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**REPORT OF THE EXPERT MEETING ON MARKET ENTRY  
CONDITIONS AFFECTING COMPETITIVENESS AND EXPORTS  
OF GOODS AND SERVICES OF DEVELOPING COUNTRIES:  
LARGE DISTRIBUTION NETWORKS, TAKING INTO ACCOUNT  
THE SPECIAL NEEDS OF LDCs**

Held at the Palais des Nations, Geneva  
from 26 to 28 November 2003

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## Chapter I

### CHAIRPERSON'S SUMMARY

#### Introduction

1. The Expert Meeting on Market Entry Conditions Affecting Competitiveness and Exports of Goods and Services of Developing Countries: Large Distribution Networks was held in Geneva from 26 to 28 November 2003. Individual experts and specially invited resource persons put forward their views on how developing country producers can obtain market entry, particularly in developed country markets, taking into account the growing importance of large distribution networks. The following text summarizes their comments and suggestions and is intended to reflect the richness and diversity of the views expressed.

2. Large distribution networks are geographically diversified networks with many components that handle large volumes of products and that are, usually, vertically integrated. Experts agreed that it is important for developing country producers to engage with these networks, since they have become the core of the logistic chain for both domestic commerce and international trade and therefore offer the potential for producers to reach wider markets. The experts noted that large distribution networks pose particular market entry conditions. These conditions may be defined as the parameters that exporting firms in developing countries have to meet in order to enter such distribution networks for goods and services in the markets of developed countries. The parameters in question may relate to product characteristics, the nature of the production process (e.g. with respect to worker health and safety, or to environmental impact), prices and speed of delivery. Compliance with such market entry conditions is a prerequisite for participation in entry modes such as direct exportation, joint ventures, partnerships, franchising, licensing or trade fairs, and for the use of a sales representative, distributor or consolidator.

#### *Market access and market entry*

3. It is important to distinguish between market access and market entry. While the possibility of entering foreign markets depends on market access conditions (determined by the legal and administrative conditions imposed by the importing countries under internationally agreed trade rules), the actual ability to enter a market is a function both of the competitiveness of the exporter (determined by the relative cost and quality of the product, including environmental/health aspects) and of the characteristics of supply chains and the structure of markets. Thus, market access is a prerequisite for market entry to occur, but it is not sufficient. An important difference between market access and market entry conditions is that while market access conditions in principle are subject to international jurisdiction under WTO rules, market entry conditions are not, and producers have to conform to them or lose the opportunity to enter markets. Developing country exporters (especially those from LDCs), as well as their Governments, therefore need to go beyond market access concerns and also focus upon the conditions governing actual market entry. At the same time, it is important to note that both market access and market entry conditions are changing continuously and that developing country exporters need to adapt to these changes as they take place. A particularly important example is the end to preferences for ACP countries in EU markets in 2006, which will oblige producers to become competitive.

## **Competition issues in large distribution networks**

4. On this topic, the Meeting focussed on four main themes: (i) how market entry conditions and requirements positively or negatively affect the competitiveness of developing countries in their premier markets; (ii) how the anti-competitive practices of large distribution networks within developing countries and in their premier markets positively or negatively affect the competitiveness of developing countries' producers and exporters; (iii) how the playing field of trading rules is tilted or not against developing countries in the context of both market entry and market access barriers; and (iv) how subsidies given by developed countries to their enterprises and producers in the agricultural sector, for example, alter the competitive field.

5. On the first two points, the Meeting exchanged information on the main cross-border anti-competitive practices that adversely affect market entry for developing country exports of goods and services. This includes not only damage done to developing countries by international cartels that have been sanctioned by a number of competition authorities, but also abuses of market power by dominant firms, which exert exclusion practices on those firms that do not serve their interests. According to some estimates, damage to developing countries by international cartels each year amounts to at least half of the value of development aid given by Governments of developed countries. It was also indicated that, in many developing countries, as a result of foreign direct investment liberalization, large multinational retail chains are increasing their presence, sometimes at the expense of local smaller and traditional vendors who are unable to compete. While consumers often benefit from the facilities offered and the quality and attractiveness of services offered, this has led to tensions with indigenous suppliers, who complain that they are forced to supply under difficult conditions, usually extracted under the threat of refusal to deal or exclusion. In addition, it was felt that large retail chains have increased their dominance of markets over time by concentrating through mergers and takeovers, at both the domestic and the international levels. Given the magnitude of the damage done to developing countries by all forms of anti-competitive practices, it is imperative for the international community to study all possible measures at domestic and international levels to come to grips with these problems. It was suggested in this respect that more research be undertaken in this field, including preparation of an inventory of major cases of enforcement by competition authorities from developing countries broken down by sectors and a study of the types of anti-competitive practices in dynamic sectors/industries that are of major importance for developing countries, such as tourism, pharmaceuticals, IT, etc.

6. On trading rules in the context of market entry, it was made clear that while market access may be liberalized from most Governmental barriers, enterprise-level barriers, in the form of anti-competitive practices and private codes of practices by dominant retail chains and networks, are able to fully distort or block entry by developing country exporters. In this connection, developing countries and especially LDCs are at a disadvantage in their capacity to adopt the necessary competition rules. Moreover, even where such rules exist at the domestic level, they are quite ineffective in trying to resolve the kind of practices faced by exporters depending fully on foreign multinational distribution networks. The solution to these problems cannot rest solely on implementing domestic competition law; what is needed is a blend of international disciplines of both trade and competition policies together. By focusing only on cartels and voluntary cooperation, the proposed WTO rules on competition would not be able to resolve the problem of market foreclosure or distortion by large distribution networks. In this respect it is essential for any agreement to take into account the needs of the developing countries and to recognize that one size does not fit all. In addition, special care needs to be given to the specific market access problems of the LDCs. It was noted that very little research has been done

so far, even in developed countries and the OECD, on abuses of purchasing power by large distribution networks. While it was noted that large distribution networks also have important positive effects in enhancing modernization and increasing competitiveness for whole chains of production, it was suggested that UNCTAD could embark on more in-depth research in this field.

### **Market entry conditions, including environmental requirements, large distribution chains and developing countries' agro-food exports**

7. The experts devoted part of their discussion to the impact of large supermarket chains on developing countries' agro-food exports. Supermarkets have spread very rapidly and now account for large shares of retail distribution everywhere, not only in developed countries. Developing country Governments have generally not tried to limit the growth of supermarkets and in some cases have promoted it, although some, for instance the Government of Côte d'Ivoire, have also supported the establishment of local markets as part of a poverty reduction strategy. In Latin America, the share of supermarkets in the retail market grew from 10-20 per cent in 1990 to 50-60 per cent in 2000. Supermarkets in Latin America buy 2.5 times more fruit and vegetables from Latin American farmers than Latin America exports to the rest of the world. In other developing country regions, the share is also growing fast and has reached 55 per cent in South Africa and 20 per cent in the capital cities of other African countries. Again, supermarkets in Africa buy more from African farmers than these farmers export to the rest of the world. While supermarkets contribute to greater efficiency in the distribution system, their growth has displaced many smaller retailers, sometimes leading to unemployment. Experts called for more analysis of the distributional effects of foreign supermarkets' penetration in developing countries and the coping strategies of local producers and retailers.

8. The growth of supermarkets in developing countries as well as their dominance of developed country markets results in both constraints and opportunities for developing country producers. The market entry conditions posed by supermarkets relate to product characteristics – quality, appearance, cleanliness or taste, packaging, safety (e.g. use of pesticides or artificial hormones, microbial presence), authenticity (guarantee of geographical origin or use of a traditional process), worker health and safety, environmental impact, prices and speed of delivery. The procurement practices of supermarkets and large processors are quickly reshaping the “rules of the game” for farmers and first-stage processors. “Product markets” increasingly mean “supermarkets”, and quality, environmental and food safety requirements that only applied to exported produce are now increasingly applied at the national level through the central procurement operations of supermarkets. The changes in supplier logistics have moved supermarket chains toward new intermediaries, sidestepping or transforming the traditional wholesale system. The supermarkets are increasingly working with specialized wholesalers, dedicated to and capable of meeting their specific needs. These specialized wholesalers cut transaction and search costs, and enforce private standards and contracts on behalf of the supermarkets. The emergence and operation of specialized wholesalers has promoted convergence, in terms of players and product standards, between the export and the domestic food markets.

9. In addition to the requirements just cited, other more onerous requirements applied by most if not all supermarkets have also been reported, including slotting fees, unfavourable payment terms, requiring buyback of unsold goods and making deductions from returns to cover wastage. Buyers may also seek to impose a variety of restraints upwards along the chain of supply, such as exclusivity contracts. While some exporters from developing countries that are well organized and receive support from their own Governments as well as the international

community have been able to meet the requirements set by importers, other producers are unable to meet the requirements and may face acute problems in entering prospective export markets or lose domestic market shares. Small producers, in particular, may not be able to meet requirements with respect to quality, consistency and volume, and may face prohibitively high transaction costs. Moreover, in LDCs, bad nutrition practices and poor nutrition levels impact on both demand and supply and make it difficult for producers to establish relationships with large distribution systems. The establishment of “supermarkets for the poor” by a South African supermarket chain in African countries as well as in India represents an attempt to respond to the need for better nutrition and low-price food, particularly for the urban poor. Compared to developed country markets, produce marketing in developing countries is characterized by poor institutional and public physical infrastructure support. Private infrastructure, such as packing houses, cold chains, and shipping equipment among suppliers and distributors, is usually inadequate. Risks and uncertainties prevail, both in output and in suppliers’ responsiveness to incentives.

10. Notwithstanding the obstacles to market entry for developing country producers, the effort to meet stringent market entry conditions may have positive results for the efficiency and competitiveness of these enterprises and constitute an improvement in relation to supply chains built around agents with narrow cost minimizing objectives and limited contact with consumer markets. Experience demonstrates that new markets and market segments, new products and new services can best be developed through partnerships between suppliers, input providers, marketers and customers in the chain. The growth and dispersion of contract farming, a predominant form of integration in global sourcing, has been a widespread phenomenon in agriculture. In developing countries, supermarkets make a positive contribution to the growth of intraregional trade and lead to the development of more homogeneous consumption patterns, thus offering a wider market for the producers that have adapted to the entry conditions. Where transaction costs can be reduced through improved organization of producers, the potential benefits to small farmers can be significant. However, this requires significant investment, particularly in human capital. There was a suggestion that a small levy be introduced on trade undertaken with supermarket chains, which, combined with donor support, would be used to upgrade the capacity of small and hitherto unsuccessful firms to participate in this trade as well. This would include upgrading local infrastructure, such as testing capacity and storage.

11. The main questions are how and under what conditions can producers and exporters in developing countries participate in global food chains, and what policy measures can contribute to capable and equal participation in these global food chains. The key to answering these questions regarding the development of the cross-border food chain is partnership. Where the buyer/exporter depends on producers for crops and the producers depend on the buyer/exporter for market outlet and household income, the problems of establishing sustainable trading links can be overcome, as long as both parties recognize their interdependence. The same applies to complementarities between supermarkets, importers and exporters.

12. The development and implementation of integrated chain quality assurance concepts and tracking and tracing systems enable agro-industrial companies and retailers to assure the quality and safety of food, but also imply a major challenge for producers in developing countries. Supermarkets in certain countries have started total quality management programmes and apply hazard analysis at critical control points (HACCP) rules for perishables and fresh products like fish and meat. A combination of regulatory requirements and private standards effectively steer their performance.

13. Standards or codes of practice are one of the most common instruments used to manage quality and safety issues in the supply chain. There are many codes of practice, covering different aspects or geographical areas of the supply chain. Depending on local circumstances, corporate strategies and requirement variations in end-markets, two organizing principles can be distinguished in the design of global food supply chains: product differentiation, and more complex and stringent product requirements.

14. Product differentiation is intertwined with competitive strategies of food companies and retailers, mostly in niche markets. This means that, in their sourcing strategies for fresh produce, companies have to combine both tangible assets, such as land and laboratories, and intangible assets, such as quality labels or image.

15. Consumer choices are increasingly being determined by requirements in the area of quality and safety of food. Consumer demands with respect to the ecological and socioeconomic sustainability of agricultural production and to issues of food safety are coming more and more to the fore. Recent consumer concerns about food safety of fresh produce have put an enormous pressure upon the food and retail industry to improve farming practices in accordance with quality and safety standards and to arrange transparency and traceability in the supply chain. This dimension of global sourcing results in demand for certified products.

16. Equally, international companies operate in legislative frameworks relating to food safety and property rights. For food companies, the capacity both to establish and label quality and to secure food safety and health images has become a key asset in these competitive markets. The search for regulatory frameworks or protocols in global commodity chains acts as a device to relate both consumer demands and environmental concerns to better agricultural practices. It also forges a clear link with existing national legislation and international regulation.

17. What may be considered by some as product differentiation on health or safety grounds may be considered by others as a form of trade barrier. It is the function of SPS and TBT agreements to bring order and transparency in this respect. In many instances, however, private requirements of large distribution networks, which generally reflect consumers' preferences, turn into binding constraints for producers and exporters. New or changing standards may have a negative trade impact, which is often felt in precisely the areas into which many developing countries are moving. SPS measures, for example, have become a particularly strong disincentive by hitting developing countries where they are most vulnerable - the need to diversify production.

18. The recognition that SPS and other technical measures can impede trade in agricultural and food products has focused attention on the SPS capacity of developing countries. There are concerns that many developing countries, and in particular the least-developed countries, lack the capability to comply with SPS requirements in their export markets, particularly in developed countries. In turn, this undermines any competitive advantage they may have.

19. While market access rules give the impression that entry is possible, in some cases difficult conditions, including changes in legislation, make entry a difficult issue for some exports from developing countries. For example, some exports to the EU and the United States have been rejected for dubious environmental or technical standard reasons related to packaging, marking or labelling. There was, for example, the case of a product rejected because it was said to be "unknown" to the importing country authorities. Another was rejected because it was alleged to contain excessive quantities of a prohibited chemical, but when checked by an independent laboratory it was found to be in conformity. Such tests can cost as much as 20 per cent of the

value of the merchandise. Developing country exporters lack the funds necessary for such tests, and are therefore likely to loose in most cases where safety measures are mere technical barriers to trade. Another problem relates to the moving standards of importing countries. For example, new rules imposed on imports for reasons of terrorism, requiring prior-notice to the US Food and Drug Administration of shipments to the United States, have proved very complex in practice. Small exporters have been unable to comply rapidly. What is needed, above all for developing countries and in particular SME exporters in these countries, is up-to-date knowledge of export markets and the necessary facilities to meet required standards. In this connection, it was suggested that developing countries could establish their own centres of accreditation, and these facilities should be recognized by all importing countries.

20. The rise of private standards for quality and safety of food products, and the increasing importance of the enforcement of otherwise-virtually-not-enforced public standards, are crucial aspects of the imposition of product requirements in procurement systems. The evolution of private standards in the supermarket sector is also driven by multinational retailers' striving toward convergence between the private standards applied by the chain in developed countries and in developing countries. The development of joint standards for supermarkets by EUROPGAP is one example. Not surprisingly, many small farmers and processors are finding it impossible to meet the requirements of supermarkets, and are being dropped from their procurement lists. While the establishment of joint standards facilitates compliance with the requirements, there is a serious problem in applying the same standard to all exporters, regardless of their particular social characteristics (such as the use of child labour) and environmental absorptive capacity. It was therefore suggested that developed country Governments get involved in setting private standards so that the special characteristics of exporting countries could be taken into account in the private standards. Other initiatives, such as the Code of Good Practice for Setting Social or Environmental Standards by the International Social and Environmental Accreditation and Labeling (ISEAL) Alliance, are also helpful in this regard.

21. Private sector codes of practice have had a considerable impact on developing country exporters. A code of practice is a formalized collection of private sector trader requirements that are used to manage quality and safety of products. It is based on the SPS and TBT Agreements, importers' domestic legislation, and consumer influence. While a code of practice provides certainty of entry for compliant exporters, it can impose higher levels of compliance covering social, environmental and consumer-preference aspects. The majority of farmers and processors in developing countries are small, and many of them are not able to meet codes of practice set by large supply chains, and they are therefore excluded from trade. Also, these supply chains can distort the natural development of traditional producers, force prices and wages down, prevent local producers from developing alternative markets, and deprive local consumers. To counter these negative effects, a suggestion was made to impose a country-specific levy on the value of trade by these chains and combine the proceeds with donor funding to promote compliance, especially for excluded small producers.

22. Social and environmental requirements identical to those in retailers' countries are applied to exporting countries. This creates a problem for exporting countries, as social and environmental conditions differ from country to country. For example, an environmental requirement desirable for one country may not be necessary for another because of specific geographic conditions. Governments in developed and developing countries should become involved in setting codes of practice to ensure that they take into account specificities of individual countries. Also, several examples were discussed to demonstrate how exports from

developing countries have been penalized by differing standards set for identical products. Promotion of standard harmonization at the international level would be required to counter this problem. Moreover, developing countries lack the ability to counteract import bans adequately, and it is necessary to establish and train local inspection sites in these countries.

23. Participatory standard-setting activities such as advance consultations between exporters and importers are a promising way to approach the issues of "re-governance" of agro-food chains nationally and internationally. Developing countries' authorities should have a say in developing the codes of practice, before they become operational in their area. International harmonization of codes of practice should be promoted to obviate the need to meet differing requirements in multiple export markets.

24. The unexpected loss of access to major external markets because of food quality and safety issues adds to the vulnerability of developing country exporters. The emphasis here is on the difficulties that developing countries have in monitoring approaching changes in environmental and food safety requirements, evaluating their likely impact and knowing where to go for help in building the capacity to respond in a timely and appropriate fashion. The creation of an early warning system for standards, particularly SPS standards, would go some way towards alleviating the problem. There are interesting examples of "anticipatory" standard setting activities in the ISO and private standardization systems.

25. Experts singled out organic agriculture as an example of a dynamic sector. Although the sector's total retail value in the world was estimated at only US\$ 24 billion in 2003, the growth rate in the main consuming countries (United States and the EU) was from low up to 20 per cent – rather high as compared with most other industries. Marketing channels differ between countries. In the United States, the biggest market, almost half of the organic produce is sold via supermarkets, and the other half via natural food stores. For developing countries, experts saw the main opportunities in tropical products, off-season products and in-season products that are in short supply in developed countries, especially fruit and vegetable. Novelty or speciality products (such as wine from the southern hemisphere) and processed fruit and vegetables (mainly in bulk) are two other categories. Major market trends are expected to be the maturation of the market, and expansion of domestic markets in developing countries, resulting in overall continued growth in the market, with increasing competitiveness. Developing country producers are expected to continue to have good prospects.

26. The complexity of food safety and environmental requirements of supermarkets requires a strategic and proactive response by developing countries, rather than a piecemeal, reactive and short-term approach. The elements of such a strategic, proactive approach may include:

- Development of national and regional strategies in response to some very important general or multisectoral requirements, such as HACCP, product traceability, maximum residue levels or the draft REACH (registration, evaluation and approval of chemicals) directive of the EU.
- Establishing information clearing houses, at the national, subregional or international level on environmental and product safety requirements and related early warning and quick response systems. It is also important to gather more information on emerging regulations/standards and certification requirements and related stakeholder consultations. All avenues should be explored for active participation therein.



- Creating or improving systems of adequate national environmental regulations and standards as well as, where appropriate, specific standards for exports that are similar to environmental requirements in key target markets.
- Improving or creating national or subregional eco-labelling systems.
- Actively pursuing avenues of harmonization, technical equivalence and mutual recognition of regulations and standards.
- Better co-ordination of technical assistance and capacity-building activities of foreign donors (including importers in accordance with Art. 11 of the TBT Agreement) to implement the elements above.

27. There is a need to focus more assistance at the subsector level, particularly for small firms that are often overlooked by the large technical assistance schemes of many aid agencies. Recommendations in this context included:

- Large supermarket chains should spread the cost of wider SPS compliance throughout the food chain via public-private partnerships with national Governments.
- To overcome the difficulty experienced by developing countries in challenging import bans quickly, local inspection sites should be established and manned by inspectors from a number of countries to reduce the harmful effects of such bans.
- The establishment of regional networks of accreditation bodies to supplement the existing International Accreditation Forum would reduce the costs of expensive foreign accreditation and improve the quality of some certification.
- A need exists to assist very small business to acquire basic SPS equipment through micro credits for micro purchases. Commercial loans are often not available to these firms, and the provision of a fund dedicated to this purpose and to supporting the work of bureaux of standards would go far in alleviating the SPS problem at the “grass roots” level.
- With regard to piggybacking schemes, assistance should be given to encourage firms in developed countries to enter into joint ventures with firms in developing countries.
- As far as possible legal issues are concerned, the way the concepts of traceability and equivalence are tackled by the EU may place an unfair burden on some developing countries and suppliers of particular produce. An expert in European and WTO law should examine these two issues to see whether the EU can be challenged on its implementation procedures and their discriminatory impacts as opposed to the legality of the concepts.

28. There is also the need to strengthen international cooperation. This can include the following measures:

- Actively harnessing provisions on Special and Differential Treatment (S&D) in the TBT and SPS Agreements.
- Creating international or subregional clearing houses on environmental requirements from Governments and the private sector.
- Exploring the creation of regional or subregional standards and certification systems.
- Far more active use by the developing countries of discussions in the TBT and SPS Committees of WTO to preserve or improve export competitiveness. All avenues should be explored to enhance transparency, prolong review periods of notifications and adjustment periods and facilitate participation of developing countries in standard-related consultations. Developing countries should also use the WTO Committee on Trade and Environment more effectively to raise concerns on environmental and food safety measures related to market access, in particular on critical general trends; to operationalize

S&D measures; and to support proactive adjustment strategies and active involvement in stakeholder consultations in standard setting.

- UNCTAD's initiative on creating an International Consultative Task Force on Environmental Requirements and International Trade, as a project-based activity that would assist developing countries in improving information management on environmental and health requirements in key export markets; review best practices in standard setting and consultation; and discuss national experience in proactive adjustment strategies; this is a timely step in the right direction.

29. In order to allow developing country producers to benefit from the possibility of reaching wider markets offered by supermarket chains, the support of Governments is necessary. Governments in developing countries need to provide adequate opportunities for capacity-building and to develop appropriate industrial strategies and policies; such policies would concern areas such as standardization, quality control, access to market information, provision of inputs, investment facilitation, technology promotion, small and medium-size enterprise development, and upgrading and/or diversification of agro-related industries. In Trinidad and Tobago, for example, government support was provided to enable small and medium-size farmers to meet quality standards for poultry under contractual arrangements with supermarkets. Developing country Governments and civil society can help producers organize themselves into worthwhile partners with large distribution companies and financial institutions. In this context, it is important to encourage the development of strong domestic markets, so that producers do not become wholly dependent on rapidly changing fashions in developed country markets.

30. Developing country Governments need to invest in extension services targeted at small producers to address issues such as input market failures and wastage reduction. For Governments to create an enabling environment, experts agreed that the starting point could be the creation of grades and standards for local producers and investing in extension services. Given the time needed for SPS certification from importing countries, experts suggested that producers should develop several products grades starting from lower ones and first targeting less demanding local markets. In the process, capacity building in standards could take place

31. Fair trade certification organizations such as Max Havelaar may also play an important role by helping producers to enter premium markets. In the same vein, large retailing companies are constantly looking for appealing new products – exotic products – to respond to demand from sophisticated and well-travelled consumers. A suggestion in this respect could be for developing countries to embark on an inventory of available unique products such as natural or fresh foods, teas, herbs and medicines which they could register as property and subsequently propose to large distributors. An example of joint product development based on an African product to make a highly nutritious candy was given as an illustration.

32. Developed country Governments can assist in this process by facilitating technology transfer and providing technical assistance to build the capacity necessary to meet standards. For instance, systems to guarantee traceability were introduced for fresh fruit in Côte d'Ivoire along with measures to help producers adapt to European quality and phytosanitary legislation in the context of assistance from the European Union. Developed country Governments can also assist by providing incentives for importers in their countries to facilitate market entry by developing country producers and by facilitating regulatory approval of developing country products. For instance, it appears that approval has become a major bottleneck in ensuring access to the US market under the AGOA. They could also consider making available to developing country

producers the same type of support as is provided to domestic producers to adapt to changing standards.

### **Distribution services**

33. The debate of the Expert Meeting on distribution services, trade and development perspectives for developing countries was organized in the framework of post-Doha negotiation activities and focused on issues relating to distribution services and their linkages with other productive activities. It also touched upon several other issues, such as the differences between formally negotiated market access possibilities and effective market entry conditions, the promotion of developing countries' participation in international trade, and the multilateral dimension of competition policies.

34. Global markets are characterized by increased competition and stringent quality requirements, which make it difficult for many developing countries to benefit from market opportunities. It is important for developing countries, and especially for LDCs, to develop their capacity to formulate and implement strategies for improving the competitiveness of industries supplying international markets. On the part of the international community, such an effort should be facilitated through the creation of an enabling multilateral trade framework.

35. The Expert Meeting recognized that present developments in the domain of distribution services worldwide pose serious economic and social challenges to developing countries, although they also open up some new and interesting opportunities. In order to minimize the risks and maximize the benefits that can potentially stem from the evolution of this sector, which is closely linked to practically all other services and non-service activities, an effort should be made on the part of all WTO members to ensure a successful outcome of GATS negotiations on distribution services.

### ***Economic and development importance of distribution services***

36. Distribution services are a very important sector in all countries, due to their contribution to GDP and employment and their multiple backward linkages with virtually all other sectors, including agriculture and manufacturing. Traditionally, these services were considered an intrinsically domestic sector, and were protected and regulated in most countries. However, distribution services are presently undergoing very profound changes under the impact of globalization forces, both in developed and in developing countries. Their effective functioning, and the possibility of securing effective access to them, are also key factors in determining suppliers' ultimate competitiveness.

37. Large integrated and diversified distribution networks are mostly owned by operators from developed countries. They hold very high market shares, capture a high percentage of the products' sale value, and enjoy enormous bargaining power in the domain of distribution services worldwide. The degree of concentration in distribution services markets is very high and growing, fostered by intense mergers and acquisition activity. As a result, for instance, over 70 per cent of the value created along the US farm products' value chain goes to distributors, and only 3 per cent to farmers. The situation in fresh products and grocery markets is similar.

38. In the well known cases of bananas and coffee, the producers' share is even smaller. The gross return to banana producers is only 5 per cent of the retail price, while distribution and retailing costs account for 34 per cent of the price and distribution and profits for 17 per cent; the rest covers transport, taxes, ripening, and other fees and costs. Thus, distribution services capture

51 per cent of the final price of bananas, and more than 90 per cent of the price paid by consumers remains in the importing country. The case of coffee is possibly the most extreme, as out of the average price of a cup sold to consumers, less than one US cent finds its way back to the farmers. Moreover, the asymmetries in bargaining power between buyers and suppliers are not exclusive to trade in goods, but extend to several internationally traded services, among them tourism, with the anticompetitive practices of large tour operators vertically integrated, and audiovisuals, where 80 per cent of the world market is dominated by US companies.

39. The textile and clothing sector is a traditional but dynamic sector where developing countries have a clear comparative advantage and in which they can continue to increase their participation and benefit from trade. However, their exports have been seriously restricted. Given the envisaged intensification of competition due to the forthcoming expiration of the Agreement on Textiles and Clothing (ATC), developing countries are likely to continue to face significant access and entry barriers to developed country markets. More recently, it is rules of origin, aided by the convenience of relatively high tariffs applicable to the sector and the mechanism of regional arrangements, that have become instruments of intervention and have benefited domestic textile producers in the developed world. Also, subtle campaigns in the name of protection of labour rights and the environment could increase constraints on exports from developing countries. Powerful apparel contractors possessing large distribution channels in their home markets are forcing developing country manufacturers to follow codes of conduct that are often arbitrary and unpredictable and exceed international standards. These conditions are disruptive for producers and become entry conditions. Moreover, the recent initiatives on the creation of a sustainable textile and clothing sector in the EU could create additional entry barriers for developing country producers. It was suggested that a study on non-tariff barriers on trade in textiles and clothing should be undertaken with the objective of promoting a smooth transition to the post-ATC phase.

40. Large transnational distribution networks are also becoming more powerful in sectors where developing countries do have comparative advantages (thanks to low labour costs and the availability of natural resources), such as agribusiness and tourism. The dominant position of incumbents, most of them large firms from developed countries, is hampering developing countries from fully exploiting their potential in many other areas, such as audiovisuals and software.

41. Technological, managerial, and operational changes, which also affect the areas of procurement and financing, are rapidly altering the playing field in the distribution services sector, further enhancing large chains' bargaining power vis-à-vis smaller players. Producers from developing countries are also finding it difficult to cope with the widespread diffusion of fast-changing and tough private grades and standards in supermarkets. High quality standards set by large distributors often act as a constraint for small suppliers.

42. In most developing countries, traditional players still dominate the distribution business. The retail sector is highly fragmented, presenting a duality between on the one hand a small modern subsector catering to high-income segments of the population, and on the other a large and diverse traditional sector composed of "mom-and-pop shops", street vendors, state-controlled wholesale markets, municipality-run district markets, periodical street and village fairs, and other market outlets, varying from country to country.

43. Nowadays, the distribution sector in developing countries is also changing rapidly. The most recent venue for supermarket take-off is Africa, especially Eastern and Southern Africa. In

South Africa, supermarket grocery sales represent 55 per cent of total national grocery sales, as against only 5 per cent in Nigeria. Moreover, as distribution services in developed countries are a very mature industry with little profit margin, large distribution chains seek to expand aggressively overseas, exploiting emerging opportunities in developing countries. Distribution services are therefore undergoing a process of rapid globalization and internationalization, dominated by a few very large corporations from the United States, Europe, and Japan. Only in China and Peru do national distributors appear to have a strong presence in the domestic market.

44. Many developing countries have liberalized their economy, and multinational firms and large distributors have thus enjoyed favourable conditions. In Lebanon, for example, there is so far no infrastructure to control the quality of imports or exports, there is a lack of accredited laboratories, the country is in the early stages of adopting food safety rules, there is no competition law, antidumping rules are outdated, and a consumer protection law is only now being discussed by the Council of Ministers. Moreover, there is no efficient conformity assessment body. In this context, large distribution chains control 80 per cent of imports, and large foreign retail chains are expanding fast. At the same time, many local smaller supermarket chains are being forced to close down, and complaints are being expressed about local suppliers being squeezed out by foreign retail chains. The latter are alleged to have very long credit payment terms (up to six months), while at the same time they are opening new branches in Lebanon and abroad, leading suppliers to believe that their money is being used for expansion. Other abuses of dominant power are common, such as loss-leading promotional practices and forced in-store advertising, which leads to crowding-out of smaller players. These small players are, however, reluctant to complain to the authorities for fear of being excluded from large distribution chains and because they do not believe that efficient redress action could be taken in their favour. In Sierra Leone, there is little experience so far with foreign supermarket chains, but there are major importers who control prices. Accordingly, it was agreed that anti-competitive practices of large distribution chains could in part defeat trade liberalization by depriving developing countries of trade benefits.

45. The dramatic changes taking place in distribution services are having major social consequences in many developing countries, and their impact on employment is of special concern to policy makers. The extreme unevenness in the distribution of incomes along international value chains, which particularly penalizes small rural producers in developing countries and thereby constitutes a major force perpetuating poverty and inequality, has long been recognized as a serious ethical problem.

46. In tackling this issue, one approach, which is surely not sufficient but has become increasingly popular, consists in acknowledging and facing the reality of worldwide unfair trade precisely as an intrinsically ethical challenge, and in proposing as a response the promotion of "fair trade". Contrary to standard economic behaviour, the focus of fair trade is on paying "as much as possible rather than as little as possible", emphasizing social responsibility and the impact of business transactions on cultural traditions, working conditions, workers' incomes, and environmental sustainability. A key element in fair trade, and in fact a necessary ingredient for its feasibility, is personalizing the producer for the consumer, so that the latter realizes the human predicament of the former, and is consequently willing to pay more than the price that would prevail under ordinary market conditions, where the product is only considered in its commodity dimension.

47. In sum, there are two main concerns raised by the process of modernization and globalization of distribution networks in developing countries. The first is the impact on the

competitiveness of goods and services exported by developing countries, and more specifically on market entry conditions. The second is the impact of the penetration of developing countries' domestic markets by multinational distribution companies. These two areas need further studies from UNCTAD to increase the potentialities of LDCs by building their capacities to address these aspects in the context of the GATS negotiations.

48. Without underestimating the serious challenges arising from the aforementioned trends, some participants pointed out that the ongoing process of modernization and globalization of distribution services also creates a number of development opportunities for developing countries in terms of efficiency gains, technological advancement, better integration with international trade networks, and access to foreign capital.

49. FDI in distribution services can be beneficial to employment, technological progress, and modernization in developing countries. The area of carrier services and express delivery is an example: it is expanding fast and is bringing investment in transportation and infrastructure to many developing countries. The development of e-commerce is another example of a promising opportunity, as it can be particularly effective in helping small suppliers in developing countries to find market outlets for their products and services, especially in developed countries.

50. Audiovisual services were also mentioned as important areas where liberalization can bring significant benefit. Yet some participants argued that the dominance of US majors severely restrains developing countries' ability to penetrate world audiovisual markets, even in the case of countries that can count on a strong indigenous audiovisual industry, as is the case, for instance, for India.

#### *Distribution services and GATS negotiations*

51. In the context of the ongoing GATS negotiations, distribution services are constituted by four activities: wholesale, retail trade, commission agencies and franchising. Commitments in this area are extremely important, because distribution services constitute the core nucleus of the logistics chain and are of primary importance for trade in goods and other services. In the GATS negotiations, access to and ownership of distribution networks, wholesaling outlets and particularly retailing have dominated the debate. Foreign expansion has taken place mostly through acquisitions of domestic chains, although some greenfield investment and joint ventures with local companies have taken place.

52. The transformation of the retailing sector has raised some concerns in many developing countries in respect of its impact on traditional retailers and the social consequences, including unemployment. In this respect reference was made to submissions by Thailand and China on assessment of trade in services. Also some concerns regarding competition issues were raised in connection with the participation of large chains and increasing concentration of the industry. In this connection, an adequate regulatory framework is considered a precondition for achieving better outcomes in terms of efficiency and tangible benefits for consumers, as well as providing appropriate solutions for anti-competitive behavior and addressing social concerns.

53. All proposals in the GATS make reference to the importance of this sector for national economies in terms of job and income opportunities and its share of GDP. Despite differences between countries in levels of development and structural characteristics and policies, the distribution sector is second only to tourism – among services sectors – for its contribution to GDP and employment. Until recently, the bulk of retail enterprises in most countries consisted of small shops engaged in food retailing, textiles, clothing and footwear, household equipment, etc.

It is probably for this reason that, in many countries, distribution services have traditionally been seen as an essentially domestic activity and accordingly have been heavily regulated and to a large extent protected from foreign competition.

54. During the past decade, however, trade liberalization, the development of rapid delivery opportunities and new technologies have fostered the ability of wholesalers and retailers to source products internationally. The distribution sector is becoming increasingly concentrated, as the big players become even bigger through new corporate strategic moves towards mergers and acquisitions and through the creation of closer links and networks (vertical integration) with manufacturers, internally and internationally. Among the world's top 10 retailers (measured by sales), three are of US origin, five are German and two are Japanese. In the light of these developments, the proposals by the United States, the EC and Japan in particular, calling for the further liberalization of this sector, do not come as a surprise. High spending markets of East Asia and Latin America are apparently among the principal targets of developed country distribution chains.

55. Distribution services are of primary importance for trade in industrial goods and services, and also affect trade in agricultural products. In the ongoing GATS negotiations, therefore, access and ownership of distribution networks, wholesale outlets and warehouses are of particular relevance. In this perspective, the effective implementation of provisions of GATS Article IV are of paramount importance to ensure increasing participation of developing countries in international trade in services. Moreover, the implementation of Article IV provisions would also strengthen developing countries' competitiveness in other trade areas, such as non-agricultural market access (NAMA).

56. Trade in distribution services takes place mainly through commercial presence or investment and cross-border supply, including e-commerce. WTO members recognize the impact of new technologies, in particular the Internet and e-commerce, which hold potential opportunities and challenges for all trading partners. The growth of distribution services is linked to progressive liberalization and growing international trade. At the same time, developing countries are concerned about the impact of trade liberalization and development perspectives in this sector, as demonstrated especially in recent submissions on assessment in connection with the GATS by Thailand and China. They have expressed concern that liberalization has affected suppliers of developing countries as they have lost market shares in distribution and advertising services, thus exacerbating problems faced by SMEs.

57. In the initial stages of negotiations, ten<sup>1</sup> WTO members submitted specific negotiating proposals on distribution services, including developing countries (Mercosur, Colombia, Republic of Korea), which outlined the specific areas of negotiating interest and concern to these members. In addition, distribution services were the first area of services that became subject to dispute resolution. In a recent dispute involving services (European Communities - Regime for the Importation, Sale and Distribution of Bananas), the definition of wholesale services was an issue. It was argued by the EC that, in the banana trade, wholesale trading starts only after the ripening process is completed and that any activity prior to ripening should be defined not as wholesaling of bananas, but rather as part of their production process. The Panel noted that the relevant definition in the services product classification (CPC) did not make any distinction between green and ripened bananas and that the distribution of both types of bananas fell within the scope of the

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<sup>1</sup> Australia, Colombia, Republic of Korea, Mercosur, Switzerland, Canada, Japan, the European Union, the United States and Chile.

category. At the same time, distribution services have been an important area in the negotiations on accession to the WTO, where all newly acceded countries have made some commitments in this sector. For example, a specific annex on distribution services was drafted in the case of China's accession.

*The negotiating stance of developing countries in distribution services*

58. Few developing countries felt comfortable in undertaking specific commitments in this sector during the Uruguay Round (some commitments are to be found in the schedules of 36 members and all of the newly acceded countries). Even fewer refer in their commitments to commission agents' services (21) and franchising (23). Wholesale trade services are the largest single component of distribution services and account for a significant proportion of all services trade. However, fully liberal commitments on modes 1-3 are rare. Senegal is among the very few members that have fully liberalized commitments on wholesales services.

59. The distribution sector is important in the context of the ongoing GATS negotiations – even LDCs have received requests to make specific commitments in this area. Among the 39 initial offers, one third have not made new commitments in this sector. However, taking into account the present situation, developing countries are worried about committing to further liberalize their distribution services sector in the framework of GATS negotiations, even considering the flexibility of the Agreement and the fact that it is based on the positive list approach.

60. Developing disciplines under the GATS Article VI.4 on Domestic Regulation is relevant to distribution services in ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services. Under the GATS Article XIX.2, developing countries may attach conditions to opening their markets, including limiting the number of providers and attaching performance requirements. In line with the provision of the GATS Article XVI, countries may introduce limitations under commercial presence, including on the share of foreign capital, employment of foreign personnel, and the type of legal entity. Article XVI also foresees the possibility of using economic needs tests to mitigate ex ante the possible negative impact of foreign entry into the market, which may be especially relevant in the area of retail services.

61. Both the effectiveness of GATS and the willingness of developing countries to engage in further services liberalization might be enhanced if a consensus were reached on the implementation of a multilateral discipline on safeguards, as such an instrument could constitute an effective ex post guarantee against the possible negative impact of liberalization commitments.

62. In conclusion, the debate showed that negotiations on distribution services are intimately related to negotiations on other services sectors, as well as in the domains of agriculture and industry. It also highlighted that the main issues to be explored to inform developing countries' negotiations on distribution services are as follows:

- Recent changes in distribution services worldwide are affecting developing countries in many ways in terms of their trade and development efforts.
- Concentration trends affect developing country enterprises, not only in their own domestic markets, but also in their premium markets in developed countries.
- The evolution of distribution services has a particular effect on SMEs – producers, retailers and exporters – in developing countries.



- Ways and means of enabling developing countries to gain access to new distribution technologies need to be identified and pursued nationally by developing countries, with appropriate and adequate international support.
- Gradual liberalization could be pursued in this domain by developing countries using the flexibilities provided under GATS for setting regulatory conditions.
- Developing countries could be helped to overcome the risks related to liberalization of distribution services through the improvement and possible establishment of an effective multilaterally endorsed safeguard mechanism to act as an ex-post security valve.
- Could competition rules be further elaborated and established at the international/multilateral level or dealt with as a crosscutting issue in various multilateral trade agreements, including in relation to distribution services?

63. Participants agreed that, taking into account also the relevance of the issues debated in the Expert Meeting with respect to the preparations for UNCTAD XI, UNCTAD will continue investigating the aforementioned questions and providing developing countries with specific analytical inputs and technical assistance in order to enhance their ability to assess the challenges and opportunities they are facing in the area of distribution services and to participate effectively in WTO negotiations on this domain.

## **Chapter II**

### **ORGANIZATIONAL MATTERS**

#### **Opening of the Expert Meeting**

64. The Expert Meeting on Market Entry Conditions Affecting Competitiveness and Exports of Goods and Services of Developing Countries: Large Distribution Networks was opened at the Palais des Nations, Geneva, on 26 November 2004, by Ms. Lakshmi Puri, Director of the Division on International Trade in Goods and Services and Commodities, UNCTAD.

#### **Election of officers**

65. At its opening meeting, the Expert Meeting elected the following officers to serve on its bureau:

Chairperson:	Mr. Enrique Manalo (Philippines)
Vice-Chairperson-cum-Rapporteur:	Mr. Luis Velasquez (Venezuela)

#### **Adoption of the agenda**

66. At the same meeting, the Expert Meeting adopted the provisional agenda circulated in document TD/B/COM.1/EM.23/1. The agenda for the Meeting was thus as follows:

1. Election of officers
2. Adoption of the agenda
3. Market entry conditions affecting competitiveness and exports of goods and services of developing countries: Large distribution networks, taking into account the special needs of LDCs
4. Adoption of the report of the Meeting

#### **Documentation**

67. For its consideration of the substantive agenda item, the Expert Meeting had before it a note by the UNCTAD secretariat entitled "Market entry conditions affecting competitiveness and exports of goods and services of developing countries: Large distribution networks, taking into account the special needs of LDCs" TD/B/COM.1/EM.23/2).

#### **Adoption of the report of the Meeting**

68. At its closing meeting, the Expert Meeting authorized the Rapporteur to prepare the final report of the Meeting under the authority of the Chairperson.

## Annex

### ATTENDANCE \*

1. Experts from the following States members of UNCTAD attended the Meeting:

Burkina Faso	Mexico
Cambodia	Mongolia
China	Morocco
Comoros	Oman
Côte d'Ivoire	Philippines
Cuba	Republic of Korea
Djibouti	Russian Federation
Dominican Republic	Sierra Leone
El Salvador	Spain
Ethiopia	Sudan
France	Suriname
Guatemala	Syrian Arab Republic
India	Trinidad and Tobago
Lebanon	Venezuela
Madagascar	

2. The following intergovernmental organizations were represented at the Meeting:

European Community  
South Centre

3. The following United Nations agency was represented at the Meeting:

International Trade Centre

4. The following specialized agencies and related organizations were represented at the Meeting:

Food and Agriculture Organization  
International Monetary Fund  
United Nations Industrial Development Organization  
World Trade Organization

5. The following non-governmental organization was represented at the Meeting:

*General Category*

International Confederation of Free Trade Unions

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\* For the list of participants, see TD/B/COM.1/EM.23/INF.1.

6. The following resource persons attended the Meeting:

Mr. Martin Doherty, Head of Research, Cerrex Limited, London, United Kingdom  
Mr. Emmanuel Dolly, Executive Secretary, Organisation Centrale des producteurs exportateurs d'Ananas et Bananes (OCAB), Abidjan, Côte d'Ivoire  
H.E. Mr. Alejandro Jara, Ambassador of Chile to WTO  
Mr. Jean Claude Kohler, Chief, Fruit and Vegetable Section, Migros, Geneva, Switzerland  
Mr. Renee Lieveld, Ministry of Foreign Affairs, Paramaribo, Suriname  
Mr. Mario Marconini, Former Under Secretary of Trade and Industry, Brasilia, Brazil  
Mr. Philip Marsden, Director, Competition Law Forum and Senior Research Fellow, British Institute of International and Comparative Law, London, United Kingdom  
Mr. François Souty, Chargé de mission for Multilateral Affairs, Competition Council, Paris, France  
Mr. Sietze Vellema, Programme Manager, Wageningen University and Research Center, Agrotechnology and Food Innovations, Netherlands  
Mr. Dave Weatherspoon, Associate Professor and Director, Agribusiness Management, Michigan State University, Detroit, United States of America

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