

**Preparations for the Fifth Session of the Ministerial Conference**

**Draft Cancún Ministerial Text**

**Second Revision**

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### 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 WT/L/540.

*Agriculture negotiations* 4. We 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 adopt the framework for modalities for negotiations on non-agricultural products set out in Annex B to this document. 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 concluding the negotiations by the agreed date. 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 call upon those participants who have not yet submitted their initial offers to do so as soon as possible. Improved offers should be submitted by [*horizontal date*]. 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 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. We welcome the adoption of the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services and look forward to their implementation by all participants.

*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 progress that has been made in the negotiations on improving transparency in Regional Trade Agreements and encourage the Group to reach a provisional 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 take note of the progress made in the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits 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 [*horizontal date*].

*Environment  
negotiations*

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

10. We agree that the Committee on Trade and Environment Special Session continue to invite to its meetings, in accordance with its current practice, the secretariats of the multilateral environmental agreements (MEAs) invited thus far and of the United Nations Environment Programme (UNEP) and the United Nations Conference on Trade and Development (UNCTAD). This invitation shall be for the duration of the negotiations. It shall be without prejudice to any additional invitations that the Committee on Trade and Environment Special Session extends in future, and to paragraph 31 negotiations.

*DSU  
negotiations*

11. 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*

12. We reaffirm that provisions for special and differential treatment 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 instruct the Committee

on Trade and Development in Special Session to pursue expeditiously, within the parameters of the Doha mandate, the work on remaining agreement-specific proposals and other outstanding issues referred to in TN/CTD/7 and report with recommendations, as appropriate, to the General Council by [...]. The General Council shall submit a report on all these issues to our next Session.

*Implementation* 13. 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 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. The General Council shall review progress and take any appropriate action no later than [...].

*Investment* 14. We note with appreciation the valuable work that has been carried out in the Working Group on the Relationship between Trade and Investment under paragraphs 21 and 22 of the Doha Ministerial Declaration.

In accordance with relevant provisions of the Doha Ministerial Declaration, we commit ourselves to provide strengthened and adequately resourced technical assistance to developing and least-developed countries to respond to their needs for enhanced support in this area.

We agree:

- to intensify the clarification process called for in paragraph 22 of the Doha Declaration, covering the elements listed in that paragraph as well as other elements raised by Members, including the elements identified in WT/MIN(03)/W/4;
- to convene the Working Group in Special Session to elaborate procedural and substantive modalities on the basis of paragraphs 20, 21 and 22 of the Doha Declaration, and other elements raised by Members. We reiterate that the special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Consideration should be given to the relationship of the negotiations to the Single Undertaking;
- modalities that will allow negotiations on a multilateral investment framework to start shall be adopted by the General Council no later than [date]<sup>1</sup>.

*Competition* 15. We note with appreciation the discussions that have taken place in the Working Group on the Interaction between Trade and Competition Policy since the Fourth Ministerial Conference. We decide that further clarification of the issues be undertaken in the Working Group, including consideration of possible modalities for

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<sup>1</sup> The date will coincide with the date for agreeing on modalities on agriculture and NAMA.

negotiations based on the elements contained in paragraph 25 of the Doha Ministerial Declaration, and that the Working Group shall report to the General Council on this work by [date]<sup>2</sup>. In accordance with relevant provisions of the Doha Ministerial Declaration, we commit ourselves to continue to provide strengthened and adequately resourced technical assistance to developing and least-developed countries to respond to their needs for enhanced support in this area.

*Government  
Procurement*

16. Taking note of the work done by the Working Group on Transparency in Government Procurement under the mandate in paragraph 26 of the Doha Ministerial Declaration, we decide to commence negotiations on the basis of the modalities set out in Annex D to this document.

*Trade  
Facilitation*

17. Taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate in paragraph 27 of the Doha Ministerial Declaration, we decide to commence negotiations on the basis of the modalities set out in Annex E to this document.

*Small  
Economies*

18. 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*

19. 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, including consideration of any possible recommendations on steps that might be taken within the mandate and competence of the WTO. The General Council shall report further to our next Session.

*Trade &  
Transfer of  
Technology*

20. 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, including consideration of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report further to our next Session.

*CTE report*

21. 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 General Council to report to our next Session.

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<sup>2</sup> The date will coincide with the date for agreeing on modalities on agriculture and NAMA.

- TRIPS non-violation* 22. We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the first Ministerial Conference to be held after 1 August 2004<sup>3</sup>. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.
- Doha paragraph 19* 23. We take note of the work undertaken by the Council for TRIPS pursuant to paragraph 19 of the Doha Ministerial Declaration and agree that this work shall continue on the basis of paragraph 19 of the Doha Ministerial Declaration and the progress made in the Council for TRIPS to date. The General Council shall report on its work in this regard to our next Session.
- E-commerce* 24. 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* 25. 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 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 this respect by the Director-General and the Secretariat, and encourage the continuation of these and other efforts so as to facilitate the greater participation of developing countries in the multilateral trading system. We also recognize the successful efforts of the International Trade Centre to involve the business communities of the developing and transition economies in the context of the Doha Development Agenda and encourage it to continue in the same direction.
- LDCs* 26. We welcome the report by the Director-General on issues affecting Least-Developed Countries (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

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<sup>3</sup> The exact formulation of this date may depend on the decision to be taken on the timing of the next Session of the Ministerial Conference.

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. In this regard, we reiterate our endorsement of the Integrated Framework (IF) and agree that it can truly become a viable model for LDCs' trade development if it effectively contributes to reducing supply-side constraints including through mainstreaming trade into their national development and poverty reduction strategies. We welcome the joint communiqué adopted by the six IF core agencies at their Third Heads of Agency meeting and 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*

27. We recognise the importance of cotton for the development of a number of developing countries and understand the need for urgent action to address trade distortions in these markets. Accordingly, we instruct the Chairman of the Trade Negotiations Committee to consult with the Chairpersons of the Negotiating Groups on Agriculture, Non-Agricultural Market Access and Rules to address the impact of the distortions that exist in the trade of cotton, man-made fibres, textiles and clothing to ensure comprehensive consideration of the entirety of the sector. The Director-General is instructed to consult with the relevant international organizations including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre to effectively direct existing programmes and resources toward diversification of the economies where cotton accounts for the major share of their GDP. Members pledge to refrain from utilizing their discretion within Annex A, paragraph 1 to avoid making reductions in domestic support for cotton.

*Commodity  
Issues*

28. 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*

29. 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 emphasize the importance of promoting, without cross-conditionalities or additional conditions, consistent and mutually supportive policies. We note the new trade initiatives announced by the IMF and World Bank at this Session to work with the WTO to address problems that some developing country Members may



encounter in adjusting to a more liberal trade environment, and we invite the Director-General to report to us at our next Session on initiatives that he is taking in cooperation with the Executive Heads of the IMF and World Bank in this area.

*Accessions*

30. We note with particular satisfaction that this Conference has completed the accession procedures for Cambodia and Nepal. This marks the entry of the first two LDCs into the WTO under Article XII of the WTO Agreement. In this regard, we take the opportunity to reaffirm our commitment to the Guidelines on the Accession of LDCs adopted by the General Council on 10 December 2002, and to facilitate and accelerate their accession. We also welcome Armenia and the Former Yugoslav Republic of Macedonia as new Members since our last Session. We confirm that these accessions, as those of the 25 governments now negotiating accession, will greatly strengthen our multilateral trading system. We shall therefore continue to give our attention and priority to concluding the ongoing accession proceedings as rapidly as possible.

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## Annex A

### Framework for Establishing Modalities in Agriculture

Participants reaffirm their commitment to the objectives for and 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. Participants agree to conclude the work to establish modalities for the further commitments, including operationally effective provisions for special and differential treatment for developing countries and taking into account non-trade concerns as referred to in paragraph 13, 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 [...] % - [...] %. Product-specific AMS shall be capped at their respective average levels during the period [...].
- 1.2. Reduce *de minimis* by [...] %.
- 1.3. Article 6.5 of the Agreement on Agriculture will be modified so that 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 Total AMS, support under paragraph 1.3 above and *de minimis* in 2000 shall be subject to a cut of at least [...] % [including an initial cut of [...] % in the first year of implementation].
- 1.5. Green Box criteria shall be reviewed with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production.

#### *Special and differential treatment*

1.6. Having regard to their rural 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 enhanced provisions under Article 6.2 and the Green Box.

- 1.7 Developing countries shall be exempt from the requirement to reduce *de minimis* 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 for all products. 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 with a coefficient [...].
- (iii) [...] % of tariff lines shall be duty-free.

[The resulting simple average tariff reduction for all agricultural products shall be no less than [...]%.]

- 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. [Within this category, participants shall have additional flexibility under conditions to be determined for a very limited number of [ ] products to be designated on the basis of non-trade concerns that would only be subject to the provisions of paragraph 2.1 above.]

- 2.3 The issue of tariff escalation will be addressed by applying a factor of [...] to the tariff reduction of the processed product in case its tariff is higher than the tariff for the product in its primary form.

- 2.4 In-quota tariffs shall be reduced by [...]%. Terms and conditions of any TRQ expansion/opening remain under negotiation.

- 2.5 The use and duration of the special agricultural safeguard (SSG) remain under negotiation.

### ***Special and differential treatment***

- 2.6 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.

- 2.7 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 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; however, where tariff bindings are very low (below [...]%) there shall be no requirement to reduce tariffs.

- (ii) [...]% of tariff lines shall be subject to a Swiss formula with a coefficient of [...].
- (iii) [...]% of tariff lines shall be bound between 0 and 5%, taking into account the importance of tariffs as a source of revenue for developing countries.

In implementing tariff reductions under paragraphs 2.7(ii) and 2.7(iii) above, developing countries should benefit from an additional implementation period of [...].

- 2.8 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.
- 2.9 A special agricultural safeguard (SSM) shall be established for use by developing countries subject to conditions and for products to be determined.
- 2.10 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, including particularly all tropical and other products referred to in the preamble of the Agreement on Agriculture.
- 2.11 Participants undertake to take account of the importance of preferential access for developing countries. The further considerations in this regard will be based on paragraph 16 of the revised First Draft of Modalities for the Further Commitments (TN/AG/W/1/Rev.1 refers).

### **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 commit to eliminate export subsidies for products of particular interest to developing countries. A list of these products shall be established for the purpose of tabling comprehensive draft Schedules. Elimination of the export subsidies for these products shall be implemented over a [...] year period.
    - 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 first 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 An 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.

#### **Least-developed countries**

4. Least-developed countries shall be exempt from reduction commitments. Developed countries [should] [shall] provide duty-free and quota-free market access for products originating from least-developed countries.

#### **Recently acceded Members**

5. The particular concerns of recently acceded Members shall be effectively addressed through provisions that could include longer time frames and/or lower tariff reduction commitments.

#### **Other**

6. The Peace Clause will be extended by [...] months.
7. Subject to the provisions of the framework set out in paragraphs 1 to 6 above, relevant parts of the Revised First Draft of Modalities (TN/AG/W/1/Rev.1 refers) 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) as well as the contributions Members have submitted thus far will serve as reference documents for the further work on modalities, including with respect to the following issues of interest but not agreed: single desk export privileges, export taxes, proposals for flexibility for certain groupings, certain non-trade concerns, implementation period, sectoral initiatives, inter-pillar linkages, 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 by developing countries 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 instruct the Negotiating Group to pursue its discussions on such a component, with a view to defining product coverage, participation, and 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 shall be given the following flexibility:

a) applying less than formula cuts to up to [10] percent of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's imports; or

b) keeping, as an exception, tariff lines unbound, 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.

9. 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 [...].

10. 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.

11. 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.

12. In addition, we ask developed-country participants and other participants who so decide to consider the elimination of low duties.

13. We recognize that NTBs are an integral and equally important part of these negotiations and instruct 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.

14. 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.

15. We recognize the challenges that may be faced by non-reciprocal preference beneficiary Members and those Members that are at present highly dependent on tariff revenue as a result of these negotiations on non-agricultural products. We instruct the Negotiating Group to take into consideration, in the course of its work, the particular needs that may arise for the Members concerned.

16. We furthermore encourage the Negotiating Group to work closely with the Committee on Trade and Environment in Special Session with a view to addressing the issue of non-agricultural environmental goods covered in paragraph 31 (iii) of the Doha Ministerial Declaration.



## **Annex C**

### **Special and Differential Treatment**

#### **GATT 1994 - Article XVIII:C**

"The Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Organization 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference 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 Organization, 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 Ministerial Conference 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 Ministerial Conference 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 Ministerial Conference also instructs the Sub-Committee on 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 Ministerial Conference 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 Clause**

"The Ministerial Conference 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**

"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 Ministerial Conference 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)**

"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."

**Decision on Measures in Favour of Least-Developed Countries – Paragraph 2**

"We agree that:

(a) Taking into account their development needs, least-developed countries, following application, shall in principle be eligible for extensions of their transition periods; where relevant procedural provisions exist in the WTO agreements, those provisions shall apply.

(b) Technical assistance to least-developed countries shall aim among other things to remove their supply-side constraints which limit their ability to benefit from the WTO Agreements, including market access opportunities and development of domestic productivity. In this context, the Ministerial Conference also instructs the Director-General to consult other institutions on programmes/assistance related to supply-side constraints in least-developed country Members to determine what additional technical assistance may be made available."

**Decision on Measures in Favour of Least-Developed Countries – Market Opportunities  
Enabling Clause– Paragraph 3(b)**

"Accepting that extension of differential and more favourable treatment to developing countries should not constitute an impediment to the reduction or elimination of tariffs on an MFN basis, but recognizing that as WTO Members pursue improved MFN tariff liberalization some Members may have concerns about adjusting to the loss of preferences, we agree that this issue be considered, in close coordination with other relevant international organizations, with a view to identifying possible ways, including targeted assistance programmes, by which LDCs should be assisted."

**GATT 1994 – Article XVIII:B**

"In determining the need for taking measures under Article XVIII:B, full consideration shall be given to the impact of the volatility of short-term financial flows on the level of external reserves or surpluses of Members."





## **Annex D**

### **Transparency in Government Procurement**

1. We note with appreciation the work that has been carried out by the Working Group on Transparency in Government Procurement under paragraph 26 of the Doha Ministerial Declaration. We agree that the negotiations on a multilateral agreement on transparency in government procurement shall be based on paragraph 26 of the Doha Ministerial Declaration and shall build on the progress made in the Working Group on Transparency in Government Procurement. Pursuant to paragraph 26 of the Doha Ministerial Declaration, we reaffirm that such negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers.
2. We further agree that any coverage of the agreement beyond goods and central government entities is not prejudged. Only procurements above certain value thresholds, to be negotiated, will be covered. The issue of the applicability of the DSU is also not prejudged, with the exception that individual contract awards shall not be subject to challenge or recommendations under the WTO dispute settlement system. In regard to domestic review mechanisms, the agreement will address the transparency of such mechanisms, but not otherwise prescribe their characteristics.
3. We reaffirm that the negotiations shall take into account participants' development priorities, especially those of least-developed country participants. Special and differential treatment shall include transitional periods for the implementation of the agreement and higher thresholds for developing countries, with additional periods and higher figures applicable to least-developed countries. We also reiterate our commitment to ensuring adequate technical assistance and support for capacity building both during the negotiations, to facilitate participation in them, and after their conclusion, to assist developing and least-developed countries to benefit from the outcome of the negotiations.
4. 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.

## **Annex E**

### **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, we commit ourselves to ensuring adequate technical assistance and support for capacity building 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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