



**United Nations
Conference
on Trade and
Development**

Distr.
GENERAL

TD/B/51/4
31 August 2004

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD

Fifty-first session

Geneva, 4–15 October 2004

Item 6 of the provisional agenda

**REVIEW OF DEVELOPMENTS AND ISSUES IN THE POST-DOHA WORK
PROGRAMME OF PARTICULAR CONCERN TO DEVELOPING COUNTRIES: A POST-
UNCTAD XI PERSPECTIVE**

Note by the UNCTAD secretariat¹

Executive summary

UNCTAD XI, convened on 13–18 June 2004 in São Paulo, enhanced UNCTAD's comprehensive mandate in key areas of international trade and development. It helped build confidence and consensus in important aspects of the international trade and development agenda, made a substantive contribution to ongoing multilateral trade negotiations, and laid down a roadmap for international efforts in international trade and development and the activities of the secretariat for the next four years. A number of new initiatives were launched. The São Paulo Consensus affirms that assuring development gains from the international trading system and negotiations requires increased and effective market access and entry opportunities for developing country exports. It is imperative to ensure equity and fairness in the trading system and negotiations so as to address significant asymmetries in the size, capacity, resources and competitiveness of developed and developing countries. This would contribute to the realization of the São Paulo Consensus on upholding and safeguarding an "open, rule-based, equitable and predictable and non-discriminatory multilateral trading system" and the Millennium Development Goals, including poverty alleviation. Multilateral trade negotiations currently under way in the context of the Doha Work Programme and the WTO General Council Decision of 1 August 2004 have implications for development prospects of developing countries. The Doha negotiations need to be geared towards achieving development benchmarks if they are to deliver on the main development promises made at the Doha Ministerial Conference. UNCTAD plays an important role in supporting developing countries and the international community in their efforts to assure development gains from international trade.

¹ The document was submitted on the above date so as to take into account the WTO General Council Decision adopted on 1 August 2004.

INTRODUCTION

1. Item 6 of the agenda of the fifty-first session of the Trade and Development Board (4–15 October 2004) provides an opportunity for the Board to discuss progress attained in the implementation of the Doha Work Programme (DWP) and developments in the international trading system (ITS) in areas of interest to developing countries, including in the light of the development-focused outcomes of UNCTAD XI in São Paulo. This note has been prepared by the UNCTAD secretariat to assist the Board in carrying out its review.

I. SÃO PAULO CONSENSUS ON ASSURING DEVELOPMENT GAINS

2. Building upon the Bangkok Plan of Action,² the São Paulo Consensus (hereafter SPC) and the Spirit of São Paulo adopted at UNCTAD XI³ reconfirmed the comprehensive mandate and the uniquely integrated approach to trade and development that UNCTAD has followed over the last four decades in the three pillars of its work, namely intergovernmental consensus building, research and policy analysis, and technical cooperation and capacity building. The Conference outcomes on assuring development gains from the ITS and trade negotiations within the overall theme of “Enhancing coherence between national development strategies and global economic processes towards economic growth and development” reconfirmed and broadened UNCTAD’s mandate in the area of international trade in goods, services and commodities; multilateral and regional trade negotiations and agreements; South-South trade cooperation; national trade policies and poverty reduction strategies; trade analysis and development; commodities; services; trade, environment and development; and competition laws and policies.

3. The Conference identified new areas of work on trade, including sectoral review of new and dynamic sectors of world trade; development benchmarks; assessment of trade in services; review of the interface between regional trade agreements and the multilateral trading system (MTS); South-South trade in the context of the new trade geography; and the International Task Force for Commodities. Participants in the Global System of Trade Preferences among Developing Countries (GSTP) agreed to launch the third round of GSTP negotiations to expand and deepen South-South trade cooperation and integration. UNCTAD XI also served as an opportune occasion for individual Governments to launch major initiatives in the area of trade and development solidarity, including the International Finance Facility of the United Kingdom aimed at meeting the Millennium Development Goals (MDGs) and the National MDG progress report of the Netherlands. New initiatives were also launched with regard to partnerships to increase participation of developing countries’ enterprises in the oil and gas sector; a Consultative Task Force on environmental measures and market access; networking among secretariats of regional integration groupings; and a network of export-import banks.

4. UNCTAD XI and its outcomes, as well as the background documentation prepared by the secretariat and the intergovernmental policy dialogue in the plenary debate, interactive thematic sessions, and issue-specific forums, including dialogue with civil society, during the Rio Trade Week (7–11 June 2004), helped to identify the key issues of importance for developing countries in assuring development gains. The rich and substantive interactive thematic debate on trade, which included statements by two Heads of State, some 50 Ministers, and a number of senior officials and ambassadors, international organizations and NGOs, introduced individual country and thematic

² TD/386.

³ TD/410 and TD/L.382 respectively.

perspectives and experiences and contributed to consensus building. The issues raised included the following:

- **A new trade geography** is emerging in international trade. Trade has become a significant source of economic growth and development for developing countries, while the magnitude and the pattern of their participation in international trade have undergone significant transformation. The continued importance of the North's markets for the South aside, the importance of the South's markets to the North as well as to the South has increased dramatically in the context of global interdependence of economies.
- **Harnessing development gains** from the ITS and trade negotiations can be instrumental in the achievement of the MDGs, including poverty alleviation. This remains a key challenge for the international community as a whole and is the **responsibility of both developed and developing** countries. National actions are not sufficient and need to be complemented by conducive **international policy frameworks and supportive measures**. Trade is not an end in itself but a means to growth, development and poverty reduction.
- Coherence between **national development objectives** of developing countries on the one hand and objectives in bilateral, regional and multilateral trade negotiations (MTNs) on the one other hand is critical. There is need for developing countries to determine a strategic and progressive approach, with proper pacing, sequencing and calibration of reform, and also to promote good governance. At the same time, national development objectives need to adapt to the rapidly transforming global economy and market conditions.
- The ability of Governments to pursue the most suitable development policies should not be unduly constrained. The ITS needs to allow for legitimate **policy space** necessary for developing countries to pursue a proactive, strategic mix of trade and development policies suited to initial conditions, dynamic comparative advantage and changing needs and circumstances. It is for each Government to evaluate the trade-off between the benefits of accepting international rules and commitments and the constraints posed by the loss of policy space.
- **Poverty reduction** needs to be placed at the center of national trade and development policy options and priorities. This will allow the poor to be incorporated into trade by promoting productive sectors in which they are engaged and encouraging transformation from subsistence to commercial production. Special attention should be given to domestic and international markets for those basic products that have a direct impact on the poor's revenue and purchasing power.
- Poverty alleviation requires sustained development of the **commodity sector**. This sector continues to be the mainstay of the economy of many developing countries in terms of the generation of income, savings and foreign exchange, as well as employment and livelihood, particularly for the poor and women. Special attention thus needs to be paid to the sector both by developing countries and by the international community, including through the provision of development assistance, the reform of the MTS, securing competitive conditions in commodity markets, and addressing price instability and declining terms of trade through both governmental action and market-based instruments.
- Priority attention needs also to be given to **public interest goals** in the formulation of trade and development policies of developed and developing countries so as to address critical

survival issues of the poor. The ITS needs to be sensitive to poverty eradication, gender equality, food security, and access to essential services such as water, electricity, health and education, and access to essential medicines;

- **Adjustment concerns** from trade reform and liberalization are closely related to poverty and need to be addressed, including through greater coherence and synergy between the level of obligations, the cost of implementation, and the financial and technical resources available to developing countries. Adequate “aid for trade” is necessary, in addition to “aid for development”. It is crucial that liberalization does not result in de-industrialization and weakening of agricultural and services sectors, which would increase poverty levels;
- **Adequate and good-quality infrastructure**, including physical, human, institutional, regulatory, social and trade-related infrastructure, is indispensable for developing countries’ trade expansion and their beneficial integration into the global economy.
- To harness development gains from trade, it is essential to build up **supply capacity and competitiveness** and to increase the **technology intensity, value added, value retention, and degree of diversification** of their production and exports of commodities, manufactures and services. Governments have an important role to play in this regard, along with all other stakeholders, including donors, global enterprises and SMEs.
- Efforts need to be redoubled to meet the objective set in the MDGs of **an open, equitable, rule-based, predictable and non-discriminatory MTS**. Developing countries, especially LDCs, need to be supported in their participation in MTNs to enhance their market access and entry conditions, to ensure fair and equitable trading opportunities, to secure legitimate policy space for development, to make the best use of their rights under MTS, and to adjust sustainably to their own liberalization, including dislocation, unemployment and de-industrialization impacts.
- **Fairness and equity** is the key in assuring development gains from the ITS and trade negotiations. This presumes effective implementation of existing commitments, allowing market forces to operate in sectors of comparative advantage of developing countries, substantially reducing and/or eliminating trade-distorting interventions, and tackling anti-competitive practices of global enterprises that impair or nullify the benefits of trade.
- **Coherence between RTAs and the MTS** has to be ensured, as the increased prominence of criss-crossing of RTAs has increased the complexity of the ITS and its development impact. The new and evolving interface between the two processes needs to be taken into account to assure development gains for developing countries. North-South RTAs, in particular, may have important “behind the border” development implications;
- **Asymmetries between developed and developing countries** in terms of size, supply capacity, competitiveness and human, institutional and regulatory capacities require special and differential treatment (SDT) in ensuring equal treatment among “unequal” partners in the ITS. SDT should be recognized as a dynamic instrument for “catching up” in respect of trade success and development and for beneficial integration into the ITS.
- **Effective market access** needs to be provided for developing countries for goods and services of export interest to them, including agriculture, commodities, textiles, labour and resource intensive manufactures and services through modes 4, 2, and 1. Enhanced and

stable market access for such exports could provide sustainable and non-debt-creating development finance, as the magnitude of resources generated by developing country exports in these sectors far outstrips those provided by aid. This requires reducing and eliminating tariffs and tariff bias, addressing tariff peaks and escalation, removing and mitigating the effects of market entry barriers, e.g. those arising from the application of SPS/TBT measures, environmental and social standards, rules of origin, and contingency measures, as well as private sector anti-competitive practices and market structures.

- **Preferential market access** in favour of developing countries continues to be of considerable value and therefore needs to be enhanced by expanding the product coverage, deepening preferential margins, and ensuring effective utilization of preferential schemes through improvement of the rules governing such schemes, including rules of origin. Conditionalities need to be rationalized so as not to unduly limit eligibility for such schemes. Preference erosion as a result of MFN and regional trade liberalization is a major concern of low-income developing countries, small and vulnerable developing countries and LDCs. Trade and development-based, non-debt-creating solutions need to be identified to assist affected countries to cope with often significant adjustment costs.

5. UNCTAD XI was the first major intergovernmental conference held after the Fifth WTO Ministerial Conference (Cancún, 2003). It made a significant contribution to the post-Cancún phase of the Doha negotiations by providing the necessary political and economic underpinnings, substantive impetus, and positive direction to the negotiations. The Conference contributed to creating a constructive spirit and building confidence, and laid down the basis for a positive atmosphere for negotiations towards the WTO General Council's (GC) Decision of 1 August 2004.

II. OVERVIEW OF DEVELOPMENTS IN THE DOHA WORK PROGRAMME

Setting

6. MTNs under the DWP have taken place against the backdrop of trade's increasing role in and contribution to economic growth and development. The world's average trade-to-GDP ratio increased from about 40 per cent in 1990 to 60 per cent in 2003. This tendency is most pronounced in fast-growing developing countries in Asia. The increased prominence of developing countries' participation in international trade has given rise to a new geography of world trade. In 2002, developing countries' merchandise exports stood at US\$ 2.0 trillion, compared to world merchandise exports of US\$ 6.4 trillion. Developing countries' share in world merchandise exports increased from 24 per cent in 1990 to 32 per cent by 2000 as a result of their robust export growth at an annual average rate of 9.1 per cent throughout the 1990s and contributed substantially to the steady expansion of world trade (6.7 per cent). The share of developing countries in world services trade also increased from 18 per cent in 1990 to 23 per cent in 2002, with their services exports worth some US\$ 363 billion. World exports in commercial services stood at US\$ 1.6 trillion. The major markets for developing countries' exports continue to be developed countries, which account for some 60 per cent of total developing country exports. Significantly, in 2003, for the first time ever, the United States imported more goods from developing countries than from developed countries. Equally, the importance of South-South trade has increased steadily and substantially. Today, South-South trade (exports) accounts for 40 per cent of total developing country exports, and it represents some 13 per cent of total world exports.

7. Against this background, the stakes in MTNs are particularly high for developing countries. This is so in respect of their offensive or positive (export) agenda and their defensive (import and “behind the border” measures) agenda. At the same time, the scope of trade rules enshrined in WTO Agreements encompasses development policy choices of developing countries, such as instruments of industrial policy, thereby posing important constraints. The last decade has also seen increasing recognition of the fact that the implementation of the WTO Agreements manifests imbalances and inequities in the overall balance of rights and obligations and commercial benefits derived from trade opportunities arising from liberalization commitments, mostly at the expense of developing countries. Thus, expectations were high on the part of developing countries when WTO Ministers agreed at Doha to place the concerns and needs of developing countries at the heart of the DWP. Achieving development-oriented outcomes and promoting the MDGs, including Goal 8 on “developing a global partnership for development through an open, rule-based, predictable and non-discriminatory multilateral trading and financial system”, are key in this respect. The need to uphold and safeguard this objective was reaffirmed at São Paulo.

8. The setback at the Fifth WTO Ministerial Conference caused disappointment and led to reflection on the prospects of the DWP and the viability of the MTS, as well as on ways and means for moving forward in the Doha negotiations. A concern was raised over the implications of Cancún for achieving an MTS that is sensitive to the trade, financial and development needs of developing countries. The comprehensive debate that took place at the fiftieth session of the Trade and Development Board on 8 and 14 October 2003, the first such debate after Cancún at the intergovernmental level, reaffirmed the importance of the MTS and the need for political will and concerted efforts in putting the Doha negotiations back on track. The background note by the secretariat,⁴ as well as the Board’s discussion as reflected in the Chairperson’s summary,⁵ identified key stakes for developing and developed countries, as well as for the ITS as a whole, and highlighted the new role and importance of developing countries’ alliances in achieving a pro-development outcome in the post- Cancún phase of the negotiations.

Lessons learnt, and process and substance-related issues

9. There is now recognition that the process and substance of negotiations are inseparable, and that agenda setting is critical in determining the outcomes of negotiations. The overall negotiating atmosphere has improved in the post-Cancún phase with the emergence of more participatory and inclusive processes, a listening mode, and direct contacts and negotiations among WTO Members, especially in key negotiating areas such as agriculture. Increased attention has been given to direct and informal contacts among WTO Members. The negotiations have witnessed the pursuit by developing countries of their interests and priorities, indicating their enhanced and sophisticated negotiating capabilities, their engagement, and strengthened regional, transregional, and issue-based coalitions. These strengthened coalitions (G-20, G-33, G-90 (ACP/AU/LDCs) and LDCs) have been successful in focusing Doha negotiations on the core trade agenda and in advancing their specific development concerns. The G-20, for example, has contributed to advancing agriculture negotiations. Some developing countries have participated effectively, put forward sound technical proposals, and become key players in the WTO decision-making processes. Equally significant has been the emergence of some North-South coalitions (G-10) and negotiating “ginger groups” such as the Five Interested Parties (FIP) (Australia, Brazil, EU, India and the United States), which came together on the eve of UNCTAD XI and prepared much of the ground for the Framework Agreement on agriculture. The formation of the FIP was welcomed as promoting efficiency, with a

⁴ TD/B/50/8.

⁵ TD/B/50/14 (Vol.I).

move away from the purely Northern character of core decision-making groups. However, there has also been a call by others for more broad-based, well prepared and sequenced consultative processes leading to consensual negotiated agreements.

10. The fact that the 1 August Framework Agreement was decided at the GC level with some Ministerial participation raises interesting questions with regard to the relative role of Ministerial Conferences. Taking into account the setbacks at Seattle and Cancún, the future role of Ministerial Conferences may be increasingly geared towards stocktaking, the injection of momentum, and putting a political seal on deals already worked out in the GC. The increased complexities of the ITS, with the expansion, proliferation and deepening of RTAs and bilateral trade agreements, will continue to affect negotiating processes. A positive interface and coherence between the MTS and RTAs is required to ensure that RTAs are building blocks for the MTS and contribute to the development of developing countries. Concern has been expressed that the WTO as a negotiating forum might be bypassed by regional trade negotiations, most notably some North-South agreements where developing countries have less bargaining power and where key negotiating issues of offensive interest are left out and defensive interests are overridden. Such prospects highlight the need for a stronger, more viable MTS, as well as for a successful and development-oriented conclusion of the DWP. The DWP negotiations may also be influenced by WTO disputes, as is the case with agriculture as well as systemic issues, and by the situation on the ground in different countries and international markets. Resurgence of protectionist tendencies in some key markets will continue to influence negotiating processes, especially in areas of importance to developing countries such as outsourcing and textiles.

11. In order to have a genuine “development round” and a sustainable and dynamic trading system, a course correction from a mercantilist approach to trade negotiations to an approach based on MDGs and the SPC, which emphasize fairness, equity and development solidarity, is essential. Some priority areas for negotiations could be identified for the realization of pro-development outcomes that would ensure a fairer and more equitable sharing of benefits, as well as adjustment costs, among developed and developing countries. These will centre around advancing substantially, and in a commercially meaningful manner, their core market access agenda in the WTO, namely enhanced and deeper market access and facilitated entry conditions for commodities, labour-intensive manufactures, and services. In particular, the outcome of agriculture negotiations will play a critical role in development and poverty reduction. Development and trade solutions should also be found for specific concerns of developing countries such as erosion of preferences, cotton and commodity issues, de-industrialization, rural development, food security and more broadly poverty alleviation. At the same time, development-oriented outcomes require preserving legitimate policy space for developing countries to pursue policies suited to their specific needs.

Framework Agreement of 1 August 2004

12. Following the issuance and revision of two draft texts, on 1 August 2004 the WTO GC adopted a Decision on frameworks for further negotiations (“the Decision”) or the so-called “Framework Agreement”.⁶ Since the resumption of the DWP negotiations in March 2004, the adoption of such a Framework Agreement by end July had been the agreed target expected to enable WTO Members to bring negotiations back on track. The Decision sets out the framework, structure and direction for future negotiations in four core areas, namely agriculture, non-agricultural market access (NAMA), services, and development issues, and, by explicit consensus, adds on the area of trade facilitation. The Decision was a culmination of complex and difficult

⁶ *General Council Decision of 1 August 2004* (WT/L/579, 2 August 2004).

negotiation processes, involving intensive consultations in Geneva and capitals, Ministerial gatherings, political initiatives by individual partners, most notably letters addressed to WTO Members by the US Trade Representative and by the EU Trade and Agriculture Commissioners, regional groupings, issue- and concern-based coalitions, and critical trade-offs in bilateral, plurilateral and multilateral settings.

13. The Decision reaffirms first and foremost the value of multilateralism, re-establishes the viability of the DWP, reconfirms the centrality of development concerns, and recommits WTO Members to fulfilling the development dimension of the DWP. It also reconfirms SDT as an integral part of WTO Agreements. It helps reduce uncertainty in the MTS, and calms protectionist fears. The Decision represents a forward movement in several areas, in particular in agriculture. It reaffirms the importance of longstanding trade preferences and of addressing the issue of preference erosion and of cotton. The Decision provides a more flexible and realistic approach to the timeframe for the conclusion of the DWP negotiations by extending the deadline for negotiations beyond 1 January 2005 at least until the sixth session of the WTO Ministerial Conference scheduled in December 2005 (Hong Kong, China). It also sets out new timelines for some aspects of the work programme, including SDT review (July 2005), implementation-related issues and concerns (July 2005), and services (May 2005 for submission of revised offers). These timelines indicate the importance attached to key development issues and the need to make progress on SDT and implementation issues on a priority basis against a background of missed timelines on these key issues in the past. However, there are no timelines for agriculture and NAMA.

14. The Decision provides for a new structure and specific benchmarks for future negotiations towards full modalities. While constructive ambiguities have been useful in overcoming differences and moving on with negotiations, a number of important issues and key parameters will still need to be resolved from the perspective of developing countries before and in the course of negotiations. This will require identifying and ascertaining specific pre-commitments and down payments, as well as the kind and level of flexibilities, contained in the frameworks,⁷ along with the balance thereof in the overall negotiations, and their implications for the direction of future negotiations. A proper sequencing within and among different areas of negotiations will be key for achieving a balanced outcome. In this respect, it is likely that progress in other negotiating areas, including NAMA and services, will continue to be influenced by progress in agriculture. Some political and national policy developments and considerations could also affect the prospects, content, timing and implementation of the Decision. These may include, for example, the expected expiration of the US Trade Promotion Authority in 2005 and its possible extension until 2007, and the expected agricultural reforms on the part of key partners, such as the enlarged EU. Negotiations could extend beyond December 2005.

III. SPECIFIC AREAS OF NEGOTIATION

A. Agriculture

15. Agriculture remains the most important sector in many developing countries. On average, 38 per cent of employment in developing countries and 71 per cent in LDCs is in agriculture. Trade in agricultural goods often accounts for more than 50 per cent of developing country exports. Agriculture is particularly important for the world's poor, since a disproportionately high share of

⁷ Such pre-commitments include, for instance, agreement to initiate negotiations on trade facilitation; commitment to eliminate export subsidies by a specific date; and commitment to reduce trade-distorting domestic support by 20 per cent in the first year of the implementation period.

the poor live in rural areas in developing countries and engage in subsistence agriculture. The agricultural sector is also the most heavily distorted. Support and subsidies given to the agricultural sector in OECD countries, including market price support, income subsidies and protection through import tariffs, total some \$300 billion per annum. It is estimated that developing countries could gain over \$43 billion annually in economic welfare from the complete removal of trade barriers in the agriculture and food sector.⁸ Producers and exporters in developing countries would be better off as a result of rising agricultural commodity prices and fairer competition, but some developing countries may find their current preferences eroded and some net food importers could face higher food bills.

16. The SPC stresses the importance of agriculture as a central element of the Doha negotiations. It also highlights the fact that efforts should be intensified to achieve the agreed objectives of the Doha mandate in its three pillars, namely: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. The negotiations should deliver an outcome that is consistent with the ambition set out in the Doha mandate. SDT for developing countries should be an integral part of all elements of the negotiations and should take fully into account special development needs of developing countries, including food security and rural development. Non-trade concerns will be taken into account. The Marrakech Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries (NFIDCs) should be implemented effectively.

17. The Framework for Establishing Modalities in Agriculture sets out roadmaps and key benchmarks for the conduct of agricultural negotiations in its three pillars. Details of formulas, targets, criteria and implementation periods are not specified, leaving wide scope and flexibility for future negotiations. It reiterates that SDT should be an integral part of all elements of the negotiations, and introduces several new concepts on SDT. The peace clause was not renewed.

18. On domestic support, the Framework provides for substantial reductions in all trade-distorting support, i.e. the bound Total AMS (aggregate measurement of support, or amber box support, e.g. market price support), *de minimis* support and the blue box support. The reduction of the total AMS would be based on a tiered approach (the details of which are to be negotiated), targeting *inter alia* greater reductions by countries with higher support. Product-specific AMS would be capped at an agreed level. Reductions in *de minimis* support will be negotiated taking into account SDT principle. The blue box payments definition may be broadened to encompass direct payments unrelated to current production if no production is required in addition to direct payments that are tied to programmes that limit production. Such new blue box payments, used essentially by a group of developed countries, would be capped at 5 per cent of the total value of agricultural production in a period to be determined. The criteria will be reviewed to ensure that new blue box payments are less trade-distorting than AMS measures

19. There exists concern as to whether the provisions regarding trade-distorting support will effectively lead to a substantial progressive reduction of these measures, since reductions would be from bound levels, which are often higher than the current support, and a broader range of support measures could be shifted into the new blue box (or to the green box). Furthermore, some flexibility would be given regarding the blue box cap. Many developing countries originally called for the elimination of the blue box. Green box support would not be capped as initially demanded by developing countries. The criteria would be reviewed and clarified. The extent to which domestic

⁸ Anderson, K. (2003), "Agriculture, Trade Reform and Poverty Reduction: Implications for Sub-Saharan Africa", UNCTAD Policy Issues in International Trade and Commodities Study Series, No.22, Geneva.

support would be reduced and criteria tightened up to minimize trade distortions are key issues for the outcome of the negotiations. There are concerns that the Framework provides considerable flexibility for subsidy-providing developed countries.

20. In terms of SDT, developing countries would make lower reductions for all forms of trade-distorting domestic support over longer implementation periods. Those developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers would be exempted from *de minimis* reductions. Developing countries would also continue to have access to domestic support for development under Article 6.2, which provides that similar support measures are already exempted from reductions.

21. As regards export competition, the commitment to eliminate export subsidies by a specific date is considered a major achievement of the Framework. The specific date for elimination, as well as specific modalities for doing so, is left for negotiations. The Framework provides for a parallel elimination of all elements of export subsidization, including scheduled export subsidies and distorting elements in export credits, State Trading Enterprises (STEs) and food aid. The elimination of export subsidies, with early elimination for products of specific interest to developing countries, was a major demand by agricultural exporters and developing countries. There is concern that the parallel elimination approach would result in continuation of direct export subsidies beyond the previously expected timeframe. Some developing countries are concerned about the parallelism with regards to their STEs, which they consider to be conducive to development. Special export subsidy provisions that gave developing countries more flexibility would also end after a reasonable period. New disciplines for food aid would be agreed in order to prevent surplus disposal. Developing countries benefiting from emergency or non-emergency food aid have expressed concern over the possible negative impact on the availability of food aid.

22. With regard to market access, the Framework provides for a single-tiered approach with deeper cuts in higher tariffs. All Members except LDCs - which are exempt from reduction commitments - would contribute to tariff cuts, taking into account "proportionality", i.e. a lesser level of reduction commitments from developing countries. Whether the approach effectively reduces tariff peaks and tariff escalation in developed country markets will depend on the specific tariff reduction formula to be agreed. The elaboration of a formula that would take into account the different tariff structures of developed and developing countries will be a major challenge for negotiations. The new concept of sensitive products allows both developed and developing countries to continue protection of the appropriate number of products provided that an improvement in market access for each product is achieved through combinations of tariff rate quota (TRQ) commitments and tariff reductions. It may be the case that many products where developing countries have a comparative advantage would be designated as sensitive by developed countries and hence market access hampered. Developing countries call for a very limited number of sensitive products for developed countries. Given developing countries' limited capacities to use export and domestic support measures, SDT is particularly important in the area of market access. Developing countries would be subject to a lower level of liberalization, in particular for designated "special products (SP)" whose selection would be based on criteria of food and livelihood security and rural development. A number of developing countries called for sufficient flexibility in their selection of SP in order to meet their different needs. A special safeguard mechanism (SSM) for exclusive use by developing countries will be established under conditions to be determined, while the continuation of the existing special agricultural safeguard (SSG) for use by developed countries remains under negotiation. Developing countries had demanded the elimination of the latter.

23. As regards LDCs, the Framework encourages developed countries, and developing countries in a position to do so, to provide duty-free and quota-free market access to LDC products. Additional elements, such as flexibility in the application of the rules of origin, would improve the effectiveness of this provision. The treatment of non-tariff barriers (NTB) is not addressed in the Framework and remains to be tackled in agriculture negotiations. Developing countries have attached importance to addressing NTBs, including SPS standards, because their incidence has been increasingly felt as tariffs are lowered, thereby affecting their market entry conditions.

Box 1: Concerns and issues raised by developing countries - Agriculture⁹

General

- The final balance, equity and sequencing between and within the three pillars of the agriculture negotiations, as well as within the single undertaking. Credible and expeditious commencement and completion of the implementation of the negotiated commitments.

Domestic support

- The choice of a reduction formula for the AMS that reduces the currently applied support on a product-specific basis so that substantial reduction is achieved for all products of export interest to developing countries.
- Setting stringent criteria for the blue box and the green box to prevent box shifting.
- The implication of *de minimis* cuts by developing countries, and identifying the type of *de minimis* support that qualifies as being given to subsistence and resource-poor farmers.

Export competition

- A credible date for the elimination of all forms of export subsidies, in particular direct export subsidies.
- The role of export credits and STEs used by developing countries in their development strategies, and their appropriate reflection in the SDT provisions.
- Due priority given to putting in place mechanisms (trade, aid and financing mechanisms) to alleviate possible negative impacts on LDCs and NFIDCs.

Market access

- The choice of a tariff reduction formula that effectively eliminates tariff peaks and tariff escalation in developed countries for products of export interest to developing countries.
- Restraining the flexibility given to sensitive products of developed countries (product selection, flexibility in tariff cuts and TRQ expansion) so as not to undermine market access opportunities for developing countries. The elimination of special safeguard measures (SSG) for developed countries.
- Ways to link market access improvement to market entry enhancement.
- Appropriate degree of "proportionality" in tariff cuts for developing countries, taking into account the fact that tariffs are the only protection given to their agricultural producers to counter subsidized production and exports of developed countries.
- Design of the SP and the SSM that would allow developing countries sufficient policy flexibility with respect to food security, livelihood security and rural development

B. Non-agricultural market access (NAMA)

24. The world's exports of manufactures stood at US\$ 4.4 trillion in 2001. This represents 75 per cent of the world's exports. Thus, manufactures occupy a substantial share of world merchandise trade. For developing countries, the importance of processed and manufactured goods has increased significantly, with exports standing at some US\$1.2 trillion, which represents on average nearly 65 per cent of their exports. Their share in world merchandise exports also increased to about 30 per cent. Although tariffs are relatively low in industrial products compared to other sectors, some highly protected sectors exist where tariff peaks and escalation are prevalent. Tariffs are biased against sectors of export interest to developing countries, and NTBs are frequent and concentrated in such sectors. Reducing or removing the protection could lead to significant gains, including for developing countries, though these would vary as between countries and sectors. As

⁹ Compiled from various sources, including WTO documents, statements and press reports.

importers, developing countries could face the risk of higher adjustment costs, including the risk of de-industrialization and loss of supply capacity, competitiveness, and tariff revenue.

25. The SPC calls for efforts aimed at extending market access liberalization for non-agricultural products under the DWP to be intensified with the aim of reducing or, as appropriate, eliminating tariffs, including tariff peaks, high tariffs and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Negotiations should take fully into account the special needs and interests of developing countries and LDCs, including through less than full reciprocity in reduction commitments. In addition to difficulties in meeting standards, the other challenges of market entry remain a key concern in developing countries' efforts to enjoy effective market access, and, where appropriate, these should be addressed adequately.

26. The Decision resulted in a Framework on "initial elements" of modalities for further negotiation based on the so-called Derbez text. Given the concerns expressed by many developing countries on the Derbez text, the Decision provides that "additional negotiations are required to reach agreement on the specifics of these elements". These relate to the formula, the issues concerning the treatment of unbound tariffs, the flexibilities for developing country participants, the issue of participation in the sectoral component, and the preferences. "Specifics" may imply changing aspects of these elements through definition, limitation and precision. As regards the approach to tariff reduction, the Framework provides for the continuation of work on a non-linear formula applied from bound rates on a line-by-line basis. The non-linear formula that requires deeper cuts for higher tariffs would result in greater tariff cuts for many developing countries because they generally maintain higher bound tariff structures. Developing countries argued that such a result would be contrary to the principle of less-than-full reciprocity. For unbound tariff lines, the Framework provides, *inter alia*, that the basis for tariff reduction could be a multiple of MFN applied rates.¹⁰ This may have the effect of locking in low rates in developing countries.

27. Regarding the sectoral initiative, the Framework provides that a sectoral tariff component, aiming at elimination or harmonization of tariffs, in particular on products of export interest to developing countries, is a key element in NAMA negotiations. While concerns exist over possible mandatory participation in the component, the Framework provides that participation by all participants in the sectoral initiative would be important. This implies that participation in the sectoral component could be voluntary. Developing countries with relatively low binding coverage are concerned over the proposal to increase the binding coverage up to 100 per cent of tariff lines. Many developing countries and LDCs have already liberalized unilaterally, including under structural adjustment programmes, and their applied rates are often low. Binding those rates close to applied rates may thus limit their policy space for industrial development purposes.

Developing countries would be subject to longer implementation periods and lesser tariff cuts, while LDCs are exempted from reduction commitments although they are encouraged to raise tariff bindings. Erosion of preferences has been a major concern for those countries dependent upon long-standing preferential schemes for their exports. The Framework reaffirms the importance of longstanding trade preferences and provides that the issue should be taken into consideration. It is important that this be done through both trade solution and development instruments. Development support would need to be provided for adjustment and help build sustainable supply capacities.

¹⁰ The figure suggested in the Framework is two.

Box 2: Issues and concerns raised by developing countries - NAMA¹¹

- Ascertaining the scope of “specifics” and implications for negotiations, in particular on the tariff formula and the possibility of using a linear formula for developing countries.
- Elaboration of the tariff formula, the basis for application, including unbound tariff lines, that would ensure substantive improvement in market access for developing country exports, addressing tariff peaks and escalation, while respecting the principle of less than full reciprocity for developing country commitments.
- Detailed modalities for sectoral components, including the issue of mandatory or voluntary participation of developing countries in these components.
- Finding, for those developing countries with low levels of binding, a reasonable level for tariff bindings at appropriate and sustainable tariff levels.
- Specific trade solutions for preference erosion, while ensuring that non-preferential tariffs of preference-granting countries are not kept unduly high.
- Bound duty-free and quota-free market access for all products originating in LDCs, with realistic and flexible rules of origin.
- Advancing negotiations on NTBs in the NAMA Negotiating Group so as to effectively improve market entry conditions for developing country exports.

C. Services

28. Services have gained prominence in all economies, particularly developing countries. Efficient services are important for national economic competitiveness, as well as human and social development. Services account for over 20 per cent of total world trade and contribute about 66 per cent of value-added in world output. For developed countries, services account for 70 per cent of GDP and 23 per cent of exports, while for developing countries the corresponding figures are 50 per cent and 15 per cent respectively. In 2002, world exports in commercial services stood at US\$ 1.6 trillion, of which developing countries accounted for US\$ 363 billion. Their share thus increased to 23 per cent from 18 per cent in 1990.

29. The SPC calls for negotiations in trade in services to fully observe the objectives stipulated in the GATS as well as the development provisions of the WTO Guidelines and Procedures for the Negotiations on Trade in Services (Guidelines), including in relation to effective multilateral commitments on services sectors and modes of supply of export interest to developing countries. It highlights the fact that, in the context of negotiations on services, developing countries have underscored the importance that effective liberalization of temporary movement of natural persons under Mode 4 of GATS has for them. Multilateral rule making in services should be given attention, taking into account the interests and concerns of developing countries. It notes also that negotiations on infrastructure services should give due attention to the concerns of all countries, especially developing countries, including in connection with the universal provision of essential services.

30. The Decision provides a set of Recommendations for services negotiations, basically reiterating previous objectives and commitments set out in the GATS Guidelines and the DWP, while emphasizing the need for a high quality of offers in sectors and modes of export interest to developing countries and no *a priori* exclusion of any service sectors or mode. It provides that revised offers would be submitted by May 2005. Negotiations on services are based on a request and offer approach and have progressed slowly. As of July 2004, 44 offers, including 29 from developing countries, had been submitted, there being 147 WTO Members. Developing countries have experienced difficulties in identifying sectors and modes of priority interest based on their

¹¹ Compiled from various sources, including WTO documents, statements and press reports.

national policy objectives, identifying the barriers to their services exports, assessing the impact of requests by developed countries on their services sectors, and identifying ways of overcoming supply constraints and infrastructure weakness through active implementation of GATS Articles IV and XIX:2 by developed trading partners. Thus, progress needs to be made on assessment of trade in services to facilitate developing countries' participation in the request/offer exercise, and – where needed – negotiations should be adjusted in the light of the results of this assessment. The Recommendations provide for a review and full reporting on progress in negotiations for the Sixth Ministerial Conference. This exercise will need to consider, *inter alia*, the extent to which Article IV is being implemented, while taking into consideration the needs of small service suppliers in developing countries, in line with paragraph 15 of the Guidelines.

31. The Recommendations note the importance for developing as well as developed countries of temporary movement of natural persons (Mode 4). Particularly important in this respect is commercially meaningful liberalization in that Mode. The initial offers submitted by developed countries made limited improvements to their existing commitments. A group of 18 developing countries have expressed concerns that current specific commitments, as well as the initial offers, do not provide commercially meaningful benefits to them, as they often render the movements of natural persons conditional upon the establishment of commercial presence and do not cover different levels of skills.¹² The ambiguity and the lack of predictability of offers with regard to the definition of natural persons, as well as over the substantial restrictions and requirements attached to the offers, including economic needs tests, are also highlighted. In particular, many offers lack clarity as regards work permits, visa and other administrative regulations, and procedures relating to the entry of service providers. Furthermore, there is a need for new categories of semi- or less-skilled movements to be included in developed countries' offers. While some developing countries have increased their capacity to export IT-enabled services through outsourcing and have sought commitments under Mode 1 to facilitate exports, there exist signs of a potential protectionist backlash, possibly constraining such export potential, which needs to be countered and prevented.

32. As regards rule making in the context of GATS rules, the Recommendations provide for the intensification of efforts for its conclusion in accordance with the respective mandates. To date only limited progress has been made in all rule-making areas. The deadline for mandated negotiations on emergency safeguard mechanisms (ESM) under GATS Article X was extended to no later than the date of entry into force of the results of the DWP on services. Such mechanisms allow developing countries to address potential negative consequences of liberalization, e.g. respond to change in circumstances and adapt to rapid liberalization, and consequently would put developing countries in a “comfort zone” for making liberalization commitments because national suppliers would be able to adapt to trade liberalization. The mandated information exchange on all forms of subsidies to domestic suppliers has not been pursued effectively. On government procurement, uncertainty exists concerning the scope of the mandate. Article VI.4 disciplines on domestic regulation remain important, as regulatory reform determines the pace and sequencing of liberalization in services, and as, together with the relevant market access commitments, such disciplines could play a role in facilitating movement of natural persons in relation to recognition of their qualifications and licensing requirements. At the same time, there are complex and sensitive issues at the interface between domestic services regulation and international rules disciplining them, including access to essential services.

¹² WTO document TN/S/W/19, 31 March 2004.

D. Singapore Issues

33. According to the Decision, “no new work towards negotiations” would be undertaken during the Doha Round on the three Singapore issues (i.e. trade and investment, trade and competition, and transparency in government procurement) and they would not form part of the single undertaking. It is not clear what the practical implications of these provisions would be, e.g. in respect of the possible resumption or otherwise of work within relevant working groups and of the work towards negotiations after the DWP.

34. The Modalities for negotiations on trade facilitation provide for negotiations aimed at clarifying and improving relevant aspects of GATT Articles V, VIII and X to further expedite the movement, release and clearance of goods, including goods in transit. Significantly, a footnote notes that this is without prejudice to the possible format of the final result of the negotiations, which implies that the binding or non-binding character of the resulting instrument is yet to be decided upon. The applicability or otherwise of the dispute settlement mechanism, and the exact form thereof, is a major concern of developing countries and remains to be negotiated. Negotiations would also be aimed at enhancing technical assistance and support for capacity building. The results of negotiations would take fully into account the principle of SDT, it being understood that “SDT should extend beyond the granting of traditional transition periods for implementing commitments”. An assurance was given to developing countries that they would not be required to undertake commitments that they could not implement, including for financial reasons, and the extent and timing of entry into commitments would be related to the implementation capacities of developing countries and LDCs. Both these aspects represent welcome recognition of the approach stressed by UNCTAD that SDT should have a broader scope and that the cost implications of agreements need to be catered for to ensure proper synergy and sequencing between the level of obligations, the cost of implementation, and the financial and technical resources available to developing countries and provided to them by development partners.

35. Developing countries would not be obliged to undertake investments in infrastructure projects beyond their means. Where they lack the necessary capacity, the Modalities state that implementation would not be required of them. This responded in part to developing countries’ concern over the cost and infrastructure implications of the instrument. Developing countries also called for implementation costs to be covered by the proposed instrument itself. In this respect, the Modalities provide for enhanced technical assistance and capacity building support, with the understanding that the commitment by developed countries to provide such support is not open ended. Collaborative efforts by international agencies, including UNCTAD, are called for to ensure effective, operational and coherent technical assistance and capacity building.

E. Development issues

Special and differential treatment

36. The SPC reaffirmed that SDT provisions should be conceived as a developmental tool addressing developing countries’ particular needs and should be reviewed with a view to making them more precise, effective and operational in order, *inter alia*, to facilitate the beneficial and fuller integration of developing countries into the rules-based multilateral trading system. Work should be further pursued to yield a meaningful and development-oriented outcome consistent with the objectives set out in the Doha Declaration.

37. The Decision provides that work continue on all outstanding Agreement-specific proposals, as well as the other outstanding issues, including cross-cutting issues, the monitoring mechanism and the incorporation of SDT into the architecture of WTO rules. As there was no agreement to harvest the 28 Agreement-specific proposals that had been agreed to in principle as contained in the Derbez text, there is no reference to them in the Decision. The major proponents continued to argue that all Agreement-specific proposals be treated as a package. The new deadline for reporting to the GC with clear recommendations for a decision was set at July 2005 for those proposals being considered within the Committee on Trade and Development and those proposals referred to other negotiating bodies ("category II issues"). Many developing countries insisted that operational SDT should be placed on a firm contractual basis and targeted to the specific needs of developing countries. It should be emphasized that, since the launch of the DWP, only mainly procedural improvements to the SDT have been addressed, leaving the bulk of provisions with substantive development or commercial content for the future negotiations.

Implementation-related issues and concerns

38. The SPC emphasizes that the outstanding implementation issues and concerns are a matter of utmost importance to developing countries and should be addressed in a manner consistent with the DWP. In addition, further consideration should be given to assisting developing countries in implementing multilateral trade agreements and meeting adjustment and social costs. The Decision reiterates the need to redouble efforts to find an appropriate solution as a priority not later than July 2005. Reference to individual outstanding implementation issues of importance to developing countries is not included, while explicit reference is made to the extension of additional protection on geographical indications (GI) on products other than wines and spirits. Implementation-related issues and concerns were not given priority following Cancún. Some developing countries have proposed the establishment of a single negotiating body on implementation issues.

39. Textiles and clothing have been a major implementation issue in the run-up to the Doha Ministerial Conference. The expiry of the Agreement on Textiles and Clothing (ATC) scheduled on 1 January 2005 and the lifting of quotas will test the credibility of the MTS. The ATC expiry would bring to an end the discriminatory trade regime that for over 40 years governed and restrained textiles and clothing exports from developing countries, despite the pressures from some textile and garment industry associations to extend the quota restrictions. The textile and clothing sectors in developing countries play an important role in the diversification of the economy, employment, the empowerment of women, rural development, the development of small and medium-scale enterprises, equitable distribution of income, foreign exchange earnings, and poverty reduction. The elimination of quotas will unleash the potential of developing countries to export textiles and clothing. Freeing textile trade could generate income gains in developing countries of \$24 billion a year, export revenue gains of \$40 billion, and 27 million jobs. The implementation record with regard to quota elimination over the last 10 years has seen the backloading of quota elimination, as the restricting countries opted not to use the phase-out period for the quotas provided by the ATC to ease the impact of quota-lifting. While there will be some adjustments, the efficiency and welfare gains to the importing developed countries themselves could be as high as US\$ 18 billion a year in the United States and ECU 25 billion a year in the EU. It is possible that some countries, especially LDCs, may face some adjustment issues, and assistance would be required to improve their market access and supply capacity.

Cotton

40. The SPC reaffirmed the importance of addressing fully the problem of the cotton sector at the national level and in the relevant fora at the international level. The Decision provides that the cotton issue raised by four West African countries would be “addressed ambitiously, expeditiously and specifically” in the agriculture negotiations. This is in contrast to calls to address cotton as a stand-alone issue outside the agriculture negotiations. Reference to “specifically” was made to ensure that negotiations would focus on cotton. A subcommittee on cotton will be established to review progress. Negotiations should encompass all trade-distorting policies affecting the sector, including tariffs, domestic support and export subsidization. Compensation for losses suffered by the West African cotton producers will be considered in the context of development and financial support programmes. The recent WTO dispute on cotton is likely to have implications for the prospects for an early resolution of the cotton issue.

Commodity initiative

41. The SPC stressed the importance of focusing on the difficulties faced by commodity-dependent developing countries; support should be provided for their efforts to restructure, diversify and strengthen the competitiveness of their commodity sectors, including by the provision of enhanced market access on a secure and predictable basis, adequate technical and financial assistance, and strengthening of capacity and institutions, in both the public and the private sectors. The Decision provides that particular concerns of developing countries, including commodities issues, will be taken into account in the context of agriculture and NAMA negotiations. Commodity issues put forward in 2003 by three East African countries remain to be tackled. The countries in question called for the crisis in trade and development of commodity-dependent developing countries caused by the long-term price decline and fluctuation of commodities prices to be addressed urgently. The Eminent Persons Group convened by UNCTAD on behalf of the United Nations General Assembly has in its report analysed the causes of, and remedies for, the commodity crisis. Some market access aspects, tariff peaks and tariff escalation, and subsidies should be addressed by the WTO. Many other important aspects go beyond the mandate of WTO and thus require the involvement of other international organizations, specifically UNCTAD, and support from international financial institutions and donor community.

F. WTO Rules

42. The SPC recognized that the abuse of anti-dumping (AD) measures is a major market entry barrier for developing countries’ exports. The GC Decision makes no specific reference to negotiations on WTO rules except for a commitment to achieve progress, and only limited progress has been made. Of particular interest to developing countries is the expiration of the quota system under multifibre agreements for textile and clothing sector. There is widespread concern that the elimination of quota restrictions would result in increased recourse to contingency protection measures. Clear international disciplines on the application of these measures would be in the general interest of developing countries. Developing countries would also benefit from appropriate rules on subsidies that would provide them with the space to pursue their development programmes, including through the clarification of rules on the use of export credit.

43. The Doha negotiations on WTO rules on RTAs would have substantive implications for the evolving RTAs. To date, progress has been limited in the negotiations on transparency requirements for notification, reporting and examination by the relevant WTO body, and substantive “systemic issues” are yet to be fully addressed, including rules of origin. It is increasingly considered

necessary that appropriate SDT be incorporated into the provisions of RTAs so as to ensure equitable treatment of RTA partners with different levels of economic development, and that such RTA-specific SDT be legally sustained by WTO rules on RTAs. In this respect, some developing country group has called for formal incorporation of SDT in the application of conditions set out in GATT Article XXIV to RTAs established between developed and developing countries.

G. TRIPS

44. The SPC emphasizes that full attention should be given to the protection, preservation and promotion of traditional knowledge, innovation and practices and biological resources of developing countries. Work needs to be done on evolving appropriate national and international systems in this regard. The GC Decision reaffirms the commitment to progress in TRIPS without specificity. Developing countries would be keen to operationalize objectives and principles of the TRIPS Agreement in respect of transfer of technology and the prevention of abuse of intellectual property rights. The Decision on Implementation of Paragraph 6 of the Doha Ministerial Declaration on the TRIPS and Public Health adopted in August 2003 temporarily waived the obligations under Article 31(f) for those exporting Members supplying medicines to countries with insufficient or no manufacturing capacities. To date, no country has used the waiver to enhance its access to generic drugs, owing mainly to difficulties in meeting the conditions stipulated and cumbersome and costly procedures for both producers and users of drugs. The deadline set for amending Article 31 (f) has been extended until March 2005, amidst significant differences on content, legal form and timing.

45. Issues arising from Article 27.3(b) of the TRIPS Agreement relating to biological inventions include: (i) review of Article 27.3 (b); (ii) the relationship between the TRIPS and the Convention on Biological Diversity (CBD); and (iii) protection of traditional knowledge and folklore. As regards (i), a number of developing countries hold the view that Article 27.3 (b) should be revised to prohibit patents on plants, animals, micro-organisms, and essentially biological processes by amending the TRIPS Agreement. No agreement has been reached as to how future work should be organized. On the extension of additional protection to products other than wines and spirits, the GC Decision provides for its consideration as an outstanding implementation issue and for the continuation of consultations by the WTO Director General. An increasing number of developing countries have been concerned over the development and cost implications of extended protection. The subject is also provided for as an issue of interest under agriculture.

H. Trade, environment and development

46. The SPC emphasizes that trade and environmental policies should be mutually supportive and guided by a development-oriented approach. Further efforts should be made to identify and promote environmental goods and services of actual and potential export interest to developing countries. The GC Decision includes no specific guidance on negotiations on trade and environment and calls for progress to be made therein. Main areas of interest to developing countries would be related to environmental measures, effective market access and how the negotiations on environmental goods and services are defined and conducted.

IV. DISPUTE SETTLEMENT

47. The number of cases brought under the WTO dispute settlement mechanism has continued to rise, with a total of 312 cases filed with the Dispute Settlement Body as of June 2004. WTO rules on safeguards, AD and countervailing measures remain the most frequently invoked in disputes, but

agriculture, services and development issues have emerged as new sources of contention. The two cases concerning agricultural subsidies, namely the case of the United States on cotton and that of the EU on sugar, may be seen as strengthening the case for expeditious reduction and elimination of agricultural subsidies through negotiations.¹³ The WTO panel on cotton reportedly found, *inter alia*, that the amount of subsidies (i.e. US domestic production subsidies on cotton) exceeded the reduction commitment level. With the expiry of the peace clause, there is increased likelihood that similar cases may be raised. The successful solution of the US steel safeguards case demonstrated the viability of the WTO dispute settlement mechanism and the openness of the trading system.

48. Two recent cases in the area of services pertained to cross-border supply of services in gambling and telecommunications, and they have implications for the interpretation of GATS provisions and Members' schedules for specific commitments. Both cases involved classification issues, along with the scope and coverage of schedules of commitment. The case *US – gambling services* is of relevance to IT-enabled, cross-border supply of services, including outsourcing. Similarly, the case *Mexico – telecommunication services* is the first dispute relating to the 1997 Basic Telecom Agreement and the Reference Paper establishing disciplines on telecom competition safeguards, interconnection and transparent licensing. The case on *European Communities – Conditions for the Granting of Tariff Preferences* is of relevance to the discussion on SDT. The case pertains to the EU GSP scheme. The Appellate Body (AB) concluded, *inter alia*, that the Enabling Clause authorizes preference-granting countries to respond “positively” to “development, financial and trade needs” of developing countries that are not necessarily common or shared by all developing countries, and that the existence of such needs must be assessed according to an objective standard.¹⁴

V. REGIONAL TRADE AGREEMENTS AND SOUTH-SOUTH COOPERATION

49. RTAs have come to play a prominent role in the evolution of the ITS and the emerging new trade geography, with a significant bearing on the development prospects of developing countries.¹⁵ A total of 285 RTAs had been notified to WTO by 2003, 215 are in force today, and the number will exceed 300 by 2007. Today some 40 per cent of world trade takes place within RTAs, and the share will exceed 50 per cent by 2005. Recent “new-generation” “WTO-plus” RTAs cover not only trade in goods, but also other “behind the border” regulatory areas, including services, investment, competition policy and intellectual property rights, going beyond multilateral disciplines and liberalization commitments. Developing countries have been negotiating and concluding agreements with both developed and developing countries. The expansion of North-South agreements has been significant in recent years. Negotiations have been launched for large-scale, plurilateral RTAs that would transform economic relationships based on pre-existing unilateral preferences into relationships based on reciprocity, as with FTAA and ACP-EU negotiations for economic partnership agreements. These negotiations will have implications for MTNs, as North-South negotiations tend to result in deeper market access and higher regulatory standards than negotiations at the multilateral level. Concern has been expressed over the possible dilution and limitation of SDT and policy space allowed under the MTS due to deeper liberalization negotiated in regional contexts.

¹³ *Financial Times*, 18 June and 4 August 2004.

¹⁴ *European Communities – Conditions for the granting of tariff preferences to developing countries* (WT/DS246/AB/R), Para 162-166.

¹⁵ UNCTAD, “Multilateralism and regionalism: The new interface”, background note prepared for a pre-UNCTAD XI Forum (8 June 2004, Rio de Janeiro).

50. South-South trade agreements have demonstrated their viability for boosting and diversifying developing countries' exports, enabling their progressive and strategic integration into the world economy. Recently, developing countries have reinvigorated their regional liberalization programmes, endeavoured to embark on a deep integration agenda, and expanded their outreach on an interregional scale as well. Various bilateral and plurilateral preferential trade agreements have been launched on an interregional basis, including recent initiatives for preferential agreements and closer cooperation under the India-Brazil-South Africa (IBSA) Dialogue Forum, the Bangladesh-India-Myanmar-Sri Lanka-Thailand Economic Cooperation (BIMST-EC) Free Trade Agreement and the India-Mercosur Agreement. At the interregional level, the GSTP has served since 1988 as a framework for the exchange of trade preference among developing countries to promote South-South trade cooperation. The third round of negotiations launched at São Paulo is expected to broaden and deepen the scope of preferences and realize the full potential of emerging South-South complementarities.

VI. UNCTAD'S CONTRIBUTION

51. The Spirit of São Paulo and the São Paulo Consensus enhanced UNCTAD's mandate on the integrated treatment of trade and development and its role in the implementation of MDGs. Furthermore, UNCTAD XI provided a forum for developed and developing countries to reiterate their development solidarity through clear attempts to bring in new initiatives aimed at promoting the development prospects of developing countries. Deliberations on the DWP in the consensus-building framework of UNCTAD intergovernmental meetings and UNCTAD XI have helped clarify different negotiating positions and facilitated a meeting of minds on key issues of trade and trade negotiations, development and poverty eradication. UNCTAD has provided valuable support to developing countries during its 40 years of existence and will continue to support them in deriving development gains from ITS and the world economy.