

## **Submission in follow-up to HRC resolution 15/25 “The Right to development”**

### **World Trade Organization**

The purpose of this report is to clarify the standpoint of the World Trade Organization in relation to the efforts of the Working Group and Task Force on the Right to Development towards achieving MDG8 by mainstreaming the right to development and establishing criteria and operational sub-criteria for periodic evaluation with the aim of improving the effectiveness of global partnerships to that end. As acknowledged in the consolidation of findings of the task force (contained in document A/HRC/15/WG.2/TF/2/Add.1), the WTO has been actively participating in both the Working Group and the Task Force proceedings and has contributed to the clarification of some of the obstacles to be overcome. At the sessions of the Working Group and the Task Force, the comments by the WTO representatives have focused on the contribution that the current negotiations at the Doha Development Agenda could make towards attaining the MDGs, on TRIPS and access to essential medicines, as well as the role of developing countries in the multilateral trading system. However, while other inter-governmental organizations – among them UNDP, UNCTAD, WIPO, IMF and the World Bank – have made official statements, the WTO has only made verbal comments on reports presented. And even though the task force was never asked to examine the WTO, with the focus of the task force on international organizations, access to essential medicines and technology transfer, the references to TRIPS and other aspects of the WTO have increased and questions have been raised concerning policy space, the autonomy to create an environment for development and the impact the multilateral trading system has on development. Furthermore, in the consolidation of the findings the task force encourages states to use Special and Differential Treatment (SDT) and TRIPS flexibilities as well as to work to evaluate the impact of trade agreements on poverty and take the results into account in the context of Trade Policy Reviews and future negotiations, consistent with the Marrakech Agreement preamble. In addition, the task force is urged to engage in dialogue with multilateral organizations, specifically mentioning the WTO and trade, but also notes the legal constraints for deeper involvement. Finally, 10 of the right to development criteria and operational sub-criteria (contained in document A/HRC/15/WG.2/TF/2/Add.2) specifically mention trade, the multilateral trading system and the WTO.

Therefore, in light of the above-mentioned references and comments on different aspects of the WTO Agreements and organizational characteristics, it is important to consider the issues in context. Development is incorporated in the work of the WTO, from its founding agreement, through the special provisions and flexibilities of the major agreements, the capacity building structures (ex. – Aid for Trade) and lies at the core of the Doha Round negotiations. Developing and least-developed countries participate fully in the decision-making process of the multilateral trading system as set out in Article IX of the Marrakesh Agreement, and WTO Members have committed themselves to ensuring that all Members benefit from trade liberalization. In each key area – agriculture, non-agricultural market access and intellectual property – the development parameters and specific issues of interest to developing countries and possible gains have been established<sup>1</sup> (see Annex I).

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<sup>1</sup> For more information see Annex I and document WT/COMTD/W/143/Rev.5

## I. ELEMENTS

### A. FOUNDING TREATY AND BINDING LEGAL PRINCIPLES

The Agreement Establishing the WTO clearly recognizes the need for positive efforts to ensure that developing countries, and especially the least-developed ones, share in the growth of international trade. This corresponds to the task force-established criteria 1 (c) (ii), which measures the efforts on working towards equity, non-discrimination and right to development, and 1 (e), which assesses whether the international trading system is equitable, rule-based, predictable and non-discriminatory. In the preamble of the Marrakesh Agreement, the Members agreed that *"their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, [and] ensuring full employment ... while allowing for the optimal use of the world's resources in accordance with **the objective of sustainable development**, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development"* (emphasis added). This is an unmistakable definition of development as a necessary element of the work of the organization and stating the recognition of the different levels of economic progress as paramount criteria for success. From the perspective of universal participation, embodied in criteria 2 (d) (ii), Article IX of the Agreement establishes the one-country-one-vote principle. Furthermore, in the preamble of the Agreement there is acknowledgement of the need to ensure that least-developed countries receive a share in the growth of international trade corresponding to their wants. Finally, the Agreement clearly articulates the resolve of WTO Members to preserve the basic principles underlying the multi-lateral trading system, the ones that are also at the basis of the development core of the organization.

The two pillars that are incorporated in all three main areas (goods, services and intellectual property) are most-favored nation (MFN) and national treatment, which ensure the fair and equitable treatment of products, services and other tradables, in essence putting all countries on the same plane when it comes to trade. The MFN rule is included in the agreements that cover all main areas of trade handled by the WTO – GATT, GATS and TRIPS – and it obliges Members not to discriminate between their trading partners. Therein, some exceptions are allowed, for example, countries can set up a free trade agreement that applies only to goods traded within the group, or they can give developing countries special access to their markets. In general, MFN means that every time a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all its trading partners — whether rich or poor, weak or strong. Secondly, national treatment, which is also found in all three main WTO agreements (Article 3 of GATT, Article 17 of GATS and Article 3 of TRIPS), obligates Members to treat equally imported and locally-produced goods, services, trademarks, copyrights and patents. Those two rules create the basis for the discussion of fairness and equity within the WTO in terms of all main negotiation areas – agriculture, NAMA and TRIPS.

### B. DEVELOPMENT DIMENSION OF SPECIFIC ISSUES<sup>2</sup>

This section will provide a link between the development dimension of the Agriculture, Non-agricultural Market Access and Intellectual Property negotiations at the WTO, and the corresponding criteria 1 (e) (ii) (Market access – Agricultural trade and Manufacturers) and 1 (g) (promoting and ensuring access to the benefits of science and technology) established in the report of the High-level Task Force. For the sake of brevity, the sub-sections will focus on the wider background, while non-exhaustive lists of issues of interest to developing countries can be found in Annex I.

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<sup>2</sup>For more information see document WT/COMTD/W/143/Rev.5, DEVELOPMENTAL ASPECTS OF THE DOHA ROUND OF NEGOTIATIONS, Note by the Secretariat, Committee on Trade and Development

## 1. Agriculture

Agriculture plays an important role in the development of many WTO Members. For a large number of developing countries and least-developed countries (LDCs), agriculture makes a significant contribution to their economies, including its direct contribution to gross domestic production, export revenue and employment as well as to rural development and livelihood security. However, many of the world's agricultural producers are currently disadvantaged in the world trading environment because of high tariff barriers and competition from producers that receive high levels of domestic or export-related support. Therefore, a reduction in protection and support can lead to important gains for developing country agricultural producers. The development aspects related to agriculture can thus be found in each of the three pillars of the agriculture negotiations – market access, domestic support and export competition.

Despite its complex nature, the **market access pillar** has, arguably, the greatest potential to deliver real economic benefits to Members. As tariff barriers are reduced and access through tariff rate quotas is expanded in both developed and developing countries, increased market access opportunities will allow Members to improve welfare by expanding export volumes and revenues. At the same time, many developing countries are concerned about the likely impact of tariff reductions on rural livelihood, and consequently on their food security concerns, in particular should domestic support levels remain high in some other countries. Accordingly, they argue for flexibility in the reduction of tariffs, especially for Special Products and through the Special Safeguard Mechanism (SSM), which would provide the ability to increase tariffs when there is a decline in import price or an increase in import volumes. Preference-receiving developing countries and LDCs are also concerned that tariff reductions by preference-granting countries will result in significant preference erosion; especially since preferential access arrangements play a vital role in terms of their ability to export and earn foreign exchange, thereby contributing to the development of their economies. However, there are also concerns that the levels of flexibility sought by some negotiating groups would reduce the welfare gains that could arise from improved opportunities for trade between developing countries.

Achieving reductions in the high levels of **domestic support** is a key issue for most developing countries, since such policies distort the agricultural trading environment and contribute to lower world prices, including the decline of commodity prices. This has a negative impact on producers not receiving subsidies, particularly those in developing countries, many of which are keen to see large reductions in trade-distorting support. Some developing countries and LDCs argue that it would indeed be counter to development aims to expect them to further reduce their tariffs while other countries continue to maintain significant levels of spending on Amber and Blue Box subsidies. They are concerned that further market openings could mean increased competition for their domestic producers from subsidized production in other countries.

Some Members have stated that **export subsidies**, of all kinds, are the most egregious form of trade-distorting support. The use of export subsidies ensures that there are more agricultural goods on world markets, resulting in lower world prices than would otherwise be the case. For non-subsidizing countries this means artificially high levels of competition in both the domestic market and abroad. Thus, the removal of this form of artificial competition and price suppression would help to improve the ability of Members that do not use such programmes, particularly developing and least-developed Members, to compete. However, there are also some concerns that the elimination of all forms of export subsidies may increase the cost of imported food products for some net-food importing developing countries.

Issues of interest to developing countries are included in all the three pillars of the negotiations. Given the different situations in different developing countries their views are often different on specific issues. And while the benefits from further agriculture reform will differ

between Members depending on each Member's production and trade mix, it can generally be said that a successful conclusion of the negotiations would lead to considerable gains for developing countries. Substantial reductions of tariffs, along with a reduction of tariff peaks and tariff escalation, would result in increased market access opportunities.

## **2. Non-agricultural market access**

Approximately 94 per cent of developing countries' merchandise exports consist of non-agricultural products, of which more than 65 per cent corresponds to manufactures. Therefore, the non-agricultural market access (NAMA) negotiations offer the promise of improved and more secure market access conditions (through new tariff reductions and bindings) for a large share of developing countries' exports in both developed and developing country markets. Some major aspects of these are North-South trade, South-South trade and improved market access for LDCs. Developing country Members in the NAMA negotiations have often called for flexibilities that would allow them to make lower tariff cuts or exempt a number of tariff lines from new bindings or reduction commitments in order to take account of S&D and the principle of less than full reciprocity in reduction commitments. Some of the main considerations underlying these arguments are – preserving "policy space", protecting infant industries, preventing the loss of tariff revenue, and non-reciprocal preference erosion (the loss of preference by LDCs due to further MFN liberalization).

Overall, the gains from NAMA liberalization have been estimated by several institutions to range from US\$54.2 billion to US\$276.8 billion.<sup>3</sup> It is important to note that the estimates of gains from opening up to trade do not take into account any consideration of adjustment costs associated with increased trade competition. The gains that could accrue to individual developing countries would also differ depending on each country's comparative advantage as well as on the extent to which it will liberalize. However, in general terms, both North-South and South-South trade are expected to expand as a result of the NAMA negotiations, with the corresponding effect on economic efficiency and growth.

## **3. Trade-related aspects of intellectual property rights**

One of the articulated purposes of the TRIPS Agreement and of protecting intellectual property is to promote innovation and technology transfer, and it requires developed countries' governments to provide incentives for their companies to transfer technology to least-developed countries. More precisely, Article 7 ("Objectives") states that the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations. The obligation for developed countries to provide incentives for technology transfer is in Article 66.2. Least-developed countries want this requirement to be made more effective. In Doha, ministers agreed that the TRIPS Council would "put in place a mechanism for ensuring the monitoring and full implementation of the obligations". The council adopted a decision setting up this mechanism in February 2003. It details the information developed countries are to supply by the end of the year, on how their incentives are functioning in practice. Additionally, climate change negotiators have been discussing the link between technology transfer and the TRIPS Agreement.

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) recognized the particular concerns and needs of least developed countries (LDCs) when it comes to the intellectual property system. The TRIPS Agreement's preamble already acknowledged least

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<sup>3</sup> Piermartini, R. and Teh R. (2005). "Demystifying Modelling Methods for Trade Policy", WTO Discussion Paper No. 10.

developed countries' particular need for maximum flexibility in implementing laws and regulations domestically. The objective was to enable them to create a sound and viable technological base. The emphasis was on the individual priorities of each least developed country, and on ensuring those needs are effectively met. In 2007, Uganda and Sierra Leone were the first to submit their needs assessments, followed by Tanzania, Bangladesh and Rwanda in 2010.<sup>4</sup> On 29 October 2009, a WTO Workshop on Least Developed Countries' Priority Needs for Technical and Financial Cooperation was held in Geneva, following a request from the least developed country group in the TRIPS Council in June of that year<sup>5</sup>. Wider initiatives to support these countries include the Aid for Trade Initiative and the Enhanced Integrated Framework, discussed above, and the recently launched Global Trade-Related Technical Assistance Database<sup>6</sup>. Those programmes also provide potential avenues for an intensified, coordinated effort to respond to individual priority needs that least developed countries identify specially relating to TRIPS.

Within the Doha Development Agenda, the negotiations regarding the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits (hereinafter "multilateral system") form an integral part of the wider mandate. Article 23.4 of the TRIPS Agreement provides that "[i]n order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system". Paragraph 18, first sentence, of the Doha Declaration states that "[w]ith a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference", thus extending the mandate of Article 23.4 to cover also spirits. The question of possible gains to developing countries has been the subject of some debate among the participants in the negotiations. Some hold the view that a multilateral system's ability to alleviate the costs for all producers in seeking protection worldwide by allowing them to gain legal standing in third countries via a centralized procedure would help developing country producers in particular, who have less resources to invest in asserting such protection internationally. Others consider that a system that would impose considerable administrative burden on developing countries would not necessarily save costs for GI owners and would, in any event, entail burdens that would more than offset any benefits developing countries might obtain, especially as the mandate is for wines and spirits, of which most developing countries are not exporters. It is, therefore, important that the system be simple and voluntary in nature and not entail new obligations.

#### **4. Good governance**

The WTO works with a number of other international governmental organizations under the banner of "coherence", a term originating in the "Decision on achieving greater coherence in global economic policy-making", which ministers agreed in Marrakesh, April 1994. This document recognizes the "ever-growing interactions between the economic policies pursued by individual countries" and that "their coherence internationally is an important and valuable element in increasing the effectiveness of these policies at national level". But coherence in global economic policy-making goes much beyond the WTO's formal and specific cooperation arrangements with the IMF and the World Bank. It is now recognized that the WTO system is only one part of a much broader set of international rights and obligations that bind WTO

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<sup>4</sup> See documents - Tanzania IP/C/W/552, Rwanda IP/C/W/548 and IP/C/W/548/Add.1, Bangladesh IP/C/W/546, Uganda IP/C/W/500 and IP/C/W/510, Sierra Leone IP/C/W/499 and IP/C/W/523.

<sup>5</sup> See document IP/C/W/544

<sup>6</sup> See <http://gtad.wto.org/>

Members. The WTO maintains extensive institutional relations with several other international organizations; there are some 140 international organisations that have observer status in WTO bodies. The WTO also participates as observer in the work of several international organizations. In all, the WTO Secretariat maintains working relations with almost 200 international organisations in activities ranging from statistics, research, standard-setting, and technical assistance and training. Although the extent of such cooperation varies, coordination and coherence between the work of the WTO and that of other international organizations continues to evolve so as to assist Members in the operation of their economic policies. This evidences the extent to which "global partnerships for development" have been realized by the efforts of the WTO.

### C. MDGs AT THE WTO<sup>7</sup>

As phrased in the consolidation of findings of the task force, "[the] Millennium Development Goals represent a measurable set of human development milestones" and international and multilateral organizations should adopt flexible frameworks for achieving them. Within the WTO, the attainment of the MDGs is being assisted by

- the participation of developing countries in the multilateral trading system (see above);
- the Doha Development Round negotiations, which seek to address some of the imbalances in trade rules that have hindered developing countries' integration into the global economy;
- the Aid for Trade initiative, which aims to help developing countries increase their participation in international trade and reap the resulting benefits;
- and by efforts to increase access to affordable medicine in developing countries.

The work of the WTO is relevant mainly to achieving the objectives of MDG 8, a global partnership for development, but also has impact on MDG 7 (environmental sustainability and biodiversity), MDG 6 (access to HIV/AIDS treatment), and MDG 1 (eradicating poverty). Specifically, MDG 8 covers a number of issues, including international trade. Target 8.A calls for the development of an open, rule-based, predictable, and non-discriminatory trading and financial system. Target 8.B addresses the special needs of the least-developed countries, specifically including tariff and quota-free access for least-developed countries' exports. In this context, by acting for a stable, open multilateral trading system, the WTO's contribution is crucial in building a more favourable global environment for developing and least-developed countries. This was also reiterated in the Doha Ministerial Declaration of 2001, which launched the current multilateral trade negotiations. These negotiations are central to the WTO's contribution to achieving the MDGs by placing developing countries' needs and interests at the heart of the negotiations<sup>8</sup>. Furthermore, specific efforts are being made in the negotiations to address the needs of the LDCs, as well as those of "small and vulnerable economies". The official MDG indicators<sup>9</sup>, developed to assess progress towards achieving the goals, spell out the importance of increased market access in meeting the needs of developing and least-developed countries. These include: 1) increased duty-free access for developing countries, 2) tariff reduction (especially on agricultural products, textiles and clothing) and 3) the reduction of trade-distorting subsidies from developed countries. All of these elements are part of the WTO agreements and are subject to negotiations. When the Doha Round is concluded, the multilateral trading system will be more open – particularly for developing countries' exports – and will have a strengthened rule-making structure that will be

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<sup>7</sup> For more information see [http://www.wto.org/english/thewto\\_e/coher\\_e/mdg\\_e/mdg\\_e.htm](http://www.wto.org/english/thewto_e/coher_e/mdg_e/mdg_e.htm)

<sup>8</sup> "The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration" Doha Ministerial Declaration, November 2001

<sup>9</sup> See <http://mdgs.un.org/unsd/mdg/Default.aspx>

more balanced, especially towards developing country interests and concerns. There is, therefore, a clear connection between concluding the DDA negotiations and bringing about MDG 8.

The WTO has also initiated deliberate schemes to ensure that the benefits are shared by all Members. Many of the developing and LDC country Members simply do not have the capacity to take advantage of the market access opportunities that will arise. The Aid for Trade initiative was launched precisely for this reason. Aid for Trade is essentially about providing financial and technical assistance to developing countries, especially the LDCs, to help them build up their supply-side capacity and strengthen their trade-related infrastructure to enable them to produce and trade more. Aid for Trade facilitates the mobilization of international resources to address developing countries' supply-side constraints and trade-related bottlenecks. Providing assistance for capacity-building is one of the indicators that measure progress towards the achievement of MDG 8, so it is clear that Aid for Trade has a supportive role to play in the realization of the MDGs. The WTO is also involved as a partner in the Enhanced Integrated Framework (EIF), which is specifically targeted at LDCs, helping them to strengthen their productive capacity. Additionally, a decision taken by WTO members to provide duty-free and quota-free market access to products from LDCs will be beneficial to those countries. The WTO also has a work programme for the small island developing states and contributes regularly to the international efforts to address the needs of the landlocked developing countries in line with Target C of MDG8. In addition, following Target F, the matter of technology transfer is under discussion among the Members.

In terms of access to medicines, the WTO is actively promoting the attainment of Target E of MDG 8, which aims to provide access to affordable medicines on a sustainable basis in developing countries. The past decade has seen a strong policy emphasis on public health and access to medicines in the WTO, with a particular focus on clarifying the way in which flexibilities under the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) should be interpreted and implemented regarding public health. This has included creating an additional pathway for access to medicines. The Doha Declaration on the TRIPS Agreement and Public Health continues to serve as a landmark in recognizing the linkage between the WTO system and the broader public policy issue of health. It also serves as a benchmark for international cooperation on intellectual property and public health. By bringing together different policies and distinct areas of expertise, it has helped build a stronger framework for multilateral cooperation on intellectual property and public health, and supports governments in making use of TRIPS flexibilities. For example, countries without sufficient manufacturing capacities can make effective use of compulsory licensing through the so-called "Paragraph 6 System". This gives poor countries additional flexibility under the TRIPS Agreement to gain access to affordable medicines. Agreed in August 2003, the "Paragraph 6" system allows generic versions of patented medicines to be made under compulsory licence (that is, without the consent of the patent holder) for export to countries that cannot manufacture the medicines themselves.

Lastly, as MDG8 is focused on coordination, it is important to underline that the WTO is not an isolated island in the seas of international law. The idea of a "global partnership" is enshrined in the WTO mandate, advocating the pursuit of international coherence in economic policy-making. The original mandate specifically advises cooperation with the International Monetary Fund (IMF) and the World Bank, but over the years the WTO has expanded its scope to include cooperation with the UN system, the Organization for Economic Cooperation and Development (OECD) and other international partners on a wide range of issues. Although the extent of such cooperation can vary, this coordination contributes to the creation of a comprehensive approach in addressing multi-faceted global problems and can have positive implications for achieving MDG 8. The six targets identified under MDG 8 show that the international community recognizes that open trade is an important engine for development. For

trade to deliver real economic growth effectively, it needs to be “open, rule-based, predictable and non-discriminatory”, as recognized in Target A. This corresponds to the WTO’s core business of regulating international trade, reducing market barriers and ensuring a level playing field for all its members. On the theoretical side, the ITC, UNCTAD and WTO have come together in a joint effort to establish an objective system of measurement of market access indicators<sup>10</sup>, and specifically indicators 8.6<sup>11</sup> and 8.7<sup>12</sup>, which have been defined to reflect targets 8.A and 8.B of Goal 8. Data for these indicators has been compiled on the website to make it more widely available and enhance the transparency of the monitoring process.

## II. CONCLUSION

There exists a strong link between the right to development and the World Trade Organization. The Working Group and the High-level Task Force have been given the task of substantiating a complex idea which relates the legal notion of entitlement to the economic concept of growth. On the other hand, the World Trade Organization is a rule-based institution that regulates commercial interactions and provides a forum for negotiations on issues of interest to all of its Members. Evidently, the interaction between law and economics creates akin dynamics and issues. As mentioned above, considering the separate agreements or issues out of context results in a partial portrayal of reality, and similarly, studying the impact of the WTO on only one of the MDGs, on only one sub-target, or in isolation from the impact of other organizations' work could lead to misinterpretation. As WTO Director-General Pascal Lamy pointed out in his recent speeches (September 2010<sup>13</sup> and June 2010<sup>14</sup>) a swift resolution of the Doha Round and the ensuing liberalization could have wide positive implications on the fight against poverty, MDG1, and could act as the most powerful stimulus package. In terms of assessing the impact of trade on development, the above-mentioned MDG indicators initiative by the WTO, ITC and UNCTAD has proven that coordination between inter-governmental organizations is not only possible, but conducive to achieving better results. Combining the resources of the different institutions can also be helpful for understanding and enhancing the different initiatives, as exemplified by the Enhanced Integrated Framework programme.

It is no coincidence that MDG8 contains the key word "partnership". One of the thematic areas of international co-operation for consideration set in the United Nations Development Agenda is "an enabling international environment", which includes international trade, is mentioned as a good starting point in the conclusions and recommendations of the Task Force (contained in document A/HRC/15/WG.2/TF/2). Thus, it is hard to justify limiting examination of the "environment" to the work of organizations in isolation, or to isolated aspects of their structure. It is therefore advisable to concentrate on the practical framework for realizing the right for development and applying the criteria, as well as the position and interaction of different inter-governmental organizations, including the WTO, within that system.

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<sup>10</sup> See <http://www.mdg-trade.org/>

<sup>11</sup> Indicator 8.6: Proportion of total developed country imports (by value and excluding arms) from developing countries and from LDCs, admitted free of duty

<sup>12</sup> Indicator 8.7: Average tariffs imposed by developed countries on agricultural products and textiles and clothing from developing countries

<sup>13</sup> [http://www.wto.org/english/news\\_e/sppl\\_e/sppl170\\_e.htm](http://www.wto.org/english/news_e/sppl_e/sppl170_e.htm)

<sup>14</sup> [http://www.wto.org/english/news\\_e/sppl\\_e/sppl161\\_e.htm](http://www.wto.org/english/news_e/sppl_e/sppl161_e.htm)



### **III. ANNEX I – SPECIFIC ISSUES OF INTEREST TO DEVELOPING COUNTRIES**

#### **A. AGRICULTURE**

##### **1. Market access**

- Improved market access to developed countries;
- Improved market access to other developing countries (South-South trade) but with less than full reciprocity in the negotiations, including by having to undertake lesser tariff reductions and/or tariff quota expansion commitments relative to those to be undertaken by developed countries;
- Fullest liberalization of trade in tropical agricultural products and for products of particular importance to the diversification of production from the growing of illicit narcotic crops;
- Addressing problems relating to preference erosion;
- Addressing the issues of tariff escalation and the issue of tariff simplification;
- Improving the administration of tariff rate quotas;
- Lifetime of the existing special agricultural safeguard (SSG); and
- Appropriate S&D for developing countries, including the flexibility to designate an appropriate number of products as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development needs, and the establishment of a Special Safeguard Mechanism.

##### **2. Domestic support**

- Substantial reductions in trade-distorting support in developed countries, in particular for cotton;
- Enhanced Blue Box criteria to ensure that this category of support is less distorting than Amber Box support;
- Review and clarification of the Green Box criteria to ensure that such measures have no, or at most minimal, trade-distorting effects on production while ensuring that programmes of developing countries that meet this fundamental requirement are effectively covered;
- Product-specific limits on the Amber Box and Blue Box to help prevent the accumulation of support on a few products; and
- Appropriate S&D, including lesser reductions in trade-distorting support and the flexibility to provide certain types of investment and input subsidies.

##### **3. Export competition**

- Elimination of all forms of export subsidies;
- Developing appropriate rules in respect of short-term export credits, export credit insurance or guarantee programmes (export credits, etc. with repayment terms of more than 180 days are to be eliminated), exporting STEs, with special consideration for the monopoly status for STEs in developing countries, and on food aid, whilst ensuring that these disciplines have appropriate provisions for differential treatment of least-developed and net food-importing developing countries; and
- Appropriate S&D, including longer time frames to eliminate all forms of their export subsidies (to those developing countries that have reduction commitments in this area), extension of the provisions contained in Article 9.4 which provides an exemption from reduction commitments for certain types of export marketing and transport costs.

\* In addition, S&D will include lower reduction rates and longer implementation periods for developing countries while LDCs will not have to undertake reduction commitments and will have full access to all S&D provisions. The Hong Kong Ministerial Declaration also provided that developed countries and developing countries in a position to do so will provide duty- and quota-free market access for at least 97 per cent of products originating from LDCs.<sup>15</sup>

\* Given the importance of cotton for a number of developing countries, especially LDCs, it should be noted that cotton has its own specificity in the agriculture negotiations and also through the Sub-Committee on Cotton.

\* It should also be noted that a number of recently acceded Members (RAMs) are concerned about the possible negative impact on their agricultural sectors of further significant market access commitments. These Members argue that due to the significant commitments they undertook during their accession process their levels of border protection are already at very low levels, especially compared to the tariff levels of other, more advanced countries.

\* Other issues of concern to various groups of developing countries include monitoring and surveillance mechanisms to ensure the implementation of Members' commitments, low prices for commodities, the removal of tariff escalation, the elimination of tariff duties for commodity products under Generalized System of Preferences (GSP) schemes, the elimination of non-tariff barriers (NTBs) and the particular problems facing small, vulnerable economies (SVEs).

## B. NAMA

- Bring down tariff peaks, high tariffs and tariff escalation in developed country markets (improve access in developed country markets);
- Bring down tariff peaks, high tariffs and tariff escalation in other developing country markets (improve South-South trade);
- Duty-free and quota-free access for LDCs while ensuring that LDCs are only required to increase their level of bindings and not to apply the formula or to participate in sectorals;
- Reduce or eliminate NTBs;
- Preserve "policy space";
- Provide adequate protection for infant industries;
- Preserve unbound duties;
- Address non-reciprocal preferences;
- Prevent tariff revenue losses.

## C. TRIPS

Since 2008 a large number of developing country Members have formally sponsored the modalities proposal in TN/C/W/52, arguing that the combination of a strong mandatory GI register with an extension to GIs for products other than wines and spirits would benefit developing country agricultural economies, as these none-wine and spirit products had hitherto been excluded from the benefits of additional GI protection. Some other developing countries, namely those

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<sup>15</sup> Reference is made to the Decision on Measures in Favour of LDCs in Annex F of the Hong Kong Declaration on duty-free and quota-free market access for LDCs, which is treated in the section on "Special and Differential Treatment".

arguing that negotiations on extension are outside the Doha mandate, have sponsored or supported the joint proposal as the only one that respects the mandate of Article 23.4, arguing that its voluntary nature and the absence of legal effects at the national level make it the least burdensome for developing countries to implement.

Discussion of S&D has recently intensified. The point has been made that the need for it would depend, to a significant extent, on the nature and complexity of the basic notification and registration system to be chosen – which still remains unclear. Nonetheless, there has been some discussion of this issue. The point has been widely made that the system should be efficient for developing countries, keeping in mind the burdens they are already bearing and the fact that the Doha Round is about development. Some have argued that the voluntary nature of the system proposed by the joint proposal constituted the most effective S&D. Some others felt that it was unusual to have S&D in the form of optional participation, and wondered what would be the nature of such treatment in a situation where a developing expected benefits from the facilitated GI protection flowing from its participation in the GI register, while some developed countries chose to opt out. Other points made relate to: the extent to which S&D in the payment of registration fees might be envisaged for developing countries and LDCs; technical assistance to facilitate participation of developing countries in the system; and transition periods for developing countries and, in the case of LDCs, the need to take account of their overall transition period under the TRIPS Agreement.

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