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Summary

The present report covers recent developments in the international trade and the trading system, including the implications for developing countries of multilateral trade negotiations under the World Trade Organization (WTO) Doha work programme since the WTO General Council Decision of 1 August 2004. Consensus has emerged that the Doha negotiations should fulfil their development promise and be concluded expeditiously, by no later than 2006, so as to contribute to the timely implementation of the Millennium Development Goals. The report identifies the interlinkages between different negotiating areas and the Millennium Development Goals. The United Nations Conference on Trade and Development (UNCTAD) has provided valuable support to developing countries in trade negotiations and development. The São Paulo Consensus of the eleventh session of UNCTAD held in São Paulo, Brazil, from 13 to 18 June 2004, further enhanced the mandate of UNCTAD to support developing countries, especially the least developed countries, in their efforts to ensure gains in development from the international trading system and trade negotiations.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 59/221 of 22 December 2004, in which the Assembly requested the Secretary-General, in collaboration with the secretariat of the United Nations Conference on Trade and Development (UNCTAD), to report to it at its sixtieth session on the implementation of that resolution and on developments in the multilateral trading system.

2. There is consensus emerging from the United Nations Millennium Declaration (see resolution 55/2), the Monterrey Consensus of the International Conference on Financing for Development,[1] the São Paulo Consensus of the eleventh session of UNCTAD, held in São Paulo, Brazil, from 13 to 18 June 2004 (TD/412, part II), and the Ministerial Declaration and decisions adopted at the Fourth Ministerial Conference of the World Trade Organization, held in Doha from 9 to 13 November 2001 (A/C.2/56/7, annex), that trade can be a dynamically positive force in promoting development and reducing poverty. International trade and trade negotiations geared towards assuring development gains can contribute to the Millennium Development Goals. The potential developmental benefits from trade can be significant. Liberalization of trade in goods and services of export interest to developing countries can generate additional financing for development of up to $310 billion annually. In recognition of the important role that trade can play in combating poverty, United Nations Member States committed in the Millennium Declaration to create an open, equitable, rule-based, predictable and non-discriminatory multilateral trading system and to create a global partnership for development in accordance with Millennium Development Goal 8. The Doha negotiations provide a major and unique platform for increasing the contribution of the multilateral trading system to poverty alleviation and human development objectives. In its resolution 59/221 the General Assembly noted that a major contribution of the WTO Doha Ministerial Declaration was to place the needs and interests of developing countries at the heart of the WTO Doha work programme and affirmed that this important objective needed to be pursued with a view to bringing about concrete development-oriented outcomes from the multilateral trade negotiations.

II. Recent trends in international trade

3. The Doha negotiations have been taking place against the backdrop of trade's increasing role in and contribution to economic growth and development. The world's average ratio of trade to gross domestic product (GDP) increased from about 40 per cent in 1990 to 60 per cent in 2003. In 2004, developing countries' merchandise exports expanded by 25 per cent from 2003 to reach the value of $3.0 trillion. Their share in world merchandise exports increased from 24 per cent in 1990 to 33 per cent in 2004. Developing countries' exports grew faster than total world exports, which expanded by 20 per cent. The value of world exports amounted to $8.9 trillion. The largest share of developing countries' exports is accounted for by Asia, which represents 77 per cent of the total exports of developing countries (with a value of $2.3 trillion). As regards trade in services, world exports in commercial services expanded by 16 per cent to reach a total value of $2.1 trillion in 2004. The share of developing countries' trade increased from

18.5 per cent in 1990 to 22.5 per cent in 2004, with an export value worth $485 billion. China and four newly industrialized East Asian economies are among the largest developing country traders, exporting services worth $46 billion and $156 billion, respectively, while exports from South and Central America stood at $70 billion, and those from Africa at $49 billion.

4. The expansion of many developing countries' trade and economic growth contrasts sharply with the difficulties faced by many low-income countries in integrating themselves beneficially into world trade and into the global economy. In the case of Africa, while it recorded a real annual growth in GDP of 4.6 per cent in 2004, the highest in almost a decade, this falls short of the 7 per cent per annum growth rate necessary for attaining the Millennium Development Goals. The target growth rate was met by only six countries in 2004. Sub-Saharan Africa's merchandise exports stood at $146 billion in 2004, accounting for a modest share of 1.6 per cent of world exports. This share represented a decline from 2.0 per cent in 1990. The merchandise exported by the least developed countries stood at $57.8 billion in 2004, accounting for 0.64 per cent of the world's merchandise exports, as compared to 0.56 per cent in 1990. The situation is similar in trade in services. While the service economy has become a driving force for economic growth, competitiveness and development in other developing countries, the share of sub-Saharan Africa in the world's commercial services exports declined from 1.35 per cent in 1990 to 1.1 per cent in 2004. The share of the least developed countries also declined from the already low level of 0.49 per cent in 1990 to 0.44 per cent in 2004. Yet, services represent an important avenue for developing countries to diversify from commodity dependence and to generate development finance.

III. Developments in the multilateral trading system

A. Context

Doha negotiations and development imperative

5. Multilateral trade negotiations under the WTO Doha work programme (A/C.2/56/7, annex) entered a crucial stage this year for its successful, timely and development-oriented conclusion. There is evolving international consensus that the Doha round should be concluded by no later than the end of 2006, not only in view of the expiry in 2007 of the Trade Promotion Authority of the United States of America, but also to contribute to the timely implementation of the Millennium Development Goals and to the international effort to combat poverty and promote development. The Sixth WTO Ministerial Conference, to be held in Hong Kong, China, from 13 to 18 December 2005, is expected to take key decisions on agriculture, non-agricultural market access, services, development issues and rules aspects of the negotiations. This requires that technical work be advanced substantially, most notably the completion of the "approximation" of full modalities in agriculture and non-agricultural market access by the end of July 2005, or shortly thereafter, and in advance of the ministerial conference. However, the July time line was not met.

6. The High-level Plenary Meeting of the General Assembly to be held in September 2005 to review comprehensively the implementation of the United Nations Millennium Declaration in the past five years provides a unique opportunity to inject new political impetus into the pursuit of an open, equitable, rule-based, predictable and non-discriminatory multilateral trading system, as stipulated in the Millennium Declaration and Millennium Development Goal 8. The report of the Secretary-General entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005), and the report of the United Nations Millennium Development Project entitled "Investing in Development: A Practical Plan to Achieve the Millennium Development Goals",[2] both recommended specifically that the Doha round of multilateral trade negotiations should fulfil its development promise and be completed no later than 2006. The Secretary-General's report clearly points out that at present, developing countries are often denied a level playing field to compete in global trade because rich countries use a variety of tariffs, quotas and subsidies to restrict access to their own markets and shelter their own producers. The report also points out that the Sixth WTO Ministerial Conference will offer a chance to map out agreement on how to correct those anomalies, and that an urgent priority is to establish a timetable for developed countries to dismantle market access barriers and begin phasing out trade-distorting domestic subsidies, especially in agriculture.

7. Those reports also stressed, in addition to the importance of improving market access and terms of trade for developing countries, that a shared vision of development and an international trade policy based on the Millennium Development Goals should focus on, inter alia, significantly increasing investment in human capital and development-oriented infrastructure, such as energy, transport and communication; ensuring universal access to essential services, such as health and education; improving supply-side competitiveness; establishing a favourable legal and regulatory environment, including for small and medium-sized enterprises; providing expanded access to financial capital; and building capacity for science and technology, including information and communication technology. Public investment and donor support are also important in this regard. As provided in the São Paulo Consensus (TD/412, part II), it is particularly important for developing countries, bearing in mind development goals and objectives, that all countries take into account the need for appropriate balance between national policy space and international disciplines and commitments. Both reports also advocated that special attention be given to addressing the unique and serious development challenges facing African countries. The report by the Commission for Africa entitled "Our common interest"[3] recommended a coherent package to make serious inroads into alleviating poverty and Africa's continued marginalization. The Summit of the Group of 8 (G-8) held at Gleneagles, Scotland, United Kingdom of Great Britain and Northern Ireland, agreed on a comprehensive plan to support Africa. It included doubling aid for Africa by 2010 from $25 billion to $50 billion a year and immediate relief of 100 per cent of the debt owed to the International Monetary Fund (IMF), International Development Association (IDA) and the African Development Fund by 18 heavily indebted poor countries.

Adjustment, support to trade and trade-related shocks

8. With the difficulties faced by developing countries in implementing WTO agreements, the advance of the Doha negotiations, including their implications for

preference erosion and the expiration of the WTO Agreement on Textiles and Clothing[4] and resultant increase in competition, concerns have become salient among developing countries regarding adjustment-related issues. The expiry of the Agreement on Textiles and Clothing on 1 January 2005 brought to an end the discriminatory trade regime that for over 40 years had governed and restrained textiles and clothing exports from developing countries. Free trade in textiles could generate income gains in developing countries of $24 billion a year, export revenue gains of $40 billion and 27 million jobs. At the same time, the sudden increase in exports of textiles and clothing from China following the expiry of the Agreement on Textiles and Clothing has led to recent tensions, and some developed countries have called for safeguard measures. However, some less competitive exporters are facing adjustment issues consequent to quota elimination and require assistance to improve their market access and supply capacity. Early trends indicate that while some small exporters are experiencing a decline in their export shares, for relatively competitive suppliers, including some least developed countries, exports have increased.

9. Similarly, preference-dependent developing countries would face challenges arising from preference erosion consequent to a multilateral reduction of tariffs and the proliferation of regional integration agreements. Recent estimates indicate losses for preference-dependent countries. The WTO General Council decision of 1 August 2004 (July package) WT/L/579 responded to those concerns by reaffirming the importance of long-standing trade preferences. Yet, negotiations under agriculture and non-agricultural market access have proved controversial owing to differing interests between preference-dependent countries and other competitive exporting countries. Preference erosion would require both trade and development solutions within and outside the WTO, including through the improvement of preferential schemes and their utilization, the simplification of complex and stringent rules of origin and the adaptation of rules of origin to the industrial profile of developing countries.

10. It has thus become increasingly and widely recognized that adjustment support to trade and trade-related shocks, reform, liberalization, and trade capacity-building should be integrated ex ante into trade agreements to facilitate the implementation of liberalization commitments and promote the beneficial participation of developing countries in world trade. The report by the WTO Consultative Board to the Director-General entitled “The future of the World Trade Organization” (Sutherland report)[5] recommended that new agreements reached in WTO in future should contain provisions for a contractual right, including the necessary funding arrangements, for least developed countries to receive adequate technical assistance and capacity-building as they implement new obligations. The modalities for trade facilitation adopted in the July package have explicitly adopted this approach. Such precedent demonstrates that it is not only desirable but also feasible to recast the driving force of trade negotiations from purely mercantilist, commercial interest towards the imperative of development. The report of the Commission for Africa stressed that shifting one seventh of the resources allocated to Organization for Economic Cooperation and Development for agricultural protection ($350 billion) into development budgets would double the global flow of official development assistance to developing countries.

11. A specific mechanism to meet the financial requirements for adjustment challenges arising from, inter alia, preference erosion, textile quota elimination, the

commodities problematique, and Government revenue losses, could be met through the creation of an "Aid for Trade" fund. In addition, building a productive supply capacity and competitiveness structure will require seed funding by donors and coherence among international organizations. The creation of an Aid for Trade fund was also recommended in the United Nations Millennium Project report and endorsed by the report of the Commission for Africa. Key questions related to the Aid for Trade fund include: (a) its size and scope; (b) where it should be located and how it should be managed; (c) what areas and countries should be targeted for support; and (d) how it should be related to the outcomes of the Doha round and its potential agreements.[6] An UNCTAD study suggested that for optimum impact, such a facility, in addition to adjustment support, could also enable countries to invest in productive capacity, particularly in new and dynamic products, infrastructures, regulatory systems, institution building, transfer of technology, trade facilitation and social safety nets. Such new funding needs to be non-debt-creating, additional to existing development aid flows and channelled directly to recipient countries and, where appropriate, should utilize public-private partnerships seeded by donor funding.

July approximation and the road towards the Sixth Ministerial Conference

12. The post-July package WTO negotiations have focused on technical specifics and parameters in the frameworks on agriculture and non-agricultural market access. The immediate objective of the negotiations has been to reach agreement by July 2005 on a first approximation of the full modalities on agriculture and non-agricultural market access. Substantive progress has not taken place on the modalities. Services negotiations have focused on improving initial offers and rule-making. This has not yet resulted in substantial improvement in market access in areas of interest to developing countries, particularly in mode 4. The July approximation expectations were lowered to be an inventory of all areas of the negotiations and a progress report by the Director-General of the WTO as the Chairman of the Trade Negotiations Committee. The progress report, submitted to the General Council on 29 July 2005 (see TN/C/5), suggested the focus of intensive work and critical elements of the road map towards the Ministerial Conference and listed key issues indicating areas of convergence and divergence.

13. Political impetus has been injected into the negotiations by a series of mini ministerial conferences, including in China, France, Kenya and Switzerland, and by the meeting of the Asia-Pacific Economic Cooperation ministers responsible for trade. All those meetings reiterated the commitment to the Doha negotiations and acknowledged the challenges presented by unresolved issues. The G-8 2005 Summit called for increasing momentum towards the ambitious and balanced outcomes in the Doha negotiations as the highest common priority in trade policy for the year ahead. Despite those efforts, little progress has been achieved to date in the substantive negotiations and in meeting the development objectives of the Doha round. The African Union Conference of Ministers of Trade, held in Cairo from 5 to 9 June 2005, and the Meeting of the Ministers responsible for Trade of the least developed countries, held in Livingstone, Zambia, on 26 June 2005, set objectives and common platforms for the Sixth WTO Ministerial Conference. The substantive support provided by UNCTAD to those meetings was particularly recognized. The declaration adopted at the meeting on 26 June 2005, included, inter alia, a call for a binding commitment on duty-free and quota-free market access for all products

from least developed countries to be granted and implemented immediately; an ambitious, expeditious and specific cotton-related decision, particularly the elimination of domestic support and export subsidies that distort trade, by no later than the Sixth Ministerial Conference; and the Aid for Trade fund as an additional, substantial and predictable financial mechanism to strengthen supply-side and infrastructure capacity and diversification of trade in the least developed countries and to address adjustment challenges and costs for the effective integration of the least developed countries into the international trading system. The Doha Plan of Action adopted by the Heads of State and Government of the Group of 77 and China on the occasion of the Second South Summit, held in Doha from 12 to 16 June 2005, also called for specific actions in the area of trade and trade negotiations, including to liberalize services trade in sectors and modes of supply of interest to developing countries, particularly in modes 1 and 4, and assist developing countries in strengthening their domestic services supply capacity and the regulatory frameworks; and to enhance the development dimension of the international system of intellectual property rights, taking into account the different levels of development of developing countries with a view to ensuring affordable access to necessary basic products, including medicines and educational tools and software, the transfer of knowledge, the promotion of research and the stimulation of innovation and creativity.

14. There is a need for further re-energizing the negotiating process and for injecting new political momentum by all, especially the developed countries, to take ambitious steps forward in delivering on the development contents of the Doha work programme (A/C.2/56/7, annex). It is important to ensure balance and parallel progress within and between areas under negotiation, bearing in mind the needs and concerns of developing countries, and to achieve development-focused outcomes through participatory, inclusive and transparent processes.

15. The Doha work programme negotiations may be influenced by WTO disputes, as may be the case with agriculture, services and systemic issues, and by the situation on the ground in different countries and international markets. There are concerns about the resurgence of protectionist tendencies and sentiments in some key markets. The extension of the trade promotion authority of the United States this year until 1 July 2007 would send a positive signal to trading partners regarding the Doha negotiations. The perceived weakening of public confidence in the multilateral trading system was dissipated by the United States Congress, which supported the continued membership of the country in the WTO by an overwhelming majority and approved the Central American Free Trade Agreement. The discussion in the European Union regarding its budget plan for 2007-2013 is likely to have a bearing on the prospects of the reform of its Common Agricultural Policy, and thus on the agricultural negotiations. The new WTO Director-General, Pascal Lamy, will take office in September 2005. The institutional capacity of WTO to effectively manage multilateral trade negotiations will have implications for the future prospects and direction of the multilateral trading system. In addressing those challenges, the Sutherland report has recommended political reinforcement of WTO and efficient processes, including an enhanced role of the Director-General and the secretariat, greater ministerial involvement and frequency of meetings, and the establishment of a limited-membership consultative body. While those recommendations are not binding on WTO members and they have yet to be

formally considered, some of them might have implications for the organization and functioning of the multilateral trading system.

B. Specific areas of negotiation

Agriculture

16. Agriculture is considered to be an engine for the Doha round. Balanced and equitable outcomes are important in all three pillars of market access, domestic support and export competition, with operationally effective and meaningful special and differential treatment for developing countries. It is estimated that the contribution to global welfare gains from completely removing trade barriers in agriculture would amount to $165 billion annually, of which developing countries would receive about one quarter. By stimulating agricultural production under more equitable and fair conditions and providing adequate development flexibility for nurturing the vital agriculture sector in developing countries in a targeted and effective way, agriculture trade could help achieve many aspects of the Millennium Development Goals, ranging from the reduction of poverty and hunger, the welfare of women and children and environmental sustainability to decent and productive work for youth. Negotiations since August 2004 have focused on technical issues arising from the agricultural framework. The first approximation for the modalities was expected to provide the ground to reach an agreement on the full modalities at the Sixth WTO Ministerial Conference. Owing to the lack of progress in substantive negotiations arising from the political sensitivities and complexity of the technical questions involved, the first approximation was not achieved by the end of July 2005.

17. Technical issues on the market access pillar included the so-called “gateway issues” of converting volume-based import duties, non-ad valorem tariffs, into value-based, ad valorem equivalents, as expressed as the percentage of unit value. The ad valorem equivalents emerged as key, as they determine the level of the base rate to which tiered-formula cuts will be applied for those products subject to non-ad valorem duties. Discussion of the formula for tariff cuts was delayed pending the resolution of the methodology for calculating ad valorem equivalents. An agreement reached at the mini ministerial meeting in May 2005 in Dalian, China, was subsequently endorsed by WTO members.

18. Little progress has been made on the tariff reduction formula. The use of the Uruguay Round tariff cut formula[7] and the Swiss formula,[8] or their variants, has been discussed in the course of negotiations. At the Dalian mini ministerial meeting, it was noted that there was a need to seek a middle ground between the Swiss formula and the Uruguay Round approaches. The G-20 proposed the setting of five tariff bands for developed countries and four tariff bands for developing countries, with the capping of 100 per cent for developed countries and 150 per cent for developing countries. Reduction in each band would be based on linear cuts, with developing countries subject to lower cuts (two thirds of the developed country cuts), with the element of progressivity across the bands with higher tariffs subject to deeper cuts. Extensive negotiations are expected on the number of tariff bands, the criteria for setting such tariff bands and the modalities for reducing tariffs in each band.

19. Other issues discussed with regard to the market access pillar include how to treat, in the tariff reduction, sensitive products and particular aspects of special and differential treatment, such as special products and the special safeguard mechanism. With regard to sensitive products that all World Trade Organization members may designate to exempt from full formula reductions, a major question relates to how to balance the level of ambition in the tariff cuts and the policy flexibilities available for each country, as well as how to limit the use of sensitive products by developed countries. In addition to sensitive products, developing countries would have flexibilities to designate as special products for special treatment tariff lines that are essential for promoting food and livelihood security and rural development. Discussions have centred on how to identify eligible products, including appropriate indicators. Developing countries would have recourse to the special safeguard mechanism to address unforeseen events arising from possible import surges as a result of tariff reduction. Developing countries that have been enjoying non-reciprocal preferential market access have called for adequately addressing the erosion of preferences arising from the most favoured nation tariff reduction. The issue has been controversial, as agriculture-exporting developing countries hold the view that addressing preference erosion might impede efforts aimed at most favoured nation tariff reduction. A key objective is to identify solutions that would reflect both the trade and development interests of affected countries.

20. Little progress has been made on domestic support. The immediate focus of the negotiations, until July, has been on the reductions and disciplines to be applied to trade-distorting support (i.e., Amber Box,[9] Blue Box[10] and de minimis[11] support). The review and clarification of the Green Box[12] criteria constituted another focus because the concern of developing countries is that if the Green Box criteria are too broad, this would permit "box shifting" of trade-distorting support, which would continue at the same level. Therefore, developing countries attach importance to the review of the Green Box criteria. The expectation was to have in place the structure of the reduction commitments (not the size of the reductions) relating to trade-distorting domestic support and some elements of the rules (i.e., criteria), and possibly to develop convergence on aspects of the Green Box by the end of July 2005. This expectation was not realized.

21. In the area of export competition, since the essential structure has been in place with regard to the commitment to total elimination of export subsidies by a specific date, negotiations have focused on parallel commitments in respect of subsidy elements in export credit, food aid and State trading enterprises. On food aid, while there is general understanding that food aid should not cause commercial displacement, what constitutes "genuine food aid" remains to be defined. As regards State trading enterprises, it is generally agreed that no commercial activities of State trading enterprises should contain export subsidy elements. On the elimination of export subsidies, major issues concerned the staging, as well as the exact end date, for the elimination of export subsidies. Agricultural exporters have proposed a front-loading approach whereby cuts would be more drastic in the first years. The end date for the elimination of export subsidies is under negotiation. Net food importing countries have called for their interests to be duly taken into account. The costs of preference erosion, possible increases in food prices and the streamlining of food aid following agricultural trade liberalization and reform need to be cushioned through adequate adjustment support to concerned developing countries.

Cotton

22. In its resolution 59/221, the General Assembly called for concrete implementation of the commitment to address cotton issues ambitiously, expeditiously and specifically within the negotiations on agriculture. A subcommittee on cotton was established by WTO on 19 November 2004 under the special session of the Committee on Agriculture. In accordance with the agricultural framework, negotiations are to encompass all trade-distorting policies affecting the sector. Compensation for losses suffered by cotton producers in Western Africa will be considered in the context of coherence between the trade and development aspects of cotton. The recent WTO dispute on cotton has implications for the prospects of an early resolution of the cotton issue. The proponents have called for a fast-track, front-loading approach to the elimination of trade measures affecting cotton, in particular the elimination of domestic support measures and export subsidies that distort international trade in cotton, by the time of the Sixth WTO Ministerial Conference, as well as bound duty-free and quota-free access for cotton and products derived from cotton for cotton producers and exporters in the least developed countries. It is important that the aim of the July package to provide a concrete and urgent response to the cotton sectors of those countries is achieved.

Non-agricultural market access

23. In its resolution 59/221, the General Assembly called for the elaboration of non-agricultural market access modalities pursuant to the non-agricultural market access framework with a comprehensive product coverage and without a priori exclusions, and recalled the importance of special and differential treatment and less than full reciprocity in reduction commitments for developing countries as an integral part of the modalities. As a result of successive rounds of multilateral trade negotiations, as well as regional trade agreements and autonomous tariff reduction initiatives, tariffs are continuously being lowered. Nevertheless, scope remains for the liberalization and rationalization of tariffs in non-agricultural goods, particularly for the removal of tariff bias, tariff escalation and tariff peaks affecting developing country exports in their major markets. While quantitative restrictions have been banished, properly identifying, defining, classifying and disciplining a plethora of non-tariff barriers and market entry barriers pose a major challenge.

24. UNCTAD estimates indicate that possible welfare gains for developing countries from the liberalization of trade in non-agricultural products would be as high as $20 billion to $60 billion annually and that export revenue gains could increase by $50 billion, even in modest scenarios. On the other hand, in the short and medium run, it would also lead to shifts in output and employment in key sectors in developing countries, resulting in job losses in some sectors and revenue loss. The expected changes are likely to be spread unevenly across developing countries and sectors. Tariff reduction is also expected to lead to the loss of some flexibility to use trade policy instruments for industrial development, diversification into new and dynamic sectors and participation in the global value chains. Preference-receiving countries will face adjustments as a result of erosion of their preference margins. The complexity of the proposals and the lack of agreement at this time on the precise parameters for the negotiations make it difficult for participants to identify their specific interests.

25. The main focus of the work of the negotiating group on non-agricultural market access has been on the appropriate formula for tariff cuts. It is reported that there is acceptance of a Swiss-type formula that has the effect of compressing higher rates of duty, but there is a range of possibilities within this approach. The main questions that remain are how the coefficients are determined and what their linkages are to flexibilities. Six proposals submitted since March 2005 have energized the negotiations, but no convergence of views has emerged with regard to technical details or to parameters and how they should be determined. Some of the proposals link the depth of the cut to be made by developing countries to options for developing countries to use other flexibilities, for example, the deeper the cut, the greater the flexibility in binding coverage and levels. Other issues relate to the treatment of rates on unbound tariff lines, the extent of the binding coverage, the methodology to be used to the establish the base rate, or final bound rate, and the conversion of specific rates to ad valorem or percentage format.

26. Under the "simple Swiss" formula approach, a coefficient would be selected that would in effect set a maximum rate across countries by compressing high rates. The possibility of a separate, higher rate for developing countries, also linked to other flexibilities, is being considered. Under the Swiss type approaches, the coefficient would be based on each country's current national average, possibly multiplied by another factor that could be linked either to flexibilities or to credit for past unilateral reforms. This approach would give greater recognition to the divergent starting points for members, with developing countries generally having higher — but also quite diverse — average rates and different tariff structures. Calculations by the UNCTAD secretariat show that whichever Swiss approach is used, developing countries would be required to make the deeper absolute cuts (with the exception of the least developed countries, which are expected to substantially increase their binding coverage but not to cut rates). This seems to run counter to the provision of the Doha Ministerial Declaration that account be taken of the special needs of the developing countries, including through "less than full reciprocity", a term that usually has been interpreted as meaning lower percentage reductions.

27. Other key issues include the treatment of unbound tariffs, ad valorem equivalents, flexibilities for developing countries, participation in sectoral negotiations and trade preferences. Discussion continues on the possibility of the elimination of tariffs (voluntary or otherwise) in key sectors said to be of export interest to developing countries, or even cutting tariff rates to zero (zero for zero) among a critical mass of key countries. Inconclusive discussions have also been held on non-tariff barriers, which are also being discussed in the negotiations on WTO rules.

28. Regarding the treatment of non-reciprocal preferences, the Group of African States proposed the incorporation of a correction coefficient in the formula, while the African, Caribbean and Pacific Group of States has called for the use of a "vulnerability index" to identify those products eligible for special treatment. The modalities of non-agricultural market access need to address specific concerns of developing countries relating to preference erosion. At the same time, attention needs to be given to improving and enhancing existing preferential schemes for concerned countries, as well as improving market access conditions on a most-favoured nation basis. For instance, UNCTAD estimates have found that during the 2001-2002 period, 61 per cent of exports of least developed countries to the

Quadrilateral Group of Industrialized Economies (Canada, the European Union (EU), Japan and the United States of America) faced most-favoured nation tariffs owing to their exclusion from the Generalized System of Preferences or other preferential schemes or their inability to qualify for the preferential treatment and the complexity of utilizing the schemes. The lack of supply capacity continued to limit the fuller utilization of preferences. Also, developing countries and the least developed countries faced 48 per cent higher trade-weighted average tariffs in the markets of the Quadrilateral Group of Industrialized Economies than in other countries of the Organization for Economic Cooperation and Development owing to the composition of their exports in relation to the tariff structure of developed countries. In this respect, the least developed countries have called for the provision of bound duty-free and quota-free treatment by developed countries to all products of the least developed countries, and by developing countries in a position to do so. This alone, and binding this in WTO, could generate welfare gains up to $8 billion and export gains of up to $6.4 billion.

29. Services account for a growing share of GDP and employment and play a key role not only in infrastructure building, competitiveness and trade facilitation, but also in poverty reduction and gender equality. Universal access to essential services such as education and health contributes to the achievement of Millennium Development Goals 2 (primary education), 4 (child mortality), 5 (maternal health), 6 (HIV/AIDS, malaria and other diseases) and 7 (environmental sustainability). Given the role of services in development, technology transfer and trade, a balanced outcome in services negotiations is imperative.

30. The July package provided that revised offers would be submitted by May 2005. To date, a total of 68 initial offers representing 92 countries have been submitted. A total of 14 countries have submitted revised offers. While no least developed country has submitted an offer, they have submitted requests relating to mode 4 (temporary movement of natural persons). Developing countries have experienced difficulties in identifying sectors and modes of priority interest based on their national policy objectives, identifying the barriers to their services exports, assessing the impact of requests by developed countries on their services sectors and identifying ways of overcoming supply constraints and infrastructure weaknesses. This has posed constraints to their full participation in the negotiations on the General Agreement on Trade in Services.[13] Active implementation of articles IV (increasing participation of developing countries) and XIX:2 (progressive liberalization) of the Agreement would increase the competitiveness of service supply of developing countries and beneficial engagement in trade in services.

31. The review and evaluation of progress in negotiations pursuant to paragraph 15 of the negotiating guidelines is crucial, as it allows for a regular reporting of members on the progress in the negotiations, which should feed into the sixth WTO Ministerial Conference, including on possible recommendations to refocus negotiations on areas of interest to developing countries, particularly mode 4. Various techniques have been discussed for evaluating the progress achieved, including quantitative and qualitative assessments, such as the establishment of benchmarks and baselines as a tool to improve the quality of offers. Developing countries have reiterated that the main benchmarks should be the extent to which the negotiations are achieving the objectives of the General Agreement on Trade in Services, as stipulated in articles IV and XIX, the negotiating guidelines and the least developed country modalities.

32. An initial assessment of the offers reaffirmed that those tabled in their current form had not put forward meaningful improvements. Sectoral opening remains limited, especially in the following services: post, courier and other communications; recreation; transport; distribution; education; and health. Several offers seem to go back on previous commitments, lack real change in the level of commitment or increase uncertainty in the scope of offers. Few offers are made in certain sensitive sectors, including health, audio-visual or labour-intensive services, particularly through mode 4 (at less skill levels) and mode 1 (cross-border supply of services).

33. A group of developing countries assessed the initial offers on mode 4 based on a series of parameters (e.g., the inclusion of categories of natural persons de-linked from mode 3 (commercial presence); reasonable sectoral coverage; and the removal of restrictive market access conditions attached to the various categories). According to that assessment, many offers lack reasonable coverage and fail to remove critical market access restrictions, to include transparency commitments and to streamline administrative procedures. While some countries have eliminated some restrictions on market access and national treatment and have included additional categories of natural persons in their offers, they pertain mainly to intra-corporate transferees and business visitors and are not considered to be commercially meaningful by developing countries. Those countries that have included contractual service suppliers have introduced limited improvements in their revised offers, such as including additional subsectors to which commitments on contractual service suppliers apply and providing criteria for economic needs tests and eliminating a few of them altogether. Nevertheless, those offers continue to limit access mainly to highly skilled professionals. Most importantly, such limitation does not respond to developing countries' requests for more opening with regard to less-skilled service suppliers in specific sectors. Effective and commercially meaningful access in mode 4 for developing countries' services suppliers is the area where the largest gains are expected[14] and would contribute to the achievement of the Millennium Development Goals and poverty reduction goals and provide additional resources to finance development.

34. Negotiations on emergency safeguard measures have been identified as an area of importance for developing countries, although discussion has been characterized by a lack of consensus on the desirability and feasibility of such measures. The main areas of difficulty include the possibility of applying the safeguard measure to established foreign suppliers (mode 3), the definition of domestic industry, the impact of emergency safeguard measures on national treatment and most-favoured nation treatment, and acquired rights. There is also concern that emergency safeguard measures would be abused with respect to mode 4. Discussions have focused on the analysis of specific situations justifying the use of emergency safeguard measures. Negotiations for disciplines to address the trade-distortive effects of subsidies currently focus on examples of services-related State support measures. Many Governments subsidize service sectors, including those serving the public good. Discussions to date have focused on definitions and principles, drawing on the Agreements on Subsidies and Agriculture. Negotiations are being conducted under article XIII (Government procurement) of the General Agreement on Trade in Services, but a major stumbling block continues to be the lack of clarity on the mandate, in particular on whether or not article XIII covers market access issues.

35. Article VI.4 of the General Agreement on Trade in Services mandates the development of disciplines to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures do not constitute unnecessary barriers to trade in services. Developing countries have put particular emphasis on disciplines related to mode 4. Recent contributions have addressed measures relating to administrative procedures for obtaining visas or entry permits, experiences with disciplines on technical standards and regulations, issues related to transparency and the relationship between future article VI.4 of the General Agreement on Trade in Services disciplines with market access and national treatment. Recognition issues have also figured prominently. There is a need to establish a balance between the right to regulate and the need to ensure that legitimate measures are not applied in an arbitrary manner or as a disguised barrier to trade. Many developing countries do not as yet have an optimal regulatory and institutional framework in place in respect of infrastructural services.

Development

Review of special and differential treatment

36. Special and differential treatment is essential for an equitable multilateral trading system in addressing special development, financial and trade needs of developing countries. In its resolution 59/221, the General Assembly called for the expeditious completion of the review of the outstanding agreement-specific proposals and cross-cutting issues, and the identification of appropriate solutions to outstanding implementation issues, by July 2005. A total of 88 agreement-specific proposals have been under negotiation since 2001 with no decision taken to date. The July package, inter alia, sets a new deadline of July 2005 for reporting to the WTO General Council with clear recommendations for a decision on all the outstanding agreement-specific proposals. Developing countries maintained that operational special and differential treatment should be placed on a firm contractual basis and targeted to the specific needs of developing countries. Since the launch of the Doha work programme, mainly procedural improvements on 28 proposals on special and differential treatment have been addressed, leaving the bulk of provisions with substantive development or commercial content for future negotiations. Since the July package, priority has been given to the five outstanding agreement-specific proposals pertaining to the least developed countries. Those proposals relate to the WTO waiver, Enabling Clause, Agreement on Trade-Related Investment Measures and the Decision on Measures in Favour of Least Developed Countries. A meaningful outcome on those proposals would be a concrete contribution to the achievement of an equitable multilateral trading system and Millennium Development Goal 8. The July 2005 deadline for completing work on special and differential treatment was not met.

Issues related to implementation

37. The value of some implementation issues for the purpose of the overall Doha negotiations continues to depreciate as time elapses and substantive negotiations progress. This is because the original purpose of the implementation issues was to identify concrete solutions, on a priority basis and time-bound manner, prior to the assumption by developing countries of new obligations, in addition to their implementation difficulties, ensuring effective implementation by developed

countries of existing commitments, as well as addressing existing imbalances in WTO agreements. Such sequenciality was a part of the overall balance achieved in the Doha package. The July package reiterated the need to redouble efforts to find an appropriate solution as a priority by no later than July 2005. No significant progress has been made on the implementation-related issues and concerns, owing to, inter alia, differences of views on the treatment of extension of geographical indications.

Commodities

38. The July package provided that the particular concerns of developing countries, including commodities issues, would be taken into account in the context of the negotiations on agriculture and non-agricultural market access. Some African countries have put forward a proposal calling for the crisis in trade and development of commodity-dependent developing countries caused by the secular price decline and fluctuation of commodity prices to be addressed urgently through, inter alia, systematically treating commodity issues (e.g., deteriorating terms of trade and export concentration) within the agriculture negotiations; paying special attention to, inter alia, tariff escalation, temporary protection of preference margins, elimination of non-tariff barriers, establishment of a mechanism to compensate subsidy-linked losses, and clarification of rules concerning export taxes and export restrictions with a view to supporting supply management. Such measures are crucial to alleviating poverty and achieving Millennium Development Goal 1. Some aspects of market access, peaks and escalation of tariffs, and subsidies could be addressed by WTO. Many other important aspects go beyond the mandate of WTO. UNCTAD is providing support for the operationalization of the International Task Force on Commodities to set up a platform for a comprehensive approach to address commodity issues. The Ministerial Declarations of the African Union and least developed countries, and the report of the Commission for Africa support the initiative.

Small, vulnerable economies

39. Pursuant to paragraph 35 of the Doha Ministerial Declaration, work has taken place on framing trade-related responses for the fuller and more beneficial integration of small, vulnerable economies into the multilateral trading system. This mandate was reiterated in the July package. While conceptual issues have been extensively examined, progress towards framing concrete and specific responses has been limited. A group of developing countries recently submitted a proposal that seeks to link certain characteristics of small economies to particular problems faced and to possible responses to those characteristics and problems in market access, and rules negotiations and other areas of the work of the World Trade Organization. It is expected that this approach may help the consideration of negotiation proposals specific to the needs of small, vulnerable economies by the time of the July approximation and for the Sixth WTO Ministerial Conference to take a decision on those concrete measures.

Trade facilitation

40. In pursuance to the Modalities for Negotiations on Trade Facilitation (see WT/L/579, annex D), negotiations on the clarification and improvement of articles V (freedom of transit), VIII (fees and formalities) and X (publication and

administration of trade regulation) of the General Agreement on Tariffs and Trade 1994,[2] as well as the enhancement of technical assistance and support for capacity-building, are progressing. The modalities were significant in that they clearly established a linkage among the level of obligations, the implementation capacity of developing countries, the cost of implementation and the provision of financial and technical resources. Some 35 initial proposals have been submitted. While a number of WTO members recognized the benefits of broader trade facilitation reform, concerns remain at the possible financial, legislative and administrative cost implications of the proposed measures, including the investment in infrastructure that may be required to implement effective trade facilitation measures, and the impact of trade facilitation on security, the regulation of illegal trade and the collection of customs revenue. Developing countries have stressed the intrinsic linkage in the modalities among rules, the identification of needs and priorities, technical assistance and capacity-building support.

WTO rules

41. The rules negotiations cover anti-dumping, subsidies and countervailing measures, including fisheries subsidies, and regional trade agreements. The progress in negotiations on rules on regional trading arrangements has been limited, focusing mainly on transparency requirements. Substantive "systemic issues", such as on the "substantially all the trade" requirement, have yet to be fully addressed. African, Caribbean and Pacific States have stressed the importance of special and differential treatment in regional trading arrangements formed between developed and developing countries, and they have called for formal incorporation of special and differential treatment in the application of conditions set out in article XXIV of the General Agreement on Tariffs and Trade.

Trade-related intellectual property rights

42. In its resolution 59/221, the General Assembly invited all WTO members to effectively implement the decision on the implementation of paragraph 6 of the Doha Declaration on trade-related intellectual property rights (TRIPS) and public health to address the problems faced by countries with insufficient or no manufacturing capacity in the pharmaceutical sector in accessing medicines at affordable prices when combating serious public health problems, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics. The HIV/AIDS epidemic alone has killed over 20 million people. Therefore, immediate collective multilateral action on TRIPS and public health is imperative. The decision temporarily waives the obligations under article 31 (f) for those exporting members supplying medicines to countries with insufficient or no manufacturing capacities. Several members potentially serving as exporters have recently amended their domestic legislation to conform to the August 2003 decision. However, to date, no country has used the waiver to enhance its access to generic drugs, owing mainly to difficulties in meeting the conditions stipulated and the onerous procedures for both the producers and users of the drugs.

43. The deadline set for devising a permanent solution by amending article 31 (f) has been extended several times, most recently until May 2005. Discussions have centred on (a) the legal form of the amendment (footnote or additional paragraphs), and (b) whether and how to translate the Chairman's statement attached to the August 2003 decision. Developing countries argue that any amendment to the

TRIPS agreement should not include the Chairman's statement. The Group of African States has submitted draft texts for the amendment of the TRIPS agreement aimed at a legally predictable, secure, and economically and socially sustainable solution. Developed countries are of the view that the amendment exercise should be of a merely technical nature and should refer to the "August 30 solution" in its entirety. A permanent and expeditious solution to the issue needs to be given priority to ensure the production of and access to essential medicines to address pandemics and to contribute to the achievement of the Millennium Development Goals.

44. Developing countries have called for establishing effective and enforceable international mechanisms under TRIPS to prohibit and prevent the misappropriation of genetic resources; to regulate the disclosure of sources of genetic resources and the traditional knowledge involved in an invention; and to ensure prior informed consent and benefit-sharing. Recent discussions related to evidence of a fair and equitable sharing of benefits arising from the use of genetic resources or suggesting ways forward on biopiracy-related issues. Regarding the relationship between the Convention on Biological Diversity and TRIPS, developing countries have called for bringing TRIPS in line with the Convention, while developed countries suggest that the two agreements could be interpreted as complementary and mutually supportive in their existing forms.

C. Settlement of disputes

45. The two recent cases on United States subsidies to upland cotton producers and on EU export subsidies on sugar have a bearing on agricultural negotiations. The two WTO Panel/Appellate body rulings found, inter alia, that the level of subsidies provided to relevant sectors by the United States and EU were not in conformity with their Uruguay Round commitments. In the area of services, two recent cases were brought up regarding the cross-border supply of services in gambling and telecommunications. Those cases raised issues relating to the classification, as well as the scope and coverage, of schedules of commitment. One case, *US — gambling services*, is of relevance to the Internet technology-enabled, cross-border supply of services, including outsourcing. Similarly, *Mexico — measures affecting telecommunications services* is the first dispute relating to the 1997 Basic Telecom Agreement and the Reference Paper establishing disciplines on telecom competition safeguards. Both cases highlighted the difficulty of foreseeing the potential implications of scheduled commitments and the need to exercise care in scheduling the commitments.

D. Accession to WTO

46. The process of accession to WTO continues to represent challenges for acceding countries, especially the least developed countries, which have called for the full implementation of the guidelines on Accession of the Least Developed Countries adopted on 10 December 2002. Experience has shown that acceding developing countries continue to be subject to requests for relatively deep liberalization and stringent reform commitments, including commitments that are more demanding than those that already exist under WTO agreements, which could go beyond the level of concessions and commitments undertaken by existing WTO

members at similar levels of development. Furthermore, access to special and differential treatment provisions is subject to negotiation, on a case-by-case basis. It is crucial to ensure fair and equitable terms of accession, commensurate with the trade, financial and development needs of acceding developing countries, and increased support in all stages of the accession negotiations, as well as to address specific needs of newly acceded countries in the Doha work programme negotiations.

IV. Regional trade agreements and South-South cooperation

47. Today some 50 per cent of world trade takes place within regional trade agreements. Developing countries have been participating in agreements with both developed and developing countries. The expansion of North-South agreements has been transforming economic relationships based on pre-existing unilateral preferences into relationships based on reciprocity, such as in the free trade area of the Americas negotiations, the African, Caribbean Pacific/EU economic partnership agreement negotiations and the recently approved Central American Free Trade Agreement. Such negotiations tend to result in deeper market access and higher regulatory standards than negotiations at the multilateral level, and therefore could have implications for developing countries. It is thus important to ensure a positive interface and coherence between multilateralism and regionalism and an expeditious and meaningful outcome of the Doha work programme.[15] South-South trade cooperation is important, as growing South-South trade provides an opportunity for developing countries to latch on to this rising locomotive of the South. The third round of negotiations of the Global System of Trade Preferences among Developing Countries, to be completed by November 2006, affords an important opportunity for expanding and deepening preferential market access in other developing countries.

V. Conclusions

48. It is imperative for development and for the viability and durability of the multilateral trading system that WTO members deliver on the development promises made in the Doha Ministerial Declaration to place the needs and interests of developing countries at the heart of the negotiations and deliver an equitable and fair deal for developing countries. The United Nations, including UNCTAD, remains committed to support developing countries in their beneficial integration into the international trading system and the achievement of the Millennium Development Goals.

Notes

[1] Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002 (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

[2] For the full text of the report, see http://www.unmillenniumproject.org.

[3] For the full text of the report, see http://www.commissionforafrica.org.

[4] See Legal Instruments Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, done at Marrakesh on 15 April 1994 (GATT secretariat publication, Sales No. GATT/1994-7).

[5] For the full text of the report, see http://www.wto.org.

[6] Lakshmi Puri, "Towards a new trade 'Marshall Plan' for least developed countries: how to deliver on the Doha development promise and help realize the United Nations Millennium Development Goals?" Trade, poverty and cross-cutting issues study series No. 1 (UNCTAD/DITC/TAB/POV/2005/1).

[7] The Uruguay Round formula consists of an across-the-board average tariff reduction of *x* per cent subject to a minimum reduction of *y* per cent.

[8] The Swiss formula produces steeper cuts on higher tariffs and leads to harmonization of tariff structures across the board.

[9] "Amber Box" refers to trade-distorting domestic support subject to annual capping as expressed as the Aggregate Measurement of Support.

[10] "Blue Box" designates certain direct payments to farmers, partially decoupled from production under production-limiting programmes.

[11] "De minimis" support designates minimum permissible trade-distorting domestic support not exceeding 5 per cent of total agricultural production.

[12] "Green Box" designates those domestic support measures that have no or minimal trade-distorting effect.

[13] For the full text of the General Agreement on Trade in Services, see http://www.wto.org/english/tratob_e/serv.e/gatsintr_e.htm.

[14] See Alan Winters et al., Negotiating the Liberalization of the Temporary Movement of Natural Persons, Commonwealth Secretariat, March 2002.

[15] See M. Mashayekhi and T. Ito (eds.), *Multilateralism and regionalism: the new interface* (UNCTAD/DITC/TNCD/2004/7).