

## Situation Report

### The Doha Negotiations in June 2006: Crunch Time

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## I. Introduction

1. The Doha Work Programme (DWP) is entering a final critical stage. WTO Director-General, Mr Pascal Lamy, has declared end of June 2006 as yet another date for achieving modalities in agriculture and non-agricultural market access (NAMA). To give a nudge to the negotiations and to forge consensus on the various contested issues and technical details in these key areas, trade ministers will meet in Geneva starting on 29 June 2006. However important this meeting is, the period up to 31 July 2006 is equally crucial on two counts: either as a fall-back for further work on modalities, if agreement were to elude ministers in late June/early July, or as overtime for negotiations on the outstanding issues in the Doha package.

2. This report was prepared prior to the issuing of the Chairs' papers on agriculture and NAMA modalities<sup>1</sup>. It seeks to provide a snapshot of the state-of-play on the eve of the ministerial meeting and describes the approaches favoured by the main players in the WTO negotiations<sup>2</sup>.

## II. Agriculture

3. While much technical detail remains unresolved and potentially problematic, the current state of the agriculture negotiations can be reduced to relatively simple propositions. First, will the EC (and the G-10) be prepared to move a few percentage points closer to the G-20 mark on market access? The answer is probably yes, in the right circumstances. Second, short of securing a market access outcome as ambitious as it appears to want, will the US be prepared nevertheless to accept further commitments on domestic support? That is a political judgement that will be made in Washington. One potential way out for the US (and some other big players) may be bilateral negotiations on specific products in certain markets after the general modalities have been agreed. Any concessions secured would then be multilateralised at the conclusion of the negotiations. Furthermore, the establishment of a register of geographical indications (GIs) for the enhanced protection of products other than wines and spirits remains a *sine qua non* condition for the EC. The Chairman has submitted "Reference Papers" on the subjects where agreement on the modalities has proven difficult.

### A. Market Access

4. **A tiered formula with four bands for structuring tariff cuts** – Tariffs on agricultural products are to be grouped into four bands: 0 to 20 percent; 20 to 30 percent; 40 to 60 percent; and above 90 percent. Reductions will be steeper for the higher than the lower bands (i.e. the concept of progressivity). Proposed cuts range from 20 to 90 per cent. The Chairman<sup>3</sup> considers the G-20 proposal<sup>4</sup>, which

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<sup>1</sup> See *Draft Possible Modalities on Agriculture*, WTO, JOB(06)/199, 22 June 2006; and, *Towards NAMA Modalities*, WTO, JOB(06)/ 200, 22 June 2006.

<sup>2</sup> An overview of the different country groupings can be found in the Annex.

<sup>3</sup> See *Revised Consolidated Reference Paper on Possible Modalities on Market Access*, WTO, 9 June 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_ma\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_ma_e.doc).

envisages a 54 per cent average cut for developed countries and 39 per cent for developing countries, as likely zone of convergence. The US<sup>5</sup> is seeking a 66 per cent average cut and only “slightly” lesser cuts for developing countries, while the EC<sup>6</sup> has offered 46 per cent (although critics claim the offer amounts to only 39 per cent). The Cairns Group of agricultural exporters have hinted their support for the Chair’s appraisal of the G-20 paper as possible middle ground. So the issue is how far upward or downward (“north or south”) of the G-20 proposal the average should be settled.

5. A **Tariff Cap** (*a maximum tariff after reduction*) is supported by major agricultural exporters: the EC and the G-20 have proposed 100 per cent for developed countries, the US 75 per cent. For developing countries, a 150 per cent capping is contemplated. This issue is still very contested, strong opposition is coming from the G-10 and the G-33, whose members maintain some very high bound rates.

6. **Sensitive Products**<sup>7</sup> (*goods to be subjected to lower commitments, available to all members; of particular interest to the EC and other developed countries, such as the G-10*) – Current proposals call for between one (US) and 15 per cent (G-10) of tariff lines to be designated as sensitive (the EC demands eight per cent). The Chairman has alerted members to the problem that percentage allowances based on different-sized tariff schedules can lead to highly different absolute numbers of tariff lines eligible. On the question of how to treat sensitive products, the Chairman expects members to converge somewhere between 30 and 70 per cent of formula reductions.

7. **Tariff Rate Quota (TRQ) Expansion** (*increasing the contingents of favourable (in-quota) tariffs for sensitive products*) – Differences remain over an expansion formula for increasing access under TRQs: the US wants a minimum four per cent increase based on the volume of domestic consumption of the sensitive product in question plus an increase corresponding to the amount of deviation from the full formula cuts. The EC prefers to base the TRQ expansion on current import volumes, which would lower the expansion. A decision is also needed on whether to eliminate or reduce in-quota tariffs.

8. **Special Products**<sup>8</sup> (*food security and rural development goods to be subjected to lower commitments, available to developing countries only*) – The G-33 insists on at least a 20 per cent allowance on tariff lines, while the US is ready to concede a maximum of five in absolute terms. Disagreement also prevails over what percentage of special products to exempt from reductions; what percentage

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<sup>4</sup> See *G-20 Proposal on Market Access*, G-20, 12 October 2005, available at [http://www.g-20.mre.gov.br/conteudo/proposals\\_marketaccess.pdf](http://www.g-20.mre.gov.br/conteudo/proposals_marketaccess.pdf).

<sup>5</sup> See *US Proposal for WTO Agriculture Negotiations*, 10 October 2005, USTR available at <http://usinfo.state.gov/xarchives/display.html?p=washfile-english&y=2005&m=October&x=200510101709451ebahcb0.7479975&t=ei/ei-latest.html>.

<sup>6</sup> See *Making Hong Kong a Success: Europe’s Contribution*, 28 October 2005, available at [http://europa.eu.int/comm/trade/issues/newround/doha\\_da/offerdda\\_en.pdf](http://europa.eu.int/comm/trade/issues/newround/doha_da/offerdda_en.pdf).

<sup>7</sup> See *Chair’s Reference Paper, Sensitive Products*, WTO, 11 May 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_sensprods\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_sensprods_e.doc).

<sup>8</sup> See *Chair’s Reference Paper, Special Products*, WTO, 3429, 4 May 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_sp\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_sp_e.doc).

to subject to lower cuts; by how much to expand TRQs; and where to establish a tariff cap.

9. **Special Safeguard Mechanism (SSM)**<sup>9</sup> (*an instrument for developing countries to raise bound tariffs against sudden import surges*) – The Chairman has submitted a detailed Annex to his Market Access Reference Paper on the operation of an SSM but there is no agreement on whether it shall be applicable to all or only certain designated products. Although import quantity and price triggers were agreed at Hong Kong, members still disagree on the respective thresholds, i.e. the import volume and price limits that would set off the SSM.

10. **Preference Erosion**<sup>10</sup> (*preferential tariffs lose significance due to tariff liberalisation*) – A limited number of products is identified in an Annex to the Chairman's Reference Paper. Measures on the table to address preference erosion include:

- i. less-than formula cuts (percentage to be determined);
- ii. eliminating bound in-quota duties;
- iii. longer implementation periods;
- iv. maintaining the preference margin if feasible;
- v. providing technical assistance for capacity-building, addressing supply-side constraints and promoting diversification;
- vi. improving market access for non-preference receiving products.

11. **Tariff Escalation** (*tariffs increase the more processed the exported product is*) – On the basis of a proposal by Canada, the Chairman has suggested applying a [1.3] factor to tariff reductions under the tiered formula. The Chairman's Reference Paper includes an illustrative list of products (from the Canadian proposal) subject to tariff escalation.

12. **Tropical Products**<sup>11</sup> (*Additional cuts proposed for tropical and diversification products, i.e. those to move away from growing illicit crops*) – Discussions have centred on coverage and treatment. On coverage, agreement is elusive on an indicative list. On their treatment, the aim is to achieve the "fullest" liberalisation of trade on these products.

13. **NAMA-Agriculture Balance** (*paragraph 24 of the Hong Kong Declaration*) – The G-20, especially Argentina, want to see the "comparably high level of ambition" in NAMA and agriculture clearly mentioned in the modalities.

14. **Small Vulnerable Economies (SVEs)**<sup>12</sup> (*a group of countries whose particular situation was recognised with the establishment of a Work Programme*)

<sup>9</sup> See *Chair's Reference Paper, Special Safeguard Mechanism*, WTO, 26 April 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_ssm\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_ssm_e.doc).

<sup>10</sup> See *Chair's Reference Paper, Long-Standing Preferences and Preferences Erosion*, WTO, 17 May 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_prefs\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_prefs_e.doc).

<sup>11</sup> See *Chair's Reference Paper, Tropical Diversification Products*, WTO, 17 May 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_tropprods\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_tropprods_e.doc).

<sup>12</sup> See *Chair's Reference Paper, Small Vulnerable Economies*, WTO, 3430, 4 May 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_sves\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_sves_e.doc).

in the Doha Declaration) – Members need to determine by how much less SVEs will be allowed to cut tariffs; how much additional leeway SVEs will be granted in the treatment of special products; and how to operate enhanced improvement in market access for these countries.

15. **Recently-Acceded Members (RAMs)**<sup>13</sup> (a group of countries having acceded to the WTO between the Seattle and the Doha Ministerial Conferences whose extensive market access commitments are recognised by the July 2004 Package and the Hong Kong Declaration) – The following non-exclusive options are on the table: a longer implementation period for RAMs than for developing country members; delaying the implementation period until after the expiry of the period for implementing their accession package (in case of overlap); lower tariff reductions; additional flexibilities for special products and sensitive products; and exemption from tariff reductions and access to “all instruments available to other Members at the same level of development under Market Access” for small low-income RAMs with economies in transition (Armenia, Kyrgyz Republic and Moldova).

## B. Domestic Support

16. **Aggregate Measurement of Support (AMS) or Amber Box**<sup>14</sup> (most trade-distorting support) – Cuts will be made in three bands based on current levels of permitted support. Proposed reductions for the top band (EC) range from 70 to 83 per cent; 60 to 70 per cent for the middle band (US and Japan); and 37 to 60 per cent for the lower band (all other members). Special and differential treatment (S&D) for developing countries is suggested in terms of less than two-thirds of the cuts over a longer implementation period. Also, the methodology for determining caps on product-specific AMS is still under consideration.

17. **De Minimis Support** (the amount of support exempted from AMS calculation and reduction commitments) – Currently at 5 and 10 per cent of the value of agricultural production for developed and developing countries respectively, proposals seek to reduce the developed country limit to between 1 and 2.5 per cent. Developing countries that devote most of their *de minimis* payments to low-income and resource-poor farmers and those with no AMS commitments are exempted.

18. **Blue Box**<sup>15</sup> (direct income support under production-limiting programmes) – Amendment to Article 6.5 of the Agreement on Agriculture is needed (to exclude from current total AMS calculations direct payments under both production limiting programmes and programmes that do not require production). A cap on Blue Box spending at 2.5 per cent of a member’s total value of agricultural production is under discussion. The US seeks to have its countercyclical payments to farmers<sup>16</sup> covered by the new disciplines on the Blue Box. The G-20 has requested product-

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<sup>13</sup> See *Chair’s Reference Paper, Recently-Acceded Members*, WTO, 3431, 4 May 2006.

<sup>14</sup> See *Chair’s Reference Paper, Aggregate Measurement of Support (AMS) and De Minimis*, WTO, 4013, 24 May 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_ams\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_ams_e.doc).

<sup>15</sup> See *Chair’s Reference Paper, Blue Box*, WTO, 13 April 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_bluebox\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_bluebox_e.doc).

<sup>16</sup> Payments compensating farmers for differences in world market prices vis-à-vis price standards set by the US government.

specific limits to prevent concentration of Blue Box spending on few products, which can incur distorting effects. The US has also declared that it will negotiate for a peace clause, under which all subsidies in compliance with a new agriculture agreement cannot be subjected to dispute settlement procedures. Some degree of convergence is developing on using the production value between 1995 and 2000 (the Uruguay Round implementation period) as base period, i.e. the production values during those years would be used to calculate reductions eventually agreed.

19. **Overall Trade-Distorting Domestic Support**<sup>17</sup> (*the sum of AMS, de minimis and Blue Box support*) – In addition to reductions on AMS, overall trade-distorting domestic support will be reduced under a tiered formula with three tiers that correspond to the three bands. Although there is some convergence among members with respect to the size of the cuts proposed for the top and middle tiers, they are wide apart on those for the lowest tier. S&D for countries with no AMS is expected to come in the form of no reduction commitments.

20. **Green Box**<sup>18</sup> (*non-trade distorting domestic support without reduction commitments*) – The Green Box is to be made more accessible to developing countries by means of amendments to Annex 2 of the Agreement on Agriculture (a list of exempted payments). Controversial are paragraphs 5-13 of Annex 2 (i.e. all except four paragraphs) covering, *inter alia*, direct payments to producers, decoupled income support, and structural adjustment assistance. On base periods for areas, yields and animal numbers used for calculating Green Box payments, the G-20 insists that they must be fixed and unchanging to avoid linking support to production, while some developed countries require some flexibility in devising support programmes. Canada has sought a compromise solution that would allow new base periods for new programmes.

21. **Cotton** (*to be addressed “ambitiously, expeditiously and specifically”*) – Benin, Burkina Faso, Chad and Mali (the Cotton Four, C-4) have proposed a formula for steeper reductions to Amber Box cotton subsidies to be implemented over a time frame that is one third of the general implementation period<sup>19</sup>. For the Blue Box, they have suggested a cap on cotton spending at one third of the overall ceiling.

### C. Export Competition

22. **Elimination of Export Subsidies by the end of 2013**<sup>20</sup> – For the EC, compliance with this commitment – which coincides with the date of the full implementation of the reform of the Common Agricultural Policy (CAP) – must go

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<sup>17</sup> See *Chair's Reference Paper, Overall Reduction in Trade Distorting Domestic Support* WTO, 4014, 24 May 2006, available at

[http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_overallds\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_overallds_e.doc).

<sup>18</sup> See *Chair's Reference Paper, Green Box*, WTO, 12 April 2006, available at

[http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_greenbox\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_greenbox_e.doc).

<sup>19</sup> See *Proposed Modalities for Cotton under the Mandate from the Hong Kong Ministerial Declaration*, WTO, TN/AG/SCC/GEN/4, 1 March 2006.

<sup>20</sup> See *Chair's Reference Paper, Revised Consolidated Reference Paper on Possible Modalities on Export Competition*, WTO, 4643, 15 June 2006, available at

[http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_xcomp\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_xcomp_e.doc).

along with parallel removal of trade-distorting elements in food aid<sup>21</sup>, export credits<sup>22</sup> and the treatment of state-trading enterprises (STEs)<sup>23</sup>. The G-20 and the Cairns Group have submitted a schedule for the elimination of export subsidies which would have 50 per cent of programmes terminated by January 2008 with a further 30 per cent in equal instalments until 2010. Equal reductions of the remaining 20 per cent could then be made over the next three years. The Chairman has stated a large degree of dissent on this and the other issues relating to the elimination of export subsidies.

## **II. NAMA**

23. The key challenge in negotiating modalities on NAMA is striking a balance between a high level of ambition sought by the US and the EC in particular, and the “paragraph 8” flexibilities offered to developing countries. A large question mark remains over potential agreements for steeper tariff cuts on certain categories of products known as “sectoral initiatives”<sup>24</sup>. There could be scope for such additional negotiations once the overall modalities are adopted. The Hong Kong Ministerial Declaration mandates the Negotiating Group to work on the basis of a “Swiss Formula” approach, which has the effect of bringing higher tariffs down more significantly than lower tariffs, thus tending to overall harmonisation: the higher the coefficient used in this formula, the lesser the tariff reduction. The coefficient determines the maximum tariff after application of the Swiss Formula, i.e. a coefficient of 10 will reduce all tariffs below 10 per cent. A variation of the Swiss formula approach is the alternative tariff-cutting formula proposed by Argentina, Brazil and India (ABI-formula)<sup>25</sup>, which in principle remains on the table. Little progress has been made on the impact of NAMA liberalisation on recipients of non-reciprocal preferences.

### **A. Coefficients**

24. There is reasonable acceptance – but no formal agreement – among developed country members that they should adopt a coefficient of 10 (although proposals between 2 and 15 are on the table). Proposals for less ambitious coefficients for developing countries (not LDCs, which are exempted from formula cuts) vary between 15 and 40.

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<sup>21</sup> See *Chair's Reference Paper, Food Aid*, WTO, 11 April 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_foodaid\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_foodaid_e.doc).

<sup>22</sup> See *Chair's Reference Paper, Export Credits, Export Credit Guarantees or Insurance Programmes*, WTO, 13 April 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_xcredits\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_xcredits_e.doc).

<sup>23</sup> See *Chair's Reference Paper, Exporting State Trading Enterprises*, WTO, 11 April 2006, available at [http://www.wto.org/english/tratop\\_e/agric\\_e/ref\\_paper\\_ste\\_e.doc](http://www.wto.org/english/tratop_e/agric_e/ref_paper_ste_e.doc).

<sup>24</sup> Approach used in *tariff* negotiations during the *Uruguay Round*, which aims to eliminate (or harmonise) tariffs in a given sector.

<sup>25</sup> See *Communication from the Negotiating Group on Non-Agricultural Market Access from Argentina, Brazil and India*, WTO, TN/MA/W/54, 15 April 2005.

## B. Flexibilities

25. The impact of the coefficient applicable to developing countries can only be assessed with reference to the various flexibilities allowed to them in the July 2005 framework.

26. **Paragraph 8** – Negotiations on **developing country flexibilities** are relatively well advanced and provide one or two options. Paragraph 8(a) flexibilities allow up to [10] per cent of tariff lines to be subject to a minimum of 50 per cent of the formula cut. Alternatively, paragraph 8(b) allows for up to [5] per cent of tariff lines to remain unbound or excluded from formula cuts. Still, some members (EC and US) believe these bracketed figures are excessive, others (i.e. G-20) consider them the absolute minimum.

27. **Paragraph 9** – Discussions on **LDC flexibilities** are more advanced, as LDCs are not required to apply NAMA formula tariff cuts. They are only expected to bind a considerable percentage of their tariff lines. The question is how many and whether they should undertake any tariff-reduction commitments at all.

28. **Paragraph 11 – Newly-Acceded Members (NAMs)** continue to press for special flexibilities in NAMA due to the substantial market access concessions to accede to the WTO. Due to the diversity of this group and a lack of clarity on which countries fall under this category, progress has been slow.

29. **Small and Vulnerable Economies (SVEs)**, although mentioned in the general introduction of the July Framework, SVEs are not specifically addressed in Annex B on NAMA. No agreement has so far been reached on the nature and extent of the additional flexibilities for SVEs. Recent negotiations have pointed in the direction of enhanced paragraph 8 flexibilities.

## C. Treatment of Unbound Tariffs

30. Base rates for tariff reductions are bound rates. To resolve the issue of how to reduce unbound tariffs<sup>26</sup>, a “*non-linear mark-up approach*” has been agreed. This works as follows: the currently-applied tariff will be “marked-up” by a certain number of percentage points without consideration of the level of the tariff<sup>27</sup>. This mark-up between 5 and 30 (not yet agreed) would narrow the gaps existing between the bound and applied rates that countries with high bound tariff rates have<sup>28</sup>. A mark-up of 5, for example, would set the base rate for reduction at a level of 5 percentage points higher than the applied rate.

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<sup>26</sup> A highly contested question which resulted in non-agreed language in the July 2004 Framework that the cuts would start from bound rates and that for unbound tariffs the cuts would be [2] times the MFN applied rate in the base year.

<sup>27</sup> Paragraph 11 of Annex B of the Hong Kong Ministerial Declaration.

<sup>28</sup> See *Proposal for the Treatment of Unbound Tariffs*, WTO, TN/MAW/57, 29 June 2005.

## **D. Simulations**

31. Various simulations have been run – most recently by the WTO Secretariat<sup>29</sup> – to demonstrate the practical impact of various combinations of coefficients and flexibilities. Their main value has been to illustrate the potential effects on applied, rather than bound, duty rates.

32. The WTO simulations show that application to the formula of a coefficient of 15 together with a mark-up of 5 for unbound tariffs would produce cuts in average bound tariff rates of 16.4 per cent for the US and up to 71.1 per cent for India (varying according to which flexibilities are allowed). Narrowing the gap, the ABI formula with the B coefficient set at 1 would result in cuts to average bound tariff rates of 33.6 per cent for the US and up to 46.7 per cent for India. The underlying factors driving this variation are the vastly different initial average bound tariff levels of the US and India, which are 4 per cent for the US and 39.4 per cent for India (assuming a mark-up of 5).

33. When the formula coefficient of 15 used above is combined with a mark-up of 30 instead of 5, the resulting cuts to average bound tariff rates increases by 0.1 per cent for the US and 2.3 per cent for India. This result is primarily due to the much larger proportion of unbound tariffs in the Indian versus the US tariff schedule.

## **E. Sectorals**

34. No decisions are likely on the sectoral NAMA negotiations that have been pursued in parallel with the main modalities discussions. However, proposals already include a broad range of sectors such as: fish, jewellery, medical equipment and others<sup>30</sup>. The proposal by Turkey<sup>31</sup> seeking to secure exceptionally *low-ambition* results in the textiles sector has found support among some industry groups in the US, as well as other WTO members particularly concerned with Chinese competition, but seems unlikely to go further.

## **IV. Services**

35. In accordance with the timelines included in Annex C to the Hong Kong Ministerial Declaration, participants should submit revised offers by 31 July 2006 and final draft schedules by 31 October 2006. At the moment, it is clear that work on services is held back by the lack of agreement on the modalities in agriculture and NAMA. Negotiations will probably move after the summer, assuming that the modalities deal is reached in June/July. Moreover, members are also required to complete the mechanisms for implementing S&D for sectors and modes of supply of interest to LDCs prior to 31 July 2006.

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<sup>29</sup> See *Simulation of Tariff Reductions for Non-Agricultural Products*, WTO, Room Document, 30 May 2006.

<sup>30</sup> Sectors already proposed include: apparel, autos and parts, bicycles, chemicals, Electronics/electrical equipment, fish, footwear, forest products, gems and jewellery, pharmaceuticals and medical equipment, raw materials and sporting goods.

<sup>31</sup> See *Harmonization in the Textiles and Clothing Sectors - Communication from Turkey*, WTO, JOB(06)/60, 22 March 2003.

## **A. GATS Rules**

36. Notwithstanding the mandate to continue the rule-making negotiations in the area of services, including on an emergency safeguard mechanism, government procurement and subsidies, no progress is currently being made.

37. However, slow but meaningful progress seems to be occurring on disciplines for domestic regulation. The Working Party is engaged in discussions on the basis of the illustrative list of elements proposed by the Chairman in his report, which was endorsed by ministers at the Hong Kong Ministerial Conference. These elements relate to the development of regulatory disciplines under Article VI.4 of the GATS. The issues being discussed include: Licensing Requirements and Procedures; Qualification Requirements and Procedures; Technical Standards; Transparency; Objectives, Scope and Application; Definitions; and Development Considerations (including S&D and technical assistance).

## **B. Committee on Specific Commitments**

38. In parallel with the negotiations undertaken in the Special Session of the Council for Trade in Services, the Committee on Specific Commitments conducts important discussions related to the preparation of the new schedules issuing from the Doha negotiations and their relationship with the “old” schedules presently in force. Discussions in the Committee cover: i) editorial conventions for the second round of revised offers; ii) the relationship between old and new commitments; iii) scheduling issues; and iv) classification issues.

## **C. Plurilateral Initiatives**

39. As agreed in Annex C to the Hong Kong Ministerial Declaration, request-offer negotiations have been supplemented by a plurilateral approach. Two rounds of consultations on around twenty plurilateral sectoral requests in services have been held, without much visible progress. Some members are consulting their capitals on individual requests. A number of developing countries continue to give priority to concessions on Mode 4 (movement of natural persons).

## **V. WTO Rules**

40. The Negotiating Group on Rules works on three main issues under its mandate: clarification and improvement of disciplines applying to antidumping, subsidies (including those on fisheries), and regional trade agreements (RTAs).

### **A. Regional Trade Agreements**

41. The Doha Mandate, which aims at “clarifying and improving disciplines and procedures under the existing WTO provisions applying to RTAs” has so far only advanced in the area of transparency. The current draft text<sup>32</sup> for an improved “transparency mechanism” covers all RTAs, including those among developing

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<sup>32</sup> See *Transparency Mechanism for Regional Trade Agreements: Informal Note by the Chairman – Draft Decision*, WTO, JOB(06)/59/Rev.2, 18 April 2006.

country members. It departs from the past practice of allowing developing country RTAs to be notified and examined in the Committee on Trade and Development - under the Enabling Clause. Two flexibilities in the current draft text allow developing country members longer periods for submission of relevant information and data (20 as opposed to 10 weeks) on new RTAs and mandates the WTO Secretariat to provide technical assistance to developing country members in meeting new reporting and related requirements.

42. Divergences remain on key substantive issues including: RTA coverage (the “substantially all the trade” requirement); the transition periods to fully implement liberalisation commitments; and S&D. A longstanding debate centres on the extent to which agriculture can be excluded from liberalisation under RTAs. Recent discussion has focused on a submission by Japan<sup>33</sup> seeking to address the “substantially all the trade” requirement. Discussions on S&D are cross-cutting and cover less stringent liberalisation requirements, longer implementation periods and technical assistance.

## **VI. TRIPS**

43. Proposals remain highly controversial and relate to a wide spectrum of issues: the multilateral register of GIs on wines and spirits, the possible extension of a higher level of GI protection to other products, and a proposed amendment to the TRIPS Agreement to prescribe disclosure of the use of genetic materials and traditional knowledge in patents requests, as required by the Convention on Biological Diversity (CBD). The register for GIs on wines and spirits is part of the negotiations under way in the Special Session of the TRIPS Council. The proposed extension of GIs to other products and the CBD proposal are being discussed in the regular TRIPS Council, under the umbrella of “implementation issues”.

44. A number of developing countries<sup>34</sup> have tabled a proposal to amend the TRIPS Agreement to require: i) disclosure of the origin and legal source of genetic resources and associated traditional knowledge utilised in an invention; ii) evidence of prior informed consent (i.e. approval of national authorities in countries of origin); and iii) evidence of an access and commercial benefit-sharing agreement with the country owning the genetic resources and traditional knowledge.

45. Whereas the US, Japan and Switzerland claim to share the concerns underlying this proposal – mainly relating to “bad” patents (i.e. those incorporating genetic resources extracted from a particular biological resource) – they do not deem amending the TRIPS Agreement necessary. Switzerland would prefer to discuss the issue in the World Intellectual Property Organization (WIPO), while Norway opposes mandatory commercial benefit-sharing agreements. The EC has shown sympathy for the proposal.

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<sup>33</sup> See *Submission on Regional Trade Agreements – Paper by Japan*, WTO, TN/RL/W/190, 28 October 2005.

<sup>34</sup> Brazil, India, China, Cuba, Dominican Republic, Ecuador, Pakistan, Thailand, Venezuela, Zambia and Zimbabwe.

## **VII. Trade Facilitation**

46. In accordance with the mandate, a large number of proposals aimed at improving the Articles V, VIII, and X of the GATT 1994 have been tabled in the Negotiating Group on Trade Facilitation. All members agree on the need for adequate provisions for developing countries and LDCs relating to S&D, technical assistance and capacity-building, albeit with different views regarding implementation.

47. A proposal from the African Caribbean and Pacific Group of States (ACP)<sup>35</sup> emphasises the importance of promoting development objectives through technical assistance and capacity-building. The US generally welcomes the submission (as do the EC and some international organisations contributing to the work of the Negotiating Group) but has expressed reservations on the proposed creation of an inter-institutional coordination mechanism. It considers establishing a new international institution unnecessary.

48. The Negotiating Group on Trade Facilitation has held three formal meetings since the Hong Kong Ministerial Conference. It is scheduled to meet in formal mode on the eve of the summer break on 24 and 26 July 2006. The Chairman of the Negotiating Group may table a draft text for an agreement by the end of July 2006.

## **VIII. Special and Differential Treatment**

### **A. Progress Report on S&D Proposals**

49. The 88 proposals to make S&D more effective have been categorised into three groups of proposals:

Category I: where agreement seems possible

Category II: touching areas currently under negotiation in other WTO bodies

Category III: where very wide divergences in views remain

50. In the Committee on Trade and Development in Special Session (CTD-SS), members agree that they first need to resolve the eight Category I proposals, if they are to meet the December 2006 timeline for completion of the review of the 88 proposals, as instructed by ministers at Hong Kong<sup>36</sup>. Good progress to date has been made on revising the five proposals relating to sanitary and phytosanitary measures (SPS) and import licensing procedures.

51. The Chairpersons of the WTO bodies addressing Category II proposals have reported little progress to date. The African Group has proposed bringing Category II proposals back into the CTD-SS, but the US and Canada are strongly opposed. Instead, to improve coordination between the CTD-SS and the other WTO bodies, and to avoid a clash of meetings, the Secretariat is preparing a

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<sup>35</sup> See *Communication from Mauritius on Behalf of the ACP Group*, WTO, TN/TF/W/73, 10 November 2005.

<sup>36</sup> See paragraph 36, *Ministerial Declaration*, WT/MIN(05)/DEC, WTO, 22 December 2005.

single timetable containing the dates of meetings where the S&D proposals will be discussed.

52. At the 1 June 2006 meeting of the CTD-SS, members began working on the eight Category III proposals. Informal consultations and tabling of revised contributions are underway. The proposals include mandatory technical assistance for implementation of the Agreement on Technical Barriers to Trade (TBT), the Agreement on SPS and the Subsidies Agreement. It is unlikely that these issues will be a focus of attention in the coming weeks.

## **B. The Cross-Cutting Issues**

53. Ministers at Hong Kong agreed that consultations on the cross-cutting issues<sup>37</sup> would resume in the CTD-SS. In April 2006, members focused on the request by the General Council in July 2002 to set up a mechanism to implement and monitor S&D. Members have indicated their readiness to negotiate on the basis of the African Group proposal<sup>38</sup>. Divergences remain on the scope and aim of such a monitoring mechanism. The next meeting of the CTD-SS will convene in July 2006 to address all issues.

## **C. Implementation of Annex F of the Hong Kong Ministerial Declaration**

54. Consultations aim to clarify the modalities for implementing the decision on duty-free quota-free market access for LDC exports<sup>39</sup> adopted in Hong Kong. As part of the commitment to "transparent and simple"<sup>40</sup> rules of origin, LDCs have recently tabled a proposal to bring rules of origin to the centre of these negotiations, which the US opposes. LDCs will shortly table an additional paper on market access.

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<sup>37</sup> See paragraph 38, *Ministerial Declaration*, WT/MIN(05)/DEC, WTO, 22 December 2005.

<sup>38</sup> See *Monitoring Mechanism for Special and Differential (S&D) Treatment Provisions - Joint Communication from the African Group in the WTO*, TN/CTD/W/23, WTO, 11 December 2002.

<sup>39</sup> See Annex F, paragraph 36, *Ministerial Declaration*, WT/MIN(05)/DEC, WTO, 22 December 2005.

<sup>40</sup> See Annex F, paragraph 36(b) about rules of origin.

## Annex

### Country Groupings

African group	Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Congo (Democratic Republic), Côte d'Ivoire, Djibouti, Egypt, Gabon, The Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe.
C-4	Benin, Burkina Faso, Chad and Mali.
Cairns Group	Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand and Uruguay.
G-10	Switzerland, Japan, South Korea, Taiwan, Liechtenstein, Israel, Bulgaria, Norway, Iceland and Mauritius
G-20	Argentina, Bolivia, Brazil, Chile, China, Cuba, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Philippines, South Africa, Tanzania, Thailand, Uruguay, Venezuela and Zimbabwe.
G-33	Antigua & Barbuda, Barbados, Belize, Benin, Botswana, China, Congo, Rep. of the Côte d'Ivoire, Cuba, Dominican Rep., Grenada, Guyana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Rep. of Madagascar, Mauritius, Mongolia, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Saint Kitts & Nevis, St Lucia, St Vincent & Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, United Rep. of Trinidad & Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.
RAMs	Albania, Armenia, Croatia, Georgia, Jordan, Moldova and Oman. China and the Kyrgyz Republic have declared themselves RAMs.
Small Low-Income RAMs with Economies in Transition	Armenia and Moldova. The Kyrgyz Republic has declared itself a low-income RAM.
SVEs	The proponents of the Doha Work Programme on Small Economies are: Antigua & Barbuda, Barbados, Bolivia, Cuba, Dominica, Dominican Rep., El Salvador, Fiji, Grenada, Guatemala, Honduras, Jamaica, Mauritius, Mongolia, Nicaragua, Papua New Guinea, Paraguay, Solomon Islands, St. Kitts & Nevis, St. Lucia, St. Vincent & Grenadines and United Rep. of Trinidad and Tobago.

## **List of Acronyms**

ABI	Argentina, Brazil and India
ACP	African, Caribbean and Pacific Group of States
AMS	Aggregate Measurement of Support
C-4	Cotton Group
CAP	Common Agricultural Policy
CBD	Convention on Biological Diversity
CTD-SS	Committee for Trade and Development in Special Session
DWP	Doha Work Programme
EC	European Communities
G-10	Group of 10
G-20	Group of 20
G-33	Group of 33
GATS	General Agreement on Trade in Services
GIs	geographical indications
LDCs	least-developed countries
NAMA	Non-Agricultural Market Access
RAMs	recently-acceded members
RTA	regional trade agreement
S&D	special and differential treatment
SPS	sanitary and phytosanitary measures
SSM	Special Safeguard Mechanism
STEs	state trading enterprises
SVEs	small and vulnerable economies
TBT	technical barriers to trade
TRIPS	trade-related aspects of intellectual property rights
TRQ	tariff rate quota
US	United States
WIPO	World Intellectual Property Organization
WTO	World Trade Organization