the middle income countries. Arab LDCs, Iraq and Palestine will be unable to achieve most MDGs. It is unlikely that the Arab region as a whole will succeed in eradicating poverty and hunger, particularly in LDCs. Poverty exists along with income disparity across the region as well as within individual countries. Based on 200 data available for 10 Arab countries, 16.8 per cent of the Arab population was living in poverty in 2000 as compared to 16.4 per cent in 1990. Poverty level was estimated to 15.7 per cent in Mashreq, 9.1 per cent in Maghreb and 47.1 per cent in the Arab LDCs. Poverty levels almost doubled in the Arab LDCs during the decade, and the region as a whole is unlikely to meet MDG 1. While HIV/AIDS is not highly prevalent in the Arab region, the number of cases is on the increase. Between 1990 and 2003, the number rose by some 42 per cent to 13,865. Over half of the cases are in the LDCs where more than 1 per cent of the subregion's population aged between 15 and 45 is HIV-positive. As regards energy accessibility and efficiency, despite the abundance of energy sources in the region, only 78.6 per cent of the Arab population had access to electricity, ranging from 100 per cent in GCC countries to under 8 per cent in LDCs. The availability and protection of water resources is a major issue. Agriculture is the higher water consumer in the region (about 80 per cent of total consumption). The situation is complicated by the fact that several water resources are shared by a number of countries. The achievement of MDG 8 on a global partnership for development is directly related the creation of an enabling environment for pro-poor development. One problem facing Arab countries is that they perceived as resource-rich with many classified as middle-income countries, and not receive priority attention for ODA. An increase in financial aid is required to accelerate growth. While the average aid per capita for Arab countries rose from \$19.40 in 1999 to \$27.80 in 2003, that for LDCs was \$20.80. LDCs have consistently received less than the regional average in aid per capita. Only a few countries have achieved outstanding results through an outward-oriented strategy. The region's share in world exports and imports remain low, at 3.6 per cent and 2.5 per cent respectively, and their exports continue, despite the efforts aimed at diversification, to reply on a narrow range of low value-added goods dominated by fuels (70 per cent), agricultural products, textiles and chemicals, to a limited number export markets. Unemployment is a major source of poverty and obstacle for economic growth. The Arab labour force is growing by some 3.5 per cent per annum. Structural unemployment is in double figures and female unemployment is twice that of men. One key problem is predominance of the energy sector and public sector, which have very low employment multiplier. External debt servicing absorbs 40 per cent of export earnings for Lebanon, 20 per cent for Algeria and Morocco, and 15 per cent for Tunisia and Jordan. In general, West Asian countries maintain low or modest external debt stocks and accumulated substantial foreign assets. Given the increase in oil revenue in 2004, and upward oil prices, they are expected to have budget surpluses further strengthening their financial positions. In contract, other non-oil producing countries face largest public debt and risk of increased indebtedness, thereby affecting their developmental prospects. The policy of high underemployment and public sector employment needs to be complemented by redeploing underemployed public sector resources into disadvantage regions and population to

¹⁶ This box is an excerpt from the UNDP, *The Millennium Development Goals in Arab Countries, Towards 2015: Achievements and Aspirations*, UNDP, 2003, pp. 6-7.

¹⁷ ESCWA, in *The Millennium Development Goals the Arab Region 2005*, United Nations, New York, 2005.

address income distribution and underemployment. In order to address this development, increasing trade and attracting investment are key factors in achieving economic growth and in creating adequate job. Economic policy needs to be geared towards pro-poor policies and investment, stronger regional partnership and integration and improved. Social policy needs to address particularly the needs of the poor.

The review of the trade and economic structures and performance of Arab States in Chapter I and taking into account MDG-related objectives indicate a number of areas in which priority attention needs to be given in coming years to promote development and alleviate poverty. These include the following challenges and opportunities:

- Development-oriented outcome in the Doha agenda negotiations which prioritize the interests of Arab States, including in agriculture, NAMA, services particularly Mode 4 and development issues;
- Increase supply side capacities especially in agriculture and manufacturing and, for the oil dependent countries, to reduce their high dependence on petroleum;
- Foster the development of the competitive services sector, particularly infrastructure services;
- Intensify intra-Arab trade and economic integration to create the enabling conditions to stimulate investments, production and trade among Arab States, and participate actively in South-South cooperation including under GSTP;
- Dealing with high unemployment rates including through movement of labour between Arab States and globally, facilitated by market access agreements such as in Mode 4 under the GATS or under bilateral/regional trade agreements;
- Strengthening human and institutional resources through increased and enhanced educational programmes, especially among women, and capacity-building programmes for Arab States;
- Invest in and promote technological capacity building;
- Increasing productive investment;
- Developing and exploring opportunities to develop the commodities sector and trade in commodities.

III. SPECIFIC AREAS OF NEGOTIATION

A. Agriculture

Background

Agriculture remains an important sector in most Arab countries. On average, 23 per cent of the work force in Arab countries is engaged in the agricultural sector, and for some, this share is above 50 per cent. Agriculture is particularly important for the poor, since a disproportionately large segment of the poor live in rural areas in all Arab countries. Trade in agricultural products accounts for about 13 per cent of non-oil merchandise exports and 20 per cent of imports of Arab countries. As almost all Arab countries are net-food importers, the evolution in international food prices as a consequence of agricultural liberalization is equally important for exporters and consumers. At the same time, the agricultural sector is also a heavily distorted sector. Agricultural support in OECD countries, including market price support, income subsidies and protection through import tariffs, total some \$300 billion per annum. It is estimated that developing countries could gain over \$43 billion annually in economic welfare from the complete removal of trade barriers in the agriculture and food sector.¹⁸ Producers and exporters in developing countries would be better off as a result of rising agricultural commodity prices and fairer competition. The self-sufficiency rate would most likely increase in Arab countries. Hence, the importance of seeking genuine market access and reform of agricultural trade. However, some developing countries including Arab countries may find their current trade preferences eroded, and net food importers and LDCs could face higher food import bills, posing significant adjustment challenges.

Current negotiations on agriculture

The Agricultural Framework contained in the July Package sets out roadmaps and key benchmarks for the conduct of agricultural negotiations in its three pillars and reconfirms SDT as an integral part of all elements of the negotiations. Details of reduction formulas and parameters were not specified, leaving a wide range of issues open for further negotiations. The Framework included two major commitments of the WTO Members to eliminating export subsidies by a specific date and to reducing trade-distorting domestic support by 20 per cent in the first year of the implementation period. The post-July Package negotiations were expected to build on these *acquis* of the July Package to achieve balanced and development-oriented outcomes.

Negotiations since August 2004 have focused on technical issues arising from the agricultural framework¹⁹ to finalize the full modalities by MC6. The African Group called for an early harvest on cotton, including before MC6. The first approximation of modalities, the immediate target of the negotiations, did not materialize, leaving the bulk of crucial issues to be solved in a short period until December 2005. The status report provided by the Chairman of the Special Session of the Committee on Agriculture (SSCoA)²⁰ identified the key issues

¹⁸ Anderson, K. (2003), "Agriculture, Trade Reform and Poverty Reduction: Implications for Sub-Saharan Africa", UNCTAD Policy Issues in International Trade and Commodities Study Series, No.22, Geneva.

¹⁹ The Framework for Establishing Modalities in Agriculture (Annex A of the July Package) sets out roadmaps and key benchmarks for the conduct of agricultural negotiations in its three pillars (market access, domestic support and export competition). Details of formulas, targets, criteria and implementation periods are not specified, leaving wide scope and flexibility for future negotiations. It reiterates that SDT should be an integral part of all elements of the negotiations, and introduces several new concepts.

²⁰ Two status reports were provided: on 27 June (JOB(05)/126 and on 28 July (JOB(05)/163).

that would require a political decision while noting the limited progress on SDT issues that were a source of concern for developing countries. In addition to the complexity of the issues, a major difficulty in moving forward with the market access pillar was the interlinkage of issues across three pillars of agricultural negotiations, as well as with other areas of negotiations.

Market access

Determining the methodology for converting non-*ad valorem* tariffs into *ad valorem* equivalents (AVEs) was one of the major reasons why agricultural negotiations did not progress very much, but it was finally solved in May. The AVEs emerged as a key issue, as it determines the level of the base rate to which tiered-formula cut would be applied for those products subject to non-*ad valorem* duties. According to the agreed methodology, unit values compiled in the WTO Integrated Database (IDB), and not the UN Comtrade database, would be used as a general rule in calculating AVEs, with the possibility of using weighted average of both IDB and UN Comtrade unit values in case the difference in calculated AVEs differs significantly between IDB and Comtrade data. Due to the different weighting of unit values in the AVE calculation depending on the product classification, the degree of tariff cuts for processed products tend to decrease while that for raw products increase. This may go against the notion of harmonizing tariffs by reducing the higher tariffs more than proportionately.

Little progress was made on the tariff reduction formula. The Framework provides for a single-tiered approach with deeper cuts for higher tariffs. All Members except LDCs – which are exempt from reduction commitments – would contribute to tariff cuts, subject to the principle of ‘proportionality’, i.e. a lesser reduction commitments for developing countries. The issue of the structure of the tariff reduction formula within each band remains to be a key issue in the negotiations towards MC6. Some countries (mainly EU and G10) expressed their preference for the Uruguay Round approach²¹ for tariff cuts, while others preferred the Swiss formula²² (United States and some agricultural exporters). Recent proposals sought to bridge the gaps between the two approaches, including the Canadian proposal that called for calculating tariff cuts in a manner similar to income tax deductions in progressive systems. Participants of the Dalian mini-Ministerial meeting agreed to use the G20 proposal as a starting point for further work while noting the reservation of some countries with regard to certain aspects of the proposal, including tariff capping.

The G20 proposal aimed to achieve overall proportionality between developed and developing countries through requiring developing countries to cut tariffs by less than two-third of the cuts to be undertaken by developed countries. It seeks to constitute at a middle ground between the Uruguay Round formula and the Swiss formula. The proposal called for establishing five tariff bands for developed countries and four tariff 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. The proposal incorporates capping tariff peaks at the rate of 100 per cent for developed countries 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

²¹ The Uruguay Round formula consists of an across-the-board average tariff reduction of X per cent subject to a minimum reduction of Y per cent.

²² Swiss formula produces steeper cuts on higher tariffs and lead to harmonization of tariff structures across-the-board.

G20 called for binding in AVE form of non-*ad valorem* duties and the elimination of special safeguard (SSG).

The G20 formula of applying different reduction rates to different tariff bands would lead to a varying degree of the 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 relative low. Taking the AVEs and the *ad valorem* tariffs together, 67 per cent of tariff lines of the EU have tariffs below 20 per cent and are thus likely to fall into the lowest band. Only 5 per cent of all tariff lines in the EU are above 100 per cent. In the US and Japan 88 per cent and 64 per cent of lines have tariffs below 20 per cent, respectively, and 2 per cent and 9 per cent of tariff lines have high tariffs above 100 per cent, respectively. In the case of Arab countries, Bahrain, Egypt, Djibouti, Jordan, Mauritania, Morocco and Oman have more than 80 per cent of their bound tariff lines falling into the lower two bands indicated in the G20 proposal, i.e. below 80 per cent. On the other hand, the majority of tariff lines of Kuwait and Tunisia fall into higher bands, which would result in relatively higher overall average reduction rates. Some Arab countries maintain tariff peaks. Although these tariffs would have to be subject to a deeper cut according to the formula, the possible provisions of sensitive and special products might be used to preserve those high tariffs if deemed necessary.

While developing countries often maintain bound rates higher than applied rates, a number of Arab countries, including Egypt, Jordan, Morocco, Oman and Tunisia, have bound rates that are equal to or similar to the applied rates. This implies that even moderate tariff cuts would effectively reduce the applied rates. A built-in flexibility in the reduction formula such as a Uruguay Round approach of average and minimum cuts would serve to limit the extent of tariff reduction to maintain an appropriate level of tariff protection. However, the advantage from such flexibility would have to be carefully weighted against their offensive export interest, as their exports may be negatively affected by residual tariffs and other protective measures taken under the same build-in flexibility by their trading partners. Djibouti and Mauritania have low bound tariffs as compared to other LDCs, and their applied rates are close to the bound rates (although LDCs are exempted from reduction commitment).

In July 2005 the EU tabled a proposal that stands in contrast with the G20 proposal. This proposal calls for establishing only three (as opposed to the five proposed by G20) bands for developed countries, and setting cut-off line for the highest band at 100 per cent (as opposed to 80 per cent proposed by G20). Furthermore, it proposes a type of flexibility similar to Uruguay Round approach. The issue remains controversial as to whether there should be any flexibility within the formula itself or any flexibility should be provided through other measures such as sensitive products. Developing countries remain concerned about the appropriate degree of 'proportionality' in tariff cuts, as tariffs are the only protection available for their agricultural producers to counter subsidized production and exports of developed countries.

With regard to sensitive products that all WTO Members may designate to be exempted from full formula reductions, a major question relates to how to balance the level of ambition in the tariff cuts (and tariff rate quota (TRQ) expansion) and the policy flexibilities available for each country so as to make such tariff cuts domestically acceptable. In addition to sensitive products, developing countries would have flexibilities to designate as special products for special treatment, tariff lines that are essential for their food and livelihood security and rural development. Discussions have centred on how to identify eligible

products, including appropriate indicators. A number of developing countries called for sufficient flexibility in their selection of special products in order to meet their different needs. Developing countries would also have recourse to special safeguard mechanism (SSM) to address possible unforeseen developments and import surges as a result of the market opening. Developing countries are concerned that lowering of bound tariffs might reduce their ability to defend themselves against agricultural market instability arising from possible import surges. Proponents of the SSM have maintained that the SSM should be sufficiently easy to use, including the possible use of the volume *and* price trigger, and that it should be available for all products, including special products. Developed countries and some developing Cairns Group members, including Argentina and Brazil, expressed concern over the risk that an excessively lenient SSM might negatively affect agricultural trade, including under South-South trade.

Developing countries enjoying non-reciprocal preferential market access to developed countries have called for addressing adequately the expected erosion of preference margins arising from the tariff reduction on an MFN basis. The issue has been controversial, as agriculture-exporting developing countries hold the view that addressing preference erosion might impede efforts aimed at MFN tariff reduction. A key objective is to identify solutions that would reflect both trade and development interests of affected countries. The six Arab LDCs enjoy preferential access to the EU under the EBA initiative and five of them are also covered by the ACP scheme. An UNCTAD study has shown that the rent erosion for LDCs can be quite significant if the Harbinson formula, an example of a tiered formula, is applied on EU tariffs. Among the Arab countries, Sudan is expected to incur the highest annual loss of about \$3.5 million. The other Arab countries are covered by various GSP schemes. Depending on the specific rules and the current tariffs, reductions of MFN tariffs also cause losses to the beneficiaries. However, since the calculated losses are low, e.g. below \$1 million annually, and exports that currently are not covered by any preferential scheme would benefit from tariff reductions the total effect of a reduction of MFN tariffs would be beneficial for those exporters. Only one Arab country (Djibouti) is eligible for AGOA. The likely losses would be relatively low. A comprehensive approach has been suggested to provide those affected countries with assistance to cope with adjustments. This approach, in the long term, is important – namely seeking genuine market liberalization in the highly distorted agricultural market and adjustment-type support to deal with revenue loss and preference erosion. The Framework encourages developed countries, and developing countries in a position to do so, to provide duty-free and quota-free market access to LDC products. Binding such preferences in WTO and taking additional measures, such as simple and realistic rules of origin, would serve to improve the effectiveness of this provision.

As regards TRQ administration, the use of the Harbinson text has been suggested by the Chairman of the SCoA as a basis for further discussion. The proposed disciplines outlined in the document aim at rendering more effective market access opportunities under TRQ commitments so as to increase quota fill rates. For example, a provision has been proposed that quotas should not be limited to particular seasons unless specifically so described in schedules. Also under discussion are issues touching upon: whether imports under preferential trade agreements could be counted as quota imports; whether quotas should be non-discriminatory; and whether future disciplines should only apply to new and expanded TRQ only or on existing quotas.

The treatment of non-tariff barriers (NTBs) is not addressed in the Framework and remains to be tackled in agriculture negotiations. Developing countries attach importance to

addressing NTBs, including SPS standards and market entry barriers, because their incidence has been increasingly felt as tariffs are lowered, thereby affecting their market entry conditions. Developing countries are seeking ways to link market access improvement to market entry enhancement.

Domestic support

Some progress has been made on the domestic support pillar. Like the market access pillar, negotiations on domestic support have been focused on the structure and the criteria, rather than the level of ambition. On the overall reduction of trade distorting support (Amber Box²³, Blue Box²⁴ and *de minimis*²⁵), a three-band approach has been under discussion. Regarding the Amber Box support, there has been some convergence towards a three- to four-band tiered approach to reduce the most trade distorting support. EU, the major subsidizing WTO Member, would be assigned to the highest tier and thus required to make the greatest cuts. The specific tier to which Japan and the United States would be assigned to is yet to be determined. Developing countries will probably be provided with certain SDT or placed in the fourth tier that would require lesser cut. As regards product-specific AMS caps, the question of base period arose as the recent years saw large fluctuations in product-specific support. Developing countries are concerned over the risk that the reduction of trade-distorting support would not lead to an effective reduction of such measures, given that reductions would be from bound levels, which are often higher than the current support, and a broader range of support measures could be shifted into the new Blue Box (or to the Green Box).

The issue relating to the treatment of those developing countries without AMS commitment is of particular relevance to Arab countries, as only three (Jordan, Morocco and Tunisia) out of the 11 Arab WTO Members have positive, non-zero AMS commitments, and their level of AMS is relatively low. For these countries, the *de minimis* is particularly important, as it is the only, or one of the few, allowances available to them. The Framework only provides that those developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers would be exempted from *de minimis* reduction, but does not refer to countries without AMS commitment. Most developing countries, particularly G33, have opposed reducing the *de minimis* ceiling level and have called for maintaining the current *de minimis* ceiling level of 10 per cent of agricultural production also for those developing countries without AMS commitments.

Regarding Blue Box support, discussions centred on disciplines that would ensure that any payments are less trade distorting than Amber Box support. The Blue Box payments definition has been broadened in the Framework to encompass direct payments unrelated to current production if no production is required, in addition to direct payments that are tied to the production-limiting programmes. The G20 and some developed Cairns Group members have sought for stricter disciplines for both the current (production-limiting) and the new (without production restrictions) Blue Box measures. The G20 has proposed to set a limit to the support provided based on price-gap differentials (e.g. for counter-cyclical payments), to set product-specific caps and to prohibit the provision of Amber and Blue Box support to a

²³ 'Amber Box' refers to trade-distorting domestic support subject to annual capping as expressed as the Aggregate Measurement of Support (AMS).

²⁴ 'Blue Box' designates certain direct payments to farmers partially decoupled from production under production-limiting programmes.

²⁵ 'De minimis' support designates minimum permissible trade distorting domestic support not exceeding five per cent of total agricultural production.

given product in a same year. Linking the overall reduction level to Blue Box disciplines has also been suggested, so that if the overall reductions are less ambitious, Blue Box disciplines should be stricter.

The review and clarification of the Green Box²⁶ was yet another focus of negotiations to minimize trade distortions. The major objective of developing countries is to achieve real reform to constrain loopholes in the reduction in trade-distorting domestic support, as well as to enlarge the scope of the Green Box criteria to include development policies and measures. The latter comprises, for example, general service programmes for agrarian, land and institutional reform or other programmes related to food and livelihood security and rural development in developing countries, and the possibility to determine criteria for payments in case of income losses or natural disasters in national legislations. The G20 also proposed that developing country members who have not used certain payments, such as those under regional adjustment programmes during a base period, should not be precluded from establishing appropriate base periods. The G20 has proposed to discipline direct payments and decoupled income support as well as additional provisions to meet the realities in developing countries.

Export competition

In the area of *export competition*, the structure of negotiations on the commitment to the total elimination of export subsidies by a specific date is already in place. None of the 11 Arab WTO Members have scheduled positive export subsidies and thus do not have the right to use direct export subsidies. The key issue relates to the staging, as well as the exact end date, of the elimination of export subsidies. A proposal has been made to set the year 2010 as end date, and adopt a front-loading approach whereby cuts would be 60 per cent in the first year. Net-food importing countries have called for their interest to be duly taken into account, as they are expected to face increased expenditures as a result of increased prices in imported good. Some Arab countries face major food shortage. The issue is of relevance to several Arab countries, as some of their consumers have benefited from subsidized imports, with the corresponding negative effect on producers. Negotiations have focused on the parallel commitments in respect of subsidy elements in export credit, food aid and state trading enterprises (STEs). As regards food aid, while there is general understanding that food aid should not cause commercial displacement, what constitutes 'genuine food aid' remains to be defined. Discussions also took place on whether food aid in kind (in addition to food aid in cash) should be allowed. Many developing countries remain concerned about practical effects of new disciplines on food aid. As regards STEs, it is generally agreed that no commercial activities of STEs should contain export subsidy elements.

Recently acceded countries

Recently acceded countries face particular challenges arising from the significant liberalization commitments undertaken during their accession processes. Further liberalization over and above their accession commitments in the context of the Doha negotiations might cause significant economic impacts with developmental implications. The average bound rate of acceding countries, ranging from 11 to 35 per cent, is considerably lower than the average bound rate of developing country members, which is about 60 per cent. In the case of the two recently acceded Arab countries, Jordan and Oman, the average bound tariffs are 25 per cent

²⁶ 'Green Box' designates those domestic support measures that have no or minimal trade-distorting effects.

and 30.5 per cent respectively (see Table 1). Furthermore, Oman committed to phase in tariffs over a maximum period of four years as compared to ten years for Jordan. Oman has scheduled no AMS while Jordan committed to cut by 13 per cent its AMS over seven years. Both countries do not schedule any export subsidies.

Table 1. Agricultural commitments of selected acceded countries

Market Access					
	Entry date	Average Bound Tariffs (%)	Staging (Max. years)	TRQ	SSG
Jordan	04/2000	25	10	-	-
Oman	11/2000	30.5	4	-	-
Domestic Support and Export Competition					
	AMS cut	AMS final	Staging	De Minimis	Export subsidies
Jordan	13 per cent	1.3 mill. Jordanian Dinar	7	10 per cent	0
Oman	-	-	-	10 per cent	0

In this regard, paragraph 47 of the Framework provides that "(the) particular concerns of recently acceded Members will be effectively addressed through special flexibility provisions." A group of six recently acceded Members (RAMs), including Jordan and Oman, called for specific flexibility provisions in the area of market access and domestic support in the ongoing negotiations, particularly in respect of exempting low tariffs from further reduction commitments; ensuring lower tariff reductions for developing countries than for developed countries; providing a longer implementation period for new commitments with a grace period of at least four years after the entry into force of this round results, and; making available to RAMs any provision to be agreed on a special safeguard instrument. In the area of domestic support, they proposed to provide for a grace period for implementation of new commitments, a longer implementation period and the exemption of RAMs from the obligation to reduce *de minimis* support.²⁷

B. Cotton

Cotton production, exports and consumption are important for Arab States as cotton consumption has shifted to developing countries, including North African and other Arab countries, in line with rising wage levels in developed countries. In the Syrian Arab Republic, Egypt, Sudan and Yemen, a substantial amount of the foreign exchange earning is derived from cotton. According to the July Package, negotiations are conducted in the newly established Sub-Committee on Cotton to address the issue 'ambitiously, expeditiously and specifically'. The African Group has called for duty-free and quota-free market access for cotton and its by-products, the elimination of trade distorting domestic support on cotton by September 2005, prohibition of box shifting of domestic support and ambitious cotton-specific criteria for green and blue boxes, and the elimination by 1 July 2005 of all forms of cotton export subsidies. The four West African cotton proponents were disappointed with the lack of written reactions or counter proposals to their proposal. Key players have linked progress on the cotton issue to progress in other agriculture sectors thereby rendering an early harvest difficult. The Chairman of the SSSCoA warned that it would become increasingly difficult to reach an agreement at MC6 on the objective of an 'ambitious, expeditious and

²⁷ Special session of the CoA, April 2005.

specific' treatment of cotton within agriculture negotiations the longer it takes to provide answers to the crucial trade concerns.

C. Non-agricultural market access (NAMA)

Background

A substantial proportion of world trade now takes place within the manufacturing sector. In 2003 the world's exports of manufactures stood at \$5.5 trillion, accounting for 76 per cent of the world's exports. For developing countries, the importance of processed and manufactured goods has increased significantly, with their exports standing at some \$1.2 trillion, which represents on average nearly 70 per cent of their exports. Their share in world merchandise exports also increased to about 30 per cent. Arab countries' exports of industrial products increased to about \$300 billion in 2004.

Globally, tariffs are relatively low in industrial products as compared to other sectors, however this is not the case in other sectors where tariff peaks and escalation are prevalent. Tariffs are biased against sectors of export interest to developing countries, and NTBs are frequent and concentrated in such sectors. Reducing or removing the protection would lead to gains, including for developing countries, although any gains would vary between countries and sectors. Liberalization by developing countries would be beneficial in the context of ongoing worldwide liberalization but it has to be carefully calibrated as they face the risk of higher adjustment costs, including the risk of de-industrialization and loss of supply capacity, competitiveness and tariff revenue. UNCTAD estimates suggest that the welfare gains of developing countries from the liberalization of trade in non-agricultural products could reach \$40 billion annually and export revenue gains could, even in modest scenarios, increase by \$50 billion. In the ambitious scenario of tariff reductions, North African countries would enjoy the highest export revenue growth only after the emerging markets of China and India, while the Middle East region would also gain.²⁸

In the short to medium term, liberalization would lead to shifts in output and employment in key sectors in developing countries. These adjustment costs are likely to be spread unevenly across developing countries and sectors, and lead to temporary unemployment due to sectoral shifts, transition costs of shifting capital, loss of tariff revenue, social safety net spending and erosion of benefits from preferential treatment. Although the aggregate changes are moderate, sectoral changes could in contrast be dramatic. For example, the output of the leather industry in the Middle East is expected to decrease by about 20 per cent and the output of motor vehicle parts in North Africa could fall by more than 30 per cent. UNCTAD country studies confirm dramatic changes as a consequence of trade policy changes. A World Bank study shows that eight out of nine developing countries have higher unemployment one year after the initial trade reforms. Furthermore, several Arab countries rely for a significant share of the government revenue on tariff revenue, including Egypt (13 per cent), Jordan (17 per cent) and Tunisia (12 per cent). Well designed and sequenced adjustment programmes, involving all stakeholders, are necessary in mitigating the adjustment costs.

²⁸ Fernandez de Cordoba, Laird and Vanzetti, "Trick or Treat? Development opportunities and challenges in the WTO negotiations on industrial goods", UNCTAD, 2004.

Current NAMA negotiations

The main focus of the NAMA negotiations has been on the appropriate formula for tariff cuts and flexibilities for developing countries. The importance of the concept of 'less than full reciprocity' in addressing developing countries sensitivities in specific sectors through effectively securing lesser tariffs over longer time period for developing countries as compared to developed countries was called for by developing countries, including UAE.²⁹ Other key issues include the treatment of unbound tariffs, participation in sectoral approach, preferences and NTBs. As regards the tariff-cutting formula, the negotiations have focused on the structure of tariff reduction formula. There are two broad approaches to the formula, namely the 'simple Swiss' formula with fixed coefficients and 'Swiss-type' approaches where the coefficients are linked to each countries national average bound tariff ('Girard formula'). Six proposals have been submitted since March 2005, but no convergence of positions emerged with regard to specific parameters and how these should be determined. Some of these proposals link the depth of tariff cut by developing countries to the options to use other flexibilities provided in the NAMA Framework, so that the deeper the tariff cut, the greater the flexibility in binding coverage and levels. The Chairman of the NAMA Negotiating Group observed that there was an 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.

It has been difficult to progress on the formula without engaging in negotiations on specific numbers to be included as coefficients. To overcome the impasse on the structure, it has been proposed to start discussion on the numbers. A recent proposal by Pakistan sought to bridge the two broad approaches of fixed coefficients and coefficients linked to national averages. The proposal called for using a simple Swiss formula with two distinct coefficients for developed and developing countries, which are equal to the average bound rates of developed and developing countries, which amount to six and 30, respectively. The proposed formula include the following:

The EU, US and Norway respectively proposed a simple Swiss formula with a coefficient for developed countries and coefficients for developing countries which would be linked to other SDT provisions and flexibilities in respect of the binding coverage, participation in sectoral initiatives, implementation periods and the line-by-line application of the formula. The three proposals use the same principle where developing countries not using these flexibilities get a higher coefficient, which leads to lower tariff cuts.

Chile, Colombia and Mexico proposed jointly a non-linear formula to reach an ambitious result with one coefficient for developed countries and a limited number of coefficients for developing countries, which 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. As developing countries have, in general, higher initial bound tariffs these proposals imply that they will get a coefficient leading to less ambitious cuts. In the proposal submitted by Argentina, Brazil and India, coefficients would not be linked to other SDT provisions. A proposal from Antigua and Barbuda, Barbados, Jamaica, St. Kitts and Nevis and Trinidad and Tobago comprises an extra component where individual developing countries would be accorded credit for commitments such as binding coverage and other

²⁹ TN/MA/W/37.

factors, e.g. development needs, including revenue dependence, adjustment costs due to preference erosion and economic vulnerability.

Pakistan combined the two broad approaches of fixed coefficients and coefficients linked to national averages and proposed a simple Swiss formula with two distinct coefficients for developed and developing countries, which are equal to the average bound rates of developed and developing countries, respectively. These are about six for developed and 30 for developing countries.

In the earlier phase of negotiations, a coefficient of 8 or 10 was suggested in countries' submissions. Taking these figures as example, a Swiss formula with a coefficient of 8 or 10 would reduce tariffs in most developing countries, including all Arab WTO members, more than the Girard formula (see Table 2).³⁰ Even a coefficient of 15 would, in most developing countries, lead to drastic tariff reductions in both bound and applied rates. Thus, some flexibility in the form of lower than formula reductions for up to 10 per cent of the tariff lines (as provided in Paragraph 8 of the NAMA Framework) might be warranted for developing countries. A coefficient of 30, as proposed by Pakistan, would result in only slightly deeper cuts in some Arab countries and slightly lesser cuts in other Arab countries than the Girard formula. This is because a coefficient of 30 is almost same as the average initial bound rate of Arab countries.

Table 2. Tariff cuts applying a Swiss formula and Girard formula

	Initial bound average	Binding Coverage	<u>Girard</u> B=1	<u>Swiss formula</u> Developed countries: c=8, Developing countries: c=10
			New average tariff	New average tariff
EU	4.1		1.6	2.6
US	3.7		1.1	2.2
Japan	4.3		1.3	1.9
Bahrain	35.0	71	17.5	7.8
Djibouti	39.4	100	-	-
Egypt	25.5	99	12.8	6.7
Jordan	13.0	100	6.0	4.8
Kuwait	100.0	100	50.0	9.1
Mauritania*	9.1	30	-	-
Morocco	37.7	100	18.9	7.7
Oman	11.5	100	5.2	4.9
Qatar	15.2	100	7.1	5.7
Tunisia	39.1	52	19.1	7.8
United Arab Emirates	13.1	n.a.	6.4	5.6
Argentina	31.8		15.7	7.5
Brazil	34.4		18.3	7.7
India	30.8		15.2	7.5

Source: UNCTAD, trade weighted average bound rates * Binding coverage is below 35 per cent.

Another key issue relates to the treatment of unbound tariff lines, especially the extent of the binding coverage and the methodology to be used to establish the base and final bound

³⁰ In the Girard formula the coefficient in the Swiss formula equals the average initial bound rate of a specific country. LDCs and countries with a binding coverage below 35 per cent are excluded from applying the formula.

rates. The NAMA Framework provides for binding base rates at twice the MFN applied rate before applying the formula. Argentina, Brazil and India proposed instead 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 pertained to marking up unbound lines by 5 or 30 percentage points before applying formula cuts. This 'non-linear mark-up approach' received increasing support. Regarding the binding coverage, the NAMA Framework provides that, as SDT, developing countries are entitled to leave up to 5 per cent of tariff lines unbound if some additional conditions are met. This flexibility has been questioned, as some countries called for linking such flexibilities to ambitions in the formula coefficients. The majority of Arab countries have a binding coverage of 100 per cent but some other Arab countries with lesser binding coverage might be affected. Since Bahrain and Tunisia have a binding coverage below 95 per cent (Paragraph 8 provides for the SDT flexibility to leave up to 5 per cent of tariff lines unbound if certain conditions are fulfilled) the methodology to determine at which level to bind these tariff lines is important for them. Mauritania, as an LDC, is expected to increase its binding coverage. Details regarding the binding coverage and levels for LDCs have not so far been discussed.

Discussions continue on the possibility of the (voluntary or otherwise) elimination of tariffs in key sectors which are considered to be of export interest to developing countries. Proposed sectors include chemicals, clothing, electronics/electrical equipment, fish, footwear, forest products, gems and jewellery, leather goods, pharmaceutical and medical devices, raw materials and sporting goods. The UAE has proposed the sectoral elimination of tariffs and NTB on raw material, particularly primary aluminium (see Box 4). There is a diversity of approach among Arab States in respect of sectoral initiatives. The arguments for deeper sectoral liberalization such as the chemical sector is that chemicals are inputs into a wide variety of products including agriculture 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 the economies would stem from sectoral tariff eliminations, making it necessary to ensure that developing country needs and concerns are addressed.

Box 4. The UAE proposal on zero for zero sectoral approach on raw materials

The UAE proposes a sectoral tariff elimination on raw materials, including non-ferrous metals, with priority attached to primary aluminium (HS 967601 – unwrought primary aluminium from the potlines of smelters) and submitted a proposed list of raw material to be covered by the initiative.³¹ The list covers certain mineral products (marble, granite porphyry, natural magnesium carbonate), ores (iron, manganese, copper, cobalt, lead, zinc, tin, tungsten), mineral fuels (oils, pitch, petroleum oils and gas), chemical products (artificial corundum, manganese oxides), precious stones (pearl) and copper and articles. The UAE argues that duty-free raw materials, including primary aluminium, are essential for the competitiveness of manufacturing and semi-manufacturing businesses in developed countries, while the same products constitute generally strategic exports and emerging industries in developing countries. The UAE supports the proposal that all of low tariffs be eliminated at the beginning of implementation period for tariff elimination. For this purpose, it proposes to define 'low tariffs' as tariffs equal to or below 6 per cent and calls for the participation of significant exporters and importers in the raw material sector to reach a critical mass.

Discussions have been inconclusive on NTBs. As tariffs are lowered, NTBs become increasingly important as protection and regulatory trade instruments. This has been stressed

³¹ TN/MA/W/37, Add.1 and Add.2.

in the negotiations by Arab countries, including Morocco, Oman, Tunisia and UAE. NTBs comprise measures directly related to trade (e.g. anti-dumping measures, rules of origin), 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 a decreasing use of other measures. Developing countries and LDCs appear to be the most negatively affected by 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 technical barriers to trade (TBT) and SPS measures and 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 the requirements. Consumer and producer interests and the difficulties faced by poorer countries to deal 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 in order to assess their impacts and minimize any barriers they may create. Resources also need to be provided to developing countries to meet them. Some efforts are being made in this regard including the Standards and Trade Development Facility. These efforts need to be more comprehensive and capacity-building oriented. An UNCTAD Expert Meeting in September 2005 highlighted the need for increased research and assistance to developing countries on NTBs to help them identify NTBs facing their exports, as NTBs affect export supply, capacity-building and competitiveness, especially for developing countries. Insufficient availability of data and capacity constraints stand in the way of developing countries as they try to identify NTBs affecting their exports, leading to their inability to participate effectively in Doha negotiations on NTBs.

Non-reciprocal preferences

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, as well as improving market access conditions on an MFN basis. An 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. UNCTAD estimates show that during the 2001-2002 period, 61 per cent of LDCs' exports to the QUAD countries faced MFN tariffs owing to their exclusion from GSP or other preferential schemes, or their inability to qualify for the preferential treatment and the complexity of utilizing the schemes. The lack of supply capacity continued to limit the fuller utilization of preferences. Also the trade weighted average tariff that LDCs face when exporting to developed countries is 48 per cent higher than the average tariff that developed countries face when exporting to other developed countries. This is the case despite preferences, 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 by developed countries to all products of LDCs, and by developing countries in a position to do so. This alone and binding this in the WTO can, according to an UNCTAD study, generate welfare gains of up to \$8 billion, representing a growth of around 2-4 per cent for LDCs, and export gains of up to \$6.4 billion.³² A proposal made by the African Group regarding the treatment of non-reciprocal preferences called for the

³² 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).

incorporation of a correction coefficient in formula while the ACP has called for the use of a “vulnerability index” to identify those products eligible for special treatment.

Newly acceded members

The special needs of newly acceded countries are acknowledged in the NAMA Framework. Jordan and Oman, like other recently acceded members, have very low average bound rates compared to other countries (see Table 2). This is due to extensive market access commitments undertaken as part of their accession. Those countries in the process of accession to the WTO are confronted with bilateral negotiations on concessions on tariffs. Acceding countries have the option of offering bindings not on all industrial tariff lines (as opposed to in agriculture where all tariff lines need to be bound). All acceded countries, including Jordan and Oman, have committed to bind 100 per cent of their industrial tariff lines, this is in comparison with about 60 per cent for developing countries.³³

Textiles and clothing

On 1 January 2005, the Agreement on Textiles and Clothing (ATC) expired and all remaining quotas imposed by the EU, the United States and Canada were abolished. The ATC expiration marked the end of the discriminatory trade regime of over 40 years, which targeted textiles and clothing exports from developing countries. While the free trade in textile was expected to generate aggregate income gains in developing countries of \$24 billion a year, export revenue gains of \$40 billion and 27 million jobs, developing countries began pondering its adverse impact as the ATC expiry approached. This was particularly so as the majority of the quota-restrained products were expected to be liberalized at once towards the end of 2004 due to the ‘back-loading’ of lifting quotas by restraining countries. A number of studies predicted that developing countries that benefited from the quota system would be adversely and heavily affected by the ATC expiry. There was also expectation that some textile products would undergo sharp price decline as a result of increased competition (see Box 5). The sudden increase in exports of textiles and clothing from China immediately following the expiry of the ATC has led to tensions and calls for safeguard measures by some developed countries. Negotiations between China, and EU and the United States have led to China agreeing on voluntarily restraining its exports to these markets.

Box 5. Post-ATC observation

Arab countries whose textile products’ exports represent the major part of their merchandise exports include: The UAE, Bahrain, Egypt, Jordan, Kuwait, Morocco, Oman, Qatar and Tunisia. Their major market is the United States, except for Morocco and Tunisia whose major partner is the EU. The data from the US Department of Commerce shows that, during the period between January to June 2005, exports of textile products from the UAE and Jordan increased by 10 per cent and 24 per cent respectively, as compared to the same period in the previous year. However, the exports from Kuwait, Oman and Qatar declined by 62, 51 and 34 per cent while exports of Bahrain and Egypt remained constant. As regards exports of Morocco and Tunisia to the EU, estimates by the International Textiles and Clothing Bureau (ITCB) indicate that, during the period of January to May 2005, their exports dropped by 11 per cent and 3.2 per cent respectively. Among other regional groupings (Andean Community, ASEAN, Caribbean Basin Initiative (CBI), CAFTA and Sub-Saharan Africa) whose major market is the United States, all but sub-Saharan Africa experienced

³³ Trade weighted average. See UNCTAD, *WTO accessions and development policies* (UNCTAD/DITC/TNCD/2001) UNCTAD, 2001.

export growth ranging from 4 to 13 per cent during the period of January to June 2005 for the same period in the previous year Sub-Saharan exports declined by 7 per cent. Although it remains difficult to draw definitive conclusion on the price impact of the ATC expiry on textiles and clothing imports, a preliminary analysis of US imports by ITCB shows that, on aggregate, the average unit price of textiles and clothing imports during the period between January to May 2005 increased by 1.18 per cent when compared to the same period in 2004. While the average unit price for apparel products declined by 2.44 per cent, the average price for textile imports shows an increase of 3.75 per cent. Within the apparel categories, there is a wide variation in price trends. Price trends of imports from individual countries also reflected a similar pattern i.e. that while, on aggregate, unit prices shows an upward trend, main apparel products experienced price decline.

The system, while restraining exports of competitive developing countries, provided guaranteed market access for smaller developing country suppliers, including those in the Arab world, to major export markets. Thus, they would face adjustment issues challenges consequent to quota elimination. In September 2004, 11 developing countries raised their concerns within WTO on the issue of possible adverse effects of the quota elimination and proposed that a study be undertaken to identify adjustment-related issues and costs as a result of the phase-out of the ATC and to establish a work programme within WTO on finding solutions to adjustment related-issues on textiles and clothing.³⁴ China and other members of the Textiles and Clothing Bureau have opposed proposals for any specific action by WTO. To unblock the situation, Tunisia submitted a proposal to explore solutions, on the basis of Part IV of GATT 1994, aimed at stabilizing textiles prices and establishing a funding mechanism specific to the textiles and clothing sectors. Tunisia also called for urgent and sympathetic consideration to be given to the problems faced by these sectors and to explore constructive solutions to further the objectives of GATT Article XXXVI. The objective of the exercise is to redress situations of textiles and clothing, particularly to stabilize market prices in cooperation with international financial institutions (IFIs), to introduce funding mechanism specific to the development policies of the sector.

D. Services

Background

Over the past two decades, the service economy in all countries has become more important and contributed a growing share to gross domestic product and employment. Services are a fundamental economic activity, with a key role in infrastructure building, competitiveness and trade facilitation, as well as an important avenue for the diversification from commodity dependence and the production of low-valued added goods. They also have significant implications for fulfilling the Millennium Development Goals, especially poverty and gender equality. Universal access to essential services such as education and health would contribute to goals 2 (primary education), 4 (child mortality), 5 (maternal health), 6 (HIV/AIDS, malaria and other diseases) and 7 (environmental sustainability). There are, however, differences in the development of the services economy and infrastructural services across countries. On average, the share of services to GDP has risen to over 60 per cent in 2003 with the average share for most developing countries at 49 per cent and that of developed countries, 72 per cent. West Asia's share is 62 per cent and North Africa's is 46 per cent in 2003. As a group, the share of workers employed in services in developing countries is

³⁴ G/C/W/496, 30 September 2004. A proposal was made by Bangladesh, Dominican Republic, Fiji, Jamaica, Madagascar, Mauritius, Mongolia, Nepal, Sri Lanka and Uganda.

about 30 per cent, reaching as high as 53 per cent for some of them; this does not include the informal services sector that plays an important role in developing countries. The share for developed countries is 70 per cent.³⁵

As to the share in world total exports of services, developing countries accounted for 22.5 per cent in 2004, an increase from 18.5 per cent in 1990. In 2003, Arab countries in West Asia accounted for 2.2 per cent of world total exports of services and those in North Africa 1.2 per cent. As to their share in world imports of services, Arab countries in West Asia account for 3.5 per cent while those in the North African for less than 1 per cent. Developing countries as a whole accounted for 24 per cent. During 2000-2003, services export expanded substantially with developed countries exports growing by 7 per cent, as compared to 4 per cent between 1995 and 2000. Arab countries experienced varying patterns of trade growth, with North Africa registering positive and increasing average growth during the two periods, from 3.4 per cent in 1995-2000 to 7 per cent in 2000-2003, while those in West Asia experiencing a reverse trend of 7.6 per cent in the average growth rate of exports in 1995-2000, but declining to negative 6.4 per cent during the period 2000-2003. On the whole, developing countries generally remained net importers of commercial services in 2003,³⁶ and their services trade has been below global averages. For West Asia, a deficit was registered at US\$ 6.4 billion in 2002. Among Arab countries, the top three countries capture about 70 per cent of total Arab exports in 2002.³⁷

Most Arab countries face supply-side constraints, which include limited domestic market to serve as a base for building competitive industries, limited access to technology and financial resources, constraints in skills and training and underdeveloped infrastructure services (e.g. telecommunications, financial and transport services). These constraints not only affect the local provision of services, but also act as a disincentive for the entry of foreign investors. In some countries, inefficient bureaucracies, inadequate or underdeveloped regulatory systems and legal institutions, political instability and security considerations are added burdens and serve as disincentives to attracting more foreign investments especially in key sectors of the economy.

The development of backbone or infrastructure services such as telecommunications, transport, financial and electricity, accompanied by appropriate regulatory framework is essential to ensure an attractive and competitive services sector. The liberalization of mobile telecommunications system in Morocco and Jordan has resulted in the lowering of tariffs, resulting in the growth in mobile telephone subscriptions in Morocco from 150,000 customers in 1999 to 4 million in 2000. A case study on Tunisia revealed that opening up the telecommunications markets to foreign competition could boost the competitiveness of its IT-enabled services and would increase its GDP by as much as 4.4 per cent.³⁸ Improvements in telecommunications and transport services would also help facilitate the development of export capacity in tourism services, an important source of comparative advantage for some Arab countries. Transport costs in the region are higher than in other regions. This affects both the efficiency and costs which render exports from these countries less attractive. The

³⁵ In 2003, 12 leading exporters of services among developing countries – including China, India, the Republic of Korea, Malaysia, Thailand, Mexico, Egypt and Brazil – accounted for 71 per cent of service exports of all developing countries, as compared to 66 per cent in 1998.

³⁶ *Participation of the Developing Economies in the Global Trading System*, (WT/COMTD/W/136).

³⁷ The top three exporters of services are Egypt, Saudi Arabia and Morocco.

³⁸ The case studies are based on The World Bank, *MENA Development Report: Trade, Investment, and Development in the Middle East and North Africa: Engaging with the World*, The World Bank, Washington D.C., August 2003.

availability and provision of electricity also impacts on the competitiveness of the economy. In a number of Arab countries, the electricity supply industry is vertically integrated with the government as the sole supplier. Demands for competition and efficiency have resulted in some Arab countries establishing appropriate regulatory bodies and corporatizing or privatizing incumbent operators or creating corporate subsidiaries. Reforms in the financial services sector are also important, as access to competitive finances has implications on the expansion of export capacity and the competitiveness of the industries. Gradual reforms in the financial sector in the region has led to a decline in public sector lending from about 40 percent in 1990-1995 to about 25 percent in 1996-2000, thereby siphoning off more resources for private sector productive activities.

Current GATS negotiations

Article XIX:1 of the GATS mandates Members to enter into successive rounds of negotiations to: (1) achieve a progressively higher level of liberalization; (2) promote the interests of all participants on a mutually advantageous basis; and (3) secure an overall balance of rights and obligations. This mandate has been reaffirmed in paragraph 15 of the Doha Ministerial Declaration. The July Package provided in its Annex C a set of recommendations for services negotiations, which essentially reiterates objectives and commitments set out in the GATS, the Negotiating Guidelines and the DMD, while emphasizing the need for a high quality of offers in sectors and modes of export interest to developing countries and no *a priori* exclusion of any service sectors or mode.

To date, a total of 69 offers have been submitted, including from seven Arab countries, namely Bahrain, Jordan, Egypt, Qatar, Tunisia, Morocco and the UAE. Of these, two have revised their offers, including Bahrain and Egypt. No LDC has submitted an offer. Developing countries have experienced difficulties in identifying sectors and modes of interest to them. They have, however, clearly identified an interest on Mode 4, with LDCs in particular expressing interest on the inclusion of the less-skilled category in WTO Members' commitments. Progress still needs to be made on assessment of trade in services to facilitate the participation of developing countries in the request/offer exercise and – where needed – negotiations should be adjusted in the light of the results of this assessment. The recommendations provide for a review and full reporting on progress in negotiations for the MC6. This exercise will need to consider, *inter alia*, the extent to which GATS Article IV is being implemented, while taking into consideration the needs of small service suppliers in developing countries, in line with paragraph 15 of the Guidelines.

Table 3. Uruguay Round Commitments of Arab WTO Member Countries

	Business Services	Communication Services	Construction and Related Engineering Services	Distribution Services	Educational Services	Environmental Services	Financial Services	Health Related and Social Services	Tourism and Travel Related Services	Recreational, Cultural and Sporting Services	Transport Services
Bahrain							X				
Djibouti	X	X							X	X	
Egypt		X	X				X		X		X
Jordan	X	X	X	X	X	X	X	X	X	X	X
Kuwait	X		X	X		X	X	X	X	X	
Mauritania									X		
Morocco	X	X	X			X	X		X		X
Oman	X	X	X	X	X	X	X	X	X		X
Qatar	X	X	X			X	X		X		
Tunisia		X					X		X		
United Arab Emirates	X	X	X			X	X		X		

The recommendations contained in the July Package noted the importance for developing and developed countries of the temporary movement of natural persons (Mode 4). Commercially meaningful liberalization in this Mode is particularly important. The initial offers submitted by developed countries made limited improvements to their existing commitments. A group of 18 developing countries, including Egypt, have expressed concerns that current specific commitments, as well as the initial offers, do not provide commercially meaningful benefits to them, as they often render the movements of natural persons conditional upon the establishment of a commercial presence and do not cover different levels of skills.³⁹ Many offers lack clarity as regards work permits, visa and other administrative regulations, as well as procedures relating to the entry of service providers. A more recent communication from a group of 12 countries⁴⁰ outlines some of the following parameters for the assessment of offers: (a) inclusion of more categories of natural persons, especially those de-linked from commercial presence, and responding to requests expressed by Members; (b) addressing restrictive market access and national treatment limitations, specifically the removal of economic needs tests (ENTs), quotas, wage parity requirements or specification of reasonable duration of stay and the provision for their renewal; (c) transparency of Mode 4 commitments, particularly relating to information on relevant provisions of general immigration laws and regulations and single-stop window for information; and (d) tackling the issue of recognition of qualifications for Mode 4 services suppliers.

³⁹ TN/S/W/19, 31 March 2004, submitted by Brazil, Chile, China, Colombia, Cuba, Dominican Republic, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nicaragua, Pakistan, Peru, Philippines and Thailand.

⁴⁰ Job(05)/131, 30 June 2005.

Box 6. Mode 4 – Considerations and approaches

- *Adoption of a framework of common categories, including definitions and terminologies, and entry requirements* (inclusion of categories de-linked from commercial presence, less skilled movement);
- *Strengthening transparency as a cross-cutting issue* (e.g. publishing the relevant laws and regulations; or transparency related to due process while subjecting LDCs only to best endeavour obligations);
- *Minimizing market limitations to ensure appropriate depth and breath of actual commitments* (e.g., ENTs, limitations on the duration of stay and their renewability; quotas, or wage parity requirements);
- *Experimenting with creative options for specific sectoral commitments* (e.g. seeking commitments on "placement and supply of service personnel" as a way to send less skilled workers);
- *Adopting clear disciplines for domestic regulations to ensure that any commitments would not be nullified by overly restrictive domestic regulations* (e.g. by ensuring that future disciplines clearly cover Mode 4-related regulations, as well as effective provisions for S&D treatment);
- *Addressing overly burdensome visa requirements and procedures* (e.g. through a GATS visa or by ensuring an objective application of procedural requirements for each visa or permit category);
- *Enhancing mutual recognition agreements (MRAs)* (e.g. facilitating the conclusion of MRAs between developed and developing countries, as well as the accession of developing countries to existing MRAs);
- *Creating a special Committee (subsidiary body to the CTS) dedicated to Mode 4* and tasked with ensuring that progress is made on these and other Mode 4-related issues;
- *Facilitating international commitments through national flanking policies* (e.g. ensuring temporary stay through bonds or by retaining part of the salary until return; or addressing security concerns).

Many developing countries were not able to submit their requests and/or offers within the various timelines set⁴¹ given their lack of technical capacity compounded by the absence of data on the services sector. In the perception of developing countries, initial offers of the major trading partners need real improvements. Overall, there is lack of real change in terms of committing to new sectors and in the pattern of sectoral bindings. Most have either merely redefined the sector/sub-sector to which a commitment applies or have simply replaced one limitation with another one. Several offers may also be characterized as ‘back-tracking’ in the sense that new limitations or more restrictive ones replaced old limitations. New sectoral commitments have been mostly unbound or been carved out with limitations. Some initial offers often use new classifications (even with respect to sectors that are not officially part of the WTO classification list) that have not been approved and are still under discussion, causing an uncertainty as to the exact content of offers. Very few countries abolish their MFN exemptions – some are even introducing new ones – thereby leaving some 400 of them in countries commitments. Offers concentrate on certain industries, bypassing sectors and modes of interest to developing countries, including health, audiovisual or other labour-intensive services and Mode 4, including those at lower skill levels. Certain offers refer to the notion of reciprocity.

⁴¹ March 2002 for requests and July 2002 for offers as provided in the Doha Ministerial Declaration and May 2005 as provided in the July Package.

Box 7. Energy services in the ongoing GATS negotiations

Energy services are important, as some Arab countries are major producers and exporters of petroleum oil and gas and have huge potential for exporting energy services. The WTO Services Classification List (W/120) does not include energy services among its twelve broad sectoral headings. Energy-related services are thus found in sectors such as other business services, transport services and other services sectors which might cover energy-related activities – some professional services, construction and distribution services. Negotiating proposals during the earlier phase of negotiations have sought improved market access in the sector, recognition of the right to regulate to achieve public policy objectives and that negotiations on liberalization of the energy services sector should not address the issue of ownership of natural resources. Some countries (the United States, Japan, Norway, EU) have proposed mechanisms to ensure transparency of regulations with regard to energy services as well as non-discriminatory access to and interconnection with energy networks and grids, and to prevent anti-competitive practices. The United States, Indonesia and Venezuela are among those countries which have made some classification proposals. The United States called for deeper commitments through the use of an “Index for Classification of Energy Services” to identify broad categories that contain energy services. Indonesia proposed the development of a detailed classification of the energy services, composed of headings including upstream activity, downstream activity, energy commercialization activity, professional activity and other energy services activity. The Venezuelan proposal suggested a new classification of the sector based on three criteria, namely the sources of energy, the phases of the energy process, and a distinction between ‘core’ and ‘non-core’ energy services. Requests made on energy services could be summarized as follows: (1) undertaking broader liberalization of the sector under Modes 1, 2 and 3; (2) undertaking additional commitments relating to the setting up of an independent regulatory system or the establishment of non-discriminatory, objective and timely regulatory procedures governing transportation and transmission of energy; (3) making commitments based on some suggested classification list which are as yet not binding; (4) inclusion of the concept of ‘technological neutrality’, which could affect countries’ flexibility to open their energy markets and retain the right to limit the coverage of their commitments. Reference is also made to the notion of ‘neutrality of energy source’. Twelve offers have so far been made on energy services. As there is no agreed classification on energy services, most countries have scheduled energy-related commitments under the relevant sectors/sub-sectors. Norway and the US have made a consolidated, separate section on energy services, although it remains to be seen how they would schedule their services commitments in their final schedule. Improvements on energy services offers take any of the following forms: inclusion of a services-related sub-sector in the commitment, expansion of either the geographical scope or the coverage of the commitment, or removing market access or national treatment limitations to already existing energy-related commitments.

In light of the ‘unsatisfactory quality of offers’, a debate emerged on a perceived crisis in the negotiations. 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 on which all countries would be required to make commitments that should be no less than existing levels of market opening. In the view of developing countries, this approach is problematic, as it departs from the positive list approach that allows for progressive liberalization and flexibility, which are key features of the GATS architecture and are also embodied in the Negotiating Guidelines and the LDC Modalities.

The need therefore exists to refocus on these development-oriented criteria and use them as benchmarks and baselines for effectively assessing the quality of offers, the progress

of negotiations and establish 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.

GATS rules

The results of the negotiations on an emergency safeguard 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 adapting to changing circumstances in the context of liberalization. This is particularly important for developing countries where appropriate regulatory and institutional frameworks have yet to be made fully operational and services suppliers suffer from a lack of competitiveness. Recent discussions have focused on technical issues such as the relationship between ESMs and bilateral investment treaties and FTAs, the issue of 'likeness' in the ESM context, the concept of 'domestic industry' and related acquired rights. Other issues being discussed include data availability, economic costs, and situations justifying ESM.

Negotiations on disciplines on subsidies and government procurement have seen limited progress. As regards subsidies, WTO Members continue to discuss how to best to move forward on the information exchange (identifying approaches, priority sectors and time lines) and how to sequence this with the search for a definition of trade-distortive subsidies. Regarding government procurement, there is disagreement on the mandate, including about whether or not the negotiating mandate (Article XIII) covers market access issues and what is the impact of the July Package dropping transparency on government procurement out of Doha negotiations. The EU, the main '*demandeur*', has narrowed its focus and calls for mainly procedural disciplines. They argue that such rules would be particularly important to ensure the effective opening of government procurement markets.

Domestic regulation

Negotiations on domestic regulations under GATS Article VI:4 have gained momentum, and WTO Members expect to agree upon a set of 'elements' for the future disciplines by MC6. Any disciplines on domestic regulation should not be construed to prevent Members from exercising their right to regulate, including the right to establish the kind of universal service obligation they desire. The issues under discussion include: sectoral or horizontal application of disciplines; types of measures covered; transparency; necessity; qualification and recognition; special and differential treatment and the linkage of any discipline to Mode 4 commitments (see Box 8).

Box 8. Issues for considerations in developing disciplines on domestic regulation

- Sectoral or horizontal application;
- General or commitment-based application (disciplines to apply either to sectors where a Member has undertaken specific commitments or to all sectors, regardless of commitments);
- Types of measures covered (having precise definitions of the measures in the mandate together with a statement that coverage is for all measures relating to these five types of measures);
- Origin of measures covered (questions relate to the levels of government to which future disciplines should/could apply, and whether to include voluntary measures of non-governmental bodies);
- *Transparency* (weighing the costs and benefits of the various suggestions and to ensure that there is appropriate flexibility for developing countries, especially with regard to prior comment);
- *Necessity* (either reaffirming, as a general principle, the necessity test as enshrined in the GATS and/or replacing 'legitimate policy objectives' with the 'national policy objectives');
- *Recognition of Qualifications* (disciplines for recognizing foreign qualifications, including mechanisms to facilitate developing countries' participation in MRAs);
- *Special and Differential Treatment* (recognition of developing countries' particular need to exercise the right to regulate; phased introduction of laws affecting developing countries' services exports; longer time frames in the application of the future disciplines, capacity building);
- *Overall package of results* (link between future disciplines on domestic regulation and the breadth and depth of any future (horizontal or sectoral) Mode 4 commitments).

Issues of interest to Arab countries

Arab countries need to more proactively participate in services negotiations. Egypt is among the most active and expressed its interests primarily on Mode 4-related issues, professional services, transparency issues, and other developing country concerns, including on increasing the capacity of developing countries to trade. Bahrain and Oman have expressed the importance of financial services liberalization, this being one of the essential infrastructure services which could help bring in finances, technology and innovation and could help improve the competitiveness of the economy. Djibouti like other LDCs have consistently reiterated the need to for technical assistance and capacity building both in the context of the services negotiations and in setting up a sustainable domestic supply capacity.

Box 9. Requests and offers of Arab countries

Arab countries have received requests from both developed and developing countries, including the United States, the EU, Australia, Switzerland, India and Pakistan. Egypt also submitted request to other Arab countries. The sectors requested for further opening include financial services, some professional services (legal, accounting, engineering services), other business services, computer and related services, construction, health-related Services, environmental, tourism, telecommunications and some transport services. The requests could be described as ambitious and in some cases difficult to meet given the lack of sufficient services and regulatory capacities of Arab countries. Few Arab countries have made requests to other WTO Members.

As regards offers, seven Arab countries have so far submitted offers. These include Bahrain, Jordan, Egypt, Qatar, Tunisia, Morocco, and the United Arab Emirates. Bahrain and Egypt have submitted revised offers. Bahrain and Morocco have made extensive new sectoral commitments were

made including on the following: business services (including professional services, computer and related services, research and development and other business services), communications services, construction and related engineering, distribution and energy services, financial services, hospital services, hotels and restaurant services, some transport services. Qatar and Egypt made changes to their offers on Mode 4. In these new sectoral commitments, some have provided extensive bindings (i.e. no limitations). Some offers attached limitations to commitments in specific sub-sectors, and in some modes (mostly Mode1) are left unbound, an indication that these countries have done some evaluation of their level of preparedness to open up and have reflected these in their offers. Bahrain, Jordan, Egypt, and Qatar have deleted previously existing limitations such as nationality and residency requirements, ENTs, foreign equity limitations and limitations on type of legal entity. Specifically in the case of Jordan and Egypt, the phasing in of some pre-commitments has resulted in the elimination of restrictions such as requirements on commercial presence, quotas and provision of services by exclusive suppliers, and ENTs. Egypt has also provided greater clarity in its schedule with the inclusion of Committee of Participating Countries (CPC) numbers corresponding to the sectoral commitments and providing detailed definitions of the categories of persons included in its Mode 4 commitments. The revised offers of Egypt and Bahrain demonstrated further openings in key Modes and sectors/sub-sectors of interests to WTO Members such as Mode 4, professional services and other business services, computer and related services, some construction services, and health related and social services.

Some of the recently acceded Arab countries have reiterated the extensive commitments that they have already undertaken in their process of accession and that other countries should give credit to them in the request-offer process while undertaking more liberal commitments. Arab acceding countries have faced strong requests to make deeper commitments in all services sectors, but most notably on key sectors such as financial, telecommunications, and transport services and on Modes 1, 2, and 3. Acceding countries that have attempted to take partial commitments have faced opposition from main trading partners. Specific limitations which have been targeted for removal include ENTs, nationality requirements and residency requirements. Some of these acceding countries have also been asked to schedule commitments using new (proposed) classifications, which are still under discussions in the WTO. This may result in these countries taking on far-reaching commitments which would be difficult to withdraw in the future.

E. Development issues

Review and operationalization of special and differential treatment provisions

SDT is recognized as a key principle of the MTS for addressing the development, financial and trade needs of developing countries. There is also increasing recognition of the need for an appropriate degree of policy space for experimenting with domestic policy instruments and institutional innovations. The July Package provided that work continue on all outstanding agreement-specific proposals, as well as on other outstanding issues, including cross-cutting issues, the monitoring mechanism and the incorporation of SDT into the architecture of WTO rules. As there was no agreement to harvest the 28 agreement-specific proposals that had been agreed to in principle as contained in the Derbez text considered at Cancún in 2003, there is no reference to them in the Decision. These proposals largely pertain to SDT in procedural aspects of WTO Agreements. The bulk of provisions with substantive development or commercial content are yet to be addressed in the negotiations. Developing countries continued to argue that all agreement-specific proposals be treated as a package. The new deadline for reporting to the General Council with clear recommendations for a decision was set at July 2005 for those proposals being considered within the Committee on

Trade and Development and those proposals referred to other negotiating bodies (category II issues). The July Package also provided that, within the parameters of the Doha mandate, all other outstanding work, including on cross-cutting issues, the monitoring mechanism and the incorporation of SDT into the architecture of WTO rules, would be addressed as appropriate.

To date, 88 agreement-specific proposals have been under negotiations with no decision taken to date. In December 2004, a new approach was suggested by the Chairman of the Special Session of the Committee on Trade and Development based on the situational needs of developing countries, whereby Members consider the causes underpinning an agreement-specific proposal to understand the purpose of the respective proposals and seek to address each proposal according to specific developmental needs, including through enhancing flexibility under WTO rules specifically for those countries that are in need. The Chairman's suggestion included discussing cross-cutting issues such as the monitoring mechanism in parallel with agreement-specific proposals. No decision was taken on this approach because developing countries were concerned that such an approach might lead to a *de facto* differentiation of developing countries according to their situational needs. Concerns have also persisted on the nature of a possible monitoring mechanism where some developed countries propose to monitor the basis to use individual SDT provisions by developing countries, while developing countries have sought to ensure monitoring of developed countries' implementation of SDT provisions. It has been agreed to take up as a priority those agreement-specific proposals pertaining to LDCs, which are also of relevant to Arab LDCs. (see Box 10).

Box 10. Agreement-specific SDT proposals by LDCs⁴²

23) The Understanding in Respect of Waiver of Obligations under the GATT 1994

“The Understanding in Respect of Waiver of Obligations under the GATT 1994 should be clarified to provide that request for waivers from least-developed countries of their obligation under the GATT 1994 and other multilateral agreements shall be considered sympathetically and waivers granted expeditiously.”

36) Enabling Clause – paragraph 3(b): erosion of preference margin

The LDCs affected (by preference erosion) would require compensatory or adjustment support measures in the trade, financial and technological fields to mitigate adverse effects on their export earnings as well as enable them cope with increased global competition, through, *inter alia*;

- (i) Elimination of all internal and border constraints inhibiting the full utilization of existing preferential access.
- (ii) Support diversification efforts including elimination of all tariff peaks and tariff escalation affecting semi-processed and processed products.
- (iii) Provide debt relief through cancellation to release resources for building productive capacities.
- (iv) Provide target incentives to their enterprises to facilitate technology transfer in the spirit of Article 66.2 of the TRIPS Agreement.
- (v) Remove all non-tariff barriers to all LDCs exports.
- (vi) Provide temporary financial compensation for fall in export earnings resulting from a reduction of MFN tariff rates in the case of products whose share in the total export earnings of an LDC exceeds 50 percent”

38) Enabling Clause

...

- (c) The provisions in the Decision on More Favourable Treatment, which provide that the least developed countries “shall not be required to make concessions that are inconsistent” with their

⁴² TN/CTD/W/4/Add.1, 1 July 2002.

“development, trade and financial needs” shall be clarified to provide that these countries shall be permitted in trade negotiations, if they considered that this was warranted by economic and trade situations and the stage of development:

- (i) to make no reductions in tariffs in the agricultural and/or industrial sectors;
- (ii) exclude from tariff reductions certain sub sectors in both of the above sectors;
- (iii) bind the rates reduced in the negotiations and the prevailing applied rates at levels consistent with the development, trade and financial needs of developing countries and LDCs.”

84) Agreement on Trade Related Investment Measures (TRIMs) – Whole Agreement

“LDCs should be exempted from the disciplines of the Agreement on TRIMs”

88) Decision on Measures in Favour of Least-Developed Countries – Paragraph 1

“It is understood that least-developed country Members, notwithstanding any provision of any WTO Agreement, shall not be required implement or comply with obligations or commitments that are prejudicial to their individual development, financial or trade needs, or their administrative and institutional capacity.”

Implementation-related issues and concerns

The July Package reiterated the need to redouble efforts to find an appropriate solution as a priority not later than July 2005 (see Box 18). Reference to individual outstanding implementation issues of importance to developing countries is not included, while explicit reference is made to the extension of additional protection on geographical indications (GI) on products other than wines and spirits. Implementation-related issues and concerns were not given priority following Cancún. Some developing countries have proposed the establishment of a single negotiating body on implementation issues.

Box 11. Examples of outstanding implementation-related issues and concerns⁴³

SPS Agreement:

“Where the introduction of SPS measures may have significant effect on trade opportunities for products of interest to developing countries, Members shall notify the WTO and inform the concerned Member prior to the application of such measures and, in addition, to the relevant provisions of paragraph 5 of Annex B and Article 7, shall notify final rules or subsequent decisions derived from a previously notified measure.”

TBT Agreement:

“Article 11 shall be made obligatory so that technical assistance and cooperation is provided to developing countries.”

“Acceptance by developed-country importers of self-declaration regarding adherence to standards by developing-country exporters. This provision should be introduced in Article 12.”

TRIMs Agreement

“Developing countries shall be exempted from the disciplines on the application of domestic content requirement by providing for an enabling provision in Articles 2 and 4 to this effect.”

“Specific provisions shall be included in the Agreement to provide developing countries the necessary flexibility to implement development policies that may help reduce the disparities they face vis-à-vis developed countries.”

⁴³ JOB(01)/152/Rev.1, 27 October 2001.

Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement

“The transitional period for developing countries provided for in Article 65.2 shall be extended.”

“A clear understanding in the interim that patents inconsistent with Article 15 of the CBD shall not be granted.”

Articles 7 and 8 of the TRIPs Agreement to be operationalized by providing for transfer of technology on fair and mutually advantageous terms.”

The value of many implementation issues for the purpose of the overall Doha negotiations continue to depreciate as time goes and substantive negotiations progress. This is because the original purpose of implementation issues was to find concrete solutions, on a priority basis and time-bound manner, prior to developing countries’ assuming new and additional obligations that can be quite costly (see box 9), to their implementation difficulties, ensuring effective implementation by developed countries of existing commitments (e.g. ATC quota elimination), as well as addressing existing imbalances in WTO Agreements. Such sequencibility and time-boundness was a part of the overall balance achieved in the Doha package. Indeed, with the advance of implementation of the Uruguay Round Agreements, some implementation issues seem to have lost their relevance and become obsolete (e.g. ATC). Thus, implementation issues need to be addressed as a matter of priority.

Box 12. Implementation costs for selected Arab countries: Customs Valuation, SPS/TBT and TRIPS⁴⁴

Customs valuation: A World Bank loan to Tunisia that included a customs modernization component was valued at \$16.21 million, this included a new information system, customs container scanners, customs training centre, equipment for documentation centre, pilot version for electronic manifest, equipment and systems integration for electronic document interchange.

SPS: World Bank operated the following SPS-related project. This included “Algeria locust control programme” (1988-1990, \$112 million) (\$79.6 million).

TRIPS: The costs of some specific reform of intellectual property laws in Egypt was estimated at \$1 million in staff training, \$192,000 to strengthen the judicial system and \$ 598,000 to recruit new patent personnel and purchase new equipment.

Preference erosion

Preference-dependent countries face challenges arising from preference erosion consequent to multilateral reduction of tariffs in agriculture and NAMA. An UNCTAD estimate finds that export revenue loss accruing to Africa and developing countries from 36 per cent cut in MFN duties in the EU would lead to an aggregate loss of \$460 million annually. The Commonwealth Secretariat finds that \$1.7 billion will be lost annually in agriculture, textiles and clothing for preference-dependent countries, including those in sub-Saharan Africa.⁴⁵ Yet another estimate by IMF shows that Malawi, Mauritania, United

⁴⁴ J. Michael Finger and Philip Schuler, “Implementation of Uruguay Round commitments: The development challenge”.

⁴⁵ Commonwealth Secretariat (2004), *Preference Dependent Economies and Multilateral Liberalization: Impacts and Options*, Economic Affairs Division.

Republic of Tanzania, Mauritius and Côte d'Ivoire would incur loss in export values ranging between 7-2 per cent as a result of a 40 per cent cut in preference margins.⁴⁶

The July Package reaffirmed the importance of longstanding trade preferences and provided that these should be addressed in the agriculture and NAMA negotiations. Accordingly, agriculture and NAMA negotiations need to address as a matter of priority vital developmental interests of Arab and other countries in elaborating full modalities on tariff reductions so as to attenuate possible adverse effects on Arab countries with a view to facilitating their smoother adjustment to increased international competition in export markets. As noted above, discussion under agriculture and NAMA negotiations has proved controversial owing to differing interests between preference dependent countries and other competitive exporting countries. In the context of the SDT review, calls have been made to provide LDCs with adequate and operational compensatory, trade-promoting measures by, among others, eliminating internal and border constraints inhibiting the full utilization of existing preferential access, eliminating tariff peaks and escalation affecting semi-processed and processed products, removing all non-tariff barriers to LDCs, and creating a financial compensatory fund.

Commodities

The July Package provided that particular concerns of developing countries, including commodities issues, will be taken into account in the context of agriculture and NAMA negotiations. Commodity issues put forward in 2003 by three East African countries remain to be tackled. The countries in question called for the crisis in trade and development of commodity-dependent developing countries caused by the long-term price decline and fluctuation of commodities prices to be addressed urgently. The Eminent Persons Group convened by UNCTAD on behalf of the United Nations General Assembly has in its report analysed the causes of, and remedies for, the commodity crisis. Some market access aspects, tariff peaks and tariff escalation and subsidies could be addressed by the WTO. Many other important aspects go beyond the mandate of WTO and thus require the involvement of other international organizations, specifically UNCTAD, and support from international financial institutions and the donor community. UNCTAD is providing support for the operationalization of the International Task Force on Commodities (ITFC) to set up a platform for a comprehensive approach to address commodity issues.

Small, vulnerable economies

Pursuant to paragraph 35 of the Doha Ministerial Declaration, work has taken place among WTO members on issues relating to the trade of small economies, with a view to framing trade-related responses for the fuller and beneficial integration of small, vulnerable economies into the multilateral trading system. This mandate was reiterated in the July Package (paragraph 1(d)). While a number of conceptual issues have been extensively examined work toward concrete and specific responses has been limited. The group of small, vulnerable economies has recently submitted a proposal⁴⁷ containing a novel approach that seeks to link certain characteristics of small economies to the kinds of problems they face and

⁴⁶ International Monetary Fund (2004), Fund Support for Trade-Related Balance of Payments Adjustment, Washington DC: IMF.

⁴⁷ WT/COMTD/SE/W/13, 23 May 2005 ("An approach to framing responses to the trade-related problems of small economies").

to possible responses to these characteristics and problems in market access negotiations, rules negotiations and other areas of WTO work. It is expected that this approach may help in facilitating movement towards the consideration of negotiation proposals specific to the needs of small, vulnerable economies for the MC6 to take decision on these concrete measures.

Adjustment support to trade and trade-related shocks and 'aid for trade'

Arab and other developing countries face adjustment problems arising from liberalization commitments and from the implementation of agreements. In the past, the issue of adjustment was largely overlooked by the trading system and left to governments and IFIs. However, it is increasingly and widely recognized that adjustment support to trade and trade-related shocks and liberalization, as well as trade capacity building, should be integrated *ex ante* in trade agreements so as to facilitate the implementation of liberalization commitments and promote beneficial participation of Arab countries and other developing countries in world trade (see Box 13).⁴⁸ The report by the Consultative Board of the Director-General of the WTO (the Sutherland Report) recommended that new agreements reached at WTO in the 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 trade facilitation adopted in the July Package have explicitly adopted this approach, setting a precedent in WTO. Such precedent demonstrates that it is not only desirable but also feasible to recast the driving force of trade negotiations from pure mercantilist commercial interest towards the imperative of development. This is particularly justifiable given the expected aggregate global gains arising from the successful conclusion of the Doha negotiations. For example, the Commission for Africa stressed that shifting one-seventh of the resources allocated to OECD agricultural protection (\$350 billion) into development budget would double global ODA flows to developing countries. The initiative would be in conformity with international commitments made at the UN International Conference on Financing for Development in Monterrey, Mexico, in 2002.

Box 13. Aid for Trade Fund

An 'Aid for Trade Fund' should constitute an indispensable element in addressing adjustment costs associated with the implementation of the Doha negotiations and liberalization commitments therein.⁴⁹ Such a fund would be used including in dealing with preference erosion, government revenue loss, textiles quota elimination, and commodity dependency, building supply capacity, competitiveness, infrastructure and human and regulatory capacities and promoting transfer of technology. The practical implementation of such new mechanism will be especially important, as a number of developing countries including Arab countries lack adjustment resources and instruments to fully meet challenges arising from liberalization and reform commitments. The new challenge for the multilateral trade negotiations would be to properly design such adjustment mechanisms, ensure their sustainable funding and find ways to effectively integrate them into the negotiating outcomes, and the appropriate institutional setting to implement the mechanism. The purpose of such a fund could go beyond adjustment costs and should have under its auspices separate windows for seeding supply capacity building projects, financing trade-related infrastructure, including transport and telecommunication, standards-related infrastructures that can help them to upgrade their supply-capacity. This could address adjustment challenges arising from, *inter alia*, preference erosion, textile quota elimination, commodities, and government revenue losses under agriculture and NAMA

⁴⁸ For a discussion on an aid for trade fund for LDCs, see 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).

⁴⁹ The UN Millennium Project Report includes a proposal for "incremental and temporary aid for trade fund".

negotiations. The fund should enable countries to invest in new and dynamic products, regulatory systems, trade facilitation infrastructures and social safety nets. A guiding principle should be that such new funding must be non-debt creating, additional to existing development aid flows, and should be channelled directly to recipient countries.

F. Trade facilitation

Trade facilitation (TF) aimed at a reduction of trade transaction costs with respect to border customs-related procedures is important given that the reduction in tariffs and the modern supply-chain management system have made such transaction costs more pronounced as a share in total value of products traded. On the assumption that TF leads to a reduction in transaction costs by 1 per cent of the value of world trade, an OECD study finds that aggregate welfare gains would amount to about \$40 billion worldwide. Investment needs to attain assumed actual reduction of costs may in part offset the expected gains.

The Modalities for negotiations on trade facilitation are aimed at clarifying and improving relevant aspects of GATT Articles V, VIII and X to further expedite the movement, release and clearance of goods, including goods in transit. Significantly, a footnote states that this is without prejudice to the possible format of the final result of the negotiations, which implies that the binding or non-binding character of the resulting instrument has yet to be determined. The applicability or otherwise of the dispute settlement mechanism, and the exact form thereof, is a major concern of developing countries and remains to be negotiated. Negotiations would also be aimed at enhancing technical assistance and support for capacity building. The results of negotiations would take fully into account the principle of SDT, it being understood that “SDT should extend beyond the granting of traditional transition periods for implementing commitments”. Developing countries would not be required to undertake commitments that they could not implement, including for financial reasons, and the extent and timing of entry into commitments would be related to the implementation capacities of developing countries and LDCs. Both these aspects represent a recognition of the approach stressed by UNCTAD that SDT should have a broader scope and that the cost implications of agreements need to be catered for to ensure proper synergy and sequencing between the level of obligations, the cost of implementation, and the financial and technical resources available to developing countries and provided to them by development partners.

Developing countries are not obliged to undertake investments in infrastructure projects if they are beyond their means. If they lack the necessary capacity, the Modalities state that implementation would not be required of them. This responded in part to the concern of these countries over the cost and infrastructure implications of this instrument. Developing countries also called for implementation costs to be covered by the proposed instrument itself. In this respect, the Modalities provide for enhanced technical assistance and capacity-building support, with the understanding that the commitment by developed countries to provide such support is not open ended.

Negotiations were initiated by the newly-established Negotiating Group on Trade Facilitation and some 35 initial proposals were made for improvements of GATT Articles V, VIII and X. The initial discussions suggested that, while a number of WTO Members recognized the benefits of trade facilitation, concerns remain over the possible financial, legislative and administrative cost implications of the proposed measures, including the infrastructure investment that may be required for implementing effective trade facilitation

measures, as well as the impact of trade facilitation on security, regulation of illegal trade and collection of customs revenue. Some proposals appear to go beyond the negotiating mandate, including those relating to corruption, integrity of customs officials, fraud, mandatory use of HS nomenclature or binding advance ruling on customs matters. Others, by calling for strong disciplines and modern customs techniques, may entail substantial implementation costs and investments. This may be the case in respect of proposals relating to enhanced procedures for release of goods, including pre-arrival clearance, post-clearance audit risk management and clearance of express consignments. The African Group are concerned that a number of proposals go beyond the negotiation mandate and that they do not provide for adequate SDT for developing countries and LDCs; that the technical assistance components of these proposals are of a 'best endeavour' nature; and that they provide for no new resources (see Box 14). Some Latin American countries has 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.

Box 14. African submission on trade facilitation⁵⁰

- *Scope of the negotiations* should be focused solely on clarifying and improving GATT Articles V, VIII, and X. For the African Group, enhanced SDT, technical assistance, support for capacity building and implementation assistance is a critical component of these negotiations.
- The process of identifying *specific trade facilitation needs and priorities* of Africa should, as a minimum, aim at (i) finding solution to high transport and communication costs that impact adversely on the competitiveness of African enterprises; (ii) improving capacities of Customs Administration, including through their automation, in order to dramatically reduce delays at points of entry and exit while maximizing public revenue receipts; and (iii) improving the integration of African enterprises/economies into the international payments and insurance systems.
- The *cost implications* on developing countries and LDCs of proposals for new commitments on trade facilitation need to be fully assessed and examined. Any findings on the cost implications (public works infrastructure, information and communications technology infrastructure, administrative re-engineering, and human resources) should then be directly linked to the provision of adequate technical and financial assistance and support for capacity building as provided for in modalities for negotiations on trade facilitation.
- An appropriate mechanism should be established, not later than the end of July 2005, for the provision by developed countries of technical assistance and support for capacity building during the negotiations. Such technical assistance and capacity-building support during the negotiations should support, among others, trade facilitation negotiations-oriented research and capacity-building projects, as well as participatory and transparent trade facilitation needs assessment and prioritization.
- *SDT* should also be reflected in legally-binding provisions that are precise, effective and operational and provide policy space and flexibility for developing countries and LDCs in determining when, how, and to what extent such new commitments are to be implemented by them. SDT should also condition the implementation by developing countries and LDCs of new commitments to the provision by developed countries of effective, adequate, long-term, and sustainable technical and financial assistance and support for capacity-building with respect to national structural or sector-specific trade facilitation-related projects or programmes.

⁵⁰ TN/TF/W/33, 28 April 2005.

G. WTO Rules

The July Package makes no specific reference to negotiations on WTO rules other than refer to a commitment to achieve progress; however, only limited progress has been achieved to date. Negotiations in respect of anti-dumping (AD), 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. Egypt has proposed the clarification of key concepts in the AD Agreement in respect of ‘currency conversions’ in the determination of dumping margins, and ‘*material retardation*’ of the establishment of domestic industry in relation to determination of injury to domestic industry (see Box 15).⁵¹

Box 15. Egypt’s proposals on anti-dumping rules

Currency fluctuations can have a significant impact on actual dumping margin determinations as the comparison of the normal value and the export price normally requires a currency conversion. Article 2.4.1 provides that, when sustained movements in exchange rates occurred during the period of investigation, investigating authorities should allow exporters at least 60 days to adjust their export prices to reflect these sustained movements. The same Article also provides that fluctuations in exchange rates shall be ignored. However, there is no provision as to on what constitutes "sustained movements", how sustained exchange rates fluctuations should be reflected, or which "fluctuations in exchange rates" should be ignored. Egypt thus proposes to define the terms "fluctuations" and "sustained movements". As regards material retardation, footnote 9 to Article 3 provides that "injury" is meant to be material injury to domestic industry or threat thereof, or "material retardation of the establishment of such an industry". "Material injury" and "threat of material injury" are specifically addressed in the Agreement, no definition is provided on "material retardation" or tests to be used to determine the concept. Egypt thus proposes to define the concept of "material retardation" and to introduce "material retardation tests", so as to identify cases where investigating authorities should examine material retardation. Egypt submits that the "material retardation" is particularly relevant to developing countries as their industry is yet to be fully "established" with a number of new entrants to a market in an embryonic stage, in the process of upgrading producing facilities or formerly state-owned enterprises in the process of privatization. Egypt thus proposes to consider as "industries in the process of establishment" not only those industries that are newly established but also the embryonic, restructuring and newly privatized industries.

The Doha negotiations on WTO rules on regional trade agreements (RTAs) would have substantive implications for evolving RTAs. To date, progress has been limited in the negotiations on transparency requirements for notification, reporting and examination by the relevant WTO body, and substantive ‘systemic issues’ are yet to be fully addressed. It is increasingly considered necessary that appropriate SDT be incorporated into the provisions of RTAs so as to ensure equitable treatment of RTA partners with different levels of economic development, and that such RTA-specific SDT be legally sustained by WTO rules on RTAs. In this respect, the ACP Group of States has called for formal incorporation of SDT in the application of conditions set out in paragraphs 5-8 of GATT Article XXIV to RTAs established between developed and developing countries, including the requirement to eliminate tariffs for ‘substantially all the trade’. This was supported by the Commission for Africa Report. Submissions made by Australia and by the EC respectively called for special methodologies for the measurement of the ‘substantially all the trade’.⁵² The EU proposal

⁵¹ TN/RL/W/183 and TN/RL/W/175.

⁵² TN/RL/W/173/Rev.1, 3 March 2005 and TN/RL/W/179, 12 May 2005, respectively.

referred to differentiation between RTAs formed among large developing countries and those formed by small developing countries.

H. TRIPS

Technology is an important determinant of economic development but the technology gap between developed and developing countries is widening. The protection of intellectual property (IP) is one means of promoting and encouraging technological development and innovation. Effective transfer and dissemination of technology at fair and reasonable cost to developing countries is particularly important. Costs and benefits of intellectual property rights 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 protection system suited for its particular developmental circumstances, complemented with effective transfer and dissemination of technology at fair and reasonable cost to developing countries.

TRIPS and Public Health

The July Package reaffirmed the commitment to progress in TRIPS without specificity. Operationalizing the objectives and principles of the TRIPS Agreement in respect of transfer of technology and the prevention of abuse of intellectual property rights is important to developing countries. The Decision on Implementation of Paragraph 6 of the Doha Ministerial Declaration on the TRIPS and Public Health (adopted in August 2003) temporarily waived the obligations under Article 31(f) as regards those exporting Members that supply medicines to countries with insufficient or no manufacturing capacities. While several potential exporting countries are currently adapting their national laws along the lines of the Decision of August 2003, no country has to date used the waiver to enhance its access to generic drugs. This owes mainly to difficulties in meeting the conditions stipulated and cumbersome and costly procedures for both producers and users of drugs. The deadline set for amending Article 31 (f) was extended several times until May 2005.

Discussions on amending the TRIPS Agreement have centred 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 Decision of August 2003. Developing countries argue that any amendment to the TRIPS Agreement should not include the Chairman's statement and should be selectively based on the Decision of August 2003. Developed countries were of the view that the amendment exercise should be of a merely technical nature and that it should refer to the 'August 30 solution' in its entirety (e.g. including all of the August 30 Decision, as well as the Chairman's statement). In December 2004, the African Group submitted draft texts for the amendment of the TRIPS Agreement and called for an early solution of the issue. Difference in positions persist on the content and nature of the required legal changes. Recently, EU has submitted an alternative text for the amendment. An expeditious solution to this issue should be given high priority, including ensuring access to essential medicines to address pandemics and contribute to the MDGs.

Biodiversity-related issues

Given the abundance of biodiversity and traditional knowledge of Arab countries, the TRIPS triple agenda in the area of biodiversity and traditional knowledge is of key importance to Arab countries. These are: (i) the review of the provisions of Article 27.3 (b);

(ii) the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD); (iii) and the protection of traditional knowledge and folklore. The African Group has called for an amendment of the TRIPS Agreement to prohibit patents on life forms on the ground of ethics and for effective and enforceable international mechanisms under the TRIPS Agreement to prohibit and prevent the misappropriation of genetic resource, and regulating disclosure of the sources for genetic resources and traditional knowledge involved in an invention and evidence of prior informed consent and benefit sharing. Given the difficulty in reaching an agreement on the suggested approaches, discussions are now focusing on reaffirming the option granted by TRIPS Article 27.3 (b) of excluding plants and animals, as well as parts of plants and animals from patentability, and retraining the flexibility (option for *sui generis* system) recognized by Article 27.3 (b) regarding the protection of plant varieties.

In February 2004 a group of developing countries submitted a checklist of three issues related to the disclosure of the source of biological resources, prior informed consent and equitable benefit sharing, namely: (i) disclosure of source and country of origin of the biological resource and of the traditional knowledge used in the invention; (ii) disclosure of evidence of prior informed consent under the relevant national regime; and (iii) disclosure of evidence of benefit sharing under the relevant national regime.⁵³ Recent discussions related to evidence of a fair and equitable sharing of benefits arising from the use of genetic resources, or suggesting ways forward on bio-piracy-related issues. Developing countries have made submissions, regarding, *inter alia*, measures to prevent bio-piracy and responding to arguments raised. Developed country responses have been mixed and concern was expressed on over-burdening the patent system, generally opposing international obligations to this effect. The views of several developing countries converge on the need to raise the issue (of amending the TRIPS Agreement) in the context of the MC6. As regards the relationship between the CBD and the TRIPS, developing countries have called for bringing TRIPS in line with the CBD, whereas developed countries suggest that the two agreements could be interpreted as complementary and mutually supportive.

Geographical indications, technology transfer, non-violation complaints and LDC extension period

Protecting geographical indications can generate benefits to producers and exporters as it allows for product differentiation based on the product's geographical origin. While some developing countries may have the potential to do so, the overall economic impacts are difficult to foresee. An increasing number of developing countries have recently expressed their concerns over the development and cost implications of extended protection. Some WTO Members (EC, as well as the so-called Friends of GIs, including Egypt, as well as several other developed and developing countries) have called for expanding the additional protection of geographical indications under TRIPS Article 23 to products other than wines and spirits. The issue is also being discussed in the context of establishing a register for multilateral register for wines, as well as in the context of the agriculture negotiations.

Effective transfer of technology is key for allowing developing and least developed countries to build a sound and viable technological base and for meeting the MDGs. Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives to enterprises and institutions in their territories to promote and encourage technology transfer to

⁵³ IP/C/W/420, 2 March 2004 submitted by Brazil, Cuba, Ecuador, India, Peru, Thailand and Venezuela.

LDCs. The Doha Decision on Implementation-related Issues and Concerns reaffirmed the mandatory nature of Article 66.2. Subsequently, on 19 February 2003 Members adopted a TRIPS Council Decision which required developed countries to report on measures taken to implement the provision, including an overview of the incentive regimes in place; the type of incentives and the entity making them available; the eligible enterprises or institutions for such incentives; the practical functioning of these incentives (e.g. statistical data on the use of incentives, type of technology that is transferred to the LDCs to which such transfer had occurred). This is expected to encourage specific legislative, policy, and regulatory measures ultimately giving effect to Article 66.2, including through fiscal or other financial incentives to enterprises to transfer technology to key areas of interest to Arab countries to build supply capacities. In addition, the Doha Ministerial Declaration established a Working Group on Trade and Technology Transfer under the General Council to examine and recommend possible steps to increase the flow of technology to developing countries.

Allowing for non-violation disputes under the TRIPS Agreement could pose significant challenges for developing countries, and could ultimately have a possible chilling effect on countries' domestic legislative activities. While, according to most Members, non-violation disputes currently do not apply under the TRIPS, some Members would like to discuss the scope and modalities of these disputes. The United States has stressed that the moratorium on non-violation should expire in MC6 as opposed to the overwhelming majority of countries.

Article 66 provides LDCs a period of ten years to implement TRIPS except national treatment and MFN obligations (Articles 3-5). LDCs have also been exempted through a WTO waiver from the obligation to grant exclusive marking rights for pharmaceutical products until 2016. This period of ten years will expire on 1 January 2006, there is a need for Arab LDCs to consider making 'duly motivated request' for further extension of the transition period as provided in that Article.

IV. DISPUTE SETTLEMENT

Two recent panel and Appellate Body rulings may have a bearing on agriculture negotiations, particularly in respect of reduction and elimination of agricultural subsidies. These groundbreaking cases include the WTO's panel rulings in favour of Brazil on the US subsidies to upland cotton producers and on the EU's export subsidies on sugar.⁵⁴ The two rulings found, *inter alia*, that the level of subsidies provided to relevant sectors by the US and EU were not in conformity with Uruguay Round commitments. Accordingly, both countries were called upon to bring their measures into conformity with their obligations under WTO rules. As regards sugar, the EU reportedly indicated deep cuts of up to 39 per cent of the EU support price for sugar and a rather short implementation period of 2 years. The EU sugar reform proposal is expected in 2005. Recent arbitration award determined that the proposed new EU tariffs on banana would not result in maintaining total market access for MFN banana suppliers. This would have implications to EU's ACP preferences.

Two recent cases in the area of services pertained to cross-border supply of services in gambling and telecommunications, and they have implications for the interpretation of GATS provisions and Members' schedules for specific commitments. Both cases involved classification issues, along with the scope and coverage of schedules of commitment. The case *US – gambling services* is of relevance to IT-enabled, cross-border supply of services, including outsourcing. Similarly, the case *Mexico – telecommunication services* is the first dispute relating to the 1997 Basic Telecom Agreement and the Reference Paper establishing disciplines on telecom competition safeguards, interconnection and transparent licensing. The *Telmex* and the *Gambling* cases both highlight the difficulty of foreseeing the potential implications of scheduled commitments and the need to carefully schedule intended commitments. They point to the need to carefully schedule the intended commitments, as the panels and the Appellate Body may have in interpreting schedules of specific commitments in a manner different from what the scheduling country had intended.

Egypt has been engaged in WTO dispute settlement, notably as a respondent in four proceedings. Out of these, one case has resulted in a Panel report, adopted on 1 October 2002 (*Egypt – Definitive Anti-Dumping Measures on Steel Rebar From Turkey*); one has been resolved through a mutually-agreed solution (*Egypt – Measures Affecting Imports of Textile and Apparel Products* launched by the United States in December 2003); two have, so far, not proceeded beyond the request for consultation (*Egypt – Import Prohibition on Canned Tuna with Soy Bean Oil* launched by Thailand in September 2000 and *Egypt – Anti-Dumping Duties on Matches from Pakistan* with the request for consultation made on 21 February 2005).

⁵⁴ *United States – subsidies on upland cotton* (WT/DS267/AB/R), 3 March 2005. *European Communities – Export subsidies on sugar* (WT/DS265/AB/R; WT/DS266/AB/R; WT/DS283/AB/R), 28 April 2005.

V. WTO ACCESSION

Seven Arab countries, two of which are LDCs, are currently in the process of accession to the WTO. They are Algeria, Iraq, Lebanon, Libya, Saudi Arabia, Sudan and Yemen. They are at different stages of the accession process, with Saudi Arabia having completed the technical level negotiations in the Working Party. The Syrian Arab Republic applied for WTO membership in 2001, but its Working Party has yet to be established. The process of WTO accession is a challenge for acceding countries, primarily because the provision of Article XII of the WTO Agreement regarding accession leaves room for interpretation by individual WTO Members to seek all forms of stringent commitments from the acceding country. As regards acceding LDCs, the “*Guidelines on the Accession of LDCs to the WTO*” adopted on 10 December 2002, sought to address the special needs of LDCs, but WTO Members are still not fully adhering to these Guidelines.

Experience has shown that acceding countries continue to be subject to requests to accept excessive liberalization and other reform commitments, including WTO-plus commitments, during the negotiating process that go beyond the level of concessions and commitments undertaken by existing WTO LDC Members.⁵⁵ Furthermore, the recourse to SDT provisions are subjected to negotiations, on a case-by-case basis, and acceding countries are often obliged to forego their rights to utilize some of the SDT and other developmental provisions which are automatically available to existing WTO Members. Even when granted, they have been diluted and do not meet their intended objectives. This implies that the rights of newly acceded WTO Members are diminished with the consequence that WTO Members with similar levels of developments assume different levels of rights and obligations under WTO, thereby leading to a multi-tiered system of rights and obligations among Members. In the area of market access, commitments would be sought in the form of low or zero tariffs, and the use of applied tariffs as the basis of the binding offers. Increasingly, acceding countries are also expected to commit themselves to various sectoral tariff harmonization and zero-for-zero initiatives, including in chemicals and pharmaceuticals, medical equipment and textiles.

Arab acceding countries can be expected to face additional challenges, given that they are major producers and exporters of a strategic sector, namely hydrocarbon-based energy and energy products. These additional challenges have a bearing on their efforts to build up, strengthen and diversify their productive capacities from oil-based exports into manufacturing sectors. These challenges would pertain to issues related to trading rights, existing government controls on the production and export of petroleum-based products, domestic prices and pricing policy (dual pricing), export tariffs and taxation, the operations of state trading enterprises and monopolistic practices in this sector, and the use of subsidies to support the participation of local companies. Commitments may be sought to provide national treatment in the area of trading rights to all foreign firms, regardless of whether they are established in the country or otherwise. The issue of dual pricing, wherein governments maintain lower domestic prices for natural resources such as petroleum (or export prices higher) than market prices is an important issue for resource-rich Arab countries, including petroleum-exporting countries. These measures are designed to attract investments and promote the competitiveness of the industrial sector, thus eliminating such measures could be detrimental to their developmental aspirations. In the area of agriculture, commitment may be

⁵⁵ The Guidelines provides that “WTO Members shall exercise restraint in seeking concessions and commitments on trade in goods and services from acceding LDCs, taking into account the levels of concessions and commitments undertaken by existing WTO LDC Members”.

sought for those acceding countries that utilize no domestic support measures at the time of accession negotiations not to use any domestic support measures that are allowed under the Agreement on Agriculture.

As regards services, commitments would also be sought in energy and energy-based services, in the bilateral market access services negotiations – both in the generation of these products (such as technical services in drilling and exploration) as well as in the distribution of these products. While making GATS commitments in the WTO would provide equal opportunities for all WTO Members, the alternative means of seeking the technical expertise for upstream activities such as drilling and exploration through Production Sharing Agreements (PSA) might be more beneficial, as it affords the opportunity for the producing country to negotiate the terms and conditions of the PSA that would be advantageous to the producing country, including the transfer of technology and technical expertise. Furthermore, there is no guarantee that any limitation or condition attached to the services offer of the acceding country would indeed be accepted by other WTO Members, and eventually, these limitations could also be eroded in multilateral trade negotiations, which the acceding country engages in as a WTO Member.

VI. REGIONAL TRADE AGREEMENTS AND SOUTH-SOUTH COOPERATION

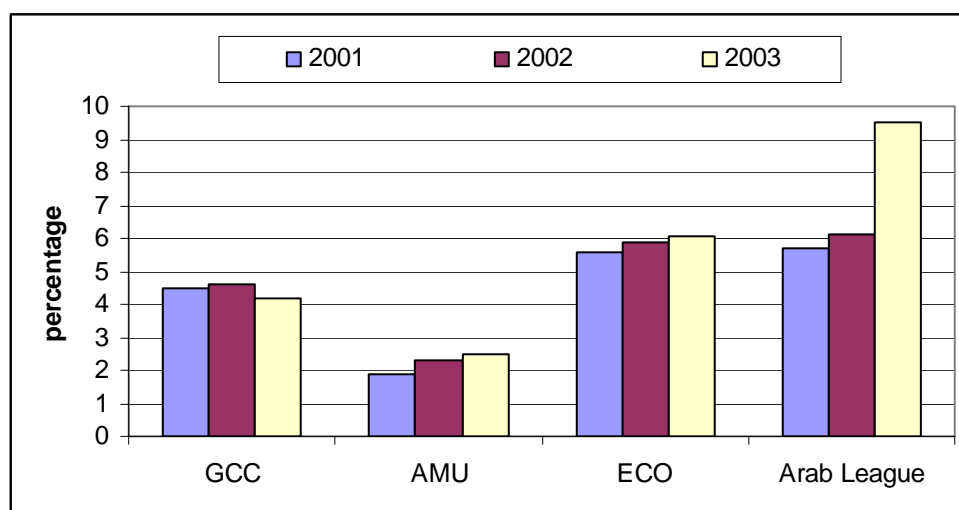
RTAs play a prominent role in the international trading system, with a significant bearing on the development prospects of developing countries.⁵⁶ Arab countries have intensified and recently engaged in regional trade negotiations among themselves and with other developing countries, as well as with developed countries. The number of RTAs involving Arab countries has increased, leading to a situation where several Arab countries simultaneously belong to overlapping RTAs. Such RTAs include the Agreement for Facilitation and Promotion of Intra-Arab Trade (among all members of the Arab League), the Greater Arab Free Trade Area (GAFTA),⁵⁷ the Common Market for Eastern and Southern Africa (COMESA), the Arab Maghreb Union (AMU), the Gulf Cooperation Council (GCC), the Aghadir Agreement, and the Council of Arab Economic Unity (CAEU). Several Arab countries are in the process of establishing with the EU a Euro-Mediterranean Free Trade Area (EMFTA) within the next fifteen years, and in anticipation are already initiating a series of “Euro-Med Partnership Agreements”. Such agreement has been concluded by Algeria, Egypt, Jordan, Lebanon, Morocco, the Palestinian Authority and Tunisia, and would be concluded by Syrian Arab Republic. Four members of the Euro-Med Partnership Agreements (Jordan, Egypt, Morocco and Tunisia) have set up the Mediterranean Arab Free Trade Area (MAFTA). The GCC has negotiated an FTA with the EU and also expressed interest in signing free trade areas that would promote South-South trade with major developing countries such as India and China. The Arab Free Trade Area among the members of the Arab League is also a promising initiative. Several Arab States including Bahrain, Jordan, Oman and the UAE are also pursuing bilateral FTAs. ACP countries among Arab countries negotiating with the EU Economic Partnership Agreements with the EU.

The expansion of North-South RTAs has been an emerging feature of recent revival of regionalism, including in the Arab region. North-South RTAs would effectively transform economic relationships with developed countries based on pre-existing unilateral preferences into relationships based on reciprocity, and this will have implications for Arab and other developing countries, as North-South negotiations tend to result in deeper market access and higher regulatory standards than at the multilateral level. A major challenge for developing countries negotiating RTAs with developed country partners is to design an appropriate degree and pacing of their own liberalization *vis-à-vis* developed country exports (as their exports already enjoy, to a large extent, unilateral preferential schemes of the developed country). In this respect, there is concern over the possible dilution and limitation of the SDT and policy space allowed under the multilateral trading system due to deeper liberalization and stringent commitment negotiated in regional contexts (e.g. intellectual property rights).

⁵⁶ UNCTAD, *Multilateralism and Regionalism: The New Interface* (UNCTAD/DITC/TNCD/2004/7), United Nations, 2005.

⁵⁷ At the intra-regional level, Arab states revived in 1997 the 1981 Executive Programme for Arab Free Trade for the creation of a Greater Arab Free Trade Area (GAFTA). This provides for an across-the-board reduction or elimination of tariffs, tariff-like charges and non-tariff barriers on industrial goods over a period of ten years.

Figure 1. Selected Arab RTAs: Intra-regional export (as a percentage of total regional exports)



Source: WITS/Comtrade and UNCTAD Handbook of Statistics.

Growing South-South trade provides an opportunity for Arab countries to catch on to this rising locomotive of the South. Currently, the performance of intra-regional trade among Arab countries remained relatively low, with the share of intra-regional trade ranging from 2 to 9 per cent and remaining largely constant over the period 2001-2003. Such a limited picture suggests that there is a potential for intra-regional trade that has not been fully exploited. This is particularly true for Arab countries whose exports are often concentrated in a few labour-intensive and resource-intensive sectors destined for developed country markets. South-South RTAs could facilitate diversification and the qualitative upgrading of Arab exports, an important factor for future sustained growth. For instance, an estimate suggests that the proposed Framework Agreement on Trade Preferential System (FATPS) among the member countries of the Organization of the Islamic Conference (OIC) would lead to an increase in exports and positive welfare gains (welfare losses for outside countries are almost negligible) for virtually all FATPS participants. The largest increase in absolute terms in exports would occur for Middle Eastern countries (almost \$4 billion annually).

To reap the expected gains, it is important to address barriers to trade within the region. These may include inadequate international transport and communication facilities, poor information about markets and investment opportunities, existence of administrative and procedural obstacles to trade and the inadequacy of intra-regional trade facilitation measures including inadequate financing and guaranteeing of regional exports/imports. To offset these shortcomings, a key challenge facing Arab countries is to harmonize the level of commitments across various RTAs and make progress towards 'deeper' integration (in areas such as trade infrastructure, FDI promotion, services liberalization, including the temporary movement of professionals), to improve competitiveness overall as well as to prevent negative hub-and-spoke effects.

In the context of the complex and evolving international trading system, regional integration remains an important building block for promoting extra-regional trade and their beneficial integration into global economy. Ensuring proper sequencing and complementarities between intra-Arab regional agreements, North-South RTAs and multilateral negotiations is key to ensuring synergies between regionalism and

multilateralism. In the absence of such coherent trade policies various RTAs can act as mutually trade and FDI diverting, with negative effects on Arab countries. Given that many Arab states are currently implementing or negotiating FTAs with the EU, but maintain barriers between themselves creates an 'FDI diversion' effect from the region towards the EU, because goods produced in the EU can be sold throughout the RTA, while goods produced in an Arab country may still encounter trade barriers.

The GSTP (Global System of Trade Preferences among Developing Countries) provides an instrument for Arab countries, especially LDCs, to secure preferential market access into the growing markets in the South.⁵⁸ Seven Arab countries are participants in the GSTP (Algeria, Egypt, Iraq, Libyan Arab Jamahiriya, Morocco, Sudan and Tunisia). The third round of GSTP negotiations launched in 2004 (see Box 16) affords an important and unique opportunity for Arab participants in the GSTP. The third round of GSTP negotiations, to be completed by November 2006, is expected to lead to a package of commercially meaningful benefits through deeper preferential market access. It also provides many of the Arab countries that are not yet members of the GSTP Agreement a place where they can participate in negotiations and accede to the GSTP Agreement.

Box 16. GSTP Third Round of Negotiations

On the occasion of UNCTAD XI, Ministers of the GSTP Committee of Participants launched the Third Round of GSTP negotiations aimed at a package of substantial trade liberalization commitments to promote economic complementarities among them especially at the interregional level. They invited other members of the Group of 77 and China to participate in the negotiations to pave the way for their accession to the Agreement. The third round of GSTP negotiations is envisaged to entail a package of substantial trade liberalization commitments based on mutual advantage and equitable distribution of benefits to all participants, promote economic complementarities and would include concrete preferential measures for LDCs. A Negotiating Committee has been set up with two Negotiating Groups (one on Rule-making and the other on Market Access) that meet every week. Technical preparations for the negotiations covering market access and rule-making have advanced substantially. A timetable has been drawn up for completing the round by November 2006. Consideration of proposals for improving trade among them has begun and is expected to accelerate in the course of 2005. In early 2006, GSTP participants expect to begin negotiations on tariff preferences and other forms of cooperation. Other members of the Group of 77 and China have attended the formal and informal sessions of the two working groups. The accession of the new members to the GSTP will be dovetailed with the on-going negotiations. Parallel to the negotiations, GSTP Participants have agreed on a programme of work to disseminate information on the Agreement as widely as possible to the general public, particularly commerce and industry, through a series of dialogues, seminars and conferences in Africa, Asia and Latin America. They have requested the UNCTAD secretariat to assist them in carrying out this programme. Through a technical cooperation programme with the GSTP Committee of Participants, UNCTAD extends technical and administrative support to the day-to-day operations of the Committee including for the ongoing negotiations.

⁵⁸ The GSTP came into being after a long process of negotiations during the Ministerial Meetings of the Group of 77, notably at Mexico City in 1976, Arusha in 1979 and Caracas in 1981. The First Round of GSTP Negotiations was launched by the Brasilia Ministerial Meeting in 1986. At the conclusion of the First Round in 1988 in Belgrade, the GSTP Agreement was signed on 13 April 1988 and came into force on 19 April 1989. To date, 44 countries have ratified the Agreement.

CONCLUSION

The sixth WTO Ministerial Conference and its possible outcome represents a crucial building block in achieving the ambitions in the Doha Declaration of developed-oriented trade liberalization i.e. liberalization that is infused in intent and content with the needs and interests of developing countries, especially LDCs. As the latest deadlines for agreeing on first approximations on modalities on agriculture and NAMA were missed in July 2005 and the lack of specific progress on, among others, development issues, a successful outcome will require intensive negotiations and search for middle ground in the run-up to MC6. Developing countries, including Arab States' Members and observers of the WTO, have actively engaged in the Doha negotiations and other work of the WTO consistent with their overall approach to using trade and trade policy as an instrument of economic growth, job creation, development and poverty alleviation. Participation in international trade and ensuring beneficial integration into the multilateral trading system is a cornerstone of the development strategy of Arab States as they seek to achieve internationally-agreed development goals, including the MDGs.

The Arab Ministerial Conference will therefore contribute to further strengthening the participation of Arab States in the Doha negotiations by assisting them in taking clear and strategic decisions on the outstanding priority issues, such as the modalities on agriculture and NAMA, so as to enable them to engage concretely in the pre-Hong Kong negotiations with a view to achieving results that would promote the trade and development interests of Arab States. Participation in the negotiations and the future implementation of negotiated results requires continuous engagement by Arab States in WTO negotiations, bilateral and regional trade agreements, and intra-Arab trade and integration. Innovative trade capacity-building programmes on building the human, institutional, regulatory and policy capacities of Arab States to participate in, and integrate beneficially into, the international trading system must be developed, financed and implemented to support greater participation in the global economy. UNCTAD, consistent with its renewed mandates from UNCTAD XI on trade and trade negotiations and its role as the focal point in the UN system for the integrated treatment of trade and development will be an important partner for Arab States. UNCTAD, working in close cooperation with ESCWA, ECA and other UN organizations, WTO, and a number of Arab organizations, has been supporting Arab States in their trade policy and trade negotiations. To this end, the development of a comprehensive Arab trade capacity development initiative and the operationalization of the JITAP Arab initiative can be important follow-up responses.

Ultimately, 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. This will include national economic policy space and institutional innovations, investment in human capital and development-oriented infrastructure, universal access to essential services, supply-side competitiveness, 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.

Table 1. Merchandise exports of Arab countries (1995, 2000, 2003) and major partners

Reporter	Value of exports to world (\$000)			Share in total Arab exports (%)			Principal export destinations for most recent year (with their respective ISO3 codes and shares in total exports of the product)									
	1995	2000	2003	1995	2000	2003	1st Destination		2nd Destination		3rd Destination		4th Destination		5th Destination	
							ISO3 Code	Exp. Share (%)	ISO3 Code	Exp. Share (%)	ISO3 Code	Exp. Share (%)	ISO3 Code	Exp. Share (%)	ISO3 Code	Exp. Share (%)
1	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Libya *	9 211 995	13 784 844	14 552 713	7.63	5.80	6.43	EU	84.6	TUR	7.4	CHE	3.9	TUN	0.9	HRV	0.4
Tunisia	5 474 626	5 850 015	7 354 397	4.53	2.46	3.25	EU	79.9	LBY	4.8	UNS	3.7	DZA	1.4	CHE	1.3
Morocco	4 718 877	7 431 841	8 777 235	3.91	3.13	3.88	EU	75.7	IND	3.1	USA	2.8	BRA	2.1	JPN	2.0
Bahrain	3 462 790	6 194 942	6 631 599	2.87	2.61	2.93	UNS	70.6	SAU	7.1	USA	4.3	TWN	3.0	IND	1.7
Comoros (2003*)	11 024	6 860	37 692	0.01	0.00	0.02	EEC15	69.1	USA	10.9	SGP	4.2	JPN	3.8	MDG	2.5
Oman	5 917 389	10 852 264	11 364 529	4.90	4.56	5.02	UNS	68.3	KOR	7.7	ARE	7.0	IRN	3.8	JPN	2.3
Sudan	685 193	1 630 988	2 480 635	0.57	0.69	1.10	CHN	65.2	EU	9.2	JPN	8.7	SAU	5.0	EGY	1.7
Mauritania *	632 132	539 538	598 521	0.52	0.23	0.26	EU	61.9	JPN	13.2	RUS	5.4	CIV	4.5	CMR	3.2
Algeria	9 356 680	22 031 286	24 611 512	7.75	9.26	10.87	EU	59.1	USA	19.9	CAN	5.7	BRA	4.6	TUR	4.3
Syrian Arab Republic	3 969 873	4 633 027	5 730 663	3.29	1.95	2.53	EU	57.1	TUR	7.5	SAU	5.9	LBN	4.0	USA	3.7
Iraq *	464 388	16 505 782	8 942 427	0.38	6.94	3.95	USA	54.9	EEC15	18.7	CAN	9.01	TWN	4.2	JOR	4.2
Djibouti *	47 259	13 486	55 999	0.04	0.01	0.02	ETH	47.9	ERI	21.4	EU	9.4	EGY	7.0	HKG	3.9
Occ.Pal.Terr *	.	26 311	25 911	.	0.01	0.01	JOR	40.4	EU	26.6	EGY	15.2	SAU	7.0	USA	6.0
Kuwait	12 944 421	19 401 426	16 164 459	10.72	8.16	7.14	UNS	39.5	JPN	18.6	USA	13.1	EU	10.2	KOR	4.3
Egypt	3 444 135	3 500 899	6 160 734	2.85	1.47	2.72	EU	32.8	USA	8.5	IND	7.5	FRE	6.2	SAU	3.0

Reporter	Value of exports to world (\$000)			Share in total Arab exports (%)			Principal export destinations for most recent year (with their respective ISO3 codes and shares in total exports of the product)									
	1995	2000	2003	1995	2000	2003	1st Destination		2nd Destination		3rd Destination		4th Destination		5th Destination	
							ISO3 Code	Exp. Share (%)	ISO3 Code	Exp. Share (%)	ISO3 Code	Exp. Share (%)	ISO3 Code	Exp. Share (%)	ISO3 Code	Exp. Share (%)
1	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Saudi Arabia	49 029 579	77 711 122	63 725 200	40.60	32.68	28.14	TWN	31.7	USA	21.0	UNS	17.0	JPN	14.9	EU	13.0
Yemen	1 916 846	4 077 734	3 719 809	1.59	1.71	1.64	CHN	31.3	THA	23.6	IND	10.0	KOR	5.3	ARE	4.5
United Arab Emirates	3 375 162	32 668 983	32 668 983	2.79	13.74	14.42	JPN	30.9	TWN	18.9	UNS	18.7	IRN	5.1	EU	3.1
Qatar	3 557 159	8 846 959	8 230 924	2.95	3.72	3.63	JPN	28.9	KOR	21.1	SGP	12.4	UNS	6.3	ARE	5.3
Lebanon	642 229	714 331	1 523 920	0.53	0.30	0.67	CHE	24.9	EU	9.4	IRQ	8.0	ARE	6.8	SAU	6.8
Jordan	1 768 850	1 292 815	3 081 625	1.46	0.54	1.36	USA	21.5	IRQ	17.6	FRE	9.1	CHE	6.5	IND	6.5
Somalia *	131 497	87 152	56 603	0.11	0.04	0.02	OMN	17.0	IND	16.9	SAU	13.4	CHN	11.7	BHR	9.7
TOTAL Arab Exports	120 762 105	237 802 605	226 496 091	100.00	100.00	100.00										

Note: An asterisk (*) in column 1 indicates the use of mirror trade data.

Table 2. Merchandise imports of Arab countries (1995, 2000, 2003) and major partners

Reporter	Value of imports from World (\$ 000)			Share in total Arab Imports (%)			Principal suppliers for most recent year (with their respective ISO3 codes and shares in total imports of the product)									
	1995	2000	2003	1995	2000	2003	1 st Supplier		2 nd Supplier		3rd Supplier		4th Supplier		5th Supplier	
							ISO3 Code	Imp. Share (%)	ISO3 Code	Imp. Share (%)	ISO3 Code	Imp. Share (%)	ISO3 Code	Imp. Share (%)	ISO3 Code	Imp. Share (%)
Algeria	10 782 432	9 152 057	13 532 526	9.26	6.05	7.87	EU	57.4	USA	5.2	CHN	3.8	TUR	3.2	JPN	2.8
Bahrain	3 604 196	4 632 961	5 657 225	3.10	3.06	3.29	UNS	36.6	EU	17.8	JPN	7.9	SAU	5.7	AUS	5.1
Comoros (2003*)	62 393	71 929	116 783	0.05	0.05	0.07	EU	37.9	ZAF	13.9	JPN	12.6	MDG	8.9	THA	3.9
Djibouti *	346 210	432 519	589 027	0.30	0.29	0.34	EU	25.6	ETH	16.9	IND	12.3	CHN	11.2	USA	5.8
Egypt	11 738 951	15 962 046	10 892 650	10.08	10.56	6.34	EU	25.8	FRE	14.0	USA	11.7	CHN	4.9	RUS	3.4
Iraq *	525 857	2 309 481	4 339 506	0.45	1.53	2.52	EU	23.4	TUR	19.1	JOR	12.5	IRN	10.1	USA	7.3
Jordan	3 696 380	4 013 144	5 653 152	3.17	2.65	3.29	EU	25.3	SAU	11.5	CHN	8.0	IRQ	6.6	USA	6.4
Kuwait	7 789 750	7 156 877	7 868 784	6.69	4.73	4.58	EU	30.3	USA	10.9	JPN	9.8	SAU	7.0	KOR	4.0
Lebanon	7 437 826	6 226 768	7 167 452	6.39	4.12	4.17	EU	42.8	CHN	7.4	USA	6.0	RUS	4.5	JPN	3.8
Libya *	4 448 227	3 394 012	5 465 871	3.82	2.25	3.18	EU	63.8	TUN	6.4	TUR	4.7	JPN	3.6	CHN	3.2
Mauritania *	530 189	549 636	779 462	0.46	0.36	0.45	EU	57.8	CHN	7.2	USA	4.5	SEN	4.3	MAR	3.1
Morocco	8 540 476	11 533 383	14 230 608	7.33	7.63	8.28	EU	58.7	SAU	5.0	RUS	4.9	USA	4.1	CHN	3.4
Occ.Pal.Terr *	.	109 535	86 116	.	0.07	0.05	EU	31.7	JOR	29.7	EGY	13.2	CHN	7.8	TUR	7.5
Oman	4 248 550	5 039 243	6 572 179	3.65	3.33	3.82	ARE	21.6	EU	20.8	JPN	17.1	USA	6.2	IND	4.4
Qatar	3 398 029	3 252 250	4 052 046	2.92	2.15	2.36	EU	34.8	USA	13.0	JPN	10.5	ARE	7.0	SAU	6.2
Saudi Arabia	28 085 113	30 237 317	32 333 209	24.12	20.00	18.81	EU	31.8	USA	16.3	JPN	11.1	CHN	5.3	AUS	3.5

Reporter	Value of imports from World (\$ 000)			Share in total Arab Imports (%)			Principal suppliers for most recent year (with their respective ISO3 codes and shares in total imports of the product)									
							1 st Supplier		2 nd Supplier		3rd Supplier		4th Supplier		5th Supplier	
	1995	2000	2003	1995	2000	2003	ISO3 Code	Imp. Share (%)	ISO3 Code	Imp. Share (%)	ISO3 Code	Imp. Share (%)	ISO3 Code	Imp. Share (%)	ISO3 Code	Imp. Share (%)
Somalia *	83 179	190 184	218 629	0.07	0.13	0.13	KEN	24.6	IND	18.1	ETH	13.2	BRA	9.9	OMN	8.0
Sudan	1 184 931	1 657 419	2 898 102	1.02	1.10	1.69	EU	29.1	SAU	13.1	CHN	10.7	EGY	6.5	IND	5.0
Syrian Arab Republic	4 708 779	3 815 435	5 110 634	4.04	2.52	2.97	EU	19.0	UNS	12.1	CHN	5.9	UKR	5.8	TUR	5.7
Tunisia	7 903 050	8 565 813	10 146 677	6.79	5.67	5.90	EU	72.5	USA	2.7	RUS	2.3	TUR	2.0	JPN	2.0
United Arab Emirates	5 506 345	30 544 292	30 544 292	4.73	20.20	17.77	EU	32.5	JPN	7.8	USA	7.5	CHN	7.3	IND	6.1
Yemen	1 816 653	2 326 469	3 674 587	1.56	1.54	2.14	EU	15.5	ARE	14.1	SAU	11.1	KWT	7.9	USA	6.3
TOTAL Arab Exports	116 437 516	151 172 771	171 929 517	100.00	100.00	100.00										

Table 3. Major Arab services exporters, selected sectors⁵⁹
(2002, in \$ million and percentage)

Transport		
	Value	% of total reporting
Egypt	2 797	44.42
Kuwait	1 129	17.93
Morocco	780	12.39
Tunisia	612	9.72
Jordan	288	4.57
Syrian Arab Republic	250	3.97
Bahrain	245	3.89
Oman (2001)	159	2.53
Yemen	20	0.32
Sudan	17	0.27
Total for those reporting	6 297	
Travel		
	Value	% of total reporting
Egypt	3 764	34.74
Morocco	2 646	24.42
Tunisia	1 523	14.06
Syrian Arab Republic	970	8.95
Jordan	786	7.25
Bahrain	740	6.83
Oman (2001)	143	1.32
Kuwait	118	1.09
Sudan	108	1.00
Yemen	38	0.35
Total for those reporting	10 836	
Other services		
	Value	% of total reporting
Egypt	2 759	48.74
Morocco	933	16.48
Tunisia	546	9.64
Jordan	438	7.74
Kuwait	401	7.08
Syrian Arab Republic	339	5.99
Yemen	108	1.91
Bahrain	83	1.47
Oman (2001)	47	0.83
Sudan	7	0.12
Total for those reporting	5 661	

⁵⁹ No further disaggregation could be made given the dearth of data for specific services sub-sectors.

Table 4. Sectoral composition of services exports of Arab countries, 2002^{60 61}

		\$ millions	% in country's total
Bahrain	Total services	1 068	100
	Transport	245	23
	Travel	740	69
	Other services	83	8
	Memo item: Commercial services	1 068	100
Egypt	Total services	9 320	100
	Transport	2 797	30
	Travel	3 764	40
	Other services	2 759	30
	Communications	221	2
	Construction	172	2
	Computer and information services	27	0
	Insurance	22	0
	Financial services	85	1
	Royalties and license fees	38	0
	Other business services	1 948	21
	Personal, cultural and recreational services	54	1
	Government services n.i.e.	193	2
	Memo item: Commercial services	9 127	98
Jordan	Total services	1 513	100
	Transport	288	19
	Travel	786	52
	Other services	438	29
	Other business services	399	26
	Government services n.i.e.	39	3
	Memo item: Commercial services	1 473	97
Kuwait	Total services	1 648	100
	Transport	1 129	68
	Travel	118	7
	Other services	401	24
	Insurance	109	7
	Other business services	16	1
	Government services n.i.e.	276	17
	Memo item: Commercial services	1 372	83
Morocco	Total services	4 360	100
	Transport	780	18
	Travel	2646	61
	Other services	933	21

⁶⁰ The table includes countries for which data for 2002 (2001 in the case of Oman) are available. No data were reported for the following countries: Iraq, Libyan Arab Jamahiriya, Palestine, Qatar, Saudi Arabia, United Arab Emirates, Djibouti, Mauritania, Comoros, Somalia. For reporting countries, services categories with no entries have also been deleted.

⁶¹ Technical Notes: *Total services* include 11 main service categories, according to the definition of the IMF Balance of Payments Manual (1993, BPM 5). The categories included are transport, travel, communications, construction, computer and information services, financial services, insurance, other business services, royalties and licence fees, personal, cultural and recreational services and government services n.i.e.; *Other Services* includes all service categories except transport and travel; *Other Business Services* includes merchandising and other trade-related services; operational leasing services; and miscellaneous business, professional and technical services.

Table 4. Sectoral composition of services exports of Arab countries, 2002^{60 61}

		\$ millions	% in country's total
Morocco, <i>cont'd</i>	Communications	231	5
	Insurance	28	1
	Royalties and license fees	11	0
	Other business services	401	9
	Government services n.i.e.	262	6
	Memo item: Commercial services	4098	94
Sudan	Total services	132	100
	Transport	17	13
	Travel	108	82
	Other services	7	6
	Communications	4	3
	Other business services	1	0
	Government services n.i.e.	2	1
	Memo item: Commercial services	130	99
Syrian Arab Republic	Total services	1559	100
	Transport	250	16
	Travel	970	62
	Other services	339	22
	Other business services	127	8
	Government services n.i.e.	212	14
	Memo item: Commercial services	1347	86
	Tunisia	Total services	2681
Transport		612	23
Travel		1523	57
Other services		546	20
Communications		11	0
Construction		89	3
Computer and information services		18	1
Insurance		20	1
Financial services		42	2
Royalties and license fees		16	1
Other business services		267	10
Personal, cultural and recreational services		3	0
Government services n.i.e.		78	3
Memo item: Commercial services		2603	97
Yemen		Total services	166
	Transport	20	12
	Travel	38	23
	Other services	108	65
	Communications	51	30
	Other business services	21	12
	Government services n.i.e.	37	22
	Memo item: Commercial services	129	78
Oman	Total services	349	100
	Transport	159	46
	Travel	143	41
	Other services	47	13

Table 4. Sectoral composition of services exports of Arab countries, 2002^{60 61}

		\$ millions	% in country's total
Oman, <i>cont'd</i>	Communications	31	9
	Insurance	16	4
	Memo item: Commercial services	349	100

Annex II

Amman Declaration adopted on 28 September 2005

We, the Ministers of Trade of the Arab States meeting in Amman, Jordan, on 28 September 2005 with a view to adopting a common position on the Sixth WTO Ministerial Conference in the context of the Millennium Development Goals (MDGs);

Welcoming the high-level plenary of the United Nations General Assembly on the five-year review of the Millennium Declaration, and reiterating our commitment to achieving internationally agreed development goals, particularly the MDGs, through, *inter alia*, the concrete and timely implementation of the global partnership for development on ending poverty in our countries;

Welcoming the adoption of the WTO General Council Decision on 1 August 2004, which put the Doha Work Programme (DWP) back on track;

Concerned with the slow pace in the negotiations, especially in respect of core elements of development content and the modalities for agriculture and non-agricultural market access;

Reaffirming our commitment to engage constructively in the preparatory process and at the 6th WTO Ministerial Conference in Hong Kong, China, with a view to ensuring the successful completion of the Doha Work Programme with ambitious development-enhancing results under the single undertaking, at the latest by 2006, so as to contribute to a more viable, equitable and durable multilateral trading system and to the timely implementation of the MDGs;

Reiterating the fundamental commitment of the Doha Declaration to placing the needs and interests of developing countries, and in particular least developed countries, at the heart of the WTO Doha work programme, and that this commitment should be realized at the 6th WTO Ministerial Conference;

Recalling the commitments made at the Millennium Summit, the WTO Ministerial Conferences and the Third UN Conference on LDCs, held in Brussels in 2001, to assist LDCs to secure beneficial and meaningful integration into the multilateral trading system and the global economy;

Reaffirming the need for the Doha negotiations to be inclusive and transparent to ensure political ownership of the process and of the outcome of the negotiations;

Reiterating the urgency of expeditious amendment of the TRIPS Agreement to incorporate the 30 August 2003 Decision on the Implementation of Paragraph 6 of the Declaration on TRIPS and Public Health as a permanent solution to the problems of developing countries with insufficient or no manufacturing capacity;

Urging that the trade-related aspects of the cotton initiative be addressed expeditiously, ambitiously and with specificity in the WTO Sub-Committee on Cotton, as specified in the July Package;

Calling on WTO Members to demonstrate the requisite political will and leadership to achieve progress on the DWP that would lay the basis for a successful Hong Kong WTO Ministerial Conference;

Reiterating Arab States' request that Arabic should become an official language of the WTO, as it is in the United Nations;

Highlighting the importance of reactivation of the Arab Expert Group Meetings in Geneva;

Underscoring that the League of Arab States and other Arab regional and subregional organizations should be expeditiously granted the status of observers in the WTO, including at the 6th WTO Ministerial Conference;

Concerned with the excessive demands imposed on the acceding Arab States which go beyond the WTO Members' obligations;

Stressing the importance of integration of Arab States into the multilateral trading system through, *inter alia*, accession to the WTO;

Welcoming the African Union's Cairo Declaration and Road Map on the Doha Work Programme and the LDCs' Livingstone Declaration;

Agreeing to ensure follow-up to the decisions and priorities adopted by the first and second Arab Consultative Meetings for the Ministers of Trade, Finance and Economy of Arab States (Cairo, 18 July 2001, and Kuwait, 12-13 March 2002) and this Ministerial Conference;

Hereby adopt the Arab Ministerial Declaration and the Roadmap for the 6th WTO Ministerial Conference and express our thanks to the Government and the people of Jordan for the warm hospitality extended to us and for all the excellent facilities put at our disposal;

Also express our appreciation to UNCTAD, the League of Arab States and other cooperating organizations for their support.

THE ROADMAP TO HONG KONG

AGRICULTURE

1. We emphasize that the modalities to be agreed upon should take into account the need for appropriate policy space allowing Arab States to pursue agricultural policies that are supportive of their development goals, poverty reduction, food security and livelihood, while ensuring improved market access for 'agricultural' products, in both primary and processed forms. The Hong Kong Ministerial Conference must deliver modalities which directly contribute to the sustainable development of agriculture in Arab States. To this end, the modalities should address as a matter of priority the following issues under each of the three pillars of the Agreement on Agriculture (AoA):

I. MARKET ACCESS

- (a) Negotiations on the formula should take into account the particular pattern of trade of Arab States and their different tariff structures;
- (b) G20 proposals could form a good basis for the work on tariff reduction with appropriate and effective special and differential treatment;
- (c) The number of sensitive products in developed countries should be limited, and substantial tariff reduction and tariff quota commitments should apply to the sensitive products of developed countries;
- (d) Tariff escalation must be addressed fully in developed countries in accordance with paragraph 36 of the Framework Agreement;
- (e) The full operationalization of the principle of proportionality in the reduction of tariffs is essential, as well as the development of meaningful modalities on special products (SPs) and the Special Safeguard Mechanism (SSM). The SSM constitutes a unique instrument that would respond to the concerns of developing countries and least developed countries related to food security, livelihood security and rural development. Modalities with respect to the designation of special products and treatment must be devised in a way that provides maximum flexibility to Arab States to reflect their particular domestic circumstances and development needs;
- (f) The SSG should be eliminated for developed countries by the first year of implementation;
- (g) The treatment of S&D provisions in market access constitutes a sine qua non condition for the Arab States;
- (h) Developed countries, and other developing countries in a position to do so, must provide bound duty- and quota-free market access to agricultural products originating in LDCs;
- (i) Flexibilities should be provided for LDCs to determine the levels of binding commitments for their tariff lines consistent with their trade, development and financial needs.

II. EXPORT COMPETITION

- (a) Expeditious elimination of all forms of export subsidies on agricultural products, while engaging in gradual reduction starting from the first year of implementation. This elimination shall be without prejudice to S&D treatment of net food-importing developing countries (NFIDCs) and LDCs, recognising the need for adjustment measures that will offset the negative, short-term effects of removal of subsidies;
- (b) Urgent implementation of the Marrakech Decision on NFIDCs and LDCs and a clear reflection of the special and differential treatment component of any disciplines to be developed on export credits in accordance with paragraph 4 of that Decision;
- (c) Fully reflecting the interests of food aid recipients in developing disciplines on this issue. Modalities must include commitments by donors in the context of the Food

Aid Convention and improved monitoring of food aid transactions, while at the same time encouraging local and regional purchase, where possible, to limit to a minimum the impact of food aid on the local production of recipient countries;

- (d) Arab state trading enterprises which enjoy special privileges to preserve domestic consumer price stability and to ensure food security should receive special consideration with regard to maintaining monopoly status;
- (e) Developing countries will continue to benefit from special and differential treatment under the provisions of Article 9.4 of the Agreement on Agriculture for a reasonable period to be agreed after the phasing out of all forms of export subsidies and implementation of all related disciplines.

III. DOMESTIC SUPPORT

- (a) The formula to be agreed must result in meaningful and effective reductions in the subsidies granted by the major trading partners to their farming communities. Most crucially, disciplines on domestic support should not lead to "box-shifting" the trade-distorting subsidies;
- (b) Policy space must be maintained for the development of Arab States' farming communities based on fair and equitable targets for poverty reduction, food and livelihood security, and rural development. This should provide Arab States with adequate and timely resources to fulfil their essential developmental objectives, including through S&D provisions under the domestic support pillar, Annex 2, Article 6.2 and *de minimis*;
- (c) Developed countries must engage in the review and clarification of the green box criteria in a manner that will ensure that the green box measures have no or at most minimal trade-distorting effects or effects on production;
- (d) *De minimis* for Arab States shall be exempted from reduction commitments.

IV. RECENTLY ACCEDED MEMBERS

2. The particular concerns of recently acceded Arab Members should be addressed effectively through specific flexibility provisions.

NON-AGRICULTURAL MARKET ACCESS (NAMA)

3. We are concerned that some of the proposals on the formula submitted by WTO Members would result in deep tariff reductions by some Arab States in comparison to developed countries, contrary to the principle of less-than-full reciprocity and S&D treatment enshrined in the Doha mandate and in the July Package. This would deepen the crisis of de-industrialization and accentuate the unemployment and poverty crisis confronting Arab States. In this regard, it is imperative that the modalities:

- (a) Identify an appropriate formula or tariff approach that would allow Arab States to undertake industrial policy and diversification objectives in accordance with the negotiating mandate and give priority to the principles of less-than-full reciprocity and S&D;

- (b) Provide policy space and flexibility that fully take account of Arab States' trade, developmental, financial and industrial needs and remove the risk of de-industrialization, with its attendant negative consequences for poverty reduction;
- (c) Provide flexibilities for Arab States to determine their binding coverage commensurate with their development objectives;
- (d) Ensure that participation in the sectoral initiatives is on a voluntary basis, and that due consideration is given to the sectoral initiative on raw materials submitted by the United Arab Emirates;
- (e) Fully respect LDCs' exemption from tariff reduction commitments;
- (f) Improve preferential schemes and incorporate provisions in the modalities to address the erosion of preferences and attendant adjustment requirements;
- (g) Ensure that concrete action is taken to allow newly acceded Members to have recourse to special provisions for tariff reductions in order to take into account their extensive market access commitments undertaken as part of their accession;
- (h) Provide adequate consideration to the adoption of the proposal submitted by Qatar on natural gas and gas derivatives in the context of environmental goods negotiations.

4. We underscore that negotiations on non-tariff barriers should be conducted in tandem with those on tariff reductions and lead to clear identification of the non-tariff barriers, establishment of modalities for their removal, and provision of adequate support to overcome these barriers.

5. We call for the urgent conduct of studies and assessment of the possible effects of formulas, binding coverage and other aspects of the NAMA negotiations, as mandated by paragraph 15 of Annex B.

SERVICES

6. We note that some Arab States have submitted initial and revised offers in the current round of services negotiations. We also note that other Arab States are facing difficulties in submitting requests and offers. Consequently the following must be achieved:

- (a) A substantial improvement in market access in modes and sectors of export interest to Arab States. Under Mode 4, Members should make commitments aimed at ensuring a commercially meaningful outcome for Arab States, particularly on sectors of importance in terms of export interest such as tourism, business and professional, construction, health and environment services;
- (b) The urgent conclusion of the evaluation and assessment exercise, with specific outcomes that would ensure appropriate adjustments in the negotiations;
- (c) A substantial advance in work on domestic regulation by the Hong Kong Ministerial Conference to ensure that disciplines in domestic regulation enhance commitments undertaken by Members, particularly in those areas of interest to Arab States, including Mode 4;

- (d) Expedient establishment of an emergency safeguard mechanism with appropriate SDT for developing countries;
- (e) Developed countries should notify all their subsidies with a view to identifying their trade-distorting subsidies and eliminating them. For this purpose, a clear and practical definition of subsidies should be agreed upon;
- (f) Ensure that government procurement negotiations in accordance with GATS should not encompass market access components;
- (g) Provision of increased and targeted technical assistance on all technical issues, as well as impact studies, to enable Arab States to participate effectively in the negotiations, including the request/offer phase;
- (h) Effective implementation of Article IV of the GATS in order to ensure the increased participation of Arab States in services trade;
- (i) Provision of special provisions and flexibilities to recently acceded members in the services negotiations.

7. We stress the need for the full implementation of the LDC special modalities.

8. We further stress that the Guidelines and Procedures for the negotiations in services adopted by the Council for Trade in Services on 28 March 2001 and Articles IV and XIX and the LDC modalities remain the benchmark for the negotiations. Recent proposals on new approaches and "base lines" for liberalization impact negatively on the architecture of the GATS and its development provisions and thus should be discarded.

DEVELOPMENT ISSUES

9. We reiterate that development is a priority for Arab States in the negotiations and should thus be appropriately and explicitly mainstreamed into all aspects of the negotiations and the outcome of the Hong Kong Ministerial Conference. In this regard, the following must be achieved:

- (a) Ensure that all S&D proposals are addressed by the Committee on Trade and Development, which remains the main body dealing with development issues;
- (b) Complete the review of all outstanding S&D Agreement specific proposals and agree on a significant package of proposals with commercially meaningful provisions and those which enhance the flexibility available to developing countries by the Sixth WTO Ministerial Conference;
- (c) Complete the work on all outstanding implementation-related issues and concerns; and agree on a package of provisions that would improve implementation of WTO obligations and rights by members and strengthen the development perspective;
- (d) Other key elements that address Arab States' development needs and concerns relating to enhanced technical assistance, food security, rural development, livelihood concerns, commodities and net food imports must be fully taken into account in the negotiations;

- (e) Arab liberalization efforts, including in the context of regional integration efforts, should be fully recognized and factored into the negotiations, and adequate flexibility provided to address the Arab States' development and trade needs.

10. We stress the need for new, concrete and substantive adjustment support to be provided to Arab States to meet adjustment costs arising from trade reform and liberalization, as well as to build competition supply capacity, including trade infrastructure.

COMMODITIES

11. We urge WTO Members to address the crisis of the instability and secular decline in commodity prices with the aim of attaining stable, equitable and remunerative prices on these products, as well as an increase in the participation of developing countries and LDCs in the value chain of production;

12. We call on the international community to provide support for the effective operationalization of the International Task Force on Commodities launched at UNCTAD XI.

TRADE FACILITATION

13. We recognize the potential benefits that would accrue to Arab States from undertaking trade facilitation measures, including enhancing the competitiveness of Arab economies, promoting intra-Arab trade and harnessing the benefits;

14. However, there are costs associated with the pursuit of trade facilitation. In this regard, we welcome the recognition in Annex D of the July Package where it stresses the need for synergy between the level of commitments, the cost of and the availability of resources to implement any possible outcome, and the provision of financial and technical resources for the capacity building of developing and least developed countries. These commitments must be met in letter and spirit.

15. We emphasize the need for closer collaboration and enhanced coordination among relevant international, regional and subregional organizations in the delivery of targeted and efficient technical assistance and capacity building support to Arab States on trade facilitation.

16. In the context of the current negotiations on trade facilitation, the following should be fully taken into account:

- (a) Adherence to the mandate and scope of Annex D of the July Package;
- (b) Defining the needs and priorities of each of the Arab States by, *inter alia*, expeditiously making a self-assessment which could be based on the secretariat notification (TN/TF/W/59);
- (c) Provision of S&D that is precise, effective and operational;
- (d) Provision of policy space and flexibility for Arab States;
- (e) Support for regional efforts on trade facilitation among Arab States.

RULES

17. In the negotiations on WTO Rules, the following issues are key for achieving progress:

- (a) The need to avoid the introduction of complex rules and disciplines under the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures, in accordance with the Doha mandate that called for improvement and clarification of those two agreements;
- (b) The provision of adequate technical assistance to Arab States in order to enable them to effectively enforce their rights under the Anti-Dumping Agreement as well as the Agreement on Subsidies and Countervailing Measures;
- (c) The need to address sufficiently the development dimension of these negotiations by ensuring that, when elaborating proposals, the needs and concerns of Arab States are reflected therein;
- (d) Taking fully into account the development aspects in the negotiations aimed at clarifying and improving disciplines and procedures relating to regional trade agreements.

LDCs

18. We recognize the special difficulties faced by LDCs in integrating into the multilateral trading system, and in this respect we support the Livingstone Declaration adopted by the Fourth LDC Trade Ministers' Meeting and urge WTO developed countries, and developing countries in a position to do so, to grant bound duty free, quota-free treatment for all exports of LDCs and liberalize Mode 4 in all skill levels for LDCs.

TECHNICAL COOPERATION AND CAPACITY BUILDING

19. We thank the Minister of Commerce and Industry of Oman for initiating the Arab JITAP. We call upon AMF to continue its work in coordination with WTO, UNCTAD, ITC and other relevant parties to expeditiously finalize the programme. We also urge the international and Arab financial institutions and donor countries as well as the private sector to contribute and provide the appropriate financial resources for the programme.

20. Recognizing the crucial role of UNCTAD in assisting Arab States, we stress that development partners should provide financial support to UNCTAD and other relevant international, regional and subregional organizations in implementing capacity building projects for Arab States. We also reiterate the importance of expeditious organization of seminars relating to the multilateral trading system and development for Arab States.

21. We recognize the utility of the Business for Development initiative launched by ITC to promote and support business-government dialogue on WTO-related issues. This initiative should be extended to the Arab region and adequately financed.

TRADE, DEBT AND FINANCE

22. We recognize the Working Group on Trade, Debt and Finance (WGTDF) as one of the concrete manifestations of the development focus of the Doha Work Programme. We therefore:

- (a) Reiterate the importance of this Working Group in creating the much needed coherence between trade, debt and finance;
- (b) Call upon the Working Group to immediately mainstream coordination with the Bretton Woods Institutions so as to avoid overlaps in the policies recommended by the World Bank and IMF on the one hand and WTO rights and obligations on the other;
- (c) Call upon the Working Group to build synergies with the various WTO Committees that are dealing with issues that fall within the general competence of this Working Group so as to ensure that tangible results are delivered on the coherence mandate;
- (d) Welcome the prospects of the Aid for Trade agenda which should be aimed, inter alia, at addressing the supply-side constraints and adjustment costs that developing countries face, as well as meeting of standards. However, this agenda should not operate on the typical conditionality of the Bretton Woods Institutions, and assistance should be provided directly to developing countries with efficient, streamlined and simpler delivery procedures;
- (e) Recall the debt situation of several Arab States and call upon the Working Group to resolve the trade-related aspects of debt by delivering on the coherence mandate.

TRADE AND TRANSFER OF TECHNOLOGY

23. We call for a more focused programme in the Working Group on Trade and Transfer of Technology with a view to finding durable solutions to the problems associated with transfer of technology to Arab States and increasing the inflow of appropriate technology to these countries.

ACCESSION

24. We call upon all WTO Members to facilitate and accelerate the accession of Arab States to the WTO, and non-trade-based considerations should not be used to delay accessions or hold up applications for accession.

25. We appreciate the technical assistance and capacity building support extended to Arab States in the process of accession by our development partners and UNCTAD. We also call upon UNCTAD and our development partners to intensify the provision of technical assistance and capacity building support to acceding Arab States at all stages of the accession process.

26. We also encourage the cooperation and the exchange of experiences between acceding Arab States and Arab Members of the WTO.

27. We underscore the urgent need to effectively implement the accession guidelines for LDCs adopted by the General Council in December 2002.

28. We stress that acceding countries must neither be compelled to negotiate concessions going beyond multilaterally accepted rules within the institution nor subscribe to clauses still under discussion within the framework of the Doha Round;

29. We stress that S&D provisions should be applicable to all acceding developing countries, including LDCs, and not be subject to negotiations.

30. We urge all WTO Members to support Palestine's request being submitted for observer status in the Organization, as well as Palestine's request being submitted to attend the Sixth WTO Ministerial Conference in Hong Kong, China.

TRADE AND MDGs

31. We recognize that some Arab States have made advances towards achieving many of the MDGs, including alleviating extreme poverty and reducing maternal and infant mortality. However, significant challenges remain in most Arab States in achieving specific MDG goals and targets fully and in a timely fashion. In this context, under the right conditions, trade can make an important contribution to Arab States in promoting MDGs, especially through the implementation of Goal 8 and the achievement of an open trading and financial system that is rule-based, predictable and non-discriminatory and, above all, equitable. We thus emphasize a comprehensive approach to trade liberalization and reform that is development-oriented and accompanied by the necessary adjustment support and building of competitive supply capacities and infrastructural linkages.

Annex III

The outcome of the Sixth WTO Ministerial Conference 13-18 December 2005, Hong Kong, China

Against the expectations of collapse and the sense of crisis that enveloped the pre Hong Kong negotiations, the Sixth WTO Ministerial Conference held in Hong Kong from 13 to 18 December 2005⁸ recorded marginal gains that barely rescued the negotiations from failure while postponing by four months the tougher decisions. The original goals of agreeing on a package of full modalities for all areas of negotiations were not realized but some limited progress was made in some areas. To that extent the Hong Kong Ministerial Conference was able to prevent derailment of the Doha Round and keep negotiations and its development agenda on track. This is a matter of some relief and satisfaction.

Some positive steps forward prior to Hong Kong Conference added to improving the overall negotiating climate for the Doha round particularly in terms of adoption of an amendment that transformed the 30 August 2003 waiver into a permanent solution to facilitate access to essential medicines of countries with no or limited manufacturing capacities. Hope could be expressed that there will be no practical implementation difficulties and that affordable access to essential medicines will actually be facilitated. The WHO have pointed out that in order to achieve "full public health benefits" it would be necessary to have a simple and workable approach in the interpretation of this amendment.

The Hong Kong Ministerial Conference concluded with the adoption of a Ministerial Declaration containing the Declaration itself and 6 annexes on agriculture, non-agricultural market access, services, rules, trade facilitation, and special and differential treatment for LDCs.

The Hong Kong package in the assessment of the Director-General of the WTO, Pascal Lamy, himself provided a value addition of no more than 5 per cent. He and other key negotiators and countries have acknowledged that much ground remains to be covered in the remaining year if the reaffirmed deadline of December 2006 for ending the talks is to be met. In this regard timelines and in some areas a roadmap has been provided for further follow-up and detailed negotiations in the coming year.

In Agriculture agreement was reached to establish modalities by 30 April 2006 and for the submission of draft schedules by 31 July 2006. There was limited forward movement in the areas of export subsidies in that the end date was set for 2013(as against the demand for 2010). There is some promise of front-loading so that " a substantial part is realized by the first half of the implementation period." This commitment which will put the onus of implementation on the EU is conditional on required disciplines to be bought about by countries like the Australia, the United States and Australia on other forms of export competition like export credit, food aid, state trading entities. On the domestic support side, there was no movement and in the much-contested area of improved market access in which the EU was on the defensive vis-à-vis the United States and the G-20, matters remain deadlocked. From the developing countries point of view, the agreement confirmed the right of developing countries to self designate those agricultural products vital to food security, livelihood and rural development, thus providing them the necessary development flexibility and policy space.

On Cotton, some advance was made in that agreement was reached on eliminating all forms of export subsidies in 2006 and that trade distorting domestic subsidies are to be more quickly reduced than agricultural subsidies generally. African cotton producing countries have however pointed out that export subsidies represent only 10 per cent of the total subsidies provided by the United States and some EU countries and that they would need to seek real and front loaded reductions in domestic support. Developed countries will provide duty-free and quota-free treatment for cotton exports from LDCs, which is considered as having minimal value-added. The cotton 4 countries are not satisfied with this package on cotton as they had called for deeper measures to be adopted immediately or by the end of 2005 particularly in respect for domestic support and wanted a credible development assistance package.

On industrial tariffs (NAMA), some modest movement was recorded in terms of confirming the choice of the "Swiss tariff cutting formula", which would cut higher tariffs more ambitiously than lower ones. Generally speaking, developing country tariffs are higher than developed countries. Particular attention would be given to products of export interest to developing countries. It was simultaneously agreed that the coefficients (numbers yet to be agreed) would be more than one and that developing countries will have the benefit of less than full reciprocity and special and differential treatment in this regard.

A notable feature of the Hong Kong Declaration is that, for the first time, it seeks to establish parallelism and linkage on the level of ambitions between the outcomes in agriculture and NAMA for developing countries. The Declaration instructs that the level of ambition in market access in agriculture and NAMA should be comparably high in terms of providing enhanced market access for developing countries.

The Hong Kong Conference seems to have adopted a kind of mini development package for LDCs. There were 5 agreement specific proposals on special and differential treatment, which were adopted. The most important of these was the Least Developed Country demand for bound duty-free and quota-free treatment to be granted to all LDCs on all products (currently only a few developed countries grants duty-free and quota-free treatment on all products on a unilateral basis to all LDCs) which was only partially realized and that too on a deferred implementation basis. There is a commitment by all developed countries and those developing declaring themselves in a position to do so to provide duty-free and quota-free treatment on a lasting basis to all LDCs for all products by 2008 (or no later than the start of the implementation period). In effect, however, it will continue to be offered on a unilateral basis with excluded products to be determined by preference giving countries. For example, this arrangement would enable the United States to exclude textiles and garments from Bangladesh and Cambodia from the purview of its preferential scheme. Since this was one of the key elements of the trade and the MDGs package at the World Summit Outcome of September 2005, it is hoped that the commitments will be implemented comprehensively and expeditiously to give effect to the aspects of "stability, security and predictability" that have been promised. In the services area, a positive feature is the acknowledgement that the LDCs are not expected to undertake new commitments; and Members shall implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly under Mode 4. Furthermore, there is an affirmation of the commitment to enhance effective trade related technical assistance and capacity building to LDCs to overcome their limited human and institutional trade related capacity.

In respect of Services, the ambition for more intensive market opening negotiations in services has been realized through the adoption of additional modalities for expanding the sectoral and modal coverage of commitments through the inclusion of Annex C to the Ministerial Declaration. The Annex provides for specific modal objectives for making new and improved commitments as well as plurilateral negotiations (in addition to request-offer negotiations). Quantitative benchmarks for liberalization were not included in the Annex in view of strong resistance from many developing countries. Many developing countries expressed concern with the Annex C and its impact in eroding the development-friendly architecture of the GATS and the principle of progressive liberalization in services. Important deadlines were established for the conduct of services negotiations. From the point of view of developing countries, there was some gain in terms of setting modal objectives in terms of Mode 1(outsourcing) at current levels of market access, but on Mode 4 the text reflects lower ambition as compared to other Modes and in comparison to developing country expectations.

The concept of Aid for Trade, which had been earlier articulated in the Development Committee meeting of the World Bank/IMF in September 2005, was welcomed. However, the actual features remain undefined and there is wide divergence on the specifics. It is provided that the Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion particularly on market access. A task force has been created by the Director-General of the WTO to provide recommendations on operationalization of Aid for Trade by July 2006.

The idea of an enhanced integrated framework - a donor-funded trade related technical assistance scheme for least developed countries - was approved and a task force involving donors and beneficiaries would provide increased predictable and additional funding among other elements.

For commodity dependent developing countries, there was a token acknowledgment of their trade related concerns and the need for support and technical assistance.

There was some progress on the elaboration of elements on trade facilitation, which is a work in progress.

The Hong Kong experience and the Doha Round as a whole has given rise to a number of systemic issues regarding the WTO, multilateral trade negotiations, the multilateral trading system and the interface with growing regional trade agreements:

- Growing membership and diversity of interests, particularly among developing countries. This has increased difficulties in reaching agreements, facilitating consensus, ensuring a bottom-up process and transparency.
- The process and format of Ministerial meetings to take critical last minutes decisions on key negotiations issues has become unwieldy, leading to minimal or no outcomes. Increasingly, some WTO Members favour decisions to be taken by the WTO General Council in Geneva, with annual or biennial stock-take only by Ministers at Ministerial meetings.
- Although development is at the heart of the negotiations and many leaders continue to emphasize this, it remains to be fully and effectively integrated into the core market access areas of the negotiations and the flexibilities where most of the commercial

benefits would arise and policy space would be attained for future industrialization and development. The Hong Kong outcomes provide only small steps in this direction, and thus much remains to be accomplished.

- There is need to ensure coherence between the trade negotiations outcomes and the implementation of the MDGs, particularly implementation of Goals 1 (eliminate poverty and hunger) and 8 (promote a partnership for development). This requires responses such as effective market access and entry for exports of developing countries, improved donor support for supply capacity and competitiveness, and trade infrastructure building.
- While the Doha Round is continuing, regional trade agreements, especially on a North-South basis are being created with deeper commitments assumed by developing countries. Their impact on the multilateral trading system and development need to be urgently examined. At the same time, South-South trade and integration is intensifying and providing a means towards strengthening the trade of developing countries and their integration in the international trading system, facilitated by the rise of some developing countries including China, India and Brazil.

Annex IV

Ministerial Declaration

Adopted on 18 December 2005

1. We reaffirm the Declarations and Decisions we adopted at Doha, as well as the Decision adopted by the General Council on 1 August 2004, and our full commitment to give effect to them. We renew our resolve to complete the Doha Work Programme fully and to conclude the negotiations launched at Doha successfully in 2006.

2. We emphasize the central importance of the development dimension in every aspect of the Doha Work Programme and recommit ourselves to making it a meaningful reality, in terms both of the results of the negotiations on market access and rule-making and of the specific development-related issues set out below.

3. In pursuance of these objectives, we agree as follows:

*Agriculture
negotiations*

4. We reaffirm our commitment to the mandate on agriculture as set out in paragraph 13 of the Doha Ministerial Declaration and to the Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Special Session on his own responsibility (TN/AG/21, contained in Annex A). We welcome the progress made by the Special Session of the Committee on Agriculture since 2004 and recorded therein.

5. On domestic support, there will be three bands for reductions in Final Bound Total AMS and in the overall cut in trade-distorting domestic support, with higher linear cuts in higher bands. In both cases, the Member with the highest level of permitted support will be in the top band, the two Members with the second and third highest levels of support will be in the middle band and all other Members, including all developing country Members, will be in the bottom band. In addition, developed country Members in the lower bands with high relative levels of Final Bound Total AMS will make an additional effort in AMS reduction. We also note that there has been some convergence concerning the reductions in Final Bound Total AMS, the overall cut in trade-distorting domestic support and in both product-specific and non product-specific de minimis limits. Disciplines will be developed to achieve effective cuts in trade-distorting domestic support consistent with the Framework. The overall reduction in trade-distorting domestic support will still need to be made even if the sum of the reductions in Final Bound Total AMS, de minimis and Blue Box payments would otherwise be less than that overall reduction. Developing country Members with no AMS commitments will be exempt from reductions in de minimis and the overall cut in trade-distorting domestic support. Green Box criteria will be reviewed in line with paragraph 16 of the Framework, inter alia, to ensure that programmes of developing country Members that cause not more than minimal trade-distortion are effectively covered.

6. We agree to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by the end of 2013. This will be achieved in a progressive and parallel manner, to be specified in the modalities, so that a substantial part is realized by the end of the first half of the implementation period. We note emerging convergence on some elements of disciplines with respect to export credits, export credit guarantees or

insurance programmes with repayment periods of 180 days and below. We agree that such programmes should be self-financing, reflecting market consistency, and that the period should be of a sufficiently short duration so as not to effectively circumvent real commercially-oriented discipline. As a means of ensuring that trade-distorting practices of STEs are eliminated, disciplines relating to exporting STEs will extend to the future use of monopoly powers so that such powers cannot be exercised in any way that would circumvent the direct disciplines on STEs on export subsidies, government financing and the underwriting of losses. On food aid, we reconfirm our commitment to maintain an adequate level and to take into account the interests of food aid recipient countries. To this end, a "safe box" for bona fide food aid will be provided to ensure that there is no unintended impediment to dealing with emergency situations. Beyond that, we will ensure elimination of commercial displacement. To this end, we will agree effective disciplines on in-kind food aid, monetization and re-exports so that there can be no loop-hole for continuing export subsidization. The disciplines on export credits, export credit guarantees or insurance programmes, exporting state trading enterprises and food aid will be completed by 30 April 2006 as part of the modalities, including appropriate provision in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Marrakesh Decision. The date above for the elimination of all forms of export subsidies, together with the agreed progressivity and parallelism, will be confirmed only upon the completion of the modalities. Developing country Members will continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture for five years after the end-date for elimination of all forms of export subsidies.

7. On market access, we note the progress made on *ad valorem* equivalents. We adopt four bands for structuring tariff cuts, recognizing that we need now to agree on the relevant thresholds – including those applicable for developing country Members. We recognize the need to agree on treatment of sensitive products, taking into account all the elements involved. We also note that there have been some recent movements on the designation and treatment of Special Products and elements of the Special Safeguard Mechanism. Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development. Developing country Members will also have the right to have recourse to a Special Safeguard Mechanism based on import quantity and price triggers, with precise arrangements to be further defined. Special Products and the Special Safeguard Mechanism shall be an integral part of the modalities and the outcome of negotiations in agriculture.

8. On other elements of special and differential treatment, we note in particular the consensus that exists in the Framework on several issues in all three pillars of domestic support, export competition and market access and that some progress has been made on other special and differential treatment issues.

9. We reaffirm that nothing we have agreed here compromises the agreement already reflected in the Framework on other issues including tropical products and products of particular importance to the diversification of production from the growing of illicit narcotic crops, long-standing preferences and preference erosion.

10. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive

draft Schedules based on these modalities no later than 31 July 2006.

Cotton

11. We recall the mandate given by the Members in the Decision adopted by the General Council on 1 August 2004 to address cotton ambitiously, expeditiously and specifically, within the agriculture negotiations in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export competition, as specified in the Doha text and the July 2004 Framework text. We note the work already undertaken in the Sub-Committee on Cotton and the proposals made with regard to this matter. Without prejudice to Members' current WTO rights and obligations, including those flowing from actions taken by the Dispute Settlement Body, we reaffirm our commitment to ensure having an explicit decision on cotton within the agriculture negotiations and through the Sub-Committee on Cotton ambitiously, expeditiously and specifically as follows:

- All forms of export subsidies for cotton will be eliminated by developed countries in 2006.
- On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period.
- Members agree that the objective is that, as an outcome for the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable. We commit ourselves to give priority in the negotiations to reach such an outcome.

12. With regard to the development assistance aspects of cotton, we welcome the Consultative Framework process initiated by the Director-General to implement the decisions on these aspects pursuant to paragraph 1.b of the Decision adopted by the General Council on 1 August 2004. We take note of his Periodic Reports and the positive evolution of development assistance noted therein. We urge the Director-General to further intensify his consultative efforts with bilateral donors and with multilateral and regional institutions, with emphasis on improved coherence, coordination and enhanced implementation and to explore the possibility of establishing through such institutions a mechanism to deal with income declines in the cotton sector until the end of subsidies. Noting the importance of achieving enhanced efficiency and competitiveness in the cotton producing process, we urge the development community to further scale up its cotton-specific assistance and to support the efforts of the Director-General. In this context, we urge Members to promote and support South-South cooperation, including transfer of technology. We welcome the domestic reform efforts by African cotton producers aimed at enhancing productivity and efficiency, and encourage them to deepen this process. We reaffirm the complementarity of the trade policy and development assistance aspects of cotton. We invite the Director-General to furnish a third Periodic Report to our next Session with updates, at appropriate intervals in the meantime, to the General Council, while keeping the Sub-Committee on Cotton fully informed of progress. Finally, as regards follow up and monitoring, we request the Director-General to set up an appropriate follow-up and monitoring mechanism.

NAMA negotiations

13. We reaffirm our commitment to the mandate for negotiations on market access for non-agricultural products as set out in paragraph 16 of the Doha Ministerial Declaration. We also reaffirm all the elements of the NAMA Framework adopted by the General Council on 1 August 2004. We take note of the report by the

Chairman of the Negotiating Group on Market Access on his own responsibility (TN/MA/16, contained in Annex B). We welcome the progress made by the Negotiating Group on Market Access since 2004 and recorded therein.

14. We adopt a Swiss Formula with coefficients at levels which shall *inter alia*:
- Reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries; and
 - Take fully into account the special needs and interests of developing countries, including through less than full reciprocity in reduction commitments.

We instruct the Negotiating Group to finalize its structure and details as soon as possible.

15. We reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments, including paragraph 8 of the NAMA Framework, as integral parts of the modalities. We instruct the Negotiating Group to finalize its details as soon as possible.

16. In furtherance of paragraph 7 of the NAMA Framework, we recognize that Members are pursuing sectoral initiatives. To this end, we instruct the Negotiating Group to review proposals with a view to identifying those which could garner sufficient participation to be realized. Participation should be on a non-mandatory basis.

17. For the purpose of the second indent of paragraph 5 of the NAMA Framework, we adopt a non-linear mark-up approach to establish base rates for commencing tariff reductions. We instruct the Negotiating Group to finalize its details as soon as possible.

18. We take note of the progress made to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of an agreed methodology as contained in JOB(05)/166/Rev.1.

19. We take note of the level of common understanding reached on the issue of product coverage and direct the Negotiating Group to resolve differences on the limited issues that remain as quickly as possible.

20. As a supplement to paragraph 16 of the NAMA Framework, we recognize the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the MFN liberalization that will result from these negotiations. We instruct the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions.

21. We note the concerns raised by small, vulnerable economies, and instruct the Negotiating Group to establish ways to provide flexibilities for these Members without creating a sub-category of WTO Members.

22. We note that the Negotiating Group has made progress in the identification, categorization and examination of notified NTBs. We also take note that Members are developing bilateral, vertical and horizontal approaches to the NTB negotiations, and that some of the NTBs are being addressed in other fora including other Negotiating Groups. We recognize the need for specific negotiating proposals and

encourage participants to make such submissions as quickly as possible.

23. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

*Balance
between
Agriculture and
NAMA*

24. We recognize that it is important to advance the development objectives of this Round through enhanced market access for developing countries in both Agriculture and NAMA. To that end, we instruct our negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA. This ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.

*Services
negotiations*

25. The negotiations on trade in services shall proceed to their conclusion with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries, and with due respect for the right of Members to regulate. In this regard, we recall and reaffirm the objectives and principles stipulated in the GATS, the Doha Ministerial Declaration, the Guidelines and Procedures for the Negotiations on Trade in Services adopted by the Special Session of the Council for Trade in Services on 28 March 2001 and the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services adopted on 3 September 2003, as well as Annex C of the Decision adopted by the General Council on 1 August 2004.

26. We urge all Members to participate actively in these negotiations towards achieving a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing countries as provided for in Article XIX of the GATS. Negotiations shall have regard to the size of economies of individual Members, both overall and in individual sectors. We recognize the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments.

27. We are determined to intensify the negotiations in accordance with the above principles and the Objectives, Approaches and Timelines set out in Annex C to this document with a view to expanding the sectoral and modal coverage of commitments and improving their quality. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries.

*Rules
negotiations*

28. We recall the mandates in paragraphs 28 and 29 of the Doha Ministerial Declaration and reaffirm our commitment to the negotiations on rules, as we set forth in Annex D to this document.

*TRIPS
negotiations*

29. We take note of the report of the Chairman of the Special Session of the Council for TRIPS setting out the progress in the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, as mandated in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Ministerial Declaration, contained in document TN/IP/14, and agree to intensify these negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations that were foreseen in the Doha Ministerial Declaration.

Environment

30. We reaffirm the mandate in paragraph 31 of the Doha Ministerial

negotiations Declaration aimed at enhancing the mutual supportiveness of trade and environment and welcome the significant work undertaken in the Committee on Trade and Environment (CTE) in Special Session. We instruct Members to intensify the negotiations, without prejudging their outcome, on all parts of paragraph 31 to fulfil the mandate.

31. We recognize the progress in the work under paragraph 31(i) based on Members' submissions on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). We further recognize the work undertaken under paragraph 31(ii) towards developing effective procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and criteria for the granting of observer status.

32. We recognize that recently more work has been carried out under paragraph 31(iii) through numerous submissions by Members and discussions in the CTE in Special Session, including technical discussions, which were also held in informal information exchange sessions without prejudice to Members' positions. We instruct Members to complete the work expeditiously under paragraph 31(iii).

Trade Facilitation negotiations 33. We recall and reaffirm the mandate and modalities for negotiations on Trade Facilitation contained in Annex D of the Decision adopted by the General Council on 1 August 2004. We note with appreciation the report of the Negotiating Group, attached in Annex E to this document, and the comments made by our delegations on that report as reflected in document TN/TF/M/11. We endorse the recommendations contained in paragraphs 3, 4, 5, 6 and 7 of the report.

DSU negotiations 34. We take note of the progress made in the Dispute Settlement Understanding negotiations as reflected in the report by the Chairman of the Special Session of the Dispute Settlement Body to the Trade Negotiations Committee (TNC) and direct the Special Session to continue to work towards a rapid conclusion of the negotiations.

S&D treatment 35. We reaffirm that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. We renew our determination to fulfil the mandate contained in paragraph 44 of the Doha Ministerial Declaration and in the Decision adopted by the General Council on 1 August 2004, that all S&D treatment provisions be reviewed with a view to strengthening them and making them more precise, effective and operational.

36. We take note of the work done on the Agreement-specific proposals, especially the five LDC proposals. We agree to adopt the decisions contained in Annex F to this document. However, we also recognize that substantial work still remains to be done. We commit ourselves to address the development interests and concerns of developing countries, especially the LDCs, in the multilateral trading system, and we recommit ourselves to complete the task we set ourselves at Doha. We accordingly instruct the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by December 2006.

37. We are concerned at the lack of progress on the Category II proposals that had been referred to other WTO bodies and negotiating groups. We instruct these bodies to expeditiously complete the consideration of these proposals and report periodically to the General Council, with the objective of ensuring that clear recommendations for a decision are made no later than December 2006. We also

instruct the Special Session to continue to coordinate its efforts with these bodies, so as to ensure that this work is completed on time.

38. We further instruct the Special Session, within the parameters of the Doha mandate, to resume work on all other outstanding issues, including on the cross-cutting issues, the monitoring mechanism, and the incorporation of S&D treatment into the architecture of WTO rules, and report on a regular basis to the General Council.

Implementation 39. We reiterate the instruction in the Decision adopted by the General Council on 1 August 2004 to the TNC, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority to outstanding implementation-related issues. We take note of the work undertaken by the Director-General in his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits and those related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity. We request the Director-General, without prejudice to the positions of Members, to intensify his consultative process on all outstanding implementation issues under paragraph 12(b), if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to each regular meeting of the TNC and the General Council. The Council shall review progress and take any appropriate action no later than 31 July 2006.

TRIPS & Public Health 40. We reaffirm the importance we attach to the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, and to an amendment to the TRIPS Agreement replacing its provisions. In this regard, we welcome the work that has taken place in the Council for TRIPS and the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement.

Small Economies 41. We reaffirm our commitment to the Work Programme on Small Economies and urge Members to adopt specific measures that would facilitate the fuller integration of small, vulnerable economies into the multilateral trading system, without creating a sub-category of WTO Members. We take note of the report of the Committee on Trade and Development in Dedicated Session on the Work Programme on Small Economies to the General Council and agree to the recommendations on future work. We instruct the Committee on Trade and Development, under the overall responsibility of the General Council, to continue the work in the Dedicated Session and to monitor progress of the small economies' proposals in the negotiating and other bodies, with the aim of providing responses to the trade-related issues of small economies as soon as possible but no later than 31 December 2006. We instruct the General Council to report on progress and action taken, together with any further recommendations as appropriate, to our next Session.

Trade, Debt & Finance 42. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade, debt and finance and on the consideration of any possible recommendations on steps that might be taken within the mandate and competence of the WTO as provided in paragraph 36 of the Doha Ministerial Declaration and agree that, building on the work carried out to date, this work shall continue on the basis of the Doha mandate.

We instruct the General Council to report further to our next Session.

*Trade &
Transfer of
Technology*

43. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade and transfer of technology and on the consideration of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. Recognizing the relevance of the relationship between trade and transfer of technology to the development dimension of the Doha Work Programme and building on the work carried out to date, we agree that this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration. We instruct the General Council to report further to our next Session.

*Doha
paragraph 19*

44. We take note of the work undertaken by the Council for TRIPS pursuant to paragraph 19 of the Doha Ministerial Declaration and agree that this work shall continue on the basis of paragraph 19 of the Doha Ministerial Declaration and the progress made in the Council for TRIPS to date. The General Council shall report on its work in this regard to our next Session.

*TRIPS non-
violation and
situation
complaints*

45. We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns and paragraph 1.h of the Decision adopted by the General Council on 1 August 2004, and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to our next Session. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

E-commerce

46. We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce, and that the examination of issues under the Work Programme is not yet complete. We agree to reinvigorate that work, including the development-related issues under the Work Programme and discussions on the trade treatment, *inter alia*, of electronically delivered software. We agree to maintain the current institutional arrangements for the Work Programme. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until our next Session.

LDCs

47. We reaffirm our commitment to effectively and meaningfully integrate LDCs into the multilateral trading system and shall continue to implement the WTO Work Programme for LDCs adopted in February 2002. We acknowledge the seriousness of the concerns and interests of the LDCs in the negotiations as expressed in the Livingstone Declaration, adopted by their Ministers in June 2005. We take note that issues of interest to LDCs are being addressed in all areas of negotiations and we welcome the progress made since the Doha Ministerial Declaration as reflected in the Decision adopted by the General Council on 1 August 2004. Building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement duty-free and quota-free market access for products originating from LDCs as provided for in Annex F to this document. Furthermore, in accordance with our commitment in the Doha Ministerial Declaration, Members shall take additional measures to provide effective market access, both at the border and otherwise, including simplified and transparent rules of origin so as to facilitate exports from LDCs. In the services negotiations, Members shall implement the LDC modalities and give priority to the sectors and

modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4. We agree to facilitate and accelerate negotiations with acceding LDCs based on the accession guidelines adopted by the General Council in December 2002. We commit to continue giving our attention and priority to concluding the ongoing accession proceedings as rapidly as possible. We welcome the Decision by the TRIPS Council to extend the transition period under Article 66.1 of the TRIPS Agreement. We reaffirm our commitment to enhance effective trade-related technical assistance and capacity building to LDCs on a priority basis in helping to overcome their limited human and institutional trade-related capacity to enable LDCs to maximize the benefits resulting from the Doha Development Agenda (DDA).

Integrated Framework

48. We continue to attach high priority to the effective implementation of the Integrated Framework (IF) and reiterate our endorsement of the IF as a viable instrument for LDCs' trade development, building on its principles of country ownership and partnership. We highlight the importance of contributing to reducing their supply side constraints. We reaffirm our commitment made at Doha, and recognize the urgent need to make the IF more effective and timely in addressing the trade-related development needs of LDCs.

49. In this regard, we are encouraged by the endorsement by the Development Committee of the World Bank and International Monetary Fund (IMF) at its autumn 2005 meeting of an enhanced IF. We welcome the establishment of a Task Force by the Integrated Framework Working Group as endorsed by the IF Steering Committee (IFSC) as well as an agreement on the three elements which together constitute an enhanced IF. The Task Force, composed of donor and LDC members, will provide recommendations to the IFSC by April 2006. The enhanced IF shall enter into force no later than 31 December 2006.

50. We agree that the Task Force, in line with its Mandate and based on the three elements agreed to, shall provide recommendations on how the implementation of the IF can be improved, *inter alia*, by considering ways to:

1. provide increased, predictable, and additional funding on a multi-year basis;
2. strengthen the IF in-country, including through mainstreaming trade into national development plans and poverty reduction strategies; more effective follow-up to diagnostic trade integration studies and implementation of action matrices; and achieving greater and more effective coordination amongst donors and IF stakeholders, including beneficiaries;
3. improve the IF decision-making and management structure to ensure an effective and timely delivery of the increased financial resources and programmes.

51. We welcome the increased commitment already expressed by some Members in the run-up to, and during, this Session. We urge other development partners to significantly increase their contribution to the IF Trust Fund. We also urge the six IF core agencies to continue to cooperate closely in the implementation of the IF, to increase their investments in this initiative and to intensify their assistance in trade-related infrastructure, private sector development and institution building to help LDCs expand and diversify their export base.

Technical Cooperation

52. We note with appreciation the substantial increase in trade-related technical assistance since our Fourth Session, which reflects the enhanced commitment of Members to address the increased demand for technical assistance, through both

bilateral and multilateral programmes. We note the progress made in the current approach to planning and implementation of WTO's programmes, as embodied in the Technical Assistance and Training Plans adopted by Members, as well as the improved quality of those programmes. We note that a strategic review of WTO's technical assistance is to be carried out by Members, and expect that in future planning and implementation of training and technical assistance, the conclusions and recommendations of the review will be taken into account, as appropriate.

53. We reaffirm the priorities established in paragraph 38 of the Doha Ministerial Declaration for the delivery of technical assistance and urge the Director-General to ensure that programmes focus accordingly on the needs of beneficiary countries and reflect the priorities and mandates adopted by Members. We endorse the application of appropriate needs assessment mechanisms and support the efforts to enhance ownership by beneficiaries, in order to ensure the sustainability of trade-related capacity building. We invite the Director-General to reinforce the partnerships and coordination with other agencies and regional bodies in the design and implementation of technical assistance programmes, so that all dimensions of trade-related capacity building are addressed, in a manner coherent with the programmes of other providers. In particular, we encourage all Members to cooperate with the International Trade Centre, which complements WTO work by providing a platform for business to interact with trade negotiators, and practical advice for small and medium-sized enterprises (SMEs) to benefit from the multilateral trading system. In this connection, we note the role of the Joint Integrated Technical Assistance Programme (JITAP) in building the capacity of participating countries.

54. In order to continue progress in the effective and timely delivery of trade-related capacity building, in line with the priority Members attach to it, the relevant structures of the Secretariat should be strengthened and its resources enhanced. We reaffirm our commitment to ensure secure and adequate levels of funding for trade-related capacity building, including in the Doha Development Agenda Global Trust Fund, to conclude the Doha Work Programme and implement its results.

*Commodity
Issues*

55. We recognize the dependence of several developing and least-developed countries on the export of commodities and the problems they face because of the adverse impact of the long-term decline and sharp fluctuation in the prices of these commodities. We take note of the work undertaken in the Committee on Trade and Development on commodity issues, and instruct the Committee, within its mandate, to intensify its work in cooperation with other relevant international organizations and report regularly to the General Council with possible recommendations. We agree that the particular trade-related concerns of developing and least-developed countries related to commodities shall also be addressed in the course of the agriculture and NAMA negotiations. We further acknowledge that these countries may need support and technical assistance to overcome the particular problems they face, and urge Members and relevant international organizations to consider favourably requests by these countries for support and assistance.

Coherence

56. We welcome the Director-General's actions to strengthen the WTO's cooperation with the IMF and the World Bank in the context of the WTO's Marrakesh mandate on Coherence, and invite him to continue to work closely with the General Council in this area. We value the General Council meetings that are held with the participation of the heads of the IMF and the World Bank to advance our Coherence mandate. We agree to continue building on that experience and expand the debate on international trade and development policymaking and inter-

agency cooperation with the participation of relevant UN agencies. In that regard, we note the discussions taking place in the Working Group on Trade, Debt and Finance on, *inter alia*, the issue of Coherence, and look forward to any possible recommendations it may make on steps that might be taken within the mandate and competence of the WTO on this issue.

Aid for Trade

57. We welcome the discussions of Finance and Development Ministers in various fora, including the Development Committee of the World Bank and IMF, that have taken place this year on expanding Aid for Trade. Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. However, it can be a valuable complement to the DDA. We invite the Director-General to create a task force that shall provide recommendations on how to operationalize Aid for Trade. The Task Force will provide recommendations to the General Council by July 2006 on how Aid for Trade might contribute most effectively to the development dimension of the DDA. We also invite the Director-General to consult with Members as well as with the IMF and World Bank, relevant international organisations and the regional development banks with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans.

Recently-acceded Members

58. We recognize the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the negotiations.

Accessions

59. We reaffirm our strong commitment to making the WTO truly global in scope and membership. We welcome those new Members who have completed their accession processes since our last Session, namely Nepal, Cambodia and Saudi Arabia. We note with satisfaction that Tonga has completed its accession negotiations to the WTO. These accessions further strengthen the rules-based multilateral trading system. We continue to attach priority to the 29 ongoing accessions with a view to concluding them as rapidly and smoothly as possible. We stress the importance of facilitating and accelerating the accession negotiations of least-developed countries, taking due account of the guidelines on LDC accession adopted by the General Council in December 2002.

Annex A

Agriculture

Report by the Chairman of the Special Session of the Committee on Agriculture to the TNC

1. The present report has been prepared on my own responsibility. I have done so in response to the direction of Members as expressed at the informal Special Session of the Committee on Agriculture on 11 November 2005. At that meeting, following the informal Heads of Delegation meeting the preceding day, Members made it crystal clear that they sought from me at this point an objective factual summary of where the negotiations have reached at this time. It was clear from that meeting that Members did not expect or desire anything that purported to be more than that. In particular, it was clear that, following the decision at the Heads of Delegation meeting that full modalities will not be achieved at Hong Kong, Members did not want anything that suggested implicit or explicit agreement where it did not exist.

2. This is not, of course, the kind of paper that I would have chosen or preferred to have prepared at this point. Ideally, my task should have been to work with Members to generate a draft text of modalities. But this text reflects the reality of the present situation. There will be – because there must be if we are to conclude these negotiations – such a draft text in the future. I look at this now as a task postponed, but the precise timing of this is in the hands of Members.

3. As for this paper, it is precisely what it is described to be. No more, no less. It is the Chairman's report and, as such, it goes from me to the TNC. It is not anything more than my personal report – in particular, it is not in any sense an agreed text of Members. It does not, therefore, in any way prejudice or prejudice the positions of Members on any matter within it or outside of it. And, it certainly does not bind Members in any way. It should go without saying that the agreed basis of our work is, and shall remain, the Doha Mandate itself and the Framework in the Decision adopted by the General Council on 1 August 2004.

4. As to the character of the paper, I have endeavoured to reflect what I discerned as the wishes of Members when they directed me to prepare this paper. I have tried to capture as clearly as I can such conditional progress and convergence as has developed in the post-July 2004 period. In doing so, I have not tried to brush under the carpet divergences that remain, and the paper tries to be just as clear on those points. Of course, it is a summary report. As such, it cannot – and does not – recapitulate each and every detail on each and every issue. But I took from Members' comments that they would prefer a paper which could 'orient' further discussion.

5. In that regard, I hope that anyone reading this paper would be able to get a pretty clear idea of what it is that remains to be done. Members made it clear that it was not my task as Chair to prescribe what is to be done next in a programmatic way. My task was to register where we are now, but I confess to having done so with an eye to genuinely clarifying where key convergences exist or key divergences remain, rather than obscuring or overcomplicating matters.

6. My own sense, when I review this myself, is the compelling urgency of seizing the moment and driving the process to a conclusion as rapidly as possible. We have made – particularly since August of this year – genuine and material progress. Indeed, it has come at a relatively rapid pace. It is also clear to me that it has been the product of a genuinely negotiating process. In other words, it has been a case of making proposals and counterproposals. That is why the matters covered in this report have an essentially conditional character. As I see it, the reality is that we have yet to find that last bridge to agreement that we need to secure modalities. But it would be a grave error, in my view, to imagine that we can take much time to find that bridge. As Chair, I am convinced that we must maintain momentum. You don't close divergences by taking time off to have a cup of tea. If you do so, you will find that everyone has moved backwards in the meantime. That, it seems to me, is a

profound risk to our process. I would like to believe that this report at least underlines to us that there is indeed something real and important still within our grasp and we ought not to risk losing it. Our over-riding challenge and responsibility is to meet the development objective of the Doha Development Agenda. To meet this challenge and achieve this goal, we must act decisively and with real urgency.

7. The future life of this paper, if any, is a matter entirely in the hands of TNC Members to decide. This, as I see it, is the proper safeguard of the integrity of what has come to be described as a "bottom-up" process.

DOMESTIC SUPPORT

8. There has been very considerable potential convergence, albeit on a manifestly conditional basis.

Overall Cut

- There is a working hypothesis of three bands for overall cuts by developed countries. There is a strongly convergent working hypothesis that the thresholds for the three bands be US\$ billion 0-10; 10-60; >60. On this basis, the European Communities would be in the top band, the United States and Japan in the second band, and all other developed countries at least in the third band. For developing countries, there is a view that either developing countries are assigned to the relevant integrated band (the bottom) or that there is a separate band for them.¹
- Based on post-July 2005 proposals, there has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But subject to that feature, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-10	31%-70%
2	10-60	53%-75%
3	> 60	70%-80%

De Minimis

- On product-specific *de minimis* and non-product-specific *de minimis*, there is a zone of engagement for cuts between 50% and 80% for developed countries.
- As regards developing countries, there are still divergences to be bridged. In addition to the exemption specifically provided for in the Framework, there is a view that, for all developing countries, there should be no cut in *de minimis* at all. Alternatively, at least for those with no AMS, there should be no cut and, in any case, any cut for those with an AMS should be less than 2/3 of the cut for developed countries.

Blue Box

9. There is important and significant convergence on moving beyond (i.e. further constraining) Blue Box programme payments envisaged in the July 2004 Framework. However, the technique for

achieving this remains to be determined. One proposal is to shrink the current 5% ceiling to 2.5%.ⁱⁱ Another proposal rejects this in favour of additional criteria disciplining the so-called "new" Blue Box only. Others favour a combination of both, including additional disciplines on the "old" Blue Box.

AMS

- There is a working hypothesis of three bands for developed countries.
- There is close (but not full) convergence on the thresholds for those bands. There appears to be convergence that the top tier should be US\$25 billion and above. There is some remaining divergence over the ceiling for the bottom band: between US\$12 billion and 15 billion.
- There has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But, that understood, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrixⁱⁱⁱ provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-12/15	37-60%
2	12/15-25	60-70%
3	>25	70-83%

- There is therefore working hypothesis agreement that the European Communities should be in the top tier, and the United States in the second tier. However, while the basis for Japan's placement as between these two tiers has been narrowed, it remains to be finally resolved.
- For developed countries in the bottom band, with a relatively high level of AMS relative to total value of agriculture production, there is emerging consensus that their band-related reduction should be complemented with an additional effort.
- What is needed now is a further step to bridge the remaining gap in positions – particularly as regards the United States and the European Communities, it being understood that this is not a matter to be resolved in isolation from the other elements in this pillar and beyond.
- On the base period for product-specific caps, certain proposals (such as for 1995-2000 and 1999-2001) are on the table. This needs to be resolved appropriately, including the manner in which special and differential treatment should be applied.

Green Box

10. The review and clarification commitment has not resulted in any discernible convergence on operational outcomes. There is, on the one side, a firm rejection of anything that is seen as departing from the existing disciplines while there is, on the other, an enduring sense that more could be done to review the Green Box without undermining ongoing reform. Beyond that there is, however, some tangible openness to finding appropriate ways to ensure that the Green Box is more "development friendly" i.e. better tailored to meet the realities of developing country agriculture but in a way that respects the fundamental requirement of at most minimal trade distortion.

EXPORT COMPETITION

End Date

11. While concrete proposals^{iv} have been made on the issue of an end date for elimination of all forms of export subsidies, there is at this stage no convergence. There are suggestions for the principle of front-loading or accelerated elimination for specific products, including particularly cotton.

Export Credits

12. Convergence has been achieved on a number of elements of disciplines with respect to export credits, export credit guarantee or insurance programmes with repayment periods of 180 days and below. However, a number of critical issues remain.^v

Exporting State Trading Enterprises

13. There has been material convergence on rules to address trade-distorting practices identified in the July 2004 Framework text, although there are still major differences regarding the scope of practices to be covered by the new disciplines. Fundamentally opposing positions remain, however, on the issue of the future use of monopoly powers. There have been concrete drafting proposals on such matters as definition of entities and practices to be addressed as well as transparency. But there has been no genuine convergence in such areas.

Food Aid

14. There is consensus among Members that the WTO shall not stand in the way of the provision of genuine food aid. There is also consensus that what is to be eliminated is commercial displacement. There have been detailed and intensive discussions, some of which have even been text-based, but not to a point where a consolidated draft text could be developed. This has been precluded by Members clinging to fundamentally disparate conceptual premises. There are proposals that in the disciplines a distinction should be made between at least two types of food aid: emergency food aid and food aid to address other situations. However, there is not yet a common understanding where emergency food aid ends and other food aid begins, reflecting concerns that this distinction should not become a means to create a loophole in disciplines. A fundamental sticking point is whether, except in exceptional, genuine emergency situations, Members should (albeit gradually) move towards untied, in-cash food aid only, as some Members propose but other Members strongly oppose.^{vi}

Special and Differential Treatment

15. Framework provisions for special and differential treatment, including with respect to the monopoly status of state trading enterprises in developing countries and an extended lifetime for Article 9.4, have been uncontroversial, but details remain to be established.

Special Circumstances

16. Work on the criteria and consultation procedures to govern any ad hoc temporary financing arrangements relating to exports to developing countries in exceptional circumstances is not much developed.

MARKET ACCESS

Tiered Formula

- We have progressed on *ad valorem* equivalents.^{vii} This has successfully created a basis for allocating items into bands for the tiered formula.
- We have a working hypothesis of four bands for structuring tariff cuts.
- There has been very considerable convergence on adopting a linear-based approach for cuts within those bands. Members have, of course, by no means formally abandoned positions that are even more divergent.^{viii} We need now to narrow the extent of divergence that remains. This will include whether or not to include any "pivot" in any band.
- Members have made strong efforts to promote convergence on the size of actual cuts to be undertaken within those bands. But, even though genuine efforts have been made to move from formal positions (which of course remain), major gaps are yet to be bridged. Somewhat greater convergence has been achieved as regards the thresholds for the bands. Substantial movement is clearly essential to progress.^{ix}
- Some Members continue to reject completely the concept of a tariff cap. Others have proposed^x a cap between 75-100%.

Sensitive Products

- Members have been prepared to make concrete - albeit conditional - proposals on the number of sensitive products. But, in a situation where proposals extend from as little as 1% to as much as 15% of tariff lines, further bridging this difference is essential to progress.
- The fundamental divergence over the basic approach to treatment of sensitive products needs to be resolved.^{xi} Beyond that, there needs to be convergence on the consequential extent of liberalisation for such products.

Special and Differential Treatment

- Just as for developed countries, there is a working hypothesis of four bands for developing countries. There is no disagreement on lesser cuts within the bands. A certain body of opinion is open to considering cuts of two-thirds of the amount of the cuts for developed countries as a plausible zone in which to search more intensively for convergence.^{xii} But significant disagreement on that remains, and divergence is, if anything, somewhat more marked on the connected issue of higher thresholds for developing countries.^{xiii}
- Some Members continue to reject completely the concept of a tariff cap for developing countries. Others have proposed^{xiv} a cap at 150%.
- For sensitive products, there is no disagreement that there should be greater flexibility for developing countries, but the extent of this needs to be further defined.^{xv}

Special Products

- Regarding *designation* of special products, there has been a clear divergence between those Members which consider that, prior to establishment of schedules, a list of non-exhaustive and illustrative criteria-based indicators should be established and those Members which are looking for a list which would act as a filter or screen for the selection of such products. Latterly, it has been proposed (but not yet discussed with Members as a whole) that a developing country Member should have the right to designate at least 20 per cent of its agricultural tariff lines as Special Products, and be further entitled to designate an SP where, for that product, an AMS has been notified and exports have taken place. This issue needs to be resolved as part of modalities so that there is assurance of the basis upon which Members may designate special products.
- Some moves toward convergence on *treatment* of Special Products have been made recently. Some Members had considered that special products should be fully exempt from any new market access commitments whatsoever and have automatic access to the SSM. Others had argued there should be some degree of market opening for these products, albeit reflecting more flexible treatment than for other products. In the presence of this fundamental divergence, it had clearly been impossible to undertake any definition of what such flexibility would be. Genuine convergence is obviously urgently needed. There is now a new proposal for a tripartite categorization of Special Products involving limited tariff cuts for at least a proportion of such products which remains to be fully discussed. It remains to be seen whether this discussion can help move us forward.

Special Safeguard Mechanism

- There is agreement that there would be a special safeguard mechanism and that it should be tailored to the particular circumstances and needs of developing countries. There is no material disagreement with the view that it should have a quantity trigger. Nor is there disagreement with the view that it should at least be capable of addressing effectively what might be described as import "surges". Divergence remains over whether, or if so how, situations that are lesser than "surge" are to be dealt with. There is, however, agreement that any remedy should be of a temporary nature. There remains strong divergence however on whether, or if so how, a special safeguard should be "price-based" to deal specifically with price effects.
- There is some discernible openness, albeit at varying levels, to at least consider coverage of products that are likely to undergo significant liberalisation effects, and/or are already bound at low levels and/or are special products. Beyond that, however, there remains a fundamental divergence between those considering all products should be eligible for such a mechanism and those opposing such a blanket approach.

Other Elements

17. There has been no further material convergence on the matters covered by paragraphs 35 and 37 of the July 2004 Framework text. The same may be said for paragraph 36 on tariff escalation, albeit that there is full agreement on the need for this to be done, and a genuine recognition of the particular importance of this for commodities exporters. Certain concrete proposals have been made on paragraph 38 (SSG) and met with opposition from some Members.

18. Concrete proposals have been made and discussed on how to implement paragraph 43 of the July 2004 Framework on tropical and diversification products. But there remains divergence over the

precise interpretation of this section of the July Framework^{xvi} and no common approach has been established.

19. The importance of long-standing preferences pursuant to paragraph 44 of the July 2004 Framework is fully recognised and concrete proposals regarding preference erosion have been made and discussed.^{xvii} There seems not to be inherent difficulty with a role for capacity building. However, while there is some degree of support for e.g. longer implementation periods for at least certain products in order to facilitate adjustment, there is far from convergence on even this. Some argue it is not sufficient or certainly not in all cases, while others that it is not warranted at all.

LEAST-DEVELOPED COUNTRIES

20. There is no questioning of the terms of paragraph 45 of the July Framework agreement, which exempts least-developed countries from any reduction requirement. The stipulation that "developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries" is not at this point concretely operational for all Members. At this stage, several Members have made undertakings. Proposals for this to be bound remain on the table.^{xviii}

COTTON

21. While there is genuine recognition of the problem to be addressed and concrete proposals have been made, Members remain at this point short of concrete and specific achievement that would be needed to meet the July Framework direction to address this matter ambitiously, expeditiously and specifically. There is no disagreement with the view that all forms of export subsidies are to be eliminated for cotton although the timing and speed remains to be specified. Proposals to eliminate them immediately or from day one of the implementation period are not at this point shared by all Members. In the case of trade distorting support, proponents seek full elimination with "front-loaded" implementation.^{xix} There is a view that the extent to which this can occur, and its timing, can only be determined in the context of an overall agreement. Another view is that there could be at least substantial and front-loaded reduction on cotton specifically from day one of implementation, with the major implementation achieved within twelve months, and the remainder to be completed within a period shorter than the overall implementation period for agriculture.^{xx}

RECENTLY-ACCEDED MEMBERS

22. Concrete proposals have been made and discussed, but no specific flexibility provisions have commanded consensus.

MONITORING AND SURVEILLANCE

23. A proposal has been made but there is no material advance at this point.

OTHER ISSUES

24. On paragraph 49 (sectoral initiatives, differential export taxes, GIs) certain positions and proposals have been tabled and/or referred to. They are issues that remain of interest but not agreed.

25. At this point, proposals on paragraph 50 have not advanced materially.

26. In the case of small and vulnerable economies, a concrete proposal has been made recently. It has not yet been subject to consultation.

27. There is openness to the particular concerns of commodity-dependent developing and least-developed countries facing long-term decline and/or sharp fluctuations in prices. There is, at this point (where, overall, precise modalities are still pending), support for the view that such modalities should eventually be capable of addressing effectively key areas for them.^{xxi}

Notes

ⁱ On the proposed basis that cut remains to be determined for those developing countries with an AMS. In any case, there is a view (not shared by all) that cuts for developing countries should be less than 2/3 of the cut for developed countries.

ⁱⁱ The exact extent of the flexibility to be provided pursuant to paragraph 15 of the July 2004 Framework remains to be agreed.

ⁱⁱⁱ Of course, this needs to be viewed as illustrative rather than overly literally, if for no other reason than that these are conditional figures. For instance, while the European Communities has indicated it could be prepared to go as far as 70% in the top tier, they make it clear that this is acceptable only if the United States will go to 60% in the second tier. The United States for its part, however, has only indicated preparedness to go to that 60% if the European Communities is prepared to go as high as 83% - which it has not indicated it is prepared to do.

^{iv} One Member has proposed the year 2010 for "export subsidies", with accelerated elimination for "specific" products. Another group of Members have proposed a period "no longer than five years" for all forms of export subsidies, with "direct" export subsidies subject to front-loading within that period.

^v This includes, but is not limited to: exemptions, if any, to the 180 day rule; whether the disciplines should allow for pure cover only or also permit direct financing; the appropriate period for programmes to fully recover their costs and losses through the premia levied from the exporters (principle of self-financing - there needs to be convergence between position which range from one year to fifteen years); the disciplines regarding special circumstances; and the question of special and differential treatment, including whether, as some Members argue, developing countries should be allowed longer repayment terms for export credits extended by them to other developing countries and the specifics of differential treatment in favour of least-developed and net food-importing developing countries.

^{vi} This fundamental divergence has effectively precluded convergence on such matters as what disciplines, if any, should be established with respect to monetization of food aid or the question of the provision of food aid in fully grant form only. The importance of operationally effective transparency requirements is generally acknowledged, but details have still to be developed, particularly those relating to the role of the WTO in this context. Further work is required to clarify the role of recipient countries and relevant international organizations or other entities in triggering or providing food aid.

^{vii} The method for calculating the AVEs for the sugar lines is still to be established.

^{viii} At one end of the spectrum, as it were, a "harmonisation" formula within the bands; at the other end "flexibility" within the formula.

^{ix} The matrix below is an illustrative table that portrays the extent of divergences that remain, even on the basis of post-August 2005 proposals. This does not entirely cover all the subtleties of those proposals to utilize a "pivot" (although most are in fact within the ranges tabulated), but is intended to convey a snapshot of the status of average cuts proposed post-August.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/30%	20-65
Band 2	20/30% - 40/60%	30-75
Band 3	40/60% - 60/90%	35-85
Band 4	>60/90%	42-90

^x As an element in certain conditional proposals on overall market access, tabled post-July 2005.

^{xi} Some see this as being tariff quota based and expressed as a percentage of domestic consumption, with proposals of up to 10%. Others propose *pro rata* expansion on an existing trade basis, including taking

account of current imports. Some also propose no new TRQs, with sensitivity in such cases to be provided through other means, e.g. differential phasing. There is also a proposal for a "sliding scale" approach.

^{xii} In this pillar, as well as in the other two, there is general convergence on the point that developing countries will have entitlement to longer implementation periods, albeit that concrete precision remains to be determined.

^{xiii} The matrix below is an illustrative table that portrays the extent of divergences that remain, just on the basis of post-August 2005 proposals.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/50%	15-25*
Band 2	20/50% - 40/100%	20-30*
Band 3	40/100% - 60/150%	25-35*
Band 4	>60-150%	30-40*

*There is also a proposal that cuts for developing countries should be "slightly lesser" than the upper tariff cuts for developed countries shown in the preceding table (i.e.: "slightly lesser" than 65, 75, 85 and 90%).

^{xiv} As an element in certain conditional proposals on overall market access, tabled post-July 2005.

^{xv} While the eventual zone of convergence for developed countries undoubtedly has a bearing in this area, it has been proposed by a group of Members that the principles of sensitive products generally and for TRQs specifically should be different for developing countries. Another group of Members has proposed, in the post-August period, an entitlement for developing countries of at least 50% more than the maximum number of lines used by any developed Member. This would (based on developed country proposals) amount to a potential variation between 1.5% and 22.5% of tariff lines. This latter group has also proposed that products relating to long-standing preferences shall be designated as sensitive and that any TRQ expansion should not be "at the detriment of existing ACP quotas". This particular view has been, however, strongly opposed by other Members which take the firm position that tropical and diversification products should not at all be designated as sensitive products.

^{xvi} It is argued by some Members that this is to be interpreted as meaning full duty- and tariff quota-free access, but by others as less than that.

^{xvii} Note 15 above refers.

^{xviii} It is also proposed that this should be accompanied by simple and transparent rules of origin and other measures to address non-tariff barriers.

^{xix} Concrete proposals have been made, with a three-step approach: 80% on day one, an additional 10% after 12 months and the last 10% a year later.

^{xx} A Member has indicated that it is prepared to implement all its commitments from day one and, in any case, to autonomously ensure that its commitments on eliminating the most trade-distorting domestic support, eliminating all forms of export subsidies and providing mfn duty- and quota-free access for cotton will take place from 2006.

^{xxi} This would appear to include in particular such a matter as tariff escalation, where it discourages the development of processing industries in the commodity producing countries. The idea of a review and clarification of what the current status is of GATT 1994 provisions relating to the stabilisation of prices through the adoption of supply management systems by producing countries, and the use of export taxes and restrictions under such systems is also on the table. Proponents would seek something more than this such as more concrete undertakings in the area of non-tariff measures and actual revision of existing provisions. There is, at this point, no consensus in these latter areas, but an appreciation at least of the underlying issues at stake.

Annex B

Market Access for Non-Agricultural Products

Report by the Chairman of the Negotiating Group on Market Access to the TNC

A. INTRODUCTION

1. A Chairman's commentary of the state of play of the NAMA negotiations was prepared in July 2005 and circulated in document JOB(05)/147 and Add.1 (hereinafter referred to as the "Chairman's commentary"). The current report, made on my responsibility, reflects the state of play of the NAMA negotiations at this juncture of the Doha Development Agenda, and supplements that commentary.

2. With an eye on the forthcoming Ministerial, Section B of this report attempts to highlight those areas of convergence and divergence on the elements of Annex B of Decision adopted by the General Council on 1 August 2004, (hereinafter referred to as the "NAMA framework"), and to provide some guidance as to what may be a possible future course of action with respect to some of the elements. Section C of the report provides some final remarks about possible action by Ministers at Hong Kong.

3. In preparing this report, use has been made of documents provided by Members (as listed in TN/MA/S/16/Rev.2) as well as the discussions in the open-ended sessions of the Group, plurilateral meetings and bilateral contacts, as long as they were not in the nature of confessionals.

B. SUMMARY OF THE STATE OF PLAY

4. Full modalities must have detailed language and, where required, final numbers on all elements of the NAMA framework. Such an agreement should also contain a detailed work plan concerning the process after the establishment of full modalities for the purpose of the submission, verification and annexation of Doha Schedules to a legal instrument. While acknowledging that progress has been made since the adoption of the NAMA framework, the establishment of full modalities is, at present, a difficult prospect given the lack of agreement on a number of elements in the NAMA framework including the formula, paragraph 8 flexibilities and unbound tariffs.

5. Regarding the structure of this section, generally Members recognize that the issues identified in the preceding paragraph are the three elements of the NAMA framework on which solutions are required as a matter of priority, and that there is a need to address them in an interlinked fashion. So, this report will commence with these three subjects before moving on to the other elements of the NAMA framework in the order in which they are presented therein.

Formula (paragraph 4 of the NAMA framework)

6. On the non-linear formula, there has been movement since the adoption of the NAMA framework. There is a more common understanding of the shape of the formula that Members are willing to adopt in these negotiations. In fact, Members have been focusing on a Swiss formula. During the past few months, much time and effort has been spent examining the impact of such a formula from both a defensive and offensive angle. In terms of the specifics of that formula, there are basically two variations on the table: a formula with a limited number of negotiated coefficients and a formula where the value of each country's coefficient would be based essentially on the tariff average of bound rates of that Member, resulting in multiple coefficients.

7. In order to move beyond a debate on the merits of the two options (and in recognition of the fact that what matters in the final analysis is the level of the coefficient) more recently Members have

engaged in a discussion of numbers. Such a debate has been particularly helpful, especially as it demonstrated in a quantifiable manner to what extent the benchmarks established in paragraph 16 of the Doha Ministerial Declaration would be achieved. While it is evident that one of the characteristics of such a formula is to address tariff peaks, tariff escalation and high tariffs (as it brings down high tariffs more than low tariffs), one benchmark which has been the subject of differences of opinion has been that of "less than full reciprocity in reduction commitments" and how it should be measured. Some developing Members are of the view that this means less than average percentage cuts i.e. as translated through a higher coefficient in the formula, than those undertaken by developed country Members. However, the latter have indicated that there are other measurements of less than full reciprocity in reduction commitments including the final rates after the formula cut which in their markets would be less than in developing country markets. Also, in their view, such a measurement of less than full reciprocity in reduction commitments has to take into account not only the additional effort made by them in all areas but also of paragraph 8 flexibilities and the fact that several developing Members and the LDCs would be exempt from formula cuts.

8. Other objectives put forward by developed Members and some developing Members as being part of the Doha NAMA mandate are: harmonization of tariffs between Members; cuts into applied rates; and improvement of South-South trade. However, these objectives have been challenged by other developing Members who believe that, on the contrary, they are not part of that mandate.

9. During the informal discussions, many Members engaged in an exchange on the basis of an approach with two coefficients. In the context of such debates, the coefficients which were mentioned for developed Members fell generally within the range of 5 to 10, and for developing Members within the range of 15 to 30, although some developing Members did propose lower coefficients for developed Members and higher coefficients for developing Members. In addition, a developing country coefficient of 10 was also put forward by some developed Members. However, while this discussion of numbers is a positive development, the inescapable reality is that the range of coefficients is wide and reflects the divergence that exists as to Members' expectations regarding the contributions that their trading partners should be making.

Flexibilities for developing Members subject to a formula (paragraph 8 of the NAMA framework)

10. A central issue concerning the paragraph 8 flexibilities has been the question of linkage or non-linkage between these flexibilities and the coefficient in the formula. A view was expressed that the flexibilities currently provided for in paragraph 8 are equivalent to 4-5 additional points to the coefficient in the formula, and as a result there was need to take this aspect into account in the developing country coefficient. In response, the argument has been made by many developing Members that those flexibilities are a stand alone provision as reflected in the language of that provision, and should not be linked to the coefficient. Otherwise, this would amount to re-opening the NAMA framework. Some of those Members have also expressed the view that the numbers currently within square brackets are the minimum required for their sensitive tariff lines, and have expressed concern about the conditions attached to the use of such flexibilities, such as the capping of the import value. In response, the point has been made by developed Members that they are not seeking to remove the flexibilities under paragraph 8, and therefore are not re-opening the NAMA framework. They further point out that the numbers in paragraph 8 are within square brackets precisely to reflect the fact that they are not fixed and may need to be adjusted downwards depending on the level of the coefficient. In addition, the need for more transparency and predictability with regard to the tariff lines which would be covered by paragraph 8 flexibilities has been raised by some of these Members. Some developing Members have also advanced the idea that there should be the option for those developing Members not wanting to use paragraph 8 flexibilities to have recourse to a higher coefficient in the formula in the interest of having a balanced outcome.

Unbound Tariff Lines (paragraph 5, indent two of the NAMA framework)

11. There has been progress on the discussion of unbound tariff lines. There is an understanding that full bindings would be a desirable objective of the NAMA negotiations, and a growing sense that unbound tariff lines should be subject to formula cuts provided there is a pragmatic solution for those lines with low applied rates. However, some Members have stressed that their unbound tariff lines with high applied rates are also sensitive and due consideration should be given to those lines. There now appears to be a willingness among several Members to move forward on the basis of a non-linear mark-up approach to establish base rates, and in the case of some of these Members, provided that such an approach yields an equitable result. A non-linear mark-up approach envisages the addition of a certain number of percentage points to the applied rate of the unbound tariff line in order to establish the base rate on which the formula is to be applied. There are two variations of such an approach. In one case, a constant number of percentage points are added to the applied rate in order to establish the base rate. The other variation consists of having a different number of percentage points depending on the level of the applied rate. In other words, the lower the applied rate the higher the mark-up and the higher the applied rate, the lower the mark-up. There is also one proposal on the table of a target average approach where an average is established through the use of a formula, with the unbound tariff lines expected to have final bindings around that average.

12. On a practical level, in their discussions on unbound tariff lines, Members have been referring mostly to the constant mark-up methodology to establish base rates. In the context of such discussions, the number for the mark-up has ranged from 5 to 30 percentage points. Once again the gap between the two figures is wide, but Members have displayed willingness to be flexible.

Other elements of the formula (paragraph 5 of the NAMA framework)

13. Concerning product coverage (indent 1), Members have made good progress to establish a list of non-agricultural products as reflected in document JOB(05)/226/Rev.2. The main issue is whether the outcome of this exercise should be an agreed list or guidelines. It would appear that several Members are in favour of the former outcome, however, some have expressed their preference for the latter. In any event, there are only a limited number of items (17) on which differences exist and Members should try and resolve these differences as quickly as possible.

14. On ad valorem equivalents (indent 5), agreement was reached to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of the methodology contained in JOB(05)/166/Rev.1 and to bind them in *ad valorem* terms. To date, four Members have submitted their preliminary AVE calculations, but there are many more due. Those Members would need to submit this information as quickly as possible so as to allow sufficient time for the multilateral verification process.

15. The subject of how credit is to be given for autonomous liberalization (indent 4) by developing countries provided that the tariff lines are bound on an MFN basis in the WTO since the conclusion of the Uruguay Round has not been discussed in detail since the adoption of the NAMA framework. However, this issue may be more usefully taken up once there is a clearer picture of the formula.

16. All the other elements of the formula such as tariff cuts commencing from bound rates after full implementation of current commitments (indent 2), the base year (indent 3), the nomenclature (indent 6) and reference period for import data (indent 7) have not been discussed any further since July 2004, as they were acceptable to Members as currently reflected in the NAMA framework.

Other flexibilities for developing Members

Members with low binding coverage (paragraph 6 of the NAMA framework)

17. A submission by a group of developing Members, covered under paragraph 6 provisions, was made in June 2005. The paper proposed that Members falling under this paragraph should be encouraged to substantially increase their binding coverage, and bind tariff lines at a level consistent with their individual development, trade, fiscal and strategic needs. A preliminary discussion of this proposal revealed that there were concerns about this proposal re-opening this paragraph by seeking to enhance the flexibilities contained therein. Further discussion of this proposal is required. However, it appears that the issue of concern to some of the paragraph 6 Members is not related so much to the full binding coverage, but rather to the average level at which these Members would be required to bind their tariffs.

Flexibilities for LDCs (paragraph 9 of the NAMA framework)

18. There appears to be a common understanding that LDCs will be the judge of the extent and level of the bindings that they make. At the same time, Members have indicated that this substantial increase of the binding commitments which LDCs are expected to undertake should be done with a good faith effort. In this regard, some yardsticks for this effort were mentioned including the coverage and level of bindings made in the Uruguay Round by other LDCs as well as the more recently acceded LDCs.

Small, vulnerable economies

19. A paper was submitted recently by a group of Members which proposes *inter alia* lesser and linear cuts to Members identified by a criterion using trade share. While some developing and developed Members were sympathetic to the situation of such Members, concerns were expressed with respect to the threshold used to establish eligibility, and also the treatment envisaged. Other developing Members expressed serious reservations about this proposal which in their view appeared to be creating a new category of developing Members, and to be further diluting the ambition of the NAMA negotiations. The sponsors of this proposal stressed that the small, vulnerable economies had characteristics which warranted special treatment.

20. This is an issue on which there is a serious divergence of opinion among developing Members. This subject will need to be debated further. Discussions may be facilitated through additional statistical analysis.

Sectorals (paragraph 7 of the NAMA framework)

21. It appears that good progress is being made on the sectoral tariff component of the NAMA negotiations. Work which is taking place in an informal Member-driven process has focused on *inter alia* identification of sectors, product coverage, participation, end rates and adequate provisions of flexibilities for developing countries. Besides the sectorals based on a critical mass approach identified in the Chairman's commentary – bicycles, chemicals, electronics/electrical equipment, fish, footwear, forest products, gems and jewellery, pharmaceuticals and medical equipment, raw materials and sporting goods – I understand that work is ongoing on other sectors namely apparel, auto/auto parts and textiles.

22. While this component of the NAMA negotiations is recognized in the NAMA framework to be a key element to delivering on the objectives of paragraph 16 of the Doha NAMA mandate, some developing Members have questioned the rationale of engaging in sectoral negotiations before having the formula finalized. Many have also re-iterated their view that sectorals are voluntary in nature. The point has also been made by other developing Members that sectorals harm smaller developing Members due to an erosion of their preferences. However, the proponents of such initiatives have

argued that sectorals are another key element of the NAMA negotiations and an important modality for delivering on the elimination of duties as mandated in paragraph 16 of the Doha Ministerial Declaration. In addition, they have pointed out that some of the sectorals were initiated by developing Members. Moreover, such initiatives require substantive work and were time-consuming to prepare. Concerning preference erosion, this was a cross-cutting issue.

23. Members will need to begin considering time-lines for the finalization of such work, and the submission of the outcomes which will be applied on an MFN basis.

Market Access for LDCs (paragraph 10 of the NAMA framework)

24. In the discussions on this subject, it was noted that the Committee on Trade and Development in Special Session is examining the question of duty-free and quota-free access for non-agricultural products originating from LDCs. Consequently, there is recognition by Members that the discussions in that Committee would most probably have an impact on this element of the NAMA framework, and would need to be factored in at the appropriate time.

Newly Acceded Members (paragraph 11 of the NAMA framework)

25. Members recognize the extensive market access commitments made by the NAMs at the time of their accession. From the discussions held on this subject, it was clarified that those NAMs which are developing Members have access to paragraph 8 flexibilities. As special provisions for tariff reductions for the NAMs, some Members are willing to consider longer implementation periods than those to be provided to developing Members. Other proposals such as a higher coefficient and "grace periods" for the NAMs were also put forward, but a number of Members have objected to these ideas. There has also been a submission by four low-income economies in transition who have requested to be exempt from formula cuts in light of their substantive contributions at the time of their WTO accession and the current difficult state of their economies. While some Members showed sympathy for the situation of these Members, they expressed the view that other solutions may be more appropriate. Some developing Members also expressed concern about this proposal creating a differentiation between Members. Further discussion is required on these issues.

NTBs (paragraph 14 of the NAMA framework)

26. Since adoption of the July 2004 framework, Members have been focusing their attention on non-tariff barriers in recognition of the fact that they are an integral and equally important part of the NAMA negotiations. Some Members claim that they constitute a greater barrier to their exports than tariffs. The Group has spent a considerable amount of time identifying, categorizing and examining the notified NTBs. Members are using bilateral, vertical and horizontal approaches to the NTB negotiations. For example, many Members are raising issues bilaterally with their trading partners. Vertical initiatives are ongoing on automobiles, electronic products and wood products. There have been some proposals of a horizontal nature concerning export taxes, export restrictions and remanufactured products. On export taxes, some Members have expressed the view that such measures fall outside the mandate of the NAMA negotiations. Some Members have also raised in other Negotiating Groups some of the NTBs they had notified initially in the context of the NAMA negotiations. For example, a number of trade facilitation measures are now being examined in the Negotiating Group on Trade Facilitation. Some other Members have also indicated their intention to bring issues to the regular WTO Committees. NTBs currently proposed for negotiation in the NAMA Group are contained in document JOB(05)/85/Rev.3.

27. Some proposals have been made of a procedural nature in order to expedite the NTB work, including a suggestion to hold dedicated NTB sessions. Further consideration will need to be given to this and other proposals. Members will also need to begin considering some time-lines for the submission of specific negotiating proposals and NTB outcomes.

Appropriate Studies and Capacity Building Measures (paragraph 15 of the NAMA framework)

28. There has been no discussion as such on this element as it is an ongoing and integral part of the negotiating process. Several papers have been prepared by the Secretariat during the course of the negotiations and capacity building activities by the Secretariat have increased considerably since the launch of the Doha Development Agenda. Such activities will need to continue taking into account the evolution of the negotiations.

Non-reciprocal preferences (paragraph 16 of the NAMA framework)

29. In response to calls by some Members for a better idea of the scope of the problem, the ACP Group circulated an indicative list of products (170 HS 6-digit tariff lines) vulnerable to preference erosion in the EC and US markets as identified through a vulnerability index. Simulations were also submitted by the African Group. Some developing Members expressed concern that the tariff lines listed covered the majority of their exports, or covered critical exports to those markets and were also precisely the lines on which they sought MFN cuts. As a result, for these Members, it was impossible to entertain any solution which related to less than full formula cuts or longer staging. In this regard, concern was expressed by them that non-trade solutions were not being examined. For the proponents of the issue, a trade solution was necessary as this was a trade problem. According to them, their proposal would not undermine trade liberalization because they were seeking to manage such liberalization on a limited number of products.

30. This subject is highly divisive precisely because the interests of the two groups of developing Members are in direct conflict. Additionally, it is a cross-cutting issue which makes it even more sensitive. While, the aforementioned list of products has been helpful in providing a sense of the scope of the problem and may help Members to engage in a more focused discussion, it is clear that pragmatism will need to be shown by all concerned.

Environmental Goods (paragraph 17 of the NAMA framework)

31. Since the adoption of the July framework in 2004, limited discussions have been held on this subject in the Group. However, it is noted that much work under paragraph 31(iii) of the Doha Ministerial Declaration has been undertaken by the Committee on Trade and Environment in Special Session. There would need to be close coordination between the two negotiating groups and a stock taking of the work undertaken in that Committee would be required at the appropriate time by the NAMA Negotiating Group.

Other elements of the NAMA framework

32. On the other elements of the NAMA framework, such as supplementary modalities (paragraph 12), elimination of low duties (paragraph 13) and tariff revenue dependency (paragraph 16) the Group has not had a substantive debate. This has in part to do with the nature of the issue or because more information is required from the proponents. Regarding supplementary modalities, such modalities will become more relevant once the formula has been finalized. On elimination of low duties, this issue may be more suitable to consider once there is a better sense of the likely outcome of the NAMA negotiations. On tariff revenue dependency, more clarity is required from the proponents on the nature and scope of the problem.

C. FINAL REMARKS

33. As may be observed from the above report, Members are far away from achieving full modalities. This is highly troubling. It will take a major effort by all if the objective of concluding the NAMA negotiations by the end of 2006 is to be realized.

34. To this end, I would highlight as a critical objective for Hong Kong a common understanding on the formula, paragraph 8 flexibilities and unbound tariffs. It is crucial that Ministers move decisively on these elements so that the overall outcome is acceptable to all. This will give the necessary impetus to try and fulfil at a date soon thereafter the objective of full modalities for the NAMA negotiations.

35. Specifically, Ministers should:

- Obtain agreement on the final structure of the formula and narrow the range of numbers.
- Resolve their basic differences over paragraph 8 flexibilities.
- Clarify whether the constant mark-up approach is the way forward, and if so, narrow the range of numbers.

Annex C

Services

Objectives

1. In order to achieve a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing country Members, we agree that Members should be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments:

- (a) Mode 1
 - (i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members
 - (ii) removal of existing requirements of commercial presence
- (b) Mode 2
 - (i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members
 - (ii) commitments on mode 2 where commitments on mode 1 exist
- (c) Mode 3
 - (i) commitments on enhanced levels of foreign equity participation
 - (ii) removal or substantial reduction of economic needs tests
 - (iii) commitments allowing greater flexibility on the types of legal entity permitted
- (d) Mode 4
 - (i) new or improved commitments on the categories of Contractual Services Suppliers, Independent Professionals and Others, de-linked from commercial presence, to reflect *inter alia*:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any
 - (ii) new or improved commitments on the categories of Intra-corporate Transferees and Business Visitors, to reflect *inter alia*:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any

- (e) MFN Exemptions
 - (i) removal or substantial reduction of exemptions from most-favoured-nation (MFN) treatment
 - (ii) clarification of remaining MFN exemptions in terms of scope of application and duration
- (f) Scheduling of Commitments
 - (i) ensuring clarity, certainty, comparability and coherence in the scheduling and classification of commitments through adherence to, *inter alia*, the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001
 - (ii) ensuring that scheduling of any remaining economic needs tests adheres to the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001.

2. As a reference for the request-offer negotiations, the sectoral and modal objectives as identified by Members may be considered.⁶²

3. Members shall pursue full and effective implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services (LDC Modalities) adopted by the Special Session of the Council for Trade in Services on 3 September 2003, with a view to the beneficial and meaningful integration of LDCs into the multilateral trading system.

4. Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles X, XIII, and XV in accordance with their respective mandates and timelines:

- (a) Members should engage in more focused discussions in connection with the technical and procedural questions relating to the operation and application of any possible emergency safeguard measures in services.
- (b) On government procurement, Members should engage in more focused discussions and in this context put greater emphasis on proposals by Members, in accordance with Article XIII of the GATS.
- (c) On subsidies, Members should intensify their efforts to expedite and fulfil the information exchange required for the purpose of such negotiations, and should engage in more focused discussions on proposals by Members, including the development of a possible working definition of subsidies in services.

5. Members shall develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current round of negotiations. We call upon Members to develop text for adoption. In so doing, Members shall consider proposals and the illustrative list of possible elements for Article VI:4 disciplines.⁶³

⁶² As attached to the Report by the Chairman to the Trade Negotiations Committee on 28 November 2005, contained in document TN/S/23. This attachment has no legal standing.

⁶³ As attached to the Report of the Chairman of the Working Party on Domestic Regulation to the Special Session of the Council for Trade in Services on 15 November 2005, contained in document JOB(05)/280.

Approaches

6. Pursuant to the principles and objectives above, we agree to intensify and expedite the request-offer negotiations, which shall remain the main method of negotiation, with a view to securing substantial commitments.

7. In addition to bilateral negotiations, we agree that the request-offer negotiations should also be pursued on a plurilateral basis in accordance with the principles of the GATS and the Guidelines and Procedures for the Negotiations on Trade in Services. The results of such negotiations shall be extended on an MFN basis. These negotiations would be organized in the following manner:

- (a) Any Member or group of Members may present requests or collective requests to other Members in any specific sector or mode of supply, identifying their objectives for the negotiations in that sector or mode of supply.
- (b) Members to whom such requests have been made shall consider such requests in accordance with paragraphs 2 and 4 of Article XIX of the GATS and paragraph 11 of the Guidelines and Procedures for the Negotiations on Trade in Services.
- (c) Plurilateral negotiations should be organised with a view to facilitating the participation of all Members, taking into account the limited capacity of developing countries and smaller delegations to participate in such negotiations.

8. Due consideration shall be given to proposals on trade-related concerns of small economies.

9. Members, in the course of negotiations, shall develop methods for the full and effective implementation of the LDC Modalities, including expeditiously:

- (a) Developing appropriate mechanisms for according special priority including to sectors and modes of supply of interest to LDCs in accordance with Article IV:3 of the GATS and paragraph 7 of the LDC Modalities.
- (b) Undertaking commitments, to the extent possible, in such sectors and modes of supply identified, or to be identified, by LDCs that represent priority in their development policies in accordance with paragraphs 6 and 9 of the LDC Modalities.
- (c) Assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities.
- (d) Providing targeted and effective technical assistance and capacity building for LDCs in accordance with the LDC Modalities, particularly paragraphs 8 and 12.
- (e) Developing a reporting mechanism to facilitate the review requirement in paragraph 13 of the LDC Modalities.

10. Targeted technical assistance should be provided through, *inter alia*, the WTO Secretariat, with a view to enabling developing and least-developed countries to participate effectively in the negotiations. In particular and in accordance with paragraph 51 on Technical Cooperation of this Declaration, targeted technical assistance should be given to all developing countries allowing them to fully engage in the negotiation. In addition, such assistance should be provided on, *inter alia*, compiling and analyzing statistical data on trade in services, assessing interests in and gains from services trade, building regulatory capacity, particularly on those services sectors where liberalization is being undertaken by developing countries.

Timelines

11. Recognizing that an effective timeline is necessary in order to achieve a successful conclusion of the negotiations, we agree that the negotiations shall adhere to the following dates:

- (a) Any outstanding initial offers shall be submitted as soon as possible.
- (b) Groups of Members presenting plurilateral requests to other Members should submit such requests by 28 February 2006 or as soon as possible thereafter.
- (c) A second round of revised offers shall be submitted by 31 July 2006.
- (d) Final draft schedules of commitments shall be submitted by 31 October 2006.
- (e) Members shall strive to complete the requirements in 9(a) before the date in 11(c).

Review of Progress

12. The Special Session of the Council for Trade in Services shall review progress in the negotiations and monitor the implementation of the Objectives, Approaches and Timelines set out in this Annex.

Annex D

Rules

I. Anti-Dumping and Subsidies and Countervailing Measures including Fisheries Subsidies

We:

1. *acknowledge* that the achievement of substantial results on all aspects of the Rules mandate, in the form of amendments to the Anti-Dumping (AD) and Subsidies and Countervailing Measures (SCM) Agreements, is important to the development of the rules-based multilateral trading system and to the overall balance of results in the DDA;
2. *aim* to achieve in the negotiations on Rules further improvements, in particular, to the transparency, predictability and clarity of the relevant disciplines, to the benefit of all Members, including in particular developing and least-developed Members. In this respect, the development dimension of the negotiations must be addressed as an integral part of any outcome;
3. *call on* Participants, in considering possible clarifications and improvements in the area of anti-dumping, to take into account, *inter alia*, (a) the need to avoid the unwarranted use of anti-dumping measures, while preserving the basic concepts, principles and effectiveness of the instrument and its objectives where such measures are warranted; and (b) the desirability of limiting the costs and complexity of proceedings for interested parties and the investigating authorities alike, while strengthening the due process, transparency and predictability of such proceedings and measures;
4. *consider* that negotiations on anti-dumping should, as appropriate, clarify and improve the rules regarding, *inter alia*, (a) determinations of dumping, injury and causation, and the application of measures; (b) procedures governing the initiation, conduct and completion of antidumping investigations, including with a view to strengthening due process and enhancing transparency; and (c) the level, scope and duration of measures, including duty assessment, interim and new shipper reviews, sunset, and anti-circumvention proceedings;
5. *recognize* that negotiations on anti-dumping have intensified and deepened, that Participants are showing a high level of constructive engagement, and that the process of rigorous discussion of the issues based on specific textual proposals for amendment to the AD Agreement has been productive and is a necessary step in achieving the substantial results to which Ministers are committed;
6. *note* that, in the negotiations on anti-dumping, the Negotiating Group on Rules has been discussing in detail proposals on such issues as determinations of injury/causation, the lesser duty rule, public interest, transparency and due process, interim reviews, sunset, duty assessment, circumvention, the use of facts available, limited examination and all others rates, dispute settlement, the definition of dumped imports, affiliated parties, product under consideration, and the initiation and completion of investigations, and that this process of discussing proposals before the Group or yet to be submitted will continue after Hong Kong;
7. *note*, in respect of subsidies and countervailing measures, that while proposals for amendments to the SCM Agreement have been submitted on a number of issues, including the definition of a subsidy, specificity, prohibited subsidies, serious prejudice, export credits and guarantees, and the allocation of benefit, there is a need to deepen the analysis on the basis of specific textual proposals in order to ensure a balanced outcome in all areas of the Group's mandate;

8. *note* the desirability of applying to both anti-dumping and countervailing measures any clarifications and improvements which are relevant and appropriate to both instruments;
9. *recall* our commitment at Doha to enhancing the mutual supportiveness of trade and environment, *note* that there is broad agreement that the Group should strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing, and *call on* Participants promptly to undertake further detailed work to, *inter alia*, establish the nature and extent of those disciplines, including transparency and enforceability. Appropriate and effective special and differential treatment for developing and least-developed Members should be an integral part of the fisheries subsidies negotiations, taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns;
10. *direct* the Group to intensify and accelerate the negotiating process in all areas of its mandate, on the basis of detailed textual proposals before the Group or yet to be submitted, and complete the process of analysing proposals by Participants on the AD and SCM Agreements as soon as possible;
11. *mandate* the Chairman to prepare, early enough to assure a timely outcome within the context of the 2006 end date for the Doha Development Agenda and taking account of progress in other areas of the negotiations, consolidated texts of the AD and SCM Agreements that shall be the basis for the final stage of the negotiations.

II. Regional Trade Agreements

1. We welcome the progress in negotiations to clarify and improve the WTO's disciplines and procedures on regional trade agreements (RTAs). Such agreements, which can foster trade liberalization and promote development, have become an important element in the trade policies of virtually all Members. Transparency of RTAs is thus of systemic interest as are disciplines that ensure the complementarity of RTAs with the WTO.
2. We commend the progress in defining the elements of a transparency mechanism for RTAs, aimed, in particular, at improving existing WTO procedures for gathering factual information on RTAs, without prejudice to the rights and obligations of Members. We instruct the Negotiating Group on Rules to intensify its efforts to resolve outstanding issues, with a view to a provisional decision on RTA transparency by 30 April 2006.
3. We also note with appreciation the work of the Negotiating Group on Rules on WTO's disciplines governing RTAs, including *inter alia* on the "substantially all the trade" requirement, the length of RTA transition periods and RTA developmental aspects. We instruct the Group to intensify negotiations, based on text proposals as soon as possible after the Sixth Ministerial Conference, so as to arrive at appropriate outcomes by end 2006.

Annex E

Trade Facilitation

Report by the Negotiating Group on Trade Facilitation to the TNC

1. Since its establishment on 12 October 2004, the Negotiating Group on Trade Facilitation met eleven times to carry out work under the mandate contained in Annex D of the Decision adopted by the General Council on 1 August 2004. The negotiations are benefiting from the fact that the mandate allows for the central development dimension of the Doha negotiations to be addressed directly through the widely acknowledged benefits of trade facilitation reforms for all WTO Members, the enhancement of trade facilitation capacity in developing countries and LDCs, and provisions on special and differential treatment (S&DT) that provide flexibility. Based on the Group's Work Plan (TN/TF/1), Members contributed to the agreed agenda of the Group, tabling 60 written submissions sponsored by more than 100 delegations. Members appreciate the transparent and inclusive manner in which the negotiations are being conducted.

2. Good progress has been made in all areas covered by the mandate, through both verbal and written contributions by Members. A considerable part of the Negotiating Group's meetings has been spent on addressing the negotiating objective of improving and clarifying relevant aspects of GATT Articles V, VIII and X, on which about 40 written submissions⁶⁴ have been tabled by Members representing the full spectrum of the WTO's Membership. Through discussions on these submissions and related questions and answers (JOB(05)/222), Members have advanced their understanding of the measures in question and are working towards common ground on many aspects of this part of the negotiating mandate. Many of these submissions also covered the negotiating objective of enhancing technical assistance and support for capacity building on trade facilitation, as well as the practical application of the principle of S&DT. The Group also discussed other valuable submissions dedicated to these issues.⁶⁵ Advances have also been made on the objective of arriving at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues, where two written proposals have been discussed.⁶⁶ Members have also made valuable contributions on the identification of trade facilitation needs and priorities, development aspects, cost implications and inter-agency cooperation.⁶⁷

3. Valuable input has been provided by a number of Members in the form of national experience papers⁶⁸ describing national trade facilitation reform processes. In appreciation of the value to developing countries and LDCs of this aspect of the negotiations, the Negotiating Group recommends that Members be encouraged to continue this information sharing exercise.

4. Building on the progress made in the negotiations so far, and with a view to developing a set of multilateral commitments on all elements of the mandate, the Negotiating Group recommends that it continue to intensify its negotiations on the basis of Members' proposals, as reflected currently in document TN/TF/W/43/Rev.4, and any new proposals to be presented. Without prejudice to individual Member's positions on individual proposals, a list of (I) proposed measures to improve and clarify GATT Articles V, VIII and X; (II) proposed provisions for effective cooperation between customs and other authorities on trade facilitation and customs compliance; and, (III) cross-cutting submissions; is provided below to facilitate further negotiations. In carrying out this work and in tabling further proposals, Members should be mindful of the overall deadline for finishing the

⁶⁴ TN/TF/W/6-W/15, W/17-W/26, W/28, W/30-W32, W/34-36, W/38-W/40, W/42, W/44-W/49, W/53, W/55, W/58, W/60-W/62, W/64-W/67, W/69, W/70.

⁶⁵ TN/TF/W/33, W/41, W/56, W/63, W/73 and W/74.

⁶⁶ TN/TF/W/57 and W/68.

⁶⁷ TN/TF/W/29, W/33, W/41, W/62 and W/63.

⁶⁸ TN/TF/W/48, W/50, W/53, W/55, W/58, W/60, W/61, W/65, W/69 and W/75.

negotiations and the resulting need to move into focussed drafting mode early enough after the Sixth Ministerial Conference so as to allow for a timely conclusion of text-based negotiations on all aspects of the mandate.

5. Work needs to continue and broaden on the process of identifying individual Member's trade facilitation needs and priorities, and the cost implications of possible measures. The Negotiating Group recommends that relevant international organizations be invited to continue to assist Members in this process, recognizing the important contributions being made by them already, and be encouraged to continue and intensify their work more generally in support of the negotiations.

6. In light of the vital importance of technical assistance and capacity building to allow developing countries and LDCs to fully participate in and benefit from the negotiations, the Negotiating Group recommends that the commitments in Annex D's mandate in this area be reaffirmed, reinforced and made operational in a timely manner. To bring the negotiations to a successful conclusion, special attention needs to be paid to support for technical assistance and capacity building that will allow developing countries and LDCs to participate effectively in the negotiations, and to technical assistance and capacity building to implement the results of the negotiations that is precise, effective and operational, and reflects the trade facilitation needs and priorities of developing countries and LDCs. Recognizing the valuable assistance already being provided in this area, the Negotiating Group recommends that Members, in particular developed ones, continue to intensify their support in a comprehensive manner and on a long-term and sustainable basis, backed by secure funding.

7. The Negotiating Group also recommends that it deepen and intensify its negotiations on the issue of S&DT, with a view to arriving at S&DT provisions that are precise, effective and operational and that allow for necessary flexibility in implementing the results of the negotiations. Reaffirming the linkages among the elements of Annex D, the Negotiating Group recommends that further negotiations on S&DT build on input presented by Members in the context of measures related to GATT Articles V, VIII and X and in their proposals of a cross-cutting nature on S&DT.

I. PROPOSED MEASURES TO IMPROVE AND CLARIFY GATT ARTICLES V, VIII AND X

A. PUBLICATION AND AVAILABILITY OF INFORMATION

- Publication of Trade Regulations
- Publication of Penalty Provisions
- Internet Publication
 - (a) of elements set out in Article X of GATT 1994
 - (b) of specified information setting forth procedural sequence and other requirements for importing goods
- Notification of Trade Regulations
- Establishment of Enquiry Points/SNFP/Information Centres
- Other Measures to Enhance the Availability of Information

B. TIME PERIODS BETWEEN PUBLICATION AND IMPLEMENTATION

- Interval between Publication and Entry into Force

C. CONSULTATION AND COMMENTS ON NEW AND AMENDED RULES

- Prior Consultation and Commenting on New and Amended Rules
- Information on Policy Objectives Sought

D. ADVANCE RULINGS

- Provision of Advance Rulings

E. APPEAL PROCEDURES

- Right of Appeal
- Release of Goods in Event of Appeal

F. OTHER MEASURES TO ENHANCE IMPARTIALITY AND NON-DISCRIMINATION

- Uniform Administration of Trade Regulations
- Maintenance and Reinforcement of Integrity and Ethical Conduct Among Officials
 - (a) Establishment of a Code of Conduct
 - (b) Computerized System to Reduce/Eliminate Discretion
 - (c) System of Penalties
 - (d) Technical Assistance to Create/Build up Capacities to Prevent and Control Customs Offences
 - (e) Appointment of Staff for Education and Training
 - (f) Coordination and Control Mechanisms

G. FEES AND CHARGES CONNECTED WITH IMPORTATION AND EXPORTATION

- General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation
 - (a) Specific Parameters for Fees/Charges
 - (b) Publication/Notification of Fees/Charges
 - (c) Prohibition of Collection of Unpublished Fees and Charges
 - (d) Periodic Review of Fees/Charges
 - (e) Automated Payment
- Reduction/Minimization of the Number and Diversity of Fees/Charges

H. FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION

- Disciplines on Formalities/Procedures and Data/Documentation Requirements Connected with Importation and Exportation
 - (a) Non-discrimination
 - (b) Periodic Review of Formalities and Requirements
 - (c) Reduction/Limitation of Formalities and Documentation Requirements
 - (d) Use of International Standards
 - (e) Uniform Customs Code
 - (f) Acceptance of Commercially Available Information and of Copies
 - (g) Automation
 - (h) Single Window/One-time Submission
 - (i) Elimination of Pre-Shipment Inspection
 - (j) Phasing out Mandatory Use of Customs Brokers

I. CONSULARIZATION

- Prohibition of Consular Transaction Requirement

J. BORDER AGENCY COOPERATION

- Coordination of Activities and Requirement of all Border Agencies

K. RELEASE AND CLEARANCE OF GOODS

- Expedited/Simplified Release and Clearance of Goods
 - (a) Pre-arrival Clearance
 - (b) Expedited Procedures for Express Shipments
 - (c) Risk Management /Analysis, Authorized Traders
 - (d) Post-Clearance Audit
 - (e) Separating Release from Clearance Procedures
 - (f) Other Measures to Simplify Customs Release and Clearance
- Establishment and Publication of Average Release and Clearance Times

L. TARIFF CLASSIFICATION

- Objective Criteria for Tariff Classification

M. MATTERS RELATED TO GOODS TRANSIT

- Strengthened Non-discrimination
- Disciplines on Fees and Charges
 - (a) Publication of Fees and Charges and Prohibition of Unpublished ones
 - (b) Periodic Review of Fees and Charges
 - (c) More effective Disciplines on Charges for Transit
 - (d) Periodic Exchange Between Neighbouring Authorities
- Disciplines on Transit Formalities and Documentation Requirements
 - (a) Periodic Review
 - (b) Reduction/Simplification
 - (c) Harmonization/Standardization
 - (d) Promotion of Regional Transit Arrangements
 - (e) Simplified and Preferential Clearance for Certain Goods
 - (f) Limitation of Inspections and Controls
 - (g) Sealing
 - (h) Cooperation and Coordination on Document Requirements
 - (i) Monitoring
 - (j) Bonded Transport Regime/Guarantees
- Improved Coordination and Cooperation
 - (a) Amongst Authorities
 - (b) Between Authorities and the Private Sector
- Operationalization and Clarification of Terms

II. PROPOSED PROVISIONS FOR EFFECTIVE COOPERATION BETWEEN CUSTOMS AND OTHER AUTHORITIES ON TRADE FACILITATION AND CUSTOMS COMPLIANCE

- Multilateral Mechanism for the Exchange and Handling of Information

III. CROSS-CUTTING SUBMISSIONS

1. Needs and Priorities Identification

- General tool to assess needs and priorities and current levels of trade facilitation
- Take result of assessment as one basis for establishing trade facilitation rules, arranging S&D treatment and providing technical assistance and capacity building support

2. Technical Assistance and Capacity Building

- Technical Assistance and Capacity Building in the Course of the Negotiations
 - Identification of Needs and Priorities
 - Compilation of Needs and Priorities of Individual Members
 - Support for Clarification and Educative Process Including Training
- Technical Assistance and Capacity Building Beyond the Negotiations Phase
 - Implementation of the Outcome
 - Coordination Mechanisms for Implementing Needs and Priorities as well as Commitments

3. Multiple-Areas

- Identification of Trade Facilitation Needs and Priorities of Members
- Cost Assessment
- Inter-Agency Cooperation
- Links and Inter-relationship between the Elements of Annex D
- Inventory of Trade Facilitation Measures
- Assessment of the Current Situation
- Timing and Sequencing of Measures

Annex F

Special and Differential Treatment

LDC Agreement-specific Proposals

23) Understanding in Respect of Waivers of Obligations under the GATT 1994

(i) We agree that requests for waivers by least-developed country Members under Article IX of the WTO Agreement and the Understanding in respect of Waivers of Obligations under the GATT 1994 shall be given positive consideration and a decision taken within 60 days.

(ii) When considering requests for waivers by other Members exclusively in favour of least-developed country Members, we agree that a decision shall be taken within 60 days, or in exceptional circumstances as expeditiously as possible thereafter, without prejudice to the rights of other Members.

36) Decision on Measures in Favour of Least-Developed Countries

We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

(a) (i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.

(ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.

(iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.

(b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action.

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation.

38) Decision on Measures in Favour of Least-Developed Countries

It is reaffirmed that least-developed country Members will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial or trade needs, or their administrative and institutional capacities.

Within the context of coherence arrangements with other international institutions, we urge donors, multilateral agencies and international financial institutions to coordinate their work to ensure that LDCs are not subjected to conditionalities on loans, grants and official development assistance that are inconsistent with their rights and obligations under the WTO Agreements.

84) Agreement on Trade-Related Investment Measures

LDCs shall be allowed to maintain on a temporary basis existing measures that deviate from their obligations under the TRIMs Agreement. For this purpose, LDCs shall notify the Council for Trade in Goods (CTG) of such measures within two years, starting 30 days after the date of this declaration. LDCs will be allowed to maintain these existing measures until the end of a new transition period, lasting seven years. This transition period may be extended by the CTG under the existing procedures set out in the TRIMs Agreement, taking into account the individual financial, trade, and development needs of the Member in question.

LDCs shall also be allowed to introduce new measures that deviate from their obligations under the TRIMs Agreement. These new TRIMs shall be notified to the CTG no later than six months after their adoption. The CTG shall give positive consideration to such notifications, taking into account the individual financial, trade, and development needs of the Member in question. The duration of these measures will not exceed five years, renewable subject to review and decision by the CTG.

Any measures incompatible with the TRIMs Agreement and adopted under this decision shall be phased out by year 2020.

88) Decision on Measures in Favour of Least-Developed Countries–Paragraph 1

Least-developed country Members, whilst reaffirming their commitment to the fundamental principles of the WTO and relevant provisions of GATT 1994, and while complying with the general rules set out in the aforesaid instruments, will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, and their administrative and institutional capabilities. Should a least-developed country Member find that it is not in a position to comply with a specific obligation or commitment on these grounds, it shall bring the matter to the attention of the General Council for examination and appropriate action.

We agree that the implementation by LDCs of their obligations or commitments will require further technical and financial support directly related to the nature and scope of such obligations or commitments, and direct the WTO to coordinate its efforts with donors and relevant agencies to significantly increase aid for trade-related technical assistance and capacity building.

* * * * *