

The 4th WTO Ministerial Conference and WTO Work Programme Emerging from Doha: An Assessment

According to the WTO a Ninth Round of Multilateral Trade Negotiations Launched

According to the WTO on November 14th, 2001, at the WTO Ministerial Conference in Doha, Qatar, Trade Ministers agreed to launch the ninth Round of multilateral trade negotiations.

The following Texts which formed the basis for negotiations at Doha were approved, *inter alia*:

1. The WTO Doha Ministerial Declaration (WT/MIN(01)/DEC/W/1);
2. Implementation Related Issues and Concerns (WT/MIN(01)/W/10);
and,
3. A Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/W/2).

The outcome was the product of long and, at times, acrimonious deliberations amongst Delegates at Doha, right until the final few hours of the meeting, on a number of issues; which included but were *not* limited to:

1. *Intellectual property rights and public health/access to medicines;*
2. *Implementation issues;*
3. *'New' or Singapore issues;*
4. *Rule-making;*
5. *Agriculture;*
6. *Environment.*

World leaders had set high hopes for agreement at Doha, in order to revive confidence in the world trading system as the world faces an economic slowdown. Agreement at Doha, in fact, was threatened as trade talks entered their final day and despite successes secured, particularly for African countries, regarding access to medicines, for example, there remained divergences between many developing and developed countries *on some issues*.

Like the Uruguay Round before it, however, the new trade Round which the WTO maintains emerged out of Doha sets a precedent in the issues it brings to the multilateral trade remit; in that it opens the door for new issues to be brought into the world trading system, for example, trade and environment. By all accounts, according to the WTO, the Doha Meeting resulted in the launch of a 'comprehensive and broad' Round. Whilst the fear of a failed Ministerial, as had previously occurred in Seattle, proved a very real possibility on some occasions at Doha, especially in the closing days of the meeting, significant - and some developed country trade diplomats maintained watershed - concessions were given by some parties. Notable, for example, were the concessions made by the EU in respect of compromise language it agreed to in the agriculture section of the Draft Ministerial Declaration on 'phase-out of export subsidies'.¹

The Work Programme Emerging out of the 4th WTO Ministerial

According to the WTO, the work programme, further to decisions emanating from the Doha Meeting, are highlighted in two Declarations — a Ministerial Declaration and one on intellectual property (TRIPS) and public health — and one decision on implementation — i.e. developing countries' difficulties in implementing current WTO agreements.

The WTO has hailed developments in respect of a new Round at Doha putting in place a work programme - which Ministers have called 'broad' - that includes negotiations on a range of subjects and other tasks for the coming years. Negotiations, to be pursued under the terms of the Ministerial Declaration, based on the work programme are to be concluded no later than January 1st, 2005. The only exception is the negotiation on improving and clarifying the Dispute Settlement Understanding, which is to conclude by the end of May 2003 with entry into force soon thereafter. Other elements of the work programme are to be concluded by the end of 2002 or by the next Ministerial Conference. Initial requests for specific commitments on services should be in place by June 30, 2002 and initial offers by March 31 2003. Modalities for Agriculture are to be established no later than March 31, 2003, with draft schedules, which are based on the modalities to be submitted no later than the fifth session of the ministerial conference (see **Annex** for *Checklist by Subject Area and Timelines*

¹ In addition, the WTO's Members have promised to push for 'substantial improvements' in market access for farm products.

of the WTO Work Programme established at the 4th WTO Ministerial (made available by the WTO Secretariat)).

Achievements of the Doha Meeting

The launch of a new Round - ***the WTO argues*** - signals agreement, amongst WTO Members, on an agenda to negotiate further multilateral trade liberalization. The following were notable achievements coming out of Doha in respect of a WTO work programme (*this list is not exhaustive, it is intended to highlight the 'main' achievements*):

1. Substantively, the landmark political Declaration on TRIPS and Public Health constitutes robust gains especially for the African group of developing countries in terms of 'flexibilities' that the agreement provides to governments to deal with health problems.²
2. The Doha Meeting also resulted in the historic accession of the People's Republic of China and Taiwan to the WTO.
3. Stronger language, in the Ministerial Text, on trade and the environment; an issue the EU had been strongly pushing for for some time now. In an unprecedented move, ground breaking commitments were made in enhancing the mutual supportiveness of trade and environment, and in this respect launching negotiations immediately on three environmental issue-areas: (i) the relationship between WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs)³; (ii) procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the criteria for the granting of observer status; and (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.
4. Stronger language, in the Ministerial Text, on commitments to secure concessions in the area of agriculture with respect to export subsidies, i.e. "reductions of, with a view to phasing out, all forms of export subsidies". Other substantial developments with respect to the agriculture Text are improvements in market access and substantial reductions in trade-distorting domestic support.

² The Declaration on TRIPS and Public Health is political in its complexion and is not necessarily legally binding.

³ The following language is also employed in the Ministerial Declaration with respect to trade and environment - "The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question". This language may, in effect, serve as a *de facto* opt out for those parties not willing to be bound in their obligations with respect to the MEA matter.

5. With respect to E-Commerce, there is to be two-year moratorium banning customs duties on electronic transmission.
6. A framework for the WTO's technical assistance activities was fashioned. A commitment was made in the Ministerial Declaration for the WTO's Budget Committee to develop a plan, for adoption by the General Council in December 2001, to ensure that adequate funds are available for technical assistance.
7. A work programme for LDCs designed by the Sub-Committee on LDCs.
8. Developing countries did not secure immediate concessions on textiles, with respect to *'growth-on-growth'* provisions, an issue particularly pernicious for them and that historically has been on their agenda; this notwithstanding, the Round emerging from Doha offers the prospect of long-term gains⁴ in this respect.⁵
9. With respect to rule-making in the area of anti-dumping and countervailing measures language on 'improving' and 'clarifying' disciplines was secured in the Ministerial Text.
10. A work programme for the fuller integration of small economies was noted in the Ministerial Text.
11. Commitments were made, in the Ministerial Text, to advancing a Working Group on Debt and Finance.
12. Commitments were made, in the Ministerial Text, to advancing a Working Group on Technology Transfer.

Whilst there will doubtless be further and careful reflection by all parties in the days, weeks and months ahead one fact remains, indeed it sets the tone for the global trade Round, *which the WTO asserts has been launched*, and associated negotiations in the period beginning 2002, the world trade agenda will now expand. The subsequent Fifth WTO Ministerial Conference (*which has to be held by the end of 2003 at the latest*) will take stock of progress in the negotiations and provide necessary guidance.

All correspondence should be directed to:



⁴ Including favorable language on balance-of-payments restrictions and non-actionable subsidies.

⁵ Specifically, implicit in the commitment to reduce barriers on industrial goods, particularly 'tariff peaks' is more access for developing country textiles, as the quota-driven system that now governs trade in textiles is to be phased out by 2005.

ANNEX

ANNEX

Doha at a glance: Checklist of Subjects in the WTO Work Programme Contained in the Ministerial Declaration.

The purpose of this note is to give an overview of those subject areas that are part of the WTO's work programme as set out in the Doha Ministerial Declaration (WT/MIN/Dec1). The nature of work is described, and timelines are also given. Reference is also made to work mandated by the separate Ministerial Declaration on the TRIPS Agreement and Public Health (WT/MIN/DEC/2).

| Subject | Status and Timelines |
|----------------|--|
| Implementation | ?? <u>Negotiations</u> on outstanding issues as part of the single undertaking. Agreements reached at an early stage may be implemented on a provisional or definitive basis. (See also separate Decision on implementation related issues and concerns – WT/MIN (01)/17) |
| Agriculture | ?? <u>Negotiations</u> : Modalities for further commitments to be established by <u>31 March 2003</u> . ?? Comprehensive draft schedules to be submitted no later than 5 th Ministerial Conference |
| Services | ?? <u>Negotiations</u> : Initial requests for specific commitments submitted by <u>30 June 2002</u> . Initial offers by <u>31 March 2003</u> . <u>(Negotiations already mandated under Services Guidelines</u> : on safeguards under Article X to be completed by 15 March 2002 (Working Party on GATS Rules). Members shall aim to complete negotiations under Articles VI:4 (Working Party on Domestic Regulation), XIII and XV (Working Party on GATS rules) prior to the conclusion of negotiations on specific commitments.) |
| Market Access | ?? <u>Negotiations</u> Studies mandated in tandem with negotiations, along with measures for capacity building for LDCs |
| TRIPS | ?? <u>Geographical Indications</u> : (i) <u>Negotiations</u> on Multilateral System of Notification and Registration for Wines and Spirits should be completed by Fifth ministerial Conference (ii)extension of the protection of geographical indications provided for in Article 23 of the TRIPS agreement to products other than wines and spirits to be addressed in the Council for TRIPS under the implementation rubric (paragraph 12 of the draft ministerial declaration). ?? <u>TRIPS and Public Health</u> : Problem of members with insufficient or no manufacturing capacities in pharmaceuticals sector in making effective use of compulsory licencing. Council instructed to find "expeditious solution" to problem and report to General Council <u>before end 2002</u> . (Work in this area was mandated by the Declaration on TRIPS and Public Health). TRIPS Council instructed to take necessary action to give effect to extensions of transition times for least developed countries, under Article 66.1, to 1 January 2016 with respect to the implementation of Sections 5 and 7 of Part II of the Agreement for pharmaceutical products. ?? <u>TRIPS Council work programme</u> : TRIPS Council, in pursuing work programme including under the review of Article 27.3(b); the review under Article 71.1; work under paragraphs 11.1 and 11.2 of the Decision on implementation-related issues and |

| | | |
|--|----|---|
| | | concerns; and paragraph 12 of the Ministerial Declaration, to focus on: relationship between TRIPS Agreement and CBD; production of traditional knowledge and folklore; and "other relevant new developments". |
| Trade and investment | ?? | <u>Negotiations</u> will take place after the Fifth Ministerial Conference, on the basis of a decision to be taken, by explicit consensus, at the Fifth Ministerial Conference, on modalities of negotiations. |
| | ?? | <u>Until Fifth Ministerial Conference:</u> (in working group on the relationship between trade and investment) clarification of scope and definition; transparency; non-discrimination; modalities for pre-establishment based on a GATS-type positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes. |
| | ?? | Commitment to strengthened and adequately resourced assistance to meet needs for technical assistance and capacity building. |
| Trade and Competition policy | ?? | <u>Negotiations</u> will take place after the Fifth Ministerial Conference, on the basis of a decision to be taken, by explicit consensus, at the Fifth Ministerial Conference, on modalities of negotiations |
| | ?? | <u>Until Fifth Ministerial Conference:</u> (in working group on the interaction between trade and competition policy) work to focus on: core principles; including transparency; non-discrimination and procedural fairness; provisions on hardcore cartels; modalities for voluntary cooperation; support for progressive reinforcement of competition institutions in developing countries through capacity-building. |
| | ?? | Commitment to strengthened and adequately resourced assistance to meet needs for technical assistance and capacity building. |
| Transparency in Government Procurement | ?? | <u>Negotiations</u> will take place after the Fifth Ministerial Conference, on the basis of a decision to be taken, by explicit consensus, at the Fifth Ministerial Conference, on modalities of negotiations |
| | ?? | Commitment to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusions. |
| Trade Facilitation | ?? | <u>Negotiations</u> will take place after the Fifth Ministerial Conference, on the basis of a decision to be taken, by explicit consensus, at the Fifth Ministerial Conference, on modalities of negotiations. |
| | ?? | <u>Until Fifth Ministerial Conference:</u> Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Article V, VIII, X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. |
| | ?? | Commitment to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusions. |
| Anti-Dumping | ?? | <u>Negotiations</u> aimed at clarifying and improving disciplines. The text provides for an initial phase of negotiations in which participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. |
| Subsidies and Countervailing Measure | ?? | <u>Negotiations</u> aimed at clarifying and improving disciplines. The text provides for an initial phase of negotiations in which participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. |
| | ?? | <u>Negotiations</u> shall aim to clarify and improve disciplines on <u>fisheries subsidies</u> . |
| Regional Trade | ?? | <u>Negotiations</u> aimed at clarifying and improving disciplines and procedures. |

| | |
|----------------------------------|---|
| Agreements | |
| Dispute Settlement | ?? <u>Negotiations</u> on improvement and clarifications of DSU. |
| Understanding | ?? Aim to agree on improvements and clarifications not later than <u>May 2003</u> . NB: Not part of the Single Undertaking |
| Trade and Environment | ?? <u>Negotiations On:</u> (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements. (ii) procedures for regular information exchange between MEA secretariats and relevant WTO committees, and criteria for granting observer status. (iii) reduction, or as appropriate elimination of tariff and non-tariff barriers to environmental goods and services. ?? <u>CTE work programme</u> to give particular attention to: (i) effect of environmental measures on market access...and situations where elimination/ reduction of trade restrictions and distortions would benefit trade, the environment and development. (ii) relevant provisions of TRIPS Agreement (iii) labelling requirements for environmental purposes. Work should include the identification of any need to clarify relevant WTO rules. Committee shall report to the Fifth Session of the Ministerial Conference and make recommendations for future action, including the desirability of negotiations. Recognition of the importance of technical assistance and capacity building. Encourage sharing of expertise and experience with Members wishing to perform environmental reviews at the national level. |
| E-Commerce | ?? <u>Continuation of Work Programme</u> . Report to be made to Fifth Ministerial Conference <u>Moratorium</u> on customs duties on electronic transmissions to continue till fifth Ministerial Conference |
| Small Economies | ?? <u>Work programme</u> under auspices of the General Council. General Council to review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference |
| Trade, Debt and Finance | ?? <u>Working Group</u> under the auspices of the General Council. General Council shall report to the fifth Ministerial Conference on progress in examination |
| Trade and Transfer of Technology | ?? <u>Working Group</u> under the auspices of the General Council. General Council shall report to the fifth Ministerial Conference on progress in examination |
| Technical Cooperation | ?? Endorsement of New Strategy for WTO Technical Cooperation . ?? Secretariat to support domestic efforts for mainstreaming trade. ?? Underscore urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors. ?? Director General to consult with relevant agencies, bi-lateral donors and beneficiaries, to identify ways of enhancing and rationalising the Integrated Framework and the JITAP. ?? Ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with activities outlined above ?? Director-General to report to fifth Ministerial Conference on the implementation and adequacy of commitment identified in paragraphs. Interim report to the General Council in <u>December 2002</u> . |
| Least Developed Countries | ?? Commitment to objective of duty free quota free market access for products originating from LDCs. ?? Agreement to facilitate and accelerate negotiations with acceding LDCs. Priority attached to accessions to be reflected in technical assistance programme. ?? WTO, in designing work programme for the LDCs , to take into account the trade-related elements of the Brussels Declaration |

| | |
|---|--|
| | and programme of Action. |
| | ?? Integrated Framework: members urged to significantly increase contributions. Core agencies in cooperation with development partners to explore enhancement of the IF with a view to addressing the supply side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the on-going pilot scheme in selected LDCs. Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in <u>December 2002</u> . |
| Special and Differential Treatment | ?? Endorsement of <u>Work programme</u> as included in the decision on Implementation-related issues and concerns. Reports to the General Council to be made by <u>July 2002</u> . |
| Organisation and management of Work Programme | ?? Negotiations to be concluded not later than <u>1 January 2005</u> . |
| | ?? Negotiations open to all Members of the WTO; and states and separate customs territories currently in the process of accession and those that inform members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party has been established. |
| | ?? Conclusion and entry into force of the outcome of negotiations shall be treated as parts of a single undertaking. Agreements reached at an early stage may be implemented on a provisional or a definitive basis. |
| | ?? Overall conduct of negotiations shall be supervised by a Trade Negotiations Committee, which shall hold its first meeting not later than <u>31 January 2002</u> . |
| | ?? Negotiations and other aspects of the Work programme shall take fully into account the principle of special and differential treatment. |
| | ?? CTD and CTE each act as a <u>forum to identify and debate developmental and environmental</u> aspects of the negotiations in order to help achieve the objective of having sustainable development appropriately reflected. |
| | ?? Elements of the work programme that do not involve negotiations are also accorded a high priority. |

Implementation Related Issues and Concerns.

Checklist of work

Action on a number of implementation issues was agreed in the Decision on Implementation-related issues and concerns (WT/MIN(01)/17) adopted at Doha⁶. In relation to some issues, the Decision on implementation mandates WTO bodies to undertake further work. These issues, and the timelines for work, are identified in the table below.

| Subject | Issue | Work emanating from the decision |
|------------------------------------|--|---|
| GATT 1994 | <u>Para 1.2.</u> Meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of GATT 1994 | Market access Committee to give further consideration to the issue and make recommendations to the general Council as expeditiously as possible but in any event <u>not later than the end of 2002.</u> |
| Agriculture | <u>Para 2.2</u> Implementation of Decisions NFIDCs Document G/AG/11 contains various recommendations. (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up. | Committee on Agriculture shall review and report to the General Council on the follow-up to these recommendations following its regular <u>September 2002 meeting.</u> |
| Agriculture | <u>Para 2.3</u> Implementation of Article 10.2 (export credits). Document G/AG/11 contains recommendations | The Committee on Agriculture should submit a report to the General Council on this subject following its regular <u>September 2002 meeting.</u> |
| Agriculture | <u>Para 2.4</u> Administration of TRQs and submission by members of addenda to their notifications. This was included in the implementation decision WT/L/384 | Committee on Agriculture to keep matter under review |
| SPS | <u>Para 3.3.</u> Equivalence (Article 4.4. of the SPS) | Committee on SPS to develop expeditiously the specific programme to further the implementation of Article 4 of the SPS agreement. |
| Agreement on Textiles and Clothing | <u>Para 4.4.</u> Methodology in application of growth on growth provisions for small suppliers; extension of such treatment to LDCs; and where possible, elimination of quota restrictions on imports of "such Members" | <u>CTG</u> to examine these proposals, and make recommendations to the General Council by <u>31 July 2002 for appropriate action</u> |
| Agreement on Textiles and Clothing | <u>Para 4.5:</u> Calculation of quota levels as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000; | <u>CTG</u> to examine these proposals, and make recommendations to the General Council by <u>31 July 2002 for appropriate action</u> |
| TBT | <u>Para 5.1:</u> Continuation of work in TBT committee on technical cooperation mandated | TBT Committee |

⁶ Outstanding implementation issues are to be addressed in accordance with paragraph 12 of the Ministerial Declaration

| | | |
|--|--|---|
| Anti-Dumping | <u>Para 7.2:</u> Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. | Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to <u>draw up appropriate recommendations within twelve months</u> on how to operationalize this provision. |
| Anti-Dumping | <u>Para 7.3:</u> Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. | The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and <u>draw up recommendations within 12 months</u> , with a view to ensuring the maximum possible predictability and objectivity in the application of time frames. |
| Anti-Dumping | <u>Para 7.4:</u> Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. | The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent <u>decision within 12 months</u> . |
| Customs Valuation | <u>Para 8.3:</u> recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value... | Amongst other things, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the <u>end of 2002 at the latest</u> . |
| Rules of Origin | Para 9.1 Harmonisation Work Programme (G/RO/48) | Committee urged to complete work by <u>end 2001</u> |
| Subsidies and Countervailing Measures. | <u>Para 10.1</u> Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US \$1,000 in constant 1990 dollars for three consecutive years. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US \$1000 based upon the most recent data from the World Bank. | This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology <u>by 1 January 2003</u> , the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. |
| Subsidies and Countervailing Measures. | <u>Para 10.3:</u> Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing Measures regarding countervailing duty investigations | SCM committee to report to the General Council by <u>31 July 2002</u> . |
| TRIPS | Para 11.2: Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. | To this end, developed-country Members shall submit <u>prior to the end of 2002</u> detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually. |

| | | |
|------------------------------|--|--|
| <p>Cross-Cutting issues.</p> | <p>Para 12.1: CTD instructed to (i) identify s&d provisions that are mandatory and those that are non-binding in character; to consider legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory.</p> <p>(ii): to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions.</p> <p>(iii): to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.</p> | <p>Report to General Council by <u>July 2002</u> with clear recommendations for decisions.</p> <p>Report to General Council by <u>July 2002</u> with clear recommendations for decisions.</p> |
|------------------------------|--|--|

