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HOW CAN THE POST-DOHA PROCESS WORK BEST FOR DEVELOPMENT?

Background note by the UNCTAD secretariat

Executive summary

This background note raises a number of questions that might usefully be considered in relation to the treatment of development-related concerns in the post-Doha work programme of the World Trade Organization. Apart from broader issues such as the ongoing concerns of developing countries about implementation of the results of the Uruguay Round and special and differential treatment for developing countries, the note touches on selected issues from a number of areas of work covered by the WTO Ministerial Declaration, examining these from a development perspective. The note should be read in conjunction with the document “Developments and Issues in the Post-Doha Work Programme of Particular Concern to Developing Countries” (TD/B/49/12), which contains additional considerations regarding the content and overall context of the post-Doha process.

INTRODUCTION

1. Development issues have been at the forefront of debate in the World Trade Organization for the last several years. The need to address these concerns was recognized at the WTO Fourth Ministerial Meeting in Doha in November 2001, leading to a Ministerial Declaration and other decisions by Ministers that constitute a work programme with important development components.

2. In many respects the post-Doha work programme offers important opportunities to promote development – but is a development-friendly outcome guaranteed? How successful will the Doha texts be in re-orienting the WTO system towards development? How is special and differential treatment (SDT) being implemented in the current work programme? Are there any indications of how SDT is to be implemented in the outcome of the negotiations? What progress has been made towards giving SDT a more secure legal base? How can SDT provisions be reconciled with the concept of a “Single Undertaking”?

3. The Doha Declaration contains frequent references to technical assistance for developing countries, and technical cooperation and capacity-building are confirmed as “core elements of the development dimension of the multilateral trading system”. Are there sufficient resources to execute all the technical cooperation activities envisaged in the post-Doha work programme? What role can other agencies, in particular UNCTAD, play in providing technical cooperation and capacity-building to developing countries in the current negotiations? What is the appropriate balance between such support for developing countries in WTO negotiations, as well as other trade policy development and administration (including within the context of the Integrated Framework) and support for negotiations and building supply capacity in developing countries?

4. In a number of areas, such as investment, competition policy, government procurement and trade facilitation, provision is made for negotiations to take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations. What exactly does explicit consensus mean? What progress is being made on such issues? A number of areas, such as electronic commerce, trade, debt and finance, and trade and the transfer of technology are also an integral part of the post-Doha work programme; work in these areas is important for ensuring an effective link between trade and development. A report is to be made to the Fifth Ministerial Session on the desirability of possible negotiations on certain aspects of trade and environment (while other aspects are already subject to negotiation). What progress has been made in these areas?

5. Overall, what progress is being made in the WTO’s post-Doha work programme from a development perspective? What needs to be achieved before the Fifth Ministerial Session from a development perspective?

I. IMPLEMENTATION OF THE RESULTS OF THE URUGUAY ROUND

6. How are developing countries' concerns about implementation of the results of the Uruguay Round being met – for example, in relation to transition periods and technical assistance? Can the liberalization targets – for example, for textiles and clothing – be met on schedule without being negated by alternative protectionist measures? How are “best endeavours” clauses to take account of developing-country interests being implemented?

7. The post-Doha work programme holds out hope for gains by developing countries, but it may also be expected to lead to further commitments. What are the perceived gains, and how do they compare with the expected costs of implementation? Is it reasonable or feasible to ask developing countries to take on new commitments at this stage? Are developing countries capable of fully meeting the commitments from the Uruguay Round and at the same time starting a new trade negotiations round? What can be done to strengthen their capacity?

II. SELECTED ISSUES COVERED BY THE DOHA MINISTERIAL DECLARATION

Agriculture

8. The Doha document provides that trade and non-trade concerns should be taken into account in the agriculture negotiations. Special and differential treatment (SDT) for developing countries is to be an integral part of all elements of the negotiations. How are conflicting objectives to be reconciled? What are the prospects for a “development box”? How can the interests of developing net food-exporters countries and net food-importing countries be made compatible?

Industrial products

9. Negotiations on market access for industrial goods are aimed at reducing or eliminating tariff peaks, tariff escalation and non-tariff measures affecting all products, and in particular products of interest to developing countries. What should be the targets (average cuts) and modalities (e.g. formulas or request and offer)? What transition periods should be allowed? To what extent might developing countries have to make concessions that could limit their scope for industrial development programmes? How can the Doha mandate on less than full reciprocity by developing countries in non-agricultural negotiations be given effect, as established in GATT Article XXVIII *bis*? How can concerns about the erosion of preferences be addressed, and what kinds of development-oriented measures could be envisaged to compensate for that erosion? How are non-tariff measures, including rules of origin, being handled?

Services

10. In the GATS, how can Article IV on increasing participation by developing countries be operationalized? What is being done to overcome obstacles to the liberalization of sectors or modes of supply of particular export interest to developing countries? How can the

negotiations ensure that national objectives for essential services are met? How can it be ensured that disciplines on domestic regulation will not compromise developing countries' flexibility to establish an appropriate regulatory framework? What disciplines on subsidies would limit trade-distorting subsidies while providing for flexibility in relation to the development programmes of developing countries? How can credit be granted for autonomous liberalization?

Trade-Related Intellectual Property Rights (TRIPS)

11. The Doha Ministerial Declaration stresses the importance of protecting intellectual property rights while promoting access to existing medicines. How is it possible to provide incentives for research and, at the same time, give developing countries and least developed countries (LDCs) access to essential medicines?

12. The Doha Decisions reaffirmed that the provisions of Article 66.2 of the TRIPS Agreement are mandatory. What measures can promote the transfer of technology to developing countries?

Trade and environment

13. At the recent World Summit on Sustainable Development in Johannesburg, the importance of achieving a sustainable model of development was emphasized. Consequently, linkages between trade and environment are expected to become more important. Will the outcome of the Johannesburg meeting affect the balance between environmental protection and the need to provide developing countries flexibility in achieving their development objectives? How can synergies be promoted between environmental protection, economic development and trade?

Trade and investment

14. In paragraph 20 of the Doha Ministerial Declaration, the importance of ensuring secure and predictable conditions for investment is underlined. However, paragraph 22 recognizes the importance of reflecting in a balanced manner the interests of home and host countries, paying attention to development policies and objectives as well as the countries' right to regulate in the public interest. How can these two objectives be balanced? In order to facilitate the use of legal investment measures and to provide guidelines for the use of measures for national development purposes, how can developing countries ensure that FDI promotion can be achieved while not causing disturbance to trade?

Trade and competition policy

15. The following questions have been discussed in relation to trade and competition policy: What could a multilateral framework on competition (MFC) achieve that could not be achieved through a domestic competition law complemented as appropriate and feasible by bilateral or regional agreements as well as by a non-binding instrument such as the Set? Is a MFC feasible, given the great disparities in countries' market structures, economic

development, institutional capacities and experiences in this area? How could the development dimension best be catered to within a MFC? What would be the relationship between a WTO-based MFC and other multilateral rules in this area, including existing WTO-based rules)? How would compliance with an MFC be verified or enforced?

Least-developed countries

16. The Ministerial Declaration recognized “that the integration of the LDCs into the multilateral trading system requires meaningful market access, support for the diversification of their production and export base, and trade-related technical assistance and capacity building”. What has been done, and what can be done in the context of the post-Doha work programme in respect of these three priority areas? Furthermore, how can negotiations with acceding LDCs be facilitated and accelerated?

Small economies

17. How can the integration of small economies into international trade be promoted, taking into account the associated trade difficulties and investment difficulties?