

**Trade Negotiations Committee**

**REPORT BY THE CHAIRMAN OF THE TRADE NEGOTIATIONS COMMITTEE  
TO THE GENERAL COUNCIL**

The following report is being made by the Chairman of the Trade Negotiations Committee, on his own responsibility, to the General Council at its meeting on 29 July 2005. This report is not intended to be a document for negotiation or discussion in its own right. Rather, it is intended to aid reflection during the summer recess, to suggest a focus for the intensive work in the autumn, and to help participants along the critical path to the Sixth Ministerial Conference to be held in Hong Kong, China in December 2005.

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**I. INTRODUCTION**

I would like to start by recalling the Decision adopted by the General Council on 1 August 2004, which, within the overall Doha mandates, provided the basis of the work that the TNC and the bodies established by it have been undertaking since last summer. This basis was at differing levels of detail across the negotiating agenda. In some areas, frameworks were agreed for establishing modalities. In other areas, Members' commitment to progress was reaffirmed. In addition, negotiations were launched on Trade Facilitation. Most importantly, emphasis was given to the Members' resolve to complete the Doha Work Programme fully and to conclude successfully the negotiations launched at Doha. This is the overarching goal towards which we have all been working since last July.

The focus of my present report, at the eve of the summer break, is to look at how far we have come towards that goal and how far we have yet to go. I would also like to make some suggestions as to how I believe Members can achieve it.

I would also like to underline the enormous amount of effort which has been put into the negotiations in the first half of this year. I would first like to pay tribute to the constant support I have been able to count on from the General Council Chairman, Ambassador Amina Mohamed. Her dedication to moving the negotiations forward during this very important period has been invaluable, and I believe the process has benefited from the close level of coordination that we have developed. I would also like to offer my sincere thanks to the Chairpersons of the negotiating groups. Quite clearly, their efforts as Chairs to lead participants through the complicated process of the vast amount of technical work which has been accomplished deserve to be recognized. Finally, let me thank the participants. All officials from all delegations with whom I have had the honour of working have shown a high degree of professionalism and commitment to the multilateral trade negotiations. I am most grateful for that.

Indeed, a vast amount of work has taken place over the last six months. The negotiating groups have met formally with increasing frequency as we have neared this mid-year marker. The TNC has maintained its oversight role, meeting formally on four occasions. These formal meetings

have been complemented by an increasing level of informal activity. I have held informal meetings at the level of Heads of Delegations on three occasions, as well as a good number of consultations in various formats. I have also held regular coordination meetings with the negotiating group Chairs, which have also benefited from the presence of the General Council Chairman. We have also been fortunate to have a significant level of interest from Ministers, who have met in different groupings during this period. These meetings, such as the recent LDC Ministerial Meeting in Zambia, the meeting of Ministers of Trade of the African Union, the meeting of APEC Trade Ministers and the meeting of OECD Ministers, have provided our process in Geneva with solid support. In other gatherings, including meetings of Ministers from groupings such as the G33, the G10, the G20 and the Cairns Group and those sometimes referred to as mini-Ministerial meetings, have focused on specific issues in the negotiations in an attempt to inject impetus into our work.

In the early part of this year, we set ourselves targets looking forward to Hong Kong and beyond. As I had announced at the TNC meeting in December 2004, I undertook a process of collective reflection in January and February of this year, which involved consultations covering the broad spectrum of the membership. From this process and from a gathering of some Ministers in Davos, it quickly became apparent that there was a strong desire to keep ambitions for Hong Kong high, so that the results from that Conference would take us into the end-game of the Round. I sensed the commitment on all sides, and I still sense it, to work towards an ambitious outcome so that the Round could conclude in 2006.

Let me recall that we started the year with a high level of convergence on the need for a substantial breakthrough in Hong Kong in five key areas. These areas had first been mapped out by a number of Ministers at their gathering in Davos in January, and my subsequent consultations across the broad spectrum of the membership confirmed the importance of such a focus. The areas which I set out at the TNC meeting in February were:

- modalities in Agriculture
- modalities in NAMA
- a critical mass of market opening offers in Services
- significant progress in areas such as Rules and Trade Facilitation, and
- a proper reflection of the Development Dimension.

Hong Kong must therefore set the stage for the final phase of negotiations. For this to happen, Ministers will have to take a number of decisions, notably establishing modalities for Agriculture and Non-Agricultural Market Access (NAMA), and provide the political guidance and impetus necessary for the work to move into the final phase in all areas, respecting the principle of the Single Undertaking.

In my consultations, I also detected a strong sense of commitment at every level to flesh out the frameworks contained in the July 2004 Decision, to strike a balance across all subjects and to ensure that the negotiations contribute to development in a meaningful way, in line with the Doha mandate.

However, I warned at the time that we all had to be aware of the scale of the task this implied, because there were some potentially intractable problems ahead, and we should not underestimate them. I stressed that participants had to get down to real negotiations in all areas, meaning real give-and-take, and that they had to do this immediately. This search for compromise is, after all, what these negotiations are all about. This view has recently been echoed by the President of Rwanda, H. E. Paul Kagame, at our 10<sup>th</sup> Anniversary Symposium in April. He said that "the search for compromises is of paramount importance. And let no one think that flexibility and a predisposition to compromise is a sign of weakness or a sell-out. Rather, it should be seen as a willingness to advance

our common interests, resulting in a win-win situation". President Kagame suggested this should be the message to the G8.

My warning in February and my subsequent warnings about the slow pace of the negotiations do not seem to have been well heeded. At a Ministerial gathering in Paris in May, I warned that, at the current pace, we were not going to make it by July, and possibly not by December, and I urged the Ministers present to take the action necessary so that real progress would be made. However, at the most recent gathering of Ministers in Dalian, China, I had to report that progress remained far from sufficient. I told them I regretted that the warning I gave them in May and those I had given to negotiators in several TNC meetings seemed more valid than ever.

Let me also recall the focus on trade at the recent meeting of the G8 at Gleneagles. I gave them, and other Leaders who were present, a very frank assessment of where we stand. In response, the Leaders pledged themselves to work to increase momentum towards their goal of an ambitious and balanced outcome in the negotiations, which is their highest common priority in trade policy for the year ahead. They called on all Members to work with greater urgency to bring these negotiations to conclusion by the end of 2006. They saw the Hong Kong Ministerial in December as a critical stepping stone towards that goal.

July has been seen by many as a marker date in the process of preparing for Hong Kong when Members should be able to judge whether they are on course for a significant outcome in December. This report is intended to help them to formulate that judgement. It is also intended to bring together the reports and assessments by the Chairs of the negotiating bodies, and to offer a consolidated overview of the state of play in the Round.

## **II. OVERVIEW OF PROGRESS**

I would now like to give you my assessment of progress overall. First, the positive side of the ledger. I am glad to report that our ambitions remain high, as they should do. We have a good level of engagement, both in Geneva, which is the backbone of the negotiations, as well as among Ministers and Senior Officials when they gather around the world. Much useful work has been done to clarify options and build understanding. The political choices in key areas such as Agriculture and NAMA are now clearer. Some problems, like the issue of *ad valorem* equivalents (AVEs) in Agriculture, have been resolved – even if belatedly. In some areas which do not usually attract as much attention, like Regional Trade Agreements, the progress so far this year has been genuinely encouraging.

I regret that the negative side of the ledger outweighs the positive. My frank assessment is that we have a long way to go to achieve the goals I recalled earlier. The fact is that since July of last year, the progress made has been insufficient. Most often, the progress we have been able to make in the key areas, even on what should be the less difficult issues, has been at a high cost in terms of the time and negotiating resources it has taken. The AVE issue is a good example of this – we lost some months trying to resolve this "gateway" issue, and now that it is unblocked, it still remains difficult to advance the negotiations on the most fundamental element of the agricultural market access package, the tiered formula for tariff cuts. This delay has cost us any hope of agreeing on a "first approximation" of modalities in Agriculture by the end of July, and it has slowed progress on other sectors as well.

From the overview of the individual areas of the negotiations I will now give, it can be seen that the advances are uneven across the different negotiating areas, and progress within specific areas has been sporadic. Throughout 2005, we have enjoyed a good level of political impetus into our work in Geneva, with Ministers meeting on several occasions, but we appear to have had a problem turning

this impetus into real and steady progress in our work. At times, it has even appeared that we have backtracked on the advances made when some Ministers have met.

Let me now turn to the individual negotiating areas. First, **Agriculture**<sup>1</sup>. The objective for Hong Kong is to establish modalities for the further commitments in the areas of market access, domestic support and export competition. The Doha mandate and the July 2004 Framework have been, and will continue to be, the basis for the preparatory work. While over the past months Members have engaged in a very intense process of consultation and negotiation, progress to date has been clearly insufficient so as to be on schedule on our way to Hong Kong.

Having said this, I wish to recognize that over the past couple of weeks major players have come forward with concrete and specific proposals in all areas under negotiation. These are valuable inputs. What has been hampering our work in Geneva is not so much a dearth of ideas but a certain reluctance on the part of key players to engage in real negotiations on the proposals put on the table. This must change and it must change immediately.

The shared political commitment by the Ministers participating in the Dalian meeting to accelerate the negotiations has been a very welcome input to generate momentum as has been the agreement to proceed, in the market access and domestic support pillars, incrementally to negotiate structure, without prejudice to the final outcome of the whole package. What is now required is determined follow-up on the ground in Geneva, taking cross-linkages firmly into account.

At this stage, market access is the area in most urgent need of movement. In his recent Assessment the Chairman of the negotiations on Agriculture has clearly identified where, as an initial step, we must get convergence now: the structure of the tiered formula for tariff cuts coupled with further elaboration of certain flexibilities, in particular the selection and treatment of sensitive products and of Special Products (SP). At last many participants are beginning to acknowledge the need to abandon long held positions and to move to the middle ground among the various formulations which have been proposed. Action must follow.

Settling the structure of the tiered formula is not only important in its own right, but also because it is the pre-condition for any meaningful attempt to sort out the many other issues in the market access pillar. They include a wide range of politically sensitive and technically complex matters such as the new Special Safeguard Mechanism in favour of developing countries (SSM), tariff escalation, tariff simplification, tariff quota administration, preference erosion and tropical products.

Significant further progress is also urgently needed in domestic support and export competition. In domestic support, the next logical step to be achieved is convergence on the structure of the reduction commitments, particularly with respect to the tiered formula for reductions of the Final Bound Total AMS. On Blue Box criteria, we must move quickly when negotiations resume to make progress. While the review and clarification of the Green Box may take some time, early progress on the proposals on the table aimed at making this Box more development-friendly could be another important ingredient in generating dynamism in the negotiations.

In export competition, while export credits will also require further work, the immediate focus should be on further elaboration of parallelism with respect to exporting state trading enterprises and food aid. On exporting state trading enterprises, prominence at this stage should be given to detailing the trade-distorting practices to be eliminated in parallel with all other forms of export subsidies and the scope of entities to be covered. Subsequently, the issue of the future use of monopoly powers will have to be negotiated, taking duly into account the Framework provision regarding state trading

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<sup>1</sup> The Chairman of the Special Session of the Committee on Agriculture has circulated his assessments of the state of play in the Agriculture negotiations in the following documents: Job(05)/126 and Job(05)/163.

enterprises in developing-country Members. As for food aid, it must be made absolutely clear that the new disciplines under negotiation to prevent commercial displacement will not in any way compromise the provision of genuine food aid. This should not be difficult because it is common ground among Members. The differences begin on the question where to draw the line at which genuine food aid ends and commercial displacement begins. The future work in this area should focus, in the first instance, on alleviating the key concerns of recipient countries by developing rules for a safe harbour, especially with respect to emergency food aid.

As agreed in Doha, operationally effective and meaningful provisions for special and differential treatment in favour of developing-country Members will have to permeate all areas under negotiation and will have to be progressively developed as the negotiations proceed. Non-trade concerns will have to be taken into account as stipulated in the Doha mandate.

A final word on the important matter of Cotton. As agreed last July, the trade aspects of this issue are to be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. Substantive progress on both the trade and development aspects has been and remains an imperative for a successful meeting in Hong Kong.

Work on the trade aspects in the Sub-Committee on Cotton is now well underway and has seen the tabling of an ambitious proposal by the African Group on elements of modalities in connection with the Sectoral Initiative in favour of Cotton.

Important developments are also being registered from other Members, including the proposal by the European Communities to fast track discussions and "front load" the implementation of an agricultural deal with respect to cotton, and information from the United States on recent steps taken to remove the subsidies which, in the recent Cotton dispute with Brazil, had been ruled to be inconsistent with its obligations under the Agriculture and Subsidy Agreements.

While differences remain, there is a clear recognition of the need to advance the agriculture negotiations with cotton in mind. All Members have noted with care the urgency and the special significance of cotton and are trying to identify ways of meeting the concerns of African proponent countries and other cotton producing developing countries.

With regard to the development assistance aspects of Cotton, I initiated immediate action for the implementation of these aspects of the cotton-related decisions in accordance with the July 2004 Decision. The principal parties agree that there is positive evolution and concrete progress, although much remains to be done. Bilateral donors and the relevant multilateral institutions have moved expeditiously to clearly reflect cotton sector priorities in their programmes with active implementation now underway. Proponent countries have also demonstrated speed and commitment with on-going domestic reform efforts. Their priorities are now reflected in their Poverty Reduction Strategy Papers (PRSPs). At the same time, I am conscious that much remains to be done. Bilateral donors, agencies and the proponents need to step up their coordination efforts. Furthermore, the continuing decline and volatility in cotton prices warrant urgent responses through the design and implementation of commodity price stabilization schemes, enhanced productivity and efficiency within the overall framework of domestic reform in the cotton proponent countries and continuing efforts to increase complementarity between the trade and development aspects of the Cotton issue in the Doha negotiations.

Let me now turn to **Non-Agricultural Market Access (NAMA)**. Here, the objective for Hong Kong is to establish modalities for the reduction or, as appropriate, the elimination of tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, on non-agricultural products. This should be done in a way that fully takes into account the special needs and interests of developing and least-developed country participants, including through less than full

reciprocity in reduction commitments. Paragraph 16 of the Doha Ministerial Declaration and the July 2004 Framework have been guiding the intensive discussions taking place in this area. Unfortunately, like in Agriculture, and probably because of it, progress has been insufficient and much remains to be done before Ministers depart to Hong Kong.

One of the main problems we have been facing in this area is that some Members do not want to discuss numbers without first having a defined structure, while other Members have problems discussing the structure without first having the numbers. This "chicken and egg" situation has been impeding progress. Clearly, it is not possible to advance on any issue if every single detail is kept variable. This vicious circle can only be broken if Members proceed with the necessary conditional trust and show a genuine willingness to negotiate.

It would be unfair to say all this without admitting that the developments of the last week have given me some hope. Maybe we are not where we thought we would be at this stage, but it is also true that some progress has been made in areas where Members have managed to translate the political will expressed by Ministers at Dalian into pragmatism in Geneva. Although not achieving any breakthrough this week, the positions on some key areas seem to be closer. There also appears to be a general understanding of the need to leave only a bare minimum of decisions to be taken by Ministers at Hong Kong. We cannot expect them to solve all the details in all the areas in such a short period of time, and I perceive a genuine interest from the Members to work with a view to avoiding such a situation. Indeed, adequate preparatory work should urgently be carried out in the coming months. So, the question is how best to move forward.

On 8 July, the Negotiating Group Chairman circulated a detailed commentary<sup>2</sup> describing the work that has been undertaken on the various elements of the NAMA framework, as well as his assessment on the state of play. He has also recently circulated an additional text<sup>3</sup> supplementing his commentary and giving his views on how to move forward. Rather than speaking about all the issues detailed therein, I would like to focus on the two most critical issues: the formula and the treatment of unbound duties.

At this stage, the formula is the element where movement is most urgently needed. Setting its structure is not only important in itself, but also because many other important issues revolve around it. Like many of you, I was expecting to be able to have a consensus on the structure of the formula by now, but we are not there yet. On the other hand, it would appear that we are not too far away from it. To make progress on this issue, it is essential to move away from the "chicken and egg" situation that I mentioned before. One interesting aspect is that divergences seem to be mainly related to the balance between the level of ambition and the flexibilities, rather than the structure of the formula itself. The Chairman has suggested that the way out of this situation is to engage as soon as possible on the actual numbers, and I fully endorse that. A balance between ambition and flexibilities will only be found if we go deep into the numbers and engage in real discussions and trade-offs. This number crunching exercise should also lead us to a deeper understanding of the concerns and expectations of the different Members and, most importantly, will ensure that political masters are duly prepared when the time for final decisions come.

There has been some movement with respect to the treatment of unbound duties. We seem to have increasing convergence around the use of a non-linear mark-up approach. This is, of course, on the understanding that a pragmatic, equitable, solution is found to deal with the sensitivities of some Members concerning unbound tariffs at low applied rates. However, we should not forget that we also need to bring on board other Members who have sensitivities concerning their unbound tariffs at

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<sup>2</sup> Contained in document Job(05)/147.

<sup>3</sup> Contained in document Job(05)/147/Add.1.

high applied rates. Solving this issue would constitute a big step forward and should clear the way for better discussions on the formula.

Although many of the other technical issues require considerable work, I believe the immediate focus should be on solving the issues of product coverage and the calculation of *ad valorem* equivalents. Ministers at Dalian expressed their determination to deal with them expeditiously, and an early harvest on them will certainly demonstrate that we are here to do business. As I said before, we need to clear the path on as many issues as we can in order to concentrate on as few issues as possible in Hong Kong. To conclude, I cannot stress enough the need to translate good political will into practical consensus in Geneva. We need to multiply our efforts in this area which represents almost three quarters of the world trade in goods.

Turning now to **Services**<sup>4</sup>, I am pleased to report that the pace of the services negotiations has shown moderate signs of improvement, which is reflected in the number of initial and revised offers submitted over the past two months. So far, 68 initial and 24 revised offers have been submitted. The May date for the submission of revised offers has motivated governments who had not submitted initial offers to do so. During the two months of May and June, 16 initial offers were submitted. Adding the 24 revised offers, the total number of all offers submitted during the last two months is 40. Considering that the total number of offers submitted in the first two years was 50, it could be said that the pace of submitting offers has recently picked up.

Notwithstanding the improvement in the numbers of offers, it is widely acknowledged that the overall quality remains unsatisfactory. Few, if any, provide new business opportunities to service suppliers. Most Members feel that the negotiations are not progressing as well as they should.

At the last meeting of the Special Session, Members were invited to express in specific terms their aspirations in these negotiations. The discussion was extremely useful in clarifying what participants are aiming at, on a sector-by-sector and modal basis and through the identification of the main barriers and/or issues that need to be addressed. There were also interests expressed in relation to specific modes of supply. Annex 1 to the report by the Chairman of the Services Special Session contains an account of such interests expressed by Members individually. However, given the nature of the request/offer process, the overall expectation should be that the final outcome of the market access negotiations on services will include commitments by a critical mass of Members in each of the sectors and modes of supply identified. The ultimate test will be the final acceptability of the package to all Members.

Let me recall that GATS Article XIX sets out that these negotiations are being conducted with a view to achieving a progressively *higher* level of liberalization. In other words, Members should be contemplating real policy and regulatory reforms leading to market opening.

In the negotiations on rule-making in Services, some progress has been on Domestic Regulation. However, I understand that there is a need to intensify the work in the other rule-making areas and I suggest that consultations should be held in this regard.

There is obviously a tremendous amount of work that needs to be accomplished after the summer break and I would strongly encourage participants in the Special Session to accelerate their activities significantly in the run up to Hong Kong.

Let me now turn to the **Negotiating Group on Rules**. There can be no doubt that a substantial result in Rules is one of the pillars of a successful DDA. While the area of anti-dumping is

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<sup>4</sup> The report by the Chairman of the Special Session of the Council for Trade in Services is contained in document TN/S/20 and a paper on the Organization of Future Work is contained in document Job(05)/164.

of course critical, the other issues such as subsidy disciplines including fisheries subsidies, and regional trade agreements, must also make their contribution to the overall balance. To this end, the Rules Negotiating Group has substantially intensified its work this year. Regarding issues relating to the Agreements on Anti-Dumping and Subsidies and Countervailing Measures including fisheries subsidies, the Group's plenary formal and informal processes have been supplemented with bilateral and plurilateral consultations convoked by the Chairman, which work on the basis of "third generation" submissions proposing *specific changes* to Agreement text. The objective of the consultation process is to help to identify areas of particular and salient interest to participants and to encourage a concrete and precise discussion involving real engagement with a view to identifying solutions. This will give the Group the most realistic sense of areas in which some progress may be possible, and of the types of changes that might be acceptable to different Members.

Between now and Hong Kong the Group must, as indicated in the Chairman's report<sup>5</sup>, further develop, intensify and supplement this plurilateral consultation process, with political level input as necessary. The process should be sharpened by limiting work to precise textual proposals to improve the Agreements on Anti-Dumping and on Subsidies and Countervailing Measures. An intense and rigorous process is needed to ensure that in Hong Kong we will have a solid basis for the final stage of the Round. In this regard, I have noted the call by the Co-Chairs of the Dalian mini-Ministerial for text-based negotiations to begin as soon as possible, at the latest from Hong Kong onwards.

On the other track of work in the Rules Group, namely RTAs, a draft "decision text" for a new process to improve RTAs transparency has been developed by the Chairman on the basis of intense informal debate within the Group. The technical work on transparency is near completion, though detailed drafting and a few refinements are still needed, in particular on statistics and how to deal with RTAs presently under "examination" in the Committee on Regional Trade Agreements. However, there are still divergences on the application of the new process to RTAs notified under the *Enabling Clause*. On systemic RTA issues, discussions have only recently gained momentum, following the tabling of some specific submissions. I understand that the debate, though attracting a lot of interest, has so far remained rather academic.

The negotiations on **Trade Facilitation** are progressing well and are on schedule<sup>6</sup>. The aim is to produce all the main elements of an agreement on Trade Facilitation for political endorsement by Ministers in Hong Kong, and to complete the negotiations through legal drafting in 2006. I would urge participants to make every effort to maintain the good atmosphere which has prevailed in these negotiations so far.

The first phase of the negotiations has involved tabling proposals on GATT Articles V, VIII and X, with the aim by July of having as clear a picture as possible of the scope of these negotiations. The result has been very positive, with about 35 proposals to date. More are expected to come in before the summer, but delegations should already have a clear idea of the level of ambition that the proponents are aiming for. I would note that developing countries have participated actively, with 13 of them sponsoring or co-sponsoring about half of the proposals on GATT Articles. Reactions by developing countries to the proposals on GATT Articles have been generally very constructive. They indicate that serious attention is being given to these negotiations in capitals, although at this stage not much is being given away about how acceptable the proposals might eventually turn out to be.

The main challenge in Hong Kong will be to strike the right political balance between the level of ambition and the degree of political commitment to policy reform that will be acceptable in an eventual agreement. Special and differential treatment and support for capacity building will be

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<sup>5</sup> Contained in document TN/RL/13.

<sup>6</sup> The report by the Chairman of the Negotiating Group on Trade Facilitation is contained in document TN/TF/2.



important in that regard, and will need to be a particular focus of attention this autumn since an insufficient number of proposals have been tabled so far on these issues. I believe that most developing countries are not looking for a free ride in these negotiations – they appreciate the economic and commercial benefits that improved Trade Facilitation rules and procedures can bring them – but many of them will need time and technical and financial support to implement reforms domestically.

Turning now to the **Environment** negotiations<sup>7</sup>, of the three areas covered by the paragraph 31 mandate, there has been substantial engagement this year on paragraph 31(iii). The focus on paragraph 31(iii) was without prejudice to other parts of the mandate, to which Members remained fully committed. Under paragraph 31(iii), meaningful progress would need to be made in the coming months for any results to be achieved by the Hong Kong Ministerial Conference. While numerous submissions have been tabled by Members, including nine lists of environmental goods, there continues to be some divergence of views in the Special Session of the Committee on Trade and Environment on the overall approach to these negotiations; in other words, on whether to pursue a "list-based approach", a "project approach", or a combination of the two. Also, undoubtedly, the pace of these negotiations is tied to developments in other negotiating groups, and in particular to the NAMA negotiations. However, such linkages should not prevent progress from being made in defining the concept of an "environmental good" based on the submission before the Special Session. In these negotiations, it would also be vital to identify environmental goods that are in the export interest of developing-country Members, whilst bearing in mind the potential for these negotiations to deliver "environmental" as well as "trade" gains. I am hopeful that the intensification of the Special Session's work after the summer break will lead to tangible progress on paragraph 31(iii).

In the **TRIPS** negotiations<sup>8</sup>, I understand that since the beginning of this year, there has been evidence of an increased level of activity in the Special Session, with the tabling of two submissions setting out the proposals of the main protagonists in legal language. This has been useful in clarifying to Members the thinking and proposals of the proponents of these documents. There also remains on the table a third proposal, submitted by Hong Kong, China. However, positions remain as divided as ever, especially on the two key points of difference, namely those of legal effects and participation.

While there may be scope within the framework of the Special Session for fruitful work of a technical nature on some aspects in the coming months, any progress on the key issues will require an input of significant new flexibility on the part of delegations.

With regard to the **DSU negotiations**, the work is progressing at a satisfactory pace for now, as reflected in the Chairman's report to the TNC<sup>9</sup>. In his report, the Chairman has indicated that the process will be intensified in the second half of the year with a view to presenting the results of the Special Session's work to Ministers in Hong Kong with the aim of making a positive contribution to the Ministerial Conference, even if these negotiations are not part of the Single Undertaking. Of course, the emphasis in this work must continue to be on Member-driven efforts, and I would urge delegations to continue to work constructively on the basis of the "bottom-up" approach actively promoted by the Chairman.

I would now like to emphasize the importance of the **Development Dimension**, which is to a great extent the *raison d'être* of the Round and which must permeate all of the areas I have mentioned above. I think we are all aware that if we want the WTO to work properly as an engine for growth

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<sup>7</sup> The report by the Chairman of the Special Session of the Committee on Trade and Environment is contained in document TN/TE/12.

<sup>8</sup> The report by the Chairman of the Special Session of the TRIPS Council is contained in document TN/IP/13.

<sup>9</sup> Contained in document TN/DS/12.

and development, it is indispensable that we conclude the Round successfully. The potential for tangible development gains from these negotiations is real and attainable. Market access is of course a central component – if developing countries are to alleviate poverty and integrate themselves into the global economy, we know that more must be done to remove the barriers faced by their exports of goods and services. However, developing countries must also take advantage of the opportunities the Round offers to benefit from opening up their own trade regimes, including to other developing countries.

We must ensure that the results of our negotiations embody balanced rules, together with adequate technical assistance and capacity building to help developing countries implement the new agreements. Our approach here must be, above all, pragmatic. Strengthened coherence with other international organizations must also play its part, not only in the adjustments which will be necessary for many countries, including those which might suffer from erosion of preferences, during the implementation phase, but also during the negotiations themselves. We need to see serious new commitments in this regard, and not just the repackaging of existing programmes. The aim must be to address supply-side constraints which have prevented developing countries from increasing and diversifying their exports.

Other elements of the Doha Development Agenda also have a specific development focus, although they lay outside the Single Undertaking of the negotiations. These include the Work Programmes on Small Economies, Trade Debt and Finance and Trade and Transfer of Technology. These are valuable components of our work since Doha, and I am sure that progress in these areas will facilitate the successful evolution of the negotiations. In the Work Programme on Small Economies, I would note that there is a strong degree of dissatisfaction among some Members at the lack of progress made so far.

Provisions for special and differential treatment (S&D) are recognized to be an integral part of the WTO Agreements, and it is clear to all of us that the new agreements at the end of the Round will fully respect this principle. The treatment of S&D in the July package last year helped us to move ahead in the negotiations more generally. In a number of areas, clear signals have already been given of Members' intentions with respect to treatment of least-developed countries. I believe more can be done in this respect, even perhaps at Hong Kong, in particular with regard to the predictability of their market access.

Let me now focus specifically on **Special and Differential Treatment**<sup>10</sup>. In the July 2004 Decision, Members instructed the Committee on Trade and Development in Special Session to expeditiously complete the review of all outstanding Agreement-specific proposals and report to the General Council with clear recommendations for a decision, by July 2005. Members also instructed the Special Session to address all other outstanding work, including the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, and report, as appropriate, to the General Council. Furthermore, the WTO bodies to which Category II proposals had been referred were asked to expeditiously address those proposals and report to the General Council with clear recommendations for a decision no later than July 2005.

Over the past year, work on S&D has continued on the basis of the July Decision and within the parameters of paragraph 44 of the Doha Ministerial Declaration and paragraph 12 of the Decision on Implementation-Related Issues and Concerns. In an attempt to make substantive progress, Members have considered different approaches to the work on S&D, including by looking at the underlying developmental issues that the proposals were seeking to address and then discussing the proposals on the basis of a possible categorisation into thematic clusters. A conceptual approach was

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<sup>10</sup> The report by the Chairman of the Special Session of the Committee on Trade and Development is contained in document TN/CTD/12.

put forward in the Special Session along these lines, but Members were not able to agree on its modality. Nevertheless work did start by taking up the remaining LDC proposals as a matter of priority.

I acknowledge the work that Members have been carrying out on the LDC proposals over the past few months in an endeavour to finalise a possible package for the LDCs by July. Members seem to recognise the need to provide support to the LDCs and have expressed their commitment to finding solutions to the development challenges faced by the LDCs. I get a sense that, while Members agree that it is important to provide the LDCs with a certain degree of flexibility and assistance in implementing the WTO Agreements, there continues to be a difference in perception about the nature and extent of this flexibility. Clearly, Members will need to address these differences if further progress is to be made on the LDC proposals. In this connection, let me reiterate my call to provide the LDCs with predictability and security through duty and quota free market access.

Even after addressing the LDC proposals, a lot of work will still remain to be done. Members would need to continue to engage seriously in addressing the remaining work if substantive progress is to be made by the Hong Kong Ministerial Conference. They will need to address the remaining Agreement-specific proposals which are still on the table and which represent key concerns to a number of developing-country Members. There is also a need to address the outstanding issues, including the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules. The negotiating bodies and other WTO bodies to which certain Agreement-specific proposals have been referred, will also need to address these proposals with a renewed sense of urgency and ensure that concrete progress is made by Hong Kong.

What remains fundamentally important in moving forward on S&D is for Members to convert their commitment towards solving the problems faced by developing and least-developed countries into tangible and meaningful results. Not making any progress in this area will give credence to those who question the developmental thrust of the Round and could set back our efforts to further integrate developing and least-developed countries into the multilateral trading system.

I would lastly like to make some remarks about **Implementation**, where under the terms of the July 2004 Decision, I have been undertaking consultations in my capacity as Director-General. In fact, my work on implementation started at the end of 2002, when the outstanding paragraph 12(b) issues came to the TNC for appropriate action, in line with the Doha Ministerial Declaration. Since then, I have been consulting on these issues, at the request of Members, and using a variety of approaches.

Throughout my work on these issues, I have explored not only procedural solutions, but also substantive ones, in line with the agreement by Ministers in Doha on appropriate action. I have repeatedly made suggestions on possible approaches which I hoped would help move the process forward, most notably in the areas of Balance of Payments, Safeguards, Technical Barriers to Trade and TRIPS.

In line with the July 2004 Decision, I have reported in detail to the TNC at the start of its July meeting on my consultative processes since the adoption of the Decision and I am making the same report separately to the General Council. I do not intend to repeat the details of my report here, but I should stress that it shows that the situation has clearly not evolved significantly since I last reported in May. I believe the reasons for this lack of movement are well-known. Among the outstanding paragraph 12(b) issues on which I have been consulting are some of the more intractable implementation issues. However, I would say that progress on any given issue has remained out of reach due largely, but not exclusively, to the difficult political nature of the treatment of one particular issue – extension of geographical indications (GIs).

In my consultations since July 2004, there have been modest signs in some areas that progress would be possible and in some cases attempts were made to build on the possible approaches I suggested in 2003. However, my assessment is that, as long as the approach to the outstanding issues remains one in which all the issues are linked together, it will not be possible to resolve any of them, even those where a possible outcome might be at hand. In a few cases, I would suggest that the time has come for us all to recognize that we have done as much as we possibly can to move ahead on the content of the original proposal.

I have tried repeatedly to find ways to advance towards the appropriate action that Ministers in Doha instructed the TNC to take, but solutions in that sense have just not been within reach because of the entrenched opposing positions of delegations, in particular on the issue of GI extension. To me, this has been a source of frustration, and I know this is also the case for a number of delegations. In conclusion, I can only repeat my exhortation to all sides to make every effort to allow progress to be made in this area.

### **III. THE CRITICAL PATH TO HONG KONG**

It is vitally important that the level of ambition for the Hong Kong Ministerial remain high across the whole DDA mandate.

It is equally important that we get to Hong Kong well-placed to realize these ambitions. Otherwise not only the chances of finishing the Round in the near future but also the substantive value of the Round itself could be put in question.

This puts a heavy burden on all participants to make the most productive use possible of the very short time remaining in which to prepare the Ministerial. In order to do so, it is essential that the work be tightly focused on resolving key problems which can unlock progress, and that it be organized in a coherent, flexible and effective way.

I would like to emphasize some points concerning each of these considerations.

First, I have already set out some key problems and priorities in specific negotiating areas. Among these I suggest that the following are absolutely necessary to resolve urgently, early after the summer break, in order to unlock progress not only in the area concerned but also across the broader range of the negotiations:

#### **Agriculture**

##### General

- Given that we have both the structure of commitments and an agreed end point in export competition, it is crucial that the Members urgently provide the guidance necessary to have the structure in place for the other two pillars: internal support and market access.

##### Market Access

- The urgent need is for convergence on key elements of the structure of the tiered formula for tariff reductions. Progress here would unlock the negotiation on so many other issues of vital concern to the Members related to market access. Many of them will require much time to elaborate in the September to December period.

### Internal Support

- Here the pressing need is for convergence on key elements of the structure of the tiered formula for cutting trade-distorting support, particularly with respect to the Final Bound Total AMS.
- We also need real progress on the issue of Blue Box criteria and in the review and clarification of the Green Box criteria.

### Export Competition

- We need progress on parallel commitments in Exporting State Trading Enterprises and Food Aid in particular. Additional progress on Export Credits is, of course, also important.

### Cotton

- With respect to the "trade track" of the cotton negotiations, failure to achieve the minimum goals outlined above for the agriculture negotiations would put in jeopardy the mandate for the work of the Cotton Sub-Committee which requires "ambitious, expeditious and specific commitments".
- Given the fall in world prices, urgent development assistance is required in cotton-dependent countries – particularly in the proponent countries where such a huge proportion of their output is sold onto world markets and thus fully exposed to such price variations.

## **NAMA**

- We need to move beyond a debate about the structure of the formula and to actively engage in a discussion of numbers with a view to achieving an acceptable balance between ambition and flexibility for each Member.
- Members should follow up on the recent positive developments with a view to forging a common understanding on the treatment of unbound duties.
- Movement on these two issues will give us the necessary momentum which should be used to tackle effectively the other crucial elements in the NAMA framework and to put together a full modalities package for Hong Kong.

## **Services**

- Members have expressed serious disappointment with the progress of the Services negotiations. The Hong Kong Ministerial will be a crucial occasion for Ministers to issue their final instructions for the conclusion of the Round. We need agreement that the Hong Kong Ministerial should decide on the key elements necessary to produce a satisfactory outcome of commitments that go beyond current levels of liberalization.

- To achieve this, intensified work is required on a wide range of issues, including the following:
  - further identification of expectations by Members in all areas of negotiations,
  - means of intensifying the request-offer process,
  - use of complementary approaches as proposed by Members within the parameters of the GATS and the Negotiating Guidelines,
  - implementation of the Modalities for the Special Treatment for LDCs in the Negotiations,
  - consideration of category II proposals on S&D treatment provisions, and
  - targeted technical assistance.

## **Rules**

- We need more clarity and convergence on what is needed to ensure that all areas of the rules negotiation make sufficient progress by Hong Kong so as to form part of the overall balance that we have all demanded.

## **Development**

### Special and Differential Treatment

- We need to ensure that progress is made on all the remaining Agreement-specific proposals, especially the LDC proposals, and that in that context to effectively address the issues of increased flexibility, market access and capacity building for developing and least-developed countries, as is being sought in the majority of the proposals. In particular, we need to provide LDCs with predictability and security in market access for their products.
- Members also need to agree on what to do with the 28 Agreement-specific proposals that have already been agreed in principle.

There is, to be sure, serious and detailed engagement in practically all of the negotiating groups. Too often, however, this is around the margins of strongly-held positions which show few signs of softening. In previous years it could have been said that we had not yet really begun to negotiate. This has changed for the better since 2004, but we have not yet reached the level of negotiation at which the convergence that opens up the concluding phase can be reached. We must reach that level early this autumn at the very latest.

There is no mystery to the substantive problems in these negotiations. The technical issues have been exhaustively explored, the political choices have been identified and narrowed down. However, being understood apparently does not make them easier to resolve. I am seriously concerned that we are still seeing a tendency towards brinkmanship among negotiators who should know better. Recent experience, most painfully at Cancún, has taught us that a multilateral deal in today's WTO cannot be pushed through by a few Members. This lesson needs to be fully absorbed and acted upon. I made the point to the G8 Leaders at Gleneagles, who understood it fully.

We must bear in mind that the principle that "nothing is agreed until everything is agreed" is the basis of the work we are undertaking, both in the Round overall and in our preparations for Hong Kong. This is at the heart of the Single Undertaking. It is also at the heart of any successful

negotiation, because it gives you as negotiators the freedom to show some possible flexibility in one or other area in order to move the process overall while still protecting your fundamental interests. I very much hope the work from now to Hong Kong will be approached in this spirit.

Secondly, it is important to be clearheaded about process issues. Substance must always drive process, not vice versa. The most carefully-planned process in the world will result in failure if there is not a shared willingness to reach convergence on substantive issues. I urge participants, therefore, not to see the critical path to Hong Kong in terms of the number, location or format of meetings at whatever level, but instead to keep their attention fixed firmly on what needs to be done and the most effective way to do it. This means keeping a flexible and pragmatic approach to the negotiating processes, which will need to make full use of all possibilities for progress. I suggest that it will be easier for participants to do so if it is clear that the fundamental principles of transparency and inclusiveness will be respected fully, and if there is confidence that decisions can only be considered and taken by the membership as a whole. Informal and flexible processes are essential for success, but they must be based upon a sense of community among all participants.

Implementing a substance-driven process requires a close and continuing review of progress and rapid corrective action where necessary. This argues for appropriate checkpoints to be set along the three-month period before the Ministerial. What form these might take and at what level they might be convened is for further consideration. The main thing is to plan a basis on which to review progress and take any necessary action in sufficient time to avoid loading the Ministerial down with unresolved problems.

It seems to me that the first such checkpoint should be no later than mid-October. By then we should expect to have reached, or be very close to reaching, agreement on the key strategic issues I identified above, especially those which will provide the necessary structures – such as tariff-cutting formulas – within which quantified commitments can be made by Ministers at Hong Kong.

I also suggest that as far as possible this important exercise, and indeed all of the remaining preparatory work for Hong Kong, should take place in Geneva, where the main negotiating forum is. Meetings in other locations have an undeniable value, but they can also involve costs in terms of resources, time and transparency. It will be more than ever important in the busy autumn ahead to avoid disconnects among different layers of negotiation. This could be assisted by having senior capital-based officials come to Geneva frequently, and by Ministers coming here at key moments to bridge differences as they did in July last year. In addition, close and constant Ministerial support from capitals to the efforts of their negotiators in Geneva will continue to be essential.

As I have said before, what we need urgently is not just a change of gear in these negotiations but also a change of attitude and approach. The time for identifying options is gone; the time for choosing among them is here. This calls for leadership, not just to make declarations but to make decisions. We need continuous Ministerial involvement so that participants move beyond rhetoric and repetition to a more frank dialogue about their key political needs and what they can contribute if these needs are met. And leadership must be directed towards concrete, specific results. There is an urgent need in most negotiating areas to move rapidly to text-based discussions where everyone is working from a common base rather than numerous competing ones. I urge participants to engage directly with each other to produce such texts, not wait for Chairs to work miracles.

As I prepare to step down as TNC Chair, I thank all participants for your co-operation over the past three years. I hope that in the busy period ahead all of you will keep in sight the real importance of what we are engaged in here. This cannot be a perpetual negotiating machine which exists for its own sake. It must be a means of improving economic opportunities and helping to fulfil the hope of development. Put in this perspective, the problems in the negotiations cannot be allowed to defeat us.

We simply have to complete the Doha Round in 2006. That is a real deadline. To achieve that, we must have a substantively successful Ministerial Conference in Hong Kong in December. We have made some progress towards that goal but less, perhaps much less, than we wished. We have accordingly left ourselves a lot to do. We can without doubt still do it, provided that from now on we avoid complacency and brinkmanship and dedicate ourselves instead to a politically engaged, results oriented, decision making mode of operation immediately after the recess. No one will follow your progress more closely than me and I will continue to support your efforts in every possible way. I am sure that well deserved success will attend your efforts.

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