

ACP/61/047/05 Rev.3
Sustainable Economic Development Department

Brussels, 8 December 2005

**ACP DECLARATION
ON THE SIXTH WTO MINISTERIAL CONFERENCE**

Brussels, 29 November 2005

Preamble:

We, Ministers responsible for trade matters from the African, Caribbean and Pacific (ACP) Group of States, meeting in Brussels, on 29 November 2005 to review progress on the WTO Doha Work Programme negotiations

Recalling the Doha Ministerial Declaration adopted by the Fourth WTO Ministerial Conference in Doha, Qatar in November 2001, in which WTO Members undertook to place the development needs and interests of developing countries at the heart of the Work Programme adopted by the Doha Ministerial Conference;

Recalling the ACP Declaration on the Fifth Ministerial Conference of the WTO (WT/MIN(03)/4) and the G-90 common negotiating position in Cancun as outlined in the consolidated African Union (AU), African, Caribbean and Pacific Group of States (ACP) and Least Developed Countries (LDC) Position on Agriculture; (WT/MIN(03)/W/17)03), Non-Agricultural Market Access (WT/MIN(03)/W/18), on Development Issues (WT/MIN(03)/W/20), and on the Singapore issues (WT/MIN(03)/W/19);

Further recalling the ACP and G90 Trade Ministers meetings held on 11 and 13 July 2004, respectively in Mauritius and their respective outcomes including the ACP Ministerial Declaration on the WTO Doha Work Programme and the Elements of a G90 Platform on the Doha Work Programme;

Acknowledging that the July 2004 Package adopted by the WTO General Council of 27-29 July 2004 was an important milestone in the progress of the Doha process of negotiations after the Cancun setback;

Reaffirming the outcomes of recent meetings, including the Livingstone Declaration of the Fourth LDC Trade Ministers' Meeting, adopted in Livingstone, Zambia, on 26 June 2005; the Cairo Declaration on the Doha Work Programme and Road Map on the Doha Work Programme, adopted by the African Union Trade Ministers in Cairo, Egypt, on 9 June 2004; the Declaration of the African Union 2nd Extraordinary Session of the Conference of Ministers of Trade, held in Arusha from 21 to 24 November 2005;

Welcoming the recent initiative taken by the G8 Summit meeting in Gleneagles (Scotland) from 6-8 July 2005 to cancel the multilateral debt of some ACP Member States and calling the G8 Ministers and multilateral donors to extend that initiative to all ACP member states;

Appreciating the recent positive initiatives to inject a new momentum in the Doha process of negotiations with a view to facilitating a successful and balanced outcome of the Sixth WTO Ministerial Conference;

Emphasising the need for the negotiations to be inclusive and transparent to ensure political ownership of the process and the outcome of negotiations,

Concerned about the lack of progress in finding a permanent solution through amendment of the TRIPS Agreement to enable countries with no or insufficient manufacturing capacity to access pharmaceutical products at affordable prices;

Deeply concerned also about the lack of progress and inadequate response to the development issues included in the Doha Work Programme;

Reaffirming the importance of a multilateral trade system based on equitable rules as a tool for sustained economic growth and sustainable development, as well as alleviating poverty with a view to its eradication and the need for Members of the ACP Group, particularly those that are least developed, small, vulnerable, and countries in war and post-conflict situations, to secure a meaningful share of world trade;

Convinced that the dominant structures governing global trading relations between countries are inequitable and continue to impede access to the universally available opportunities provided through the multilateral trading system and achievement of the Millennium Development Goals;

Bearing in mind the outcome of the 2005 Millennium plus Five review Summit of the United Nations held in New York from 14-16 September 2005 and seeking additional, adequate and timely support from all our development partners and International Financing Institutions in meeting the Millennium Development Goals (MDGs) and other programmes aiming at significantly reducing poverty ;

Recognising that the implementation of the Doha Work Programme presents an opportunity to reform the multilateral trading system through balanced rules, enhanced market access and well targeted and sustainably financed technical assistance and capacity building programmes that will enhance the legitimacy, credibility and universal nature of the system and create a basis for a new equitable global economic order for the benefit of all WTO Members;

Further recognising that more than fifty percent of ACP States are Least Developed Countries (LDCs) and therefore emphasizing the need for this category of countries to receive priority attention in order to facilitate their full integration into the multilateral trading system;

Emphasizing that the ACP States have vulnerable economies, since they are in the categories of . Small Island Developing States, landlocked developing countries, Net Food Importing Developing Countries (NFIDCs), Highly Indebted Poor Countries (HIPC), limited commodity exporting countries, and countries in war, post-conflict, and post-natural disaster situations. Their vulnerability and lack of resilience to external shocks expose them to a high risk of marginalization from the multilateral trading system;

Deeply concerned with the slow and onerous process of the WTO accession;

Hereby adopt the following common position for the forthcoming Sixth WTO Ministerial Conference negotiations under the WTO Doha Work Programme:

I - DEVELOPMENT ISSUES

1. We, declare that the success of the Doha Round will be measured by its development outcomes. For the ACP, the priority areas are:
 - (i-) Market access for products of export interest to ACP countries;
 - (ii-) Obligations to be undertaken by ACP countries should be proportional and commensurate with their level of development, and
 - (iii-) Increased financial assistance for countries that will experience adjustment costs and technical assistance for trade capacity building and for improving ACP's competitiveness.
2. We are concerned at the failure to deliver any tangible results on development issues, despite the characterization of the work programme launched at Doha as a “development round”
3. For the ACP Group, a development outcome in each of the negotiating areas remains the *raison d'être* of the Round. This means that tangible development results must be evident within each negotiating area and in the overall outcome.
4. We are concerned about the inadequacy of recent proposals by some key developed countries and subsequent lack of flexibility to substantially reduce or eliminate agriculture protectionism and subsidies as well as their failure to incorporate flexibilities for ACP countries which we consider as central to the development objectives of the Doha Round and the key to progress in Hong Kong.
5. We urge that the scaling down should not lead to the reduction of the overall level of ambition of the development objectives of the Round, and further delays to the successful completion of the negotiations.
6. We are committed to meaningful negotiations, which will ensure that the sixth Ministerial Conference in Hong Kong, delivers a balanced and fair outcome and makes progress towards achieving full modalities and maintaining the level of ambition agreed at Doha.
7. We reaffirm the three benchmarks to assess the development dimension in the negotiations and their outcomes provided in the Doha Ministerial Declaration. These are:
 - (i-) balanced rules that provide developing countries the policy space to pursue development policies most suited to their levels of development and needs;
 - (ii-) enhanced market access of interest to the developing countries; and

- (iii-) capacity building programmes and technical assistance for strengthening supply-side capacity of ACP countries.
8. Recalling that the Fourth WTO Ministerial Declaration places development at the heart of the Doha Work Programme and given the critical importance of development to the ACP States, we reiterate our concern over the lack of effective progress on development issues under negotiations. For the ACP Group, a successful Hong Kong Ministerial Conference should have development outcomes. To this effect, substantial progress has to be achieved in the key development components of the Doha Process of negotiations including, *inter alia*: Special and Differential Treatment, Implementation issues and Concerns, the special situation of LDCs, Small Economies, Commodity Issues, Technical Assistance, Capacity Building, Transfer of Technology and Trade, Debt and Finance.

Special and Differential Treatment

9. We continue to reiterate that Special and Differential Treatment is a core principle in the WTO and an important instrument for integrating the ACP States into the multilateral trading system. In paragraph 44 of the Doha Work Programme, Members agreed to strengthen the Special and Differential Treatment provisions and make them more precise, effective and operational. We are seriously concerned that after three years of negotiations, there is no real progress on this mandate. There has been many missed deadlines and total lack of concrete results.
10. We note that following the July Package Decision of 2004, Members States were unable to expeditiously complete the review of all outstanding Agreement-Specific proposals and report to the General Council with clear recommendations for decision in July 2005. We, therefore, urge the 6th WTO Ministerial Conference to adopt the LDCs-specific proposals on special and differential treatment in a way that ensures that their contents are indeed commercially meaningful, legally secure, precise and operational.
11. We reiterate the urgent need to provide developing countries with appropriate policy flexibility and space, market access, balanced rules and increased, targeted and sustainable technical assistance.
12. We therefore urge that the remaining Agreement specific proposals as contained in TN/CTD/7 should be addressed prior to July 2006.
13. Furthermore, we call for the elaboration and conclusion of a development framework agreement in order to give full effect to the mandate and incorporating the development dimension into the architecture of the WTO and the multilateral trading system.

Implementation-Related Issues and Concerns

14. We recall that in paragraph 12 of the Doha Ministerial Declaration, members agreed to find appropriate solutions to implementation-related issues and concerns. Positive results have not been achieved neither under the mandates from Doha Ministerial Declaration nor from the subsequent July 2004. Indeed, all the issues and concerns raised in this context remain outstanding. We therefore urge that appropriate solutions be found and implemented without any further delay, prior to July 2006.
15. Considering that this mandate is one of the crucial elements of the developmental components of the Doha Work Programme, we demand the settlement of outstanding Implementation-related issues and concerns, as a precondition for taking on new commitments.

Least Developed Countries

16. We endorse the outcome of the Fourth LDC Trade Ministers' meeting held in Livingstone (Zambia) from 25-26 June 2005 and reiterate the following in favor of LDCs:
 - (i-) Binding commitments by developed countries and developing countries in a position to do so on duty-free and quota-free market access to all products from all LDCs to be granted and implemented immediately, on a secure, long term and predictable basis, with no restrictive measures introduced;
 - (ii-) Complete exemption for LDCs from any reduction commitments;
 - (iii-) A moratorium by developed countries on contingency measures that include anti-dumping actions against LDCs exports;
 - (iv-) Enhanced support towards improving the export competitiveness of LDCs including capacity to meet SPS and other standards;
 - (v-) Demand driven trade-related technical assistance in all areas of the Doha Work Programme negotiations with appropriate provisions for implementation and adjustment support;
 - (vi-) The need for all development partners to effect full debt cancellation for all LDCs, including in the measures of implementation, in order to address their trade and development concerns.

Small Economies

17. We reaffirm the urgent need for the WTO membership to address, in a substantive and meaningful manner, the particular structural disadvantages and inherent vulnerabilities of small, vulnerable economies. We also reaffirm the need for the WTO to address the particular problems, challenges and needs of landlocked developing countries and SIDS.

18. In view of their specific characteristics and vulnerabilities, they also lack resilience to external factors. Adequate provisions should be made to facilitate their integration into the multilateral trading system and to avoid further loss of their market share in global trade and their marginalisation within the world economy.
19. In this regard, Members should adopt result-oriented trade related measures in accordance with the Doha Ministerial Declaration and the July 2004 Package. These measures should be based on the proposals from the small economies submitted to the various negotiating groups and other bodies with a view to supporting the agricultural, industrial and overall economic development and growth of small vulnerable economies in a sustainable manner. For NAMA, the proposal from small economies is that developing countries, not covered by Paragraphs 6 and 9 of Annex B, as well as countries participating in the total of the world trading goods, not exceeding 10% for the period 1995-2004, be allowed to apply tariff reductions that don't exceed 15% with a minimum of 10% over the tariffs lines, with no more than half of the cuts at the lowest level. Meaningful consideration shall be given to the proposals by small economies submitted to the NAMA and Agriculture negotiating bodies and other bodies with a view to addressing the countries specific circumstances in these negotiations.

Landlocked developing countries and SIDS

20. We also reaffirm the need for WTO to address the particular problems, challenges and needs of landlocked developing countries and small island developing countries (SIDS).

Commodity Issues

21. We urge WTO Members to address the crisis of instability and secular decline in commodity prices with the aim of attaining stable, equitable and remunerative prices for these products in accordance with the proposal tabled in the Committee on Trade and Development under reference WT/COMTD/W/113, WT/COMTD/W/130 and JOB(05)/113.
22. We endorse the recommendations contained in the Arusha Declaration and Plan of Action on Commodities adopted by African Union Trade Ministers in the United Republic of Tanzania on 24th November 2005.

Trade, Debt and Finance

23. We recognize that the establishment of the Working Group on Trade, Debt and Finance (WGTDF) as one of the concrete manifestations of focusing on development in the Doha Work Programme. To this end, the ACP Group has factored in its submission WT/WGTDF/W/30 the need to establish a regular Committee on Trade, Debt and Finance with a view to addressing key issues of concerns for ACP countries. In that regard, we:

- (i-) Call upon the Working Group to review relevant WTO Agreements with a view to examining their causal relationship with the problems of financial instability, exchange rate volatility, financial flows, balance-of-payments, costs of adjustments, and external indebtedness. Such a review may result in a need for changes in such WTO Agreements, in order to effectively address the trade-related causes of external account imbalances or balance-of-payments problems experienced by developing and least-developed countries.
- (ii-) Call upon the Working Group to coordinate with the Breton Woods Institutions in accordance with the coherence mandate.
- (iii-) Reiterate that there is need to addressing the supply side constraints and adjustment costs that ACP countries face as a result of trade liberalization that affects their terms of trade and creating broader macroeconomic problems, as well as meeting of standards. However, this agenda should operate free of conditionalities and, should be provided strictly in grant form.
- (iv-) Recall the debt situation of several ACP countries and call upon the working group to resolve the trade-related aspects of debt.

Trade and Transfer of Technology

24. We call for more focused work in the Working Group on Trade and Transfer of Technology with a view to finding sustainable solutions that encourage and result in increased flows of technologies. In that sense, we recognize that some proposals from developing countries have been submitted and shall be the basis for further discussions in 2006, without prejudging the submission in the near future of other proposals.

Technical cooperation

25. We reaffirm technical assistance and capacity building as core elements of the development dimension of the multilateral trading system. We call on our development partners to adequately finance technical assistance programmes through the existing delivery mechanisms especially the Integrated Framework, the JITAP and other complementary mechanisms. However, we recognize that developing countries and LDCs need not only technical assistance, but also financial and technological support to enhance their supply side capacity so as to be able to fully participate in the multilateral trading system.

II - AGRICULTURE

26. Agriculture is of critical importance to the economies of the majority of ACP States and holds the potential to lift millions of people out of poverty. Therefore, we

emphasize that the modalities to be agreed upon, should take into account the need for appropriate policy space that would allow ACP countries to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns, while ensuring the maintenance of preferential access and fostering improved market access for the agricultural products of ACP countries, both in primary and processed forms.

27. The ACP Group is willing to contribute to the reform process in a manner that takes into account its financial constraints and its development policy objectives. This contribution is subject to the full and satisfactory operationalisation of the Doha mandate on Special and Differential Treatment (SDT) for ACP countries with respect to the three pillars of the negotiations, including through provisions on long-standing preferences; Special Products (SP) and Special Safeguard Mechanism (SSM); addressing the concerns of NFIDCs and LDCs as reflected in the Marrakech Decision and flexibilities in the formula for tariff reductions.
28. Food and livelihood security are of critical importance for the ACP countries. These issues require a holistic approach encompassing domestic food production, food procurement capacity, food aid, export credits in respect of the S&D for NFIDCs and LDCs, STEs, SP and SSM. The various rules and disciplines have to be harmonized accordingly.
29. The issue of erosion of preference margins constitutes a vital concern for the ACP. We will not be a party to a decision on agriculture that does not effectively and meaningfully address the erosion of preferences and the impact of reform on the preference-receiving countries. Failing to address preference erosion would impose a disproportionate share of the costs of reform on most ACP Members including the poorest and more vulnerable.
30. We stress the importance of a transparent and inclusive negotiating process. Only a bottom-up approach with the effective participation of all negotiating groupings and Members will be conducive to a legitimate outcome that can be endorsed by all WTO members and a successful Ministerial Conference. We will not accept a “*fait accompli*” in the negotiations. Furthermore we will only agree to a document in Hong Kong which is fully balanced with equal level of specificity across all pillars
31. We strongly emphasize that a fair and realistic middle ground acceptable to the whole Membership, can be obtained, only when all proposals on the table are considered and not those of a selected few. This approach shall be premised on meaningful S&D and the necessary coexistence of different modes of agricultural production worldwide, taking into account the already agreed liberalisation of specific products exported from ACP countries.

Export competition

32. We affirm that the implementation of parallelism in respect of the elimination of all forms of export competition by 2010 shall be without prejudice to the interests of

NFIDCs and LDCs in respect of export credits and to the interests of the ACP in respect of Food Aid, State Trading Enterprises (STEs) both from the exporting and importing perspectives.

33. We note with concern that the Marrakech Decision on NFIDCs and LDCs have not been implemented. Accordingly, we urge WTO members to expeditiously implement the Marrakech Decision on NFIDCs and LDCs and call for a clear reflection of the special and differential treatment component of any disciplines to be developed on export credits in accordance with paragraph 4 of this Decision.
34. We stress the need for members to fully take into account the interests of food aid recipients in developing disciplines on this issue. We consider that food aid should be both in cash and kind.
35. We call for the strengthening of the disciplines of Article 12.1 of the Agreement on Agriculture on Export prohibition and Export restrictions
36. We underscore the importance for developing countries to continue benefiting from the special and differential treatment of Article 9.4 of the Agreement on Agriculture.
37. Taking into account the critical role played by importing STEs in sustaining livelihoods, food security and poverty reduction and the economies of scale secured by exporting STEs in ACP countries, we stress that ACP countries' STEs shall be excluded from the application of any new disciplines on STEs.

Domestic Support

38. We consider that ACP countries shall be allowed to maintain policy space for the development of the farming communities, based on targets of poverty reduction, food and livelihood security, rural development, and other development policy objectives.
39. The policy space should enable ACP countries to have adequate and timely resources to fulfil their essential developmental objectives. We declare that policy space can be achieved through the S&D provisions under the domestic support pillar, Annex 2, Article 6.2, of the WTO Agreement on Agriculture, *de minimis* and measures for maintenance and improvement of export earnings of the ACP States.
40. We affirm that Members shall engage in the review and clarification of the green box criteria in a manner that will ensure that the green-box measures have no or at most minimal trade-distorting effects or effects on production while at the same time ensuring that there is adequate policy space for Developing Countries.
41. We reiterate that ACP countries shall be exempted from reduction commitments in respect of *de minimis*
42. We declare that there is need to enhance transparency by improving the disciplines on notifications. In this regard, the notification requirements for developing countries should be simplified.

Market Access

43. Having made their contribution on market access in document JOB (05)/257.Rev1, we strongly believe that these proposals provide the basis for a fair and equitable outcome of the negotiations. We expect the ACP position shall be fully taken into account in focused discussions on market access.
44. We reaffirm the need for improved market access for all agricultural products originating from ACP States, both in primary, semi-finished and finished form. To this end we call on the concrete operationalisation of SDT under the tiered approach as follows:
- i) The level of ambition in the tariff cuts shall address the concerns of ACP countries, both from domestic and preferential access perspectives. In this regard, we are willing to work on the basis of the benchmarks proposed in JOB(05)/257/Rev.1;
 - ii) A linear cut with flexibility shall be applied in each tier to allow certain tariff lines within the bands to be subject to lesser cuts;
 - iii) There shall be no tariff capping; this concept is prejudicial to the development concerns of the ACP;
 - iv) Proportionality shall be achieved by guaranteeing that the overall outcome of tariff reduction commitments by developing countries is lower than that required from developed countries;
 - v) Consideration shall be given in the negotiations to the specific situation of developing country Members with either high ceilings or homogeneous low bindings;
45. We urge that Paragraph 16 of TN/AG/W/Rev.1 be used as a reference for further consideration of the issues of preference erosion as established in paragraph 44 of the Framework Agreement. In this regard, products exported from the ACP States that have already been the subject of liberalisation shall not again be open for accelerated tariff cuts in these negotiations. In respect of products relating to longstanding preferences, there shall be, *inter alia*, lower cuts in tariff reductions and longer implementation periods for such reductions.
46. Furthermore, we affirm that products receiving preferential market access under long-standing preferences shall be designated as sensitive products by preference-providing countries. The treatment of such products shall be moderated in light of its impact on preference erosion and development objectives. Furthermore any TRQs expansion on an MFN basis shall not be at the detriment of existing ACP quotas.

47. We emphasize that the provisions of para 35 of the Framework Agreement shall be fully implemented so as to ensure that there are operationally effective improvements in tariff quota administration for existing tariff quotas so as to enable Members, and particularly developing country Members, to fully benefit from the market access opportunities under tariff rate quotas.
48. We reiterate that tariff escalation must be addressed fully in accordance with paragraph 36 of the Framework Agreement without prejudice to the products benefiting from preferential arrangements.
49. We call for meaningful modalities on Special Products (SPs) and the Special Safeguard Mechanism (SSM) are required. The SP and the SSM constitute unique instruments that would respond to the concerns of developing countries and least developed countries on matters related to food security, livelihood security and rural development. Furthermore, modalities with respect to the designation of special products and treatment must be devised in a way that provides maximum flexibility to ACP countries. In this regard, we declare that SP for ACP countries shall neither be subject to tariff reductions nor to any new tariff rate quota commitment. Regarding SSM, we further declare that ACP countries shall have recourse to import price-triggered and import volume-triggered special safeguard mechanism, applicable to any agricultural product listed in Annex 1 of the Agreement on Agriculture.
50. We declare that the provisions of para 43 of the Framework Agreement on tropical products and products relating to the diversification from illicit narcotic crops, shall be without prejudice whatsoever to the provisions of para 44 on Long-standing preferences.
51. We note that Non Tariff Barriers (NTBs) are a major obstacle to market access for ACP countries, and call upon the WTO membership to immediately commence negotiations on Non-Tariff Barriers with a view to finding a lasting solution..

LDCs

52. We declare that developed countries, and other developing countries in a position to do so, must provide bound duty and quota free market access to all agricultural products originating from all LDCs as pronounced in Paragraph 45 of the July 2004 Package.
53. We further declare that LDCs shall be exempted from any reduction commitments

III - COTTON

54. We urge that the trade-related aspects of the cotton initiative be implemented expeditiously, ambitiously and with specificity. We also welcome the Appellate Body and Panel Decisions on cotton adopted by the DSB on the 21 March 2005. We

endorse the submission of the WTO Africa Group to the sub-Committee on cotton of April 22nd, 2005. In this respect, we call upon our developed-member partners to:

- (i) totally eliminate export subsidies by the 31st of December 2005;
- (ii) substantially reduce the domestic supports that distort trade on cotton under the following time frame:
 - 80% by 31 December 2006
 - 10% by 1 January 2008
 - 10% by 1 January 2009
- (iii) Elaborate disciplines that prevent shifting of domestic supports between different boxes;
- (iv) substantially improve market access for the international trade in cotton, duty free and quota free access for cotton and its by-products for the LDCs Cotton producers and exporters;
- (v) set up an emergency fund in favour of all African countries producers and exporters of cotton aimed at reinforcing their cotton sector with a view to contributing to the promotion and processing of cotton;
- (vi) mobilize the technical and financial assistance for the reinforcement of the cotton sector in Africa that would build capacity to process and add value to cotton and its by-products, and more particularly to make available the financial support promised.

IV - BANANAS

55. We note with grave concern the arbitrators' award in document WT/L/625 dated 27 October 2005. We are gravely concerned that the EU's response to this award, has been to announce a new single tariff for implementation as of 1st January 2006, thus seriously undermining the existence of the ACP banana industries.
56. We note with concern that the subject of banana has been put on the agenda of the Ministerial Conference by a non-ACP interested party, which could pose challenges that further disadvantage the ACP banana producers and exporters.
57. Bearing in mind the crucial importance of banana exports to the economic, social and political stability of several ACP States, we call on WTO Member to ensure that the treatment given to ACP bananas will permit the continued sustainability of the ACP banana exports.
58. We also emphasize the importance of Members' support for the request for an extension of the waiver and stress the need for its favourable consideration in order to ensure the continuation of ACP Members' banana exports.

V - SUGAR

59. We strongly disapprove the disproportionate burden of the reform of the EU Sugar regime on the ACP Sugar supplying States. We urge that the Kisumu Action plan promoting the sustainable development agreed at the 9th ACP Special Ministerial Conference on Sugar in Kisumu, Kenya, particularly the following positions which need to be fully taken into account in the WTO negotiations:

- (i) Classifying sugar a sensitive product;
- (ii) Lowest possible tariff cut implemented in equal instalments over 8 years as detailed in paragraph 16 of the Harbinson text; binding of tariffs in specific (non-AVE) rates, and maintenance of special safeguard, and
- (iii) ACP longstanding preference on sugar is bound as a TRQ of the EU compatible with article XIII of GATT.

VI - NON-AGRICULTURAL MARKET ACCESS

60. We urge that the NAMA negotiations be conducted in a manner that is sensitive to the developmental needs of the of the ACP countries. Accordingly, ACP countries view the following elements as critical in the NAMA negotiations:

- (i-) The continued push for an ambitious formula, which would result in drastic cuts in members tariff schedules. This would put a serious strain on their fragile economies. Accordingly, we are committed to negotiations based on “bound rates”. Furthermore, the modalities should fully incorporate the principle of less than full reciprocity to address the specific needs of the ACP countries. The modalities should also include appropriate flexibilities and special and differential treatment for ACP countries;
- (ii-) The sectoral approach on products of export interest to the ACP aimed at fast-tracking tariff disarming would accelerate the erosion of ACP preferences. Therefore, we declare that appropriate modalities and related flexibilities should be developed to mitigate the erosion of these preferences;
- (iii-) Due to the critical importance of preferences for ACP countries and the likely negative impact on their economies of erosion of such preferences, a methodology should be agreed upon to identify those products likely to be affected so that they can be accorded special treatment, that would aim at preserving a commercially meaningful preference margin through marginal tariff cuts and a longer implementation period, as proposed in the ACP Group proposal TN/MA/W/53 dated 11 March 2005;

- (iv-) The treatment of unbound tariff lines, especially those with lower applied tariffs remains a serious concern to ACP States. To ensure a fair and equitable outcome, we declare that explicit recognition must be accorded to autonomous liberalization and low applied rates should be assigned with a higher constant number of percentage points to establish the base rate;
- (v-) Flexibilities under paragraph 8 are stand-alone provisions and must not be linked to the formula. Conditions therein impose considerable constraints on their policy space needed by ACP countries;
- (vi-) In addition, the conditions in Para (6) of July 2004 Decision should be relaxed to give ACP Countries concerned adequate flexibilities to pursue their development and industrialization objectives;
- (vii-) NTBs deny market access for non-agricultural products of ACP States. These NTBs, which include technical barriers to trade, rules of origin and other conditions, as well as anti-competitive market structures, need to be addressed in the negotiations in tandem with other elements of the Annex B. We declare that Members shall exercise due restraint in applying these measures to products originating from ACP States. Furthermore, technical and financial assistance should be provided to assist ACP States in meeting the necessary requirements;
- (viii-) WTO members must agree on binding commitment on duty-free and quota-free market access for all products from LDCs to be granted and implemented immediately, on a secure, long-term and predictable basis, with no restrictive measures introduced. In addition, we reiterate the proposal for complete exemption for LDCs from tariff reduction commitments.

VII - TRIPS AND PUBLIC HEALTH

61. We are concerned about the slow progress in amending the relevant provisions of the TRIPS Agreement that would enable countries with no or insufficient manufacturing capacity to access pharmaceutical products at affordable prices. We recall that on 30 August 2003, WTO Members adopted the Decision to implement paragraph 11 of the General Council decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. Since the Decision of 30 August 2003 gives only a temporary solution, we urge that the necessary amendments for a permanent Agreement be completed expeditiously.

VIII - TRADE FACILITATION

62. We recognize the potential benefits that would accrue to ACP countries from undertaking trade facilitation measures. However, we urge that in the context of the

current negotiations, development must be the main objective and focus. This will include, *inter alia*, ensuring that special and differential treatment in favour of developing and least-developed countries is accorded and made fully effective and operational; that international cooperation is enhanced through the timely provision of sufficient and effective technical assistance and capacity-building in trade facilitation; and that the outcomes of the negotiations reflects the needs of these countries for development policy space and flexibility.

63. We call upon WTO members to pay careful attention to issues in the negotiations on trade facilitation and the importance of promoting development objectives through the technical assistance and capacity-building as contained in the ACP Group submission to the Negotiating Group on Trade Facilitation under reference TN/TF/W/73 dated 10 November 2005. In that regard the ACP Group recalls the provisions contained in Annex D of the July Framework Agreement in respect of technical assistance and emphasizes its linkage to the undertaking of any commitments.
64. We call upon the WTO Secretariat to expeditiously conduct a study that compiles and examines various Trade Facilitation tools and measures that have been used by WTO members, the physical and policy infrastructure required to adopt and implement such tools and measures, the timeframe for implementation, and their respective total costs of implementation including costs associated with policy and regulatory changes, physical infrastructure development, acquisition of technology and human resource training. We call for the results of this study to be circulated to the WTO Member as soon as possible.
65. We note the proposed elements for clarification of Articles V, VIII and X of GATT 1994 as contained in the WTO Secretariat compilation(TN/TF/W/43/ Rev 4) and urge the Members to ensure sufficient clarification of the proposed elements to enable the full understanding of their implications before commencement of text-based negotiations.

IX. SERVICES

66. We remain committed to services liberalisation as a means of promoting the economic growth of all trading partners and the development of developing countries based on the principles outlined in Article IV and XIX.2 of GATS. We further reiterate and call for adherence to the development principles as outlined in the GATS 1994 and its preamble, and the Guidelines and Procedures for Negotiations on Trade in Services (S/L/93) and LDC Modalities.
67. We reaffirm our commitment to complete an assessment of trade in services in overall terms and on a sectoral basis, with special reference and a comprehensive analysis as to whether or not market access liberalisation to date has resulted in the

economic growth and the development of ACP countries, along with a review of the progress of the negotiations;

68. We insist that any text to be included in the Ministerial Conference should be parallel to Agriculture and NAMA. Members should agree to present a factual report of the *status quo* in all areas of services negotiations.
69. We consider that the objectives that would be advantageous to all WTO Members include *inter alia*:
 - (i-) progressive liberalisation on a mutually beneficial basis;
 - (ii-) the recognition and inclusion of all national policy objectives and levels of development for individual Members of the WTO;
 - (iii-) all Members have the right to regulate, and to introduce new regulations on supply of services where necessary;
 - (iv-) developed countries should “*level the playing field*” by facilitating the increasing participation of developing countries in trade in services including through effective implementation of Article IV;
 - (v-) implementation of LDC Modalities by according market access in sectors and modes of interests to them;
 - (vi-) Members shall ensure that the basic architecture of GATS is preserved;
70. We consider that the modalities contained in the Guidelines for services negotiation should not be renegotiated. ACP therefore reject all new modalities whether they are plurilateral approaches to negotiations or any other complementary or benchmarking approaches. The objectives outlined must be maintained in a pure request-offer process of several rounds and shall not be supplemented or replaced by any other approach that seeks to undermine the principles and objectives of the GATS.
71. We underscore that given the level of development of ACP States, MFN exemption and Economic Needs Tests (ENTs) are important instruments of policy space and development dimension. Accordingly, ACP States shall be allowed to maintain them as long as they deem necessary for their development.
72. We do not agree to the prescriptive nature of the modal objectives as laid out in the Draft Ministerial Declaration (JOB(05)/298) and reserve the right to decide to commit subsectors according to level of development and development goals of our countries. We have been dissatisfied with the poor quality of offers that many developed countries have submitted. We expect developed countries to open sectors requested by developing countries thus implementing Article IV of the GATS. These principles shall apply to all modes of supply.
73. In regard to Mode 4, we note that there has not been commercially meaningful offers made by developed Members of the WTO. We consider that developed countries shall offer mutual recognition of professional services providers from developing

countries. We further consider that to give the services negotiations a truly developmental focus, developed countries must open mode 4 requests made by developing countries so that they can fulfil the implementation of Article IV of GATS.

74. We affirm the importance of undertaking a review of progress of the negotiations and assessment of the work programme periodically during 2006 including in respect to implementation of Article IV.
75. We note the importance of completing the rules track of the negotiations prior to any market access in the same sector.
76. As part of the review of progress and assessment to determine the implementation of Article IV of GATS, we shall examine the level and quality of assistance provided to ACP countries for effective regulatory framework. Members that make requests shall provide assistance for adequate regulatory framework in the related sector for which the request is made.
77. We favour the development of a safeguard measure with the necessary flexibility to protect our export interests. In this regard, we call for further discussion on how such safeguards would be operationalised especially from developing countries' perspective.
78. We note the importance of the development of horizontal disciplines under domestic regulations mainly due to the role such disciplines could play in making mode 4 commitments more certain. Such disciplines would also clarify market restrictions in export markets such that Article IV could be fully operationalised.
79. We reiterate that Governments should be able to have control of their own national policy including freedom to control their domestic procurement. We consider that negotiations on transparency in government procurement under trade in services would be outside the mandate of the current negotiations as set out in the Doha Declaration and the subsequent July text. We therefore call for the deletion from the Text of paragraph 4 (b) of Annex C to Job (05)/298 – the Draft Ministerial text for Hong-Kong.-.
80. The 79 Members of the WTO comprising the ACP States are of the view that the positions above create an important vehicle to promote the economic growth of all trading partners and the development of developing countries.

X - WTO RULES

81. We take note of the exploratory work and identification of issues, which has occurred in the Negotiating Group on Rules. Balanced and enforceable rules which help to create a predictable and consistent international trading economy is of particular

importance to the ACP, however these rules must recognize the principle of S&D treatment and flexibilities for developing countries and these must be integrated into the discussions and final outcome. In this regard, and in the context of the negotiations on WTO Rules, we deem the following issues to be of vital importance to the ACP:

Anti-Dumping and Subsidies and Countervailing Duties

- (i-) The development dimension of these negotiations shall be fully addressed by ensuring that flexibilities and S&D T are integrated in the proposals tabled and in the Draft Ministerial Text Declaration for Hong Kong.
- (ii-) The need to avoid the introduction of unnecessary complex rules and disciplines under the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Duties which would prove difficult for ACP Countries to implement and enforce.
- (iii-) The need to ensure that Anti-Dumping rules and Countervailing Duty rules are not automatically or arbitrarily imposed on exports originating from ACP Countries given their limited export base and high dependency on few export markets.
- (iv-) Given the complexity of negotiations on Rules and the fact that many developing countries have not been able to draft or implement Anti-dumping or Countervailing Duty legislation because of capacity constraints, there is need to provide adequate technical assistance to ACP countries to enable them to develop the necessary legislation and expertise in these areas. Furthermore, ACP countries that have the necessary legislation need assistance to enable them to effectively enforce their rights under the respective agreements.
- (v-) The importance of subsidies to assist the Small and Micro enterprises and incipient industries in ACP countries to increase productive and export capabilities and to foster diversity in the production process should be recognized and not eroded in the subsidies negotiations. ACP countries should be able to utilize subsidies and other incentives to promote their development objectives given the minimal trade distorting effects of these programmes.

Fisheries subsidies

- (vi-) The importance of the fisheries sector to the economies, development priorities, food security and livelihoods of ACP countries should be taken into account in the negotiations and the development of disciplines on fisheries subsidies. . Effective S&DT for developing and LDCs members should be an integral part of the negotiations. In particular, it should be recognized that ACP countries are neither the cause of over fishing or overcapacity and hence should be allowed the flexibility to utilize fisheries subsidies to promote and enhance their under-developed fisheries industries.

- (vii-) Specific provisions should be made for those ACP countries with vested interests in supporting their fisheries sector to be able to utilize fiscal incentives especially for artisanal and small-scale fisheries. In addition, development assistance and access fees should not be prohibited.

Regional Trading Agreements

- (viii-) We underscore the importance of ensuring that the developmental aspects are fully taken into account in the negotiations aimed at clarifying and improving disciplines and procedures relating to regional trade agreements as mandated under Paragraph 29 of the Doha Ministerial Declaration.
- (ix-) We recognize that the discussions have proceeded along two main pillars: transparency and systemic issues. We underscore the importance of maintaining equal progress in each of the two pillars given their complementary nature.
- (x-) On transparency issues, we recognize the importance of enhanced transparency and any discussion and agreement should integrate the notion of S&D T recognizing the levels of development and capacities of ACP countries.
- (xi-) We call for the revision of Article XXIV of the GATT so as to explicitly include Special and Differential Treatment and asymmetry. Any improvement and clarification of disciplines and procedures on RTAs should take account of differing levels of development and should address, amongst other issues, “substantially all the trade”, and transitional time frames in a manner that responds to the needs and interests of ACP countries.

XI - DISPUTE SETTLEMENT UNDERSTANDING

- 82. We recall that Paragraph 30 of the Doha Ministerial Declaration provides for negotiations aimed at improving and clarifying the DSU. Several ACP States have submitted proposals to the Special Session of the DSB that would enhance their participation in the dispute settlement system.
- 83. We note that according to the mandate given, the negotiations on this issue were to be completed by end of May 2003. We regret to note that several deadlines have been missed. Given the lack of progress in furthering this work, we urge the Special Session of the DSB to expedite completion of the DSU negotiations taking into account our concerns with regard to the accessibility and affordability of the system.

84. We emphasize that DSU negotiations will remain outside the Single Undertaking, as provided for in the Doha Ministerial Declaration.

XII - COHERENCE

85. The issue of coherence has been confined to institutional coherence between the WTO and the Bretton Woods institutions. However, the emphasis should be on ensuring coherence between member's WTO obligations and the policy advice given to developing countries by the Bretton Woods institutions. Such coherence should also include the provision of enhanced support by these Institutions to the ACP countries to bolster their effort to promote productive investment, develop human resources and efficient infrastructure, to enhance institutional capacities and build technological capability of our countries so as to benefit from market access opportunities.

86. We re-emphasize the importance of promoting, without cross-conditionalities and without additional conditions consistent and mutually supportive policies. In this regard, we call for the closer coordination between these institutions in order to ensure that these concerns are addressed. Moreover, the negotiating processes at the multilateral, regional and bilateral levels should be conducted in a coherent manner.

XIII - AID FOR TRADE

87. We emphasize the need for adequate and predictable development assistance for building the capacities for developing countries to increase and diversify their export and production bases. This should include financial assistance in the form of grants and concessional loans to address removal of supply-side constraints, including infrastructural constraints. It should also include financial assistance to address the cost of adjustment.

88. The aid for trade programme should be comprehensive and holistic in nature and address trade-related supply-side constraints across-the-board. An aid for trade package should not be conditional upon the adoption of increased commitments to a trade liberalization programme.

89. In this regard, we emphasize the need to agree in Hong Kong to develop an Aid for Trade package by July 2006.

XIV - ACCESSION

90. We reiterate our call for the full adherence to and implementation by the WTO members of the "Guidelines on WTO accession procedures for LDCs" adopted by the General Council in December 2002.

91. We also call upon the Hong Kong Ministerial meeting to mandate the General Council to review the said Decision on the Accession of LDCs with a view to updating it as provided for in paragraph 2 of that Decision as well as in the light of the Doha Work Programme.
92. We declare that acceding LDCs shall be entitled to benefit from the S&DT provisions that would arise from the Doha Work Programme
93. Having regard to the high costs involved in the various stages of accession process, *inter alia*, in the document preparation, the undertaking of actual negotiations, the implementation of negotiated outcomes and the setting-up of legal and institutional infrastructures:
- (i-) We urge that targeted technical assistance be provided to acceding LDCs and ACP States in order to address the costly and complex accession process;
 - (ii-) We call upon WTO Members to refrain from placing onerous demands on LDCs and other ACP States in the accession process;
 - (iii-) We further call upon WTO members to agree that if an LDC or ACP party to the negotiations on the accession of any applicant country considers that the terms of reference of the relevant Working Party are not being observed, it may request the establishment of a panel. This panel would be appointed by the Director-General from a roster of independent experts, to examine the case and report with recommendations to the General Council or Ministerial Conference.
 - (iv-) We request WTO members to respond speedily to ACP countries that have applied to commence their accession process.

XV - OBSERVER STATUS OF THE ACP GROUP

94. We reiterate the need for the WTO Members to grant Permanent Observer Status to the ACP Group of States and ACP Inter-governmental and regional organizations.
-