

Preparations for the Fifth Session of the Ministerial Conference

Draft Cancún Ministerial Text

The attached Draft Ministerial Text is being circulated by the Chairman of the General Council on his own responsibility, in close cooperation with the Director-General. ~~It is intended as a first draft of an operational text through which Ministers at Cancún would register decisions and give guidance and instructions as appropriate in the negotiations and other aspects of the work programme agreed at Doha. It does not purport to represent agreement in whole or in part. The Text will be taken up for discussion at a meeting of the General Council scheduled for the week of 25 August, which will be preceded by an informal meeting of Heads of Delegations. The Text does not purport to be agreed in any part at this stage, and is without prejudice to any delegation's position on any issue.~~ and is without prejudice to any delegation's position on any issue.

~~———— This draft is guided by the mandates given at Doha and the actions required to carry them out. It is based on a reaffirmation of all the commitments taken at Doha, including the overall timetable for the Round.~~

~~———— The somewhat skeletal nature of this first draft is a reflection of the reality of our present situation. It reflects how far we still have to go in a number of key areas to fulfil the Doha mandates. The task ahead of us in the short time remaining before Cancún is to fill in the gaps in this draft so that it becomes a workable framework for action by Ministers. This will be the focus of intensive consultations in the coming weeks, centred on the informal Heads of Delegation process and the General Council. Our aim is to work with delegations to produce a text for transmission to Ministers by the latter part of August.~~

~~———— In some areas the discussions at next week's General Council on reports from WTO bodies may contribute to the evolution of this draft. In others, further dedicated consultations will clearly be necessary. We will need to continue to call upon the invaluable help of the Chairs of relevant bodies in this work. In carrying it out we will also continue to work in a transparent and inclusive way. We hope that the output of our collective effort will remain a concise and operationally focussed one, on the basis of which Ministers at Cancún can act to provide the added momentum we need for the year ahead.~~

Draft Cancún Ministerial Text

1. We reaffirm our Declarations made at Doha and the decisions we took there. We take note of the progress that has been made towards carrying out the Work Programme agreed at Doha, and recommit ourselves to completing it fully. We also renew our determination to conclude the negotiations launched at Doha successfully by the agreed date of 1 January 2005.

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

TRIPS & Public Health 3. We welcome the decision on implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health set out in document [...].

Agriculture negotiations 4. We ~~adopt the modalities for further commitments in agriculture set out in document [...]~~ and reaffirm our commitment to the mandate on agriculture as set out in paragraph 13 of the Doha Ministerial Declaration. We take note of the progress made by the Special Session of the Committee on Agriculture in this regard and agree to intensify work to translate the Doha objectives into reform modalities. To this end, we adopt the framework set out in Annex A to this document concerning the further commitments and related disciplines on key outstanding issues on market access, export competition and domestic support as the basis for concluding the work in these areas. We direct the Special Session of the Committee on Agriculture to conclude its work on establishing modalities for the further commitments, including provisions for special and differential treatment, by [...]. We agree that participants will submit their comprehensive draft Schedules based on these modalities no later than [...] and confirm that the negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.-

NAMA negotiations 5. 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 take note of the progress made by the Negotiating Group on Market Access in this regard and agree to intensify work to translate the Doha objectives into modalities for these negotiations. To this end, ~~We~~ we adopt the framework for modalities for the negotiations on ~~Market Access for Non-Agricultural Products set out in Annex B to this contained in~~ document [...], ~~and we [...].~~ We direct the Negotiating Group to conclude its work on establishing modalities by [...] and to take the necessary further steps to ensure the conclusion of negotiations by the agreed date.

Services negotiations 6. We are committed to intensifying our efforts to bring the negotiations on specific commitments to conclusion. We stress the importance of full engagement by all participants, *inter alia* through the continuous exchange of requests and offers. With a view to providing effective market access to all Members, due regard shall be given to the quality of offers, particularly in sectors and modes of supply of export interest to developing countries. ~~We recognize the progress made in the services negotiations and urge participants to intensify their efforts to bring this process to a successful conclusion.~~ We call upon those ~~Members~~ participants who have not yet submitted their initial offers to do so as soon as possible. ~~Members should submit their improved offers should be submitted by [...]~~ ~~and revised offers, with a view to finalizing the negotiations, should be submitted by [...].~~ We are also committed to intensifying our efforts to conclude the negotiations on rule-making under GATS Articles VI:4, X, XIII, and XV in accordance with their respective mandates and deadlines, noting the deadline of 15 March 2004 for emergency safeguard measures.

The Special Session of the Council for Trade in Services shall review progress in these negotiations by 31 March 2004. ~~We reaffirm that~~ ~~the negotiations shall aim to achieve progressively higher levels of liberalization with no a priori exclusion of any service sector or mode of supply and shall give special attention to the sectors and modes of supply of export interest to developing countries.~~ We note the interest of developing countries, as well as other Members, in Mode 4. In accordance with GATS provisions, ~~there shall be due respect for the right of Members to regulate and to introduce new regulations in pursuance of national policy objectives. Negotiations on rule making under the GATS shall be concluded in accordance with their respective mandates and deadlines. The Special Session of the Council for Trade in Services shall review progress in these negotiations by 31 March 2004.~~ Text to be added on modalities for the special treatment of least-developed country Members depending on the outcome of the ongoing consultations.

Rules negotiations

7. We instruct the Negotiating Group on Rules to accelerate its work on anti-dumping and subsidies and countervailing measures, including fisheries subsidies, with a view to shifting its emphasis from identifying issues to seeking solutions. We note the ~~considerable~~ progress that has been made in the negotiations on improving transparency in Regional Trade Agreements and encourage the Group to reach a decision soon on its work on transparency and to accelerate its work on the clarification and improvement of RTA disciplines under existing WTO provisions, taking into account the developmental aspects of RTAs.

TRIPS negotiations

8. We ~~adopt~~ take note of the progress made in the negotiations on the establishment of a ~~the~~ multilateral system of notification and registration of geographical indications for wines and spirits ~~set out in document [...]~~ and instruct the Special Session of the Council for TRIPS to continue the work as mandated in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Ministerial Declaration. We agree that the negotiations shall be completed by [...].

Environment negotiations

9. We take note of the progress made by the Committee on Trade and Environment Special Session (CTESS) in developing a common understanding of the concepts contained in its mandate in paragraph 31 of the Doha Declaration. We reaffirm our commitment to these negotiations ~~and encourage the CTESS to accelerate its work.~~

DSU negotiations

10. We take note of the progress that has been made in the negotiations on dispute settlement. We renew our determination to pursue these negotiations with the aim of completing them not later than ~~May 2004~~. Further negotiations shall be carried out on the basis of work done thus far, including the Chairman's text of 28 May 2003 and other proposals by participants.

S&D treatment

11. We ~~take note of the progress that has been made in addressing issues of~~ reaffirm that provisions for special and differential treatment ~~in pursuance of the mandate given at Doha, and adopt the decisions set out in document [...]~~ are an integral part of WTO Agreements. We recall our decision in Doha to review special and differential treatment provisions with a view to strengthening and making them more precise, effective and operational. We note the progress that has been made towards meeting these objectives and adopt the decisions in Annex C to this document. We instruct the General Council to continue to monitor closely work on the proposals referred to negotiating groups and other WTO bodies, and direct these bodies to report to the General Council no later than [...]. We ~~further~~ instruct the Committee on Trade and Development in Special Session to pursue expeditiously,

within the parameters of the Doha mandate, ~~outstanding the work, including *inter alia* on the cross-cutting issues, the monitoring mechanism, and the incorporation of special and differential treatment into the architecture of WTO rules, on remaining agreement-specific proposals and other outstanding issues~~ as referred to in TN/CTD/7, and report with recommendations, as appropriate, to the General Council by [...]. The General Council shall report on ~~progress on~~ all these issues to our next Session.

Implementation 12. We note that, while some progress has been made under the mandates we gave at Doha concerning ~~Implementation-Related Issues and Concerns~~, a number of the issues and concerns raised in this context remain outstanding. We reaffirm the mandates we gave in paragraph 12 of our Doha Ministerial Declaration and our Decision on Implementation-Related Issues and Concerns, and we renew our determination to find appropriate solutions to these issues. We instruct the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to ~~resolve these issues, find appropriate solutions as a priority, and we request the Director-General to continue the consultations he has undertaken on certain issues, including 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 instruct~~ The General Council to report on progress to our next Session, shall review progress and take any appropriate action no later than [...].

Investment 13. [Taking note of the work done by the Working Group on the Relationship between Trade and Investment under the mandate we gave at in paragraphs 20-22 of the Doha Ministerial Declaration, we decide to commence negotiations on the basis of the and the work on the issue of modalities carried out at the level of the General Council, we [adopt by explicit consensus the decision on modalities of negotiations set out in document ...] [decide that ...] Annex D to this document.]

[We take note of the discussions that have taken place in the Working Group on the Relationship between Trade and Investment since the Fourth Ministerial Conference. The situation does not provide a basis for the commencement of negotiations in this area. Accordingly, we decide that further clarification of the issues be undertaken in the Working Group.]

Competition 14. [Taking note of the work done by the Working Group on the Interaction between Trade and Competition Policy under the mandate we gave at in paragraphs 23-25 of the Doha Ministerial Declaration, and the work on the issue of modalities carried out at the level of the General Council, we [adopt by explicit consensus the decision on modalities of negotiations set out in document ...] [decide that ...] we decide to commence negotiations on the basis of the modalities set out in Annex E to this document.-]

[We take note of the discussions that have taken place in the Working Group on the Interaction between Trade and Competition Policy since the Fourth Ministerial Conference. The situation does not provide a basis for the commencement of negotiations in this area. Accordingly, we decide that further clarification of the issues be undertaken in the Working Group.]

Government Procurement 15. [Taking note of the work done by the Working Group on Transparency in Government Procurement under the mandate we gave at in paragraph 26 of the Doha Ministerial Declaration, and the work on the issue of modalities carried out at the level of the General Council, we [adopt by explicit consensus the decision on

~~modalities of negotiations set out in document ...] [decide that ...]. we decide to commence negotiations on the basis of the modalities set out in Annex F to this document.]~~

~~[We take note of the discussions that have taken place in the Working Group on Transparency in Government Procurement since the Fourth Ministerial Conference. The situation does not provide a basis for the commencement of negotiations in this area. Accordingly, we decide that further clarification of the issues be undertaken in the Working Group.]~~

*Trade
Facilitation*

16. ~~[Taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate we gave at in paragraph 27 of the Doha Ministerial Declaration, and the work on the issue of modalities carried out at the level of the General Council, we [adopt by explicit consensus the decision on modalities of negotiations set out in document ...][decide that ...]. we decide to commence negotiations on the basis of the modalities set out in Annex G to this document.]~~

~~[We take note of the discussions that have taken place on Trade Facilitation in the Council for Trade in Goods since the Fourth Ministerial Conference. The situation does not provide a basis for the commencement of negotiations in this area. Accordingly, we decide that further clarification of the issues be undertaken in the Council for Trade in Goods.]~~

*Small
Economies*

17. 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. 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 the recommendations made therein. We instruct the Committee on Trade and Development, under the overall responsibility of the General Council, to continue the work in the dedicated sessions with the aim of completing it as soon as possible but no later than 1 January 2005. –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*

18. We take note of the report transmitted by the General Council on progress in the examination of the relationship between trade, debt and finance and agree that this work shall continue on the basis of the mandate contained in paragraph 36 of the Doha Ministerial Declaration and the progress made in the Working Group to date. The General Council shall report further to our next Session.

*Trade &
Transfer of
Technology*

19. We take note of the report transmitted by the General Council on progress in the examination of the relationship between trade and transfer of technology and agree that this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration and the progress made in the Working Group to date. The General Council shall report further to our next Session.

CTE report

20. We take note of the report transmitted by the General Council on the work undertaken by the Committee on Trade and Environment pursuant to paragraphs 32 and 33 of the Doha Ministerial Declaration. We agree that this work shall continue on the basis of the progress made thus far and instruct the ~~Committee~~ General Council to report to our next Session.

TRIPS non-violation

21. ~~Taking note of the report from~~ We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights ~~on the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994, we [...].~~ pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns 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 by [...]. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

E-commerce

22. We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce, and agree to continue the examination of issues under that ongoing Work Programme, with the current institutional arrangements. We instruct the General Council to report on further progress to our next Session. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until that Session.

Technical Cooperation

23. We welcome the report by the Director-General on the implementation and adequacy of the commitments on technical cooperation and capacity building we made in our Doha Ministerial Declaration and request him to report further to our next Session. ~~We recommit ourselves to provide all necessary support for this vital activity. We note with satisfaction the establishment of the Doha Development Agenda Global Trust Fund since our last meeting and encourage Members to ensure adequate financing for future technical cooperation and capacity building programmes. We direct that in the planning of such programmes, consultations should be undertaken with beneficiary countries and priority given to their individual needs through both regional and national activities. We welcome the improved collaboration and coordination with other agencies, including under the Integrated Framework for Trade-Related Technical Assistance for the Least-Developed Countries and Joint Integrated Technical Assistance Programme. We commend the work undertaken in regard to technical assistance and capacity building— this respect by the Director-General and the Secretariat, in the context of promoting coherence in global economic policy making, and encourage him and the heads of the other relevant agencies to continue their efforts in this regard~~ the continuation of these and other efforts so as to facilitate the greater participation of developing countries in the multilateral trading system.

LDCs

24. We welcome the reports by the Director-General on issues affecting Least-Developed Countries (LDCs) ~~and on the implementation of the commitment by Ministers to facilitate and accelerate the accession of the LDCs. We reaffirm our commitment to effectively integrate LDCs into the multilateral trading system. In this regard, we acknowledge the seriousness of the concerns of the LDCs, as expressed in the Dhaka Declaration, adopted by their Ministers in June 2003. We take note that issues of interest to LDCs are being addressed in all areas of the negotiations. Building upon our commitment in the Doha Declaration we shall continue to expeditiously pursue the objective of duty-free and quota-free market access for products originating from LDCs. We urge Members to adopt and implement rules of origin so as to facilitate exports from LDCs. In this regard, we appreciate the improved market access measures adopted by several Members. Furthermore, in accordance with our commitment in the Doha Ministerial Declaration, we shall take additional measures for progressive improvements in market access, both at the border and otherwise. In services, we [shall give priority to the sectors and modes of supply of export interest to LDCs, particularly in regard~~

to movement of service providers under Mode 4.] We further commit ourselves to provide effective trade-related technical assistance and capacity building to LDCs on a priority basis in helping to overcome their weak human, institutional and trade-related capacity. ~~We recognize the importance of improved market access for LDCs and trade-related technical assistance and capacity building and commit ourselves to intensify our efforts to facilitate their full integration into the multilateral trading system.~~ ~~In this regard,~~ ~~W~~we reiterate our endorsement of the Integrated Framework (IF) and agree that it can truly become as a viable model for LDC's trade development if it effectively contributes to reducing supply-side constraints including through mainstreaming trade into their national development and poverty reduction strategies. ~~In this regard, w~~We welcome the joint communiqué adopted by the six IF core agencies at their Third Heads of Agency meeting and ~~the substantial progress made in the implementation of the IF~~ urge them to intensify their assistance in trade-related infrastructure, private sector development and institution building to help countries expand and diversify their export base. We also urge cooperation with other bilateral and multilateral development partners. We request the Director-General to report to our next Session on further developments.

Sectoral Initiative on Cotton

25. We take note of the proposal by Burkina Faso, Benin, Chad and Mali entitled "Poverty Reduction: Sectoral Initiative in Favour of Cotton" and agree that [...].

Commodity Issues

26. Taking into account the dependence of many developing countries on a few commodities and the problems created by long-term declines and sharp fluctuations in the prices of these commodities, we instruct the Committee on Trade and Development, within its mandate, to continue with its work on this issue in cooperation with other relevant international organizations and report on progress to the General Council before our next Session. We recognize also that various trade-related aspects of this issue could be addressed in the ongoing negotiations, particularly in the framework of the negotiations on agriculture and non-agricultural market access.

Coherence

27. We appreciate the efforts that have been made by the Director-General to strengthen the WTO's collaboration with the IMF and the World Bank in the context of our Marrakesh mandate on achieving greater coherence in global economic policy-making. We encourage the Director-General and the General Council to follow-up on the General Council meeting on Coherence that was held in May 2003. We particularly welcome the statement of support from the Executive Heads of the IMF and the World Bank, contained in their letter to the Director-General of 20 August 2003, to work with the WTO to address problems that some developing-country Members may encounter in adjusting to a more liberal trade environment, through preference erosion, loss of tariff revenue, or other factors. We invite the Director-General to report to us at our next Session on initiatives that have been taken in this area.

Accessions

25. We note with particular satisfaction that this Conference has completed the WTO accession procedures for [...]. We also welcome Armenia and the Former Yugoslav Republic of Macedonia as new Members since our last Session. We continue to attach great importance to concluding accession proceedings as quickly as possible and, in particular, to accelerating the accession of least-developed countries. In this regard, we reaffirm the guidelines to facilitate the accession of LDCs adopted by the General Council on 10 December 2002.

Annex A

Framework for Establishing Modalities in Agriculture

Participants reaffirm their commitment to the mandate on agriculture as set out in paragraph 13 of the Doha Ministerial Declaration. Participants recognize that reforms in all areas of the negotiations are inter-related and agree to conclude the work to establish modalities for the further commitments, including provisions for special and differential treatment, within the timeframe specified in paragraph 4 of the Cancún Ministerial Text, on the basis of the following framework:

Domestic Support

1. The Doha Ministerial Declaration calls for “substantial reductions in trade-distorting domestic support”. All developed countries shall achieve reductions in trade-distorting support significantly larger than in the Uruguay Round, that will result in Members having the higher trade-distorting subsidies making greater efforts.

Reductions shall take place under the following parameters:

1.1. Reduce the Final Bound Total AMS in the range of [...]% - [...]%.
1.2 Reduce *de minimis* by [...]%.
1.3 Article 6.5 of the Agreement on Agriculture will be modified so as Members may have recourse to the following measures:

(i) direct payments if:

- such payments are based on fixed areas and yields; or
- such payments are made on 85% or less of the base level of production; or
- livestock payments are made on a fixed number of head.

(ii) support under 1.3(i) shall not exceed 5% of the total value of agriculture production in the 2000-2002 period by [...]. Subsequently, such support shall be subject to an annual linear reduction of [...]% for a further period of [...] years.

1.4 The sum of allowed support under the AMS, support under paragraph 1.3(i) and *de minimis* shall be reduced in the first period referred to in paragraph 1.3(ii) so that it is significantly less than the sum of *de minimis*, payments under Article 6.5, and the final bound AMS level, in 2000.

1.5 Green Box criteria remain under negotiation.

Special and differential treatment

1.6 Having regard to their development, food security and/or livelihood security needs, developing countries shall benefit from special and differential treatment, including lower reductions of trade-distorting domestic support under paragraphs 1.1, 1.3 and 1.4 above, longer implementation periods and with respect to the provisions of Article 6.2 of the Agreement on Agriculture and of the Green Box.

1.7 Developing countries shall be exempt from the requirement to reduce *de minimis* trade-distorting domestic support.

Market Access

2. The Doha Ministerial Declaration calls for “substantial improvements in market access.” Negotiations should therefore provide increased access opportunities for all and in particular for the developing countries. To achieve this, commitments shall be based on the following parameters:

2.1 The formula applicable for tariff reduction by developed countries shall be a blended formula under which each element will contribute to substantial improvement in market access. The formula shall be as follows:

- (i) [...] % of tariff lines shall be subject to a [...] % average tariff cut and a minimum of [...] %; for these import-sensitive tariff lines market access increase will result from a combination of tariff cuts and TRQs.
- (ii) [...] % of tariff lines shall be subject to a Swiss formula coefficient [...].
- (iii) [...] % of tariff lines shall be duty-free.

2.2 For the tariff lines that exceed a maximum of [...] % developed-country participants shall either reduce them to that maximum, or ensure effective additional market access in these or other areas through a request-offer process that could include TRQs.

2.3 The issue of tariff escalation will be effectively addressed.

2.4 The use and duration of the special agricultural safeguard (SSG) remains under negotiation.

Special and differential treatment

2.5 Having regard to their development, food security and/or livelihood security needs, developing countries shall benefit from special and differential treatment, including lower tariff reductions and longer implementation periods.

2.6 The formula applicable for tariff reductions by developing countries shall be as follows:

- (i) [...] % of tariff lines shall be subject to a [...] % average tariff cut and a minimum of [...] %; for these import-sensitive tariff lines market access increase will result from a combination of tariff cuts and TRQs. Within this category, developing countries shall have additional flexibility under conditions to be determined to designate Special Products (SP) which would only be subject to a linear cut of a minimum of [...] % and no new commitments regarding TRQs.
- (ii) [...] % of tariff lines shall be subject to [...] % average tariff cut and a minimum of [...] %.
- (iii) [...] % of tariff lines shall be subject to [...] % average tariff cut and a minimum of [...] %.

or in place of (ii) and (iii) above

- (ii) [...] % of tariff lines shall be subject to a Swiss formula coefficient of [...].

2.7 The applicability and/or extent of the provisions of paragraph 2.2 above to developing countries remain under negotiation, taking into account their development needs.

2.8 A special agricultural safeguard (SSM) shall be established for use by developing countries subject to conditions and for products to be determined.

2.9 All developed countries will seek to provide duty-free access for at least [...] % of imports from developing countries through a combination of MFN and preferential access.

2.10 Participants undertake to take account of the importance of preferential access for developing countries.

Export Competition

3. The Doha Ministerial Declaration calls for “reductions of, with a view to phasing out, all forms of export subsidies.” To achieve this, disciplines shall be established on export subsidies, export credits, export state trading enterprises, and food aid programs. Reduction commitments shall be applied in a parallel manner according to the following parameters:

3.1 With regard to export subsidies:

- Members shall commit to eliminate over a [...] year period export subsidies for the following products of particular interest to developing countries [...];
- for the remaining products, Members shall commit to reduce, with a view to phasing out, budgetary and quantity allowances for export subsidies.

3.2 With regard to export credits:

- Members shall commit to eliminate, over the same period as in the first indent of paragraph 3.1 the trade-distorting element of export credits through disciplines that reduce the repayment terms to commercial practice ([...] months), for the same products in the second indent of paragraph 3.1 in a manner that is equivalent in effect;
- for the remaining products, a reduction effort, with a view to phasing out, that is parallel to the reduction in the second indent of paragraph 3.1 in its equivalent effect for export credits shall be undertaken.

3.3. Without prejudging the outcome of the negotiations, reductions of, with a view to phasing out, all forms of export subsidies mentioned in paragraphs 3.1 and 3.2 will occur on a schedule that is parallel in its equivalence of effect on export subsidies and export credits.

3.4 The provisions related to the reductions of, with a view to phasing out, all forms of export subsidies under paragraphs 3.1, 3.2 and 3.3 above shall apply equally to all forms of export subsidies related to or provided, directly or indirectly, to, by or through export state trading enterprises.

3.5 Additional disciplines shall be agreed in order to prevent commercial displacement through food aid operations.

3.6 The question of the end date for phasing out of all forms of export subsidies remains under negotiation.

3.7 Strengthening of Article 12 of the Agreement on Agriculture on export prohibitions and export restrictions will be addressed in the negotiations.

Special and differential treatment

3.8 Developing countries shall benefit from longer implementation periods for reductions of, with a view to phasing out, all forms of export subsidies.

3.9 Until such time as the phasing out of all forms of export subsidies is completed, developing countries shall continue to benefit from the special and differential treatment provisions of Article 9.4 of the Agreement on Agriculture.

3.10 Participants shall ensure that the disciplines on export credits to be agreed shall make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

Other

4. Least-developed countries shall be exempt from reduction commitments. The objective of duty-free and quota-free market access for products originating from least-developed countries shall be expeditiously pursued.

5. The particular concerns of recently acceded Members shall be effectively addressed.

6. Subject to the provisions of the framework set out in paragraphs 1 to 5 above, relevant parts of the Revised First Draft of Modalities and the related questions specified in the report of the Chairman of the Committee on Agriculture Special Session to the TNC (TN/AG/10 refers) will serve as reference documents for the further work on modalities, including with respect to the following issues of interest but not agreed: product-specific commitments in domestic support, terms of expansion/opening of TRQs, in-quota tariff rates, single desk export privileges, export taxes, proposals for flexibility for certain groupings, certain non-trade concerns, implementation period, sectoral initiatives, inter-pillar linkages, peace clause, continuation clause, GIs, and other detailed rules.

Annex B

Framework for Establishing Modalities in Market Access for Non-Agricultural Products

1. We reaffirm that negotiations on market access for non-agricultural products shall aim to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. We also reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments as integral parts of the modalities.

2. We acknowledge the substantial work undertaken by the Negotiating Group on Market Access and the progress towards achieving an agreement on negotiating modalities. We take note of the constructive dialogue on the Chair's Draft Elements of Modalities (TN/MA/W/35/Rev.1) and confirm our intention to use this document as a reference for the future work of the Negotiating Group. We instruct the Negotiating Group to continue its work, as mandated by paragraph 16 of the Doha Ministerial Declaration with its corresponding references to the relevant provisions of Article XXVIII *bis* of GATT 1994 and to the provisions cited in paragraph 50 of the Doha Ministerial Declaration, on the basis set out below.

3. We recognize that a formula approach is key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs, and tariff escalation. We agree that the Negotiating Group should continue its work on a non-linear formula applied on a line-by-line basis which shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments.

4. We further agree on the following elements regarding the formula:

- product coverage shall be comprehensive without *a priori* exclusions;
- tariff reductions or elimination shall commence from the bound rates after full implementation of current concessions; however, for unbound tariff lines, the basis for commencing the tariff reductions shall be [two] times the MFN applied rate in the base year;
- the base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November);
- credit shall be given for autonomous liberalization provided that the tariff lines were bound on an MFN basis in the WTO since the conclusion of the Uruguay Round;
- all non-*ad valorem* duties shall be converted to *ad valorem* equivalents on the basis of a methodology to be determined and bound in *ad valorem* terms;
- negotiations shall commence on the basis of the HS96 or HS2002 nomenclature, with the results of the negotiations to be finalized in HS2002 nomenclature;
- the reference period for import data shall be 1999-2001.

5. We furthermore agree that, as an exception, participants with a binding coverage of non-agricultural tariff lines of less than [35] percent would be exempt from making tariff reductions through the formula. Instead, we expect them to bind [100] percent of non-agricultural tariff lines at an average level that does not exceed the overall average of bound tariffs for all developing countries after full implementation of current concessions.

6. We recognize that a sectorial tariff component, aiming at elimination or harmonization is another key element to achieving the objectives of paragraph 16 of the Doha Ministerial Declaration with regard to the reduction or elimination of tariffs, in particular on products of export interest to developing countries. We recognise that participation by all participants will be important to that effect. We therefore encourage the Negotiating Group to pursue its discussions on such a component, which includes adequate provisions of flexibility for developing-country participants.

7. We agree that developing-country participants shall have longer implementation periods for tariff reductions. In addition, they would be given the flexibility of keeping tariff lines unbound, as an exception, or not applying formula cuts, for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member's imports. We furthermore agree that this flexibility could not be used to exclude entire HS Chapters.

8. We agree that least-developed country participants shall not be required to apply the formula nor participate in the sectorial approach, however, as part of their contribution to this round of negotiations, they are expected to substantially increase their level of binding commitments. Furthermore, in recognition of the need to enhance the integration of least-developed countries into the multilateral trading system and support the diversification of their production and export base, we call upon developed-country participants and other participants who so decide, to grant on an autonomous basis duty-free and quota-free market access for non-agricultural products originating from least-developed countries by the year [...].

9. We recognize that newly acceded Members shall 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 and that staged tariff reductions are still being implemented in many cases. We instruct the Negotiating Group to further elaborate on such provisions.

10. We agree that pending agreement on core modalities for tariffs, the possibilities of supplementary modalities such as zero-for-zero sector elimination, sectorial harmonization, and request & offer, should be kept open. In addition, we ask participants to consider the elimination of low duties.

11. We recognize that NTBs are an integral part of these negotiations and request participants to intensify their work on NTBs. In particular, we encourage all participants to make notifications on NTBs by 31 October 2003 and to proceed with identification, examination, categorization, and ultimately negotiations on NTBs. We take note that the modalities for addressing NTBs in these negotiations could include request/offer, horizontal, or vertical approaches; and should fully take into account the principle of special and differential treatment for developing and least-developed country participants.

12. We recognize that appropriate studies and capacity building measures shall be an integral part of the modalities to be agreed. We also recognize the work that has already been undertaken in these areas and ask participants to continue to identify such issues to improve participation in the negotiations.

13. The following issues of importance shall be further considered: non-reciprocal preference erosion and high tariff revenue dependency.

Annex C

Special and Differential Treatment

GATT 1994 - Article XVIII:C

"The General Council instructs the Council on Trade in Goods to develop and adopt procedures for recourse to Article XVIII:C. The concerns raised by developing countries, especially the least-developed countries, including those related to the suspension of concessions or other obligations under Article XVIII:C, shall be addressed."

GATT 1994 - Article XXXVI

"The General Council agrees that the Committee on Trade and Development shall annually review the implementation of Article XXXVI of GATT 1994, and report to the General Council with concrete recommendations, as agreed, no later than the last General Council of each year."

GATT 1994 - Article XXXVII

"The General Council agrees that any Member may initiate discussions in the Committee on Trade and Development on the basis of Article XXXVII and decides that a Member shall, upon request, provide a detailed explanation to matters raised in regard to the provisions under paragraph 1, with a view to reaching a solution that is satisfactory to all Members concerned."

GATT 1994 - Article XXXVIII

"The General Council instructs the Director-General to pursue and conclude cooperation arrangements as may be necessary to further the objectives set forth in Article XXXVI of the GATT 1994. The General Council further instructs the Committee on Trade and Development to receive studies and reports from relevant international agencies and organizations that may assist Members in analyzing the development plans and policies of individual developing and least-developed country Members, export potential and market prospects over the short and medium terms, measures that could be taken in the WTO framework and by other international agencies and organizations as well as the assistance required by developing and least-developed country Members to help achieve their respective development goals."

Understanding on the Interpretation of Article XVII of the GATT 1994

"While acknowledging that the provisions of Article XVII of the GATT 1994 apply to all Members, Members recognize that state trading enterprises may have a significant role to play in promoting and protecting public policy objectives in developing and least-developed country Members."

Understanding on Balance-of-Payments Provisions of the GATT 1994 –Paragraph 8

"The General Council mandates the Committee on Balance-of-Payments Restrictions to examine ways and means of simplifying the administrative requirements within the full consultation procedures."

Enabling Clause

"The General Council confirms that the terms and conditions of the Enabling Clause shall apply when action is taken by Members under the provisions of this Clause."

Agreement on Agriculture – Article 15.2

"The General Council confirms that least-developed country Members remain exempt from reduction commitments, as provided in Article 15.2, unless decided otherwise by consensus."

PSI Agreement - Article 3.3

"(a) The General Council agrees that technical assistance for purposes of the Agreement on Preshipment Inspection shall address the concerns of developing and least-developed country Members relating among others to:

(i) training customs and revenue officials to promote and achieve the objectives of the Agreement on Preshipment Inspection through the activities defined in Article 1.3 of the Agreement, in order to ensure the proper inspection of consignments to be exported to the user Member, and the prevention of false declaration, wrong classification and any fraud;

(ii) regulation of preshipment entities.

(b) The General Council further agrees that customs authorities of Members shall, in accordance with paragraph 8.3 of the Decision on Implementation-Related Issues and Concerns, closely cooperate in the context of the Agreement on Customs Valuation, and of the Decision Regarding Cases where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value."

Agreement on Rules of Origin

"In regard to preferential rules of origin under the Common Declaration in Annex II to the Agreement, the General Council agrees that in their arrangements for mutual reduction or elimination of tariff or non-tariff barriers, developing and least-developed country Members shall have the right to adopt preferential rules of origin designed to achieve trade policy objectives relating to their rapid economic development, particularly through generating regional trade.

Furthermore, the General Council instructs the Director-General to take action to facilitate the increased participation of developing and least-developed country Members in the activities of the Technical Committee on Rules of Origin of the World Customs Organisation as well as to coordinate with this organization in identifying technical and financial assistance needs of developing and least-developed country Members, and report to the Committee on Rules of Origin and the Council for Trade in Goods periodically, and the General Council as appropriate."

Agreement on Import Licensing Procedures – Article 1.2

"It is understood that the requirement to take into account the "development purposes and financial and trade needs of developing country Members" in Article 1.2 of the Agreement means that the burden of the administrative procedures used to implement import licensing regimes shall be further reduced in order to facilitate trade of developing country Members and minimize possible adverse effects to their trade, including by making import licensing procedures as expeditious as possible."

GATS – Article IV

"Pursuant to Article IV.3 of the GATS, in all services negotiations, whether broad-based rounds of negotiations or separate negotiations on specific sectors, modalities shall be developed in order to allow the priorities of least-developed country Members to be presented and duly taken into account."

GATS - Article IV.3

"The General Council agrees that the information to be provided by Members shall indicate how the requirement that special priority be given to least-developed country Members in the implementation of paragraphs 1 and 2 of Article IV is being met, and that contact points, in this context, shall provide information of particular interest to services suppliers from least-developed country Members."

GATS – Article XXV

"The General Council instructs the WTO Secretariat to pursue with a view to concluding arrangements with relevant international institutions that have the technical assistance capacity to assist developing and least-developed country Members in addressing their supply-side and infrastructural constraints and their development needs in the services sector. This shall be without prejudice to the prerogative of the Council for Trade in Services to decide upon technical assistance to developing countries which shall be provided at the multilateral level by the Secretariat, in accordance with Article XXV.2."

GATS, Annex on Telecommunications – Paragraph 6

"The General Council instructs the Council for Trade in Services to put in place arrangements for prompt notification of any measures taken with regard to the implementation of subparagraphs (a) to (d) of paragraph 6 of the Annex on Telecommunications."

TRIPS Agreement – Article 66.2

"Members, having regard to Article 66.2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, and having regard to the decision of the TRIPS Council of 19 February 2003, contained in document IP/C/28, reaffirm that this decision be expeditiously implemented in a way that ensures the monitoring and full implementation of the obligations in Article 66.2."

TRIPS Agreement – Article 67

"The General Council agrees that technical and financial cooperation, in accordance with Article 67, shall be provided on request and on mutually agreed terms and conditions, with due consideration given to comprehensive programmes comprising such components as improving the relevant legal framework in line with the general obligations of the Agreement, enhancing enforcement mechanisms, increasing training of personnel at the various levels, assisting in the preparation of laws and procedures in an effort to encourage and monitor technology transfer, making use of the rights and policy flexibility in the Agreement, and strengthening or establishing coordination between intellectual property rights, investment and competition authorities."

The General Council instructs the Council for Trade-Related Aspects of Intellectual Property Rights to annually review the state of implementation of the Agreement between the World Intellectual Property Organization and the World Trade Organisation, taking into account opportunities for technical assistance as provided for in the Agreement."

TRIPS Agreement – Article 70.9

"For purposes of the requirement to grant exclusive marketing rights during transition periods, it is understood that there is a clear distinction between "patent rights" on the one hand and "exclusive marketing rights" on the other. Patent rights are set out in Article 28 of the TRIPS Agreement. Exclusive marketing rights are not the same as patent rights. Members have the right to define exclusive marketing rights, so long as the definition accords with the meaning of the term in the TRIPS Agreement as interpreted under the rules of public international law. There is no requirement to grant exclusive marketing rights unless marketing approval is granted in that WTO Member for which exclusive marketing rights is sought."

Understanding on Rules and Procedures Governing the Settlement of Disputes – Article 8.10

"Pursuant to Article 8.10 of the DSU, the General Council agrees that in disputes between a developing country Member and a developed-country Member, at least one panellist shall be from a developing country Member, unless the developing country Member party to the dispute waives this right."

Decision on Measures in Favour of Least-Developed Countries – Paragraph 2 (v)

"The General Council agrees that the WTO through its participation in the Integrated Framework and JITAP and other relevant institutions will work to ensure that supply-side constraints of the LDCs are identified in the Diagnostic Trade Integration Studies (DTIS) and are addressed in the implementation and follow-up taking into account the specific circumstances of each beneficiary country. The General Council also instructs the Sub-Committee of the LDCs to undertake a biennial review of the implementation of the DTIS and to monitor the possible impact of assistance that is targeted towards the diversification of exports from LDCs, including through comparing the composition and concentration of LDCs' export structures over time and across LDCs and through the establishment of other relevant indicators."

Rules Relating to Notification Procedures

"Recognizing the practical difficulties faced by least-developed country Members in abiding fully by their notification obligations, the General Council instructs the Sub-Committee on Least-Developed Countries to examine possible improvements to the notification procedures for least-developed country Members, taking into account the experience regarding Secretariat produced reports that helped fulfil some of these requirements. In conducting its examination, the Sub-Committee shall seek the input of relevant WTO bodies, which may be in a position to advise on practical means for improving the notification procedures in relation to least-developed country Members, for example the possibility of longer timeframes, specified exemptions and simplified procedures for notifications, and cross-notifications. The Committee on Trade and Development shall forward the Sub-Committee's report to the General Council by 31 December 2003 for appropriate action."

Enabling Clause¹

"The General Council agrees that in formulating schemes under paragraph 2(a), (b) and (c) of the Enabling Clause, and in furtherance of paragraph 3 thereof, developed-country Members will take into account, among other factors, the needs of developing and least-developed country Members [and consult with them] with a view to ensuring that their products of export interest are accorded meaningful market access. The Committee on Trade and Development will annually review the progress made in this regard and report to the General Council with recommendations, if any."

[Review of Progress on Market Access for Least-Developed Countries]¹

"We recall paragraph 2(d) of the Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries, and Members' commitment to the objective of duty-free, quota-free market access for products originating from least-developed countries, as contained in paragraph 42 of the Doha Ministerial Declaration. The General Council agrees to review the progress made in providing access to the least-developed countries on the above basis."

Decision on Measures in Favour of Least-Developed Countries – Paragraph 2 (ii)¹

"Without prejudice to the binding commitments that may result from work under Paragraphs 13, 16 and 42 of the Doha Ministerial Declaration, and building upon our commitment in the Doha Ministerial Declaration, Members shall continue to expeditiously pursue the objective of duty-free and quota-free market access for products originating from [all] least-developed countries in a manner that ensures security and predictability. We urge Members to adopt and implement rules of origin so as to facilitate exports from least-developed countries."

¹ These proposals have been agreed to *ad referendum*.

Annex D

Relationship between Trade and Investment

1. The objective of the negotiations shall be to establish an agreement to secure transparent, stable and predictable conditions for [long term cross-border investment, particularly foreign direct investment][foreign direct investment], that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area. Any agreement will reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of the host government as well as their right to regulate in the public interest.
2. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations.
3. The Chair of the Negotiating Group on Investment shall hold the Group's first meeting within one month from the date of this decision. The Chair of the Negotiating Group shall conduct the negotiations with a view to presenting a draft text by no later than [30 June 2004].
4. On the basis of paragraph 22 of the Doha Ministerial Declaration and the work done thus far under the Working Group on the Relationship between Trade and Investment, the multilateral framework shall include the following elements:
 - Scope and Definition ([long-term cross-border investment, particularly FDI][Foreign Direct Investment]);
 - Transparency;
 - Non-discrimination (MFN and NT with limited exceptions);
 - Pre-establishment commitments based on a GATS-type, positive list approach;
 - Exceptions and balance-of-payments safeguards;
 - Consultations and the settlement of disputes between Members (investor to state dispute settlement mechanisms shall not be included);
 - Special and Differential Treatment for developing and least-developed country Members including flexibility regarding transparency obligations, commitments (NT, MFN and pre-establishment commitments) and transition periods, as necessary;
 - Provisions as necessary to clarify the relationship between this Agreement and relevant WTO provisions;
 - Provisions to clarify the relationship between this Agreement and existing bilateral and regional arrangements on investment;
 - Other issues that participants may wish to put forward.
5. Recognizing the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development, we shall work in cooperation with other relevant intergovernmental organizations, including UNCTAD, and through appropriate regional and bilateral channels, to continue to provide strengthened and adequately resourced technical assistance and capacity building to respond to these needs during the negotiations and after their conclusion.

Annex E

Interaction between Trade and Competition Policy

1. Negotiations on a multilateral agreement on trade and competition policy shall be based on the elements contained in paragraph 25 of the Doha Ministerial Declaration and on the work undertaken in the Working Group on the Interaction between Trade and Competition Policy. The objective of the negotiations shall be to establish an agreement to secure better and more equitable conditions for international trade, by facilitating effective voluntary cooperation on anti-competitive practices which adversely affect international trade, in particular hardcore cartels which have an impact on developing and least-developed countries' economies, and assisting WTO Members in the establishment, implementation and enforcement of competition rules within their respective jurisdictions. The negotiations will not deal with state-to-state arrangements that limit competition or with practices implemented pursuant to such arrangements.

2. The provisions of the agreement will be drafted in such a way that individual decisions of national competition authorities shall not be subject to challenge or recommendations under the WTO dispute settlement system. The principle of non-discrimination will apply only to laws, regulations and guidelines of general application. The principle of procedural fairness will respect the legal and judicial systems of each WTO Member. Consideration shall also be given to the inclusion of a possible peer review mechanism.

3. We reaffirm that full account shall be taken of the industrial policy, social policy and other needs of developing and least-developed country participants and appropriate flexibility provided to address them. The right of all Members to implement exceptions or exclusions from the application of national competition laws on the basis of transparent domestic legal processes will be safeguarded. Transition periods for implementation of the agreement by developing countries and least-developed countries shall apply.

4. Recognizing the needs of developing and least-developed countries for improved support for technical assistance and capacity building, we shall continue to work to provide adequate technical assistance and capacity building during the negotiations and after their conclusion. In this respect, no later than the end of 2003, a meeting will be convened to start a collaborative effort with other international organizations, including UNCTAD, the World Bank, the OECD and others, in order to begin to identify and assess needs related to capacity building to assist in the implementation of the results of the negotiations.

5. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after this Session of the Ministerial Conference, the Trade Negotiations Committee shall establish a Negotiating Group on Trade and Competition Policy and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.

Annex F

Transparency in Government Procurement

1. The objective of the negotiations will be to establish a multilateral agreement on transparency in government procurement. Negotiations will be based on paragraph 26 of the Doha Ministerial Declaration and will build on the progress made in the Working Group on Transparency in Government Procurement, in particular the 12 issues identified by the Chair.
2. Negotiations shall be limited to transparency only and will include special and differential treatment for developing and least-developed country Members, including flexibility regarding the extent of commitments and transitional periods as necessary.
3. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after this Session of the Ministerial Conference, the Trade Negotiations Committee shall establish a Negotiating Group on Transparency in Government Procurement and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.
4. Participants shall submit their initial negotiating proposals for transparency in government procurement by [31 January 2004]. The Chair of the Negotiating Group shall conduct the negotiations with a view to presenting a draft text by no later than [30 June 2004]. Other organizational issues, including the number and timing of meetings of the Negotiating Group, shall be determined at its first meeting or as necessary thereafter.
5. Recognizing the needs of developing and least-developed countries for improved support for technical assistance and capacity building, we shall continue to work to provide adequate technical assistance and capacity building during the negotiations and after their conclusion.
6. No later than the end of 2003, WTO Members will convene a meeting devoted to starting a collaborative effort with other international organizations, including the World Bank, UNCTAD, and others, in order to begin to identify and assess needs related to capacity building to assist the implementation of the results of the negotiations.

Annex G

Trade Facilitation

1. Negotiations shall aim, by clarifying and improving relevant aspects of GATT Articles V, VIII and X of the GATT 1994, at the establishment of an agreement to further expedite the movement, release and clearance of goods, including goods in transit.
 2. In the case of developing and least-developed countries, it is agreed that their implementation capacities shall be an important factor to take into account in the negotiations. The negotiations shall also take fully into account the principle of special and differential treatment for developing and least-developed countries.
 3. Recognizing the needs of developing and least-developed countries for enhanced technical assistance and capacity building in this area, Members commit themselves to ensuring adequate technical assistance and support for capacity building in this area both during the negotiations and after their conclusion.
 4. In order to make the process of identification and assessment of needs related to technical assistance and capacity building effective and operational and to ensure better coherence, a collaborative effort shall be undertaken with other international organizations, including the World Bank, IMF, UNCTAD and the WCO, in this regard.
 5. Due account shall be taken of the relevant work undertaken by other international organizations in this area.
 6. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after this Session of the Ministerial Conference, the Trade Negotiations Committee shall establish a Negotiating Group on Trade Facilitation and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.
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