

# SOUTH CENTRE

## TRADE AND DEVELOPMENT PROGRAMME

### TRADE IN GOODS AND COMMODITIES TEAM

#### SOME CONSIDERATIONS ON ACCEDING TO THE GSTP AGREEMENT AND JOINING THE THIRD ROUND OF GSTP NEGOTIATIONS<sup>1</sup>

16 AUGUST 2005

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#### INTRODUCTION

1. In the São Paulo Declaration of 16 June 2004, developing country Ministers gathered at UNCTAD XI have agreed to launch a Third Round of trade negotiations among participants to the General System of Trade Preferences among Developing Countries (GSTP).

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<sup>1</sup> This note does not constitute legal advice regarding matters of accession to the GSTP Agreement. For the exact modalities of accession to the GSTP Agreement and participation to the Third Round of GSTP negotiations, interested delegations should contact the *GSTP Committee of Participants* or the Secretariat of the GSTP Project at UNCTAD. Mr Delfino Bondad is the Senior Adviser to the GSTP Project (Tel.: +41 022 9171644) .

2. The relevance of the GSTP Agreement as a unique South-South trade instrument cannot be overstated. Indeed, the GSTP Agreement<sup>2</sup> is a fully WTO-compatible<sup>3</sup>, intergovernmental instrument exclusively made of developing and least developed countries<sup>4</sup> members of the Group of 77 and China.

3. Discussions under the new Round of negotiations have been taking place under the auspices of a GSTP Negotiating Committee. Under that Committee, two subsidiary groups have been established and entrusted with the negotiations of the two pillars of the GSTP. The first is the Negotiating Group on Rule-Making, which is mainly responsible for discussions aimed at improving of rules of origin. The second is the Negotiating Group on Market Access, which hosts discussions regarding the exchange of market access concessions among participants.

#### ACCESSION OF NON-PARTICIPANTS AND THE "NOTIONAL" DEADLINE

4. In line with the wish expressed by Ministers in São Paulo to encourage other developing countries to accede to the GSTP Agreement, the Negotiating Committee has invited all interested members of the Group of 77 and China to participate to its meetings since October 2004. Several developing country delegations, which are not parties to the GSTP Agreement (non-participants), have in fact taken this opportunity to familiarise themselves with the GSTP mechanism and environment.

##### *Notional deadline*

5. However, in an effort to ensure that concessions under the GSTP are exchanged on equitable, meaningful and mutually advantageous bases, **the Committee of Participants has also asked non-participants to the GSTP to "express their interest" in acceding to the GSTP and participating to the Third Round of GSTP negotiations by the end of July 2005.**

6. The notification of interest is the first step towards acceding to the GSTP Agreement, but **does not** represent any commitment in itself. **All members of the G77 are already observers to the GSTP mechanism and need not request observer status. However, only the delegations that formally notify their interest in joining the Agreement will also be allowed to take an active part in the actual market access negotiations.** The accession process will be carried forward hand in hand with the negotiations of the Third Round and will come to an end together with the end of the Round.

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<sup>2</sup> The GSTP Agreement was adopted in 1988 and came into force in 1989.

<sup>3</sup> The exchange of trade preferences among developing countries, including least developed countries, is authorised under article 2(c) of the 1979 Enabling Clause, officially called the "*Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries*". According to that Decision and, as long as it does not raise barriers for the trade of other WTO Members, the GSTP is totally compatible with obligations under the WTO and does not require a waiver or any other authorisation.

<sup>4</sup> To this date, 43 countries have ratified the GSTP Agreement. A list of GSTP participants and observers is provided in Annex 1 to this note.

7. The importance of that 'notional' deadline is that non-participants, who express their interest in participating in the Round before the end of July, will be entitled to take full part in the negotiations concerning the exchange of tariff concessions. Non-participants will hence be able, from the very beginning of the process, to formulate requests to other participants asking for meaningful concessions in the areas of their interest and will also have a say in the techniques and modalities chosen for the exchange of such concessions<sup>5</sup>.

8. Conversely, the ability of countries that miss the end-of-July deadline to actively participate in the negotiations will be limited since they will not be able to make requests to other members or participate in the adoption of negotiating modalities. Nevertheless, non-participants will of course still be able to accede to the GSTP Agreement in the future and will also be entitled to the benefits of concessions exchanged in this Round of negotiations.

9. However, it is worth mentioning that the July deadline has been understood by GSTP participants as a **"notional" or flexible deadline**. In other words, it is **indicative**.

10. As a matter of fact, several delegations have already formalised their wish to participate to the Third Round after the end of July. Notifications include, *inter alia*, those of Burkina Faso, Haiti, Mauritius, and Uganda. Moreover, during the last session of the GSTP Negotiating Committee and GSTP Committee of Participants<sup>6</sup>, several delegations have said that the deadline would **not preclude non-participant developing countries from expressing their interest in joining the System in the weeks following the end of July**.

11. However, while encouraged by recent accessions, GSTP participants also agreed that the deadline should under no circumstance be extended indefinitely. An open-ended deadline would introduce uncertainty and unpredictability for the current participants. Delegations have stated, both formally and informally, that the final deadline for joining the Round would in any case have to be before the actual beginning of market access negotiations, scheduled to start in September 2005. As a result, the definitive deadline to join the Round would be around the **end of August and in any case not after beginning of September**.

12. Given the relevance of the Global System of Trade Preferences as a South-South intergovernmental instrument and considering its potential to expand South-South trade and thus contribute to poverty alleviation, it is very important that delegations in Geneva take this deadline with all due seriousness. If on the one hand the "*expression of interest*" in the negotiations entails only minor procedural requirements, on the other it yields significant benefits in terms of the political leverage that delegations will have in the market access negotiations to begin from September 2005 on.

#### **BRIEF OVERVIEW OF THE BENEFITS OF ENGAGING IN THE GSTP**

13. Since trade can work as an instrument for economic growth, employment generation, and poverty reduction, the fuller and better integration of developing countries into the multilateral trading system can be a major component of developmental strategies. However, the relationship between trade and human development is not automatic. Increased trade and trade liberalisation must be part of coherent and well managed strategies to ensure that they are effective in conducting to poverty alleviation and human development.

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<sup>5</sup> Non-participants will only not be able to vote. However, the occurrence of voting in such multilateral trade negotiations is very rare and unlike.

<sup>6</sup> Held on 29 July 2005

14. The most dynamic share of world trade growth is largely concentrated in the developing world today. Despite the fact that the bulk of poor countries still remain largely dependent on exports to developed country markets, a growing share of world trade now takes place among developing countries. Moreover, while several countries of the South have engaged in regional integration processes over the past years, there is still an enormous potential in exploiting cross-regional trade complementarities, particularly in the most heavily traded and the heavily traded products, which are currently exchanged on a MFN basis.

15. In that sense, South-South trade liberalisation, such as within the GSTP, may present numerous advantages and constitute a rich complement to the multilateral and regional trade negotiations in which developing countries are engaged.

16. The importance of enhancing South-South trade and therefore of strengthening the GSTP was recognised in several international instruments and high-level meetings, including the African-Asian Summit in Bandung, the South-South Summit in Doha, Qatar<sup>7</sup> and a number of resolutions of the UN General Assembly<sup>8</sup>.

*A risk-free forum, particularly for LDCs*

17. Firstly, the GSTP is a relatively risk-free negotiating forum, particularly for small developing countries and least developed countries (LDCs). Because its membership is limited to members of the Group of 77 and China<sup>9</sup>, negotiations are more symmetric and the specific needs of developing countries are more naturally recognised.

18. The GSTP Agreement is recognisant of developing countries' specific needs and takes into account participants' "*levels of economic and industrial development, the patterns of their trade and their trade policies and systems*"<sup>10</sup>. It is well recognised that the concessions made by each of the participants should be commensurate with their individual level of development and thus GSTP is prone to the accommodation of poor countries' specific needs and interests. Furthermore its approach to negotiations is flexible since it "*shall be negotiated step by step, improved and extended in successive stages, with period reviews*"<sup>11</sup>. Furthermore, GSTP concessions do not imply the acceptance of any other disciplines and rules that may curtail developing countries' policy space.

19. In addition, the GSTP Agreement is particularly flexible for LDCs since it explicitly states that their special needs must be recognised, that concrete preferential measures in their favour should be granted, and that they should not be required to make concessions on a reciprocal basis.<sup>12</sup> As a result, LDCs may in fact benefit from all concessions exchanged with the assurance of not being required to make mandatory contributions.

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<sup>7</sup> Paragraph 28 of the Ministerial Declaration

<sup>8</sup> See, for instance, Paragraph 26 of Resolution 59/221 of 11 February 2005 on "International trade and development" (A/RES/59/221).

<sup>9</sup> Article 3(a) of the GSTP Agreement states that: "*The GSTP shall be reserved for the exclusive participation of developing countries members of the Group of 77*". There are currently 132 States members of the Group of 77. Annex 2 to this note presents a full list of these countries.

<sup>10</sup> GSTP Agreement, article 3(c).

<sup>11</sup> GSTP Agreement, article 3(d).

<sup>12</sup> GSTP Agreement, article 3(f) and "non-reciprocity" of Art.17.

20. Moreover, developing country participants are encouraged to grant significant concessions to LDCs since these concessions need not be extended to other developing countries. For instance, the governments of Argentina and Brazil have recently reaffirmed their commitment to a final outcome that is largely beneficial to LDCs that participate in the Sao Paulo Round of the GSTP. This could translate into duty and quota free market access for a significant number of tariff lines.

#### *Benefits beyond WTO MFN rates*

21. Secondly, the benefits of trade liberalisation within the GSTP are necessarily captured by other developing country producers and not by more advanced producers from developed countries<sup>13</sup> since concessions are not extended to developed countries.

22. Moreover, another specificity of the GSTP is that the negotiations of tariff concessions start from participant's *applied tariffs*. In fact, the scope of "bound tariffs", in the sense of GATT Article II, does not extend beyond WTO negotiations. Consequently, the GSTP represent a real window of opportunity in terms of potential market access because concessions among participants go necessarily beyond the WTO MFN rates granted to developed countries. This provides developing country producers a meaningful advantage vis-à-vis producers located in developed countries.

23. Thirdly, actively engaging in the exchange of tariff concessions within the GSTP will also significantly alleviate the pressure that lays on developing countries within the WTO. In fact, rich countries have been aggressively pushing a very ambitious trade liberalisation agenda, particularly under the current WTO NAMA<sup>14</sup> negotiations. Their argument has been that the liberalisation of industrial tariffs in developing countries will mainly benefit other developing countries.

24. While the real benefits of trade liberalisation are extremely difficult to predict, as revealed by the wide divergences in several case studies, past experience has often shown that advanced economies are the ones to benefit the most from trade liberalisation. In fact, these economies concentrate the most diversified, technology-intensive products and can count with sophisticated transport and distribution infrastructure and with efficient marketing services. Moreover, since developing country economies are usually largely oriented towards developed countries (roads, ports, distribution networks), producers located in rich countries tend to have an inherent advantage over similarly competitive competitors located in poor countries.

25. By engaging in tariff concessions within the GSTP, developing countries that are also members of the WTO demonstrate their commitment to trade liberalisation and at the same time avoid the pressure to extend tariff concessions to producers of developed countries.

#### *Other economic benefits*

26. Fourthly, there are several economic benefits associated with an increase in South-South trade. GSTP can provide a testing ground and larger markets for incipient industries of developing countries, before producers start to compete against more advanced producers from the North. It can therefore be a useful instrument towards a gradual and managed integration of developing countries into the multilateral trading system.

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<sup>13</sup> Article 3(b) adds that "*The benefits of the GSTP shall accrue to the developing countries of the Group of 77*".

<sup>14</sup> Non-Agricultural Market Access (NAMA) negotiations were mandated by Paragraph 16 of the 2001 WTO Ministerial Declaration.

27. It is also expected that enhanced South-South trade, including through the GSTP, will open new investment opportunities and investment flows among developing countries.

28. Moreover, increased market access to other developing countries can also constitute a significant avenue for compensating for the erosion of trade preferences resulting from WTO MFN reductions by developed countries.

#### *Beyond economic benefits*

29. Fifthly, enhancing South-South trade may yield benefits that go well beyond strictly commercial benefits. For instance, increased South-South trade is likely to provide an incentive for improving the infrastructure among developing countries, such as shipping lines, roads, telecommunications, etc. Very importantly, it also offers developing countries a meaningful opportunity to diversify away from developed country markets and thus reduce the traditional vulnerability of small economies to external shocks.

30. Finally, South-South trade and the GSTP guiding principles of mutuality of advantages and solidarity may also provide an avenue for the exchange of increased technical and economic cooperation among developing countries, such as in the fields of trade facilitation, compliance with technical standards and customs administration for instance. The São Paulo Round has also envisaged work in this area.

### **PROCEDURAL GUIDELINES TO "EXPRESS INTEREST" IN THE GSTP**

31. In light of the reasons briefly discussed above, it is clear that the benefits of the GSTP mechanism will be greatest if the largest possible number of developing countries engage in the GSTP negotiations. As a matter of fact, Ministers in São Paulo recognised the need to provide an incentive for non-participants to accede to the Agreement and have therefore decided to invite all interested countries, including those that are currently non-participants, to attend the meetings of the GSTP Negotiating Committee as observers.<sup>15</sup>

#### *Definitive deadline: end of August 2005*

32. As stated above, expressing a delegations' interest in the process at this stage will ensure that it remains involved from the beginning and throughout the negotiating process. In other words, countries will have a say in the approach and modalities chosen for the exchange of concessions.

*33. This option is particularly interesting for LDCs, who will be able to, for instance, request concessions from other members with the assurance that they will not be requested in turn to undertake mandatory reciprocal concessions. Similarly, for other developing countries, it also provides a more equitable negotiating field for the exchange of tariff concessions on products of their export interest from September 2005 on.*

#### *Formalities and procedure*

34. As far as the precise formalities are concerned, only minor efforts are required from delegations in Geneva.

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<sup>15</sup> Decision of the Committee of Participants titled "Launching of the Third Round of GSTP Negotiations" of 28 May 2004 (GSTP/D.P./XVII/3).

35. The GSTP Negotiating Group on Market Access is responsible for considering requests of accession during the Third Round of negotiations. During the last meeting of the GSTP Committee of Participants in on 29 July 2005 it was decided that the Committee will meet again on 02 December 2005. However, it was understood that an extra meeting would be called earlier (probably in September 2005) to consider notifications of interest received soon after the notional deadline.

36. Actual accession to the GSTP Agreement will formally only occur at the end of the negotiations of the Third Round, expected to be concluded in 2006. The notification of interest is therefore a requisite for participation to the negotiations.

37. The precise steps to be followed are detailed hereunder.

- i. Delegations should send a written communication to the President of the Committee of Participants (Ambassador Sarala M. Fernando of Sri Lanka).
- ii. The notification can be conveyed to the President of the Group through the Secretariat of the GSTP Project:

GSTP Project Mr Delfino Bondad Senior Advisor of the GSTP Project UNCTAD (DITC) - Room E-8049 Palais des Nations CH 1211 Geneve 10, Switzerland Tel. (022) - 917 1644 Fax (022) - 917 0044 Email: <a href="mailto:gstp@unctad.org">gstp@unctad.org</a>
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- iii. The notification should inform GSTP Participants that a particular country is interested in acceding to the GSTP Agreement or that it is interested in participating in the Third Round of GSTP trade negotiations.<sup>16</sup>
- iv. According to article 28 of the GSTP Agreement, "*application for accession from a least developed country shall be considered taking into account the provision for special treatment for least developed countries*".
- v. Once the communication has been received, the Secretariat will convey it to the President of the Negotiating Committee and other delegations of GSTP Participants according to the procedures spelled out in article 28 of the GSTP Agreement.
- vi. All requests received in time will be considered by the Committee of Participants during its next session.<sup>17</sup>

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<sup>16</sup> A possible template for a written communication is attached to this note in Annex 3.

<sup>17</sup> Probably held in September 2005.

## ANNEX 1: LIST OF GSTP PARTICIPANT AND OBSERVER COUNTRIES

### **A. Countries having ratified the GSTP Agreement**

<b>GSTP Participants*</b>	<b>WTO membership</b>
1. Algeria	-
2. Argentina	Yes
3. Bangladesh	Yes
4. Benin	Yes
5. Bolivia	Yes
6. Brazil	Yes
7. Cameroon	Yes
8. Chile	Yes
9. Colombia	Yes
10. Cuba	Yes
11. DPR. Korea	-
12. Ecuador	Yes
13. Egypt	Yes
14. Ghana	Yes
15. Guinea	Yes
16. Guyana	Yes
17. India	Yes
18. Indonesia	Yes
19. Iran	-
20. Iraq	-
21. Libya	-
22. Malaysia	Yes
23. Mexico	Yes
24. Morocco	Yes
25. Mozambique	Yes
26. Myanmar	Yes
27. Nicaragua	Yes
28. Nigeria	Yes
29. Pakistan	Yes
30. Peru	Yes
31. Philippines	Yes
32. Korea	Yes
33. Romania	Yes
34. Singapore	Yes
35. Sri Lanka	Yes
36. Sudan	-
37. Thailand	Yes
38. Trinidad and Tobago	Yes
39. Tunisia	Yes
40. Tanzania	Yes
41. Venezuela	Yes

42. Viet Nam	Yes
43. Zimbabwe	Yes

\* Serbia and Montenegro has not claimed successor state status in the GSTP to assume the rights and obligations of the former Yugoslavia. Formal action to rectify the matter has been taken by the Committee of Participants (please refer to GSTP/C.P.XX/1 of 31 March 2005).

### **B. Observers to the GSTP<sup>18</sup>**

<b>GSTP Observers</b>	<b>WTO membership</b>
1. Angola	Yes
2. China	Yes
3. DR Congo	Yes
4. Dominican Republic	Yes
5. Guatemala	Yes
6. Kenya	Yes
7. Madagascar	Yes
8. Mauritania	Yes
9. Mongolia	Yes
10. Nepal	Yes
11. Paraguay	Yes
12. Syria	-
13. Uruguay	Yes
14. Zambia	Yes

<sup>18</sup> Refers to delegations that have been attending meetings of the GSTP over the past months.



## ANNEX 2: MEMBERS OF THE GROUP OF 77 AND CHINA

- |                              |                                |                                    |                                  |
|------------------------------|--------------------------------|------------------------------------|----------------------------------|
| 1. Afghanistan               | 34. D. R of the Congo          | 68. Madagascar                     | 102. S. Tome and Principe        |
| 2. Algeria                   | 35. Djibouti                   | 69. Malawi                         | 103. Saudi Arabia                |
| 3. Angola                    | 36. Dominica                   | 70. Malaysia                       | 104. Senegal                     |
| 4. Antigua and Barbuda       | 37. Dominican Republic         | 71. Maldives                       | 105. Seychelles                  |
| 5. Argentina                 | 38. Ecuador                    | 72. Mali                           | 106. Sierra Leone                |
| 6. Bahamas                   | 39. Egypt                      | 73. Marshall Islands               | 107. Singapore                   |
| 7. Bahrain                   | 40. El Salvador                | 74. Mauritania                     | 108. Solomon Is.                 |
| 8. Bangladesh                | 41. Equatorial Guinea          | 75. Mauritius                      | 109. Somalia                     |
| 9. Barbados                  | 42. Eritrea                    | 76. Micronesia                     | 110. South Africa                |
| 10. Belize                   | 43. Ethiopia                   | 77. Mongolia                       | 111. Sri Lanka                   |
| 11. Benin                    | 44. Fiji                       | 78. Morocco                        | 112. Sudan                       |
| 12. Bhutan                   | 45. Gabon                      | 79. Mozambique                     | 113. Suriname                    |
| 13. Bolivia                  | 46. Gambia                     | 80. Myanmar                        | 114. Swaziland                   |
| 14. Bosnia and Herzegovina   | 47. Ghana                      | 81. Namibia                        | 115. Syrian Arab Republic        |
| 15. Botswana                 | 48. Grenada                    | 82. Nepal                          | 116. Thailand                    |
| 16. Brazil                   | 49. Guatemala                  | 83. Nicaragua                      | 117. Timor-Leste                 |
| 17. Brunei Darussalam        | 50. Guinea                     | 84. Niger                          | 118. Togo                        |
| 18. Burkina Faso             | 51. Guinea-Bissau              | 85. Nigeria                        | 119. Tonga                       |
| 19. Burundi                  | 52. Guyana                     | 86. Oman                           | 120. Trinidad and Tobago         |
| 20. Cambodia                 | 53. Haiti                      | 87. Pakistan                       | 121. Tunisia                     |
| 21. Cameroon                 | 54. Honduras                   | 88. Palau                          | 122. Turkmenistan                |
| 22. Cape Verde               | 55. India                      | 89. Palestine                      | 123. Uganda                      |
| 23. Central African Republic | 56. Indonesia                  | 90. Panama                         | 124. United Arab Emirates        |
| 24. Chad                     | 57. Iran (Islamic Republic of) | 91. Papua New Guinea               | 125. United Republic of Tanzania |
| 25. Chile                    | 58. Iraq                       | 92. Paraguay                       | 126. Uruguay                     |
| 26. China                    | 59. Jamaica                    | 93. Peru                           | 127. Vanuatu                     |
| 27. Colombia                 | 60. Jordan                     | 94. Philippines                    | 128. Venezuela                   |
| 28. Comoros                  | 61. Kenya                      | 95. Qatar                          | 129. Viet Nam                    |
| 29. Congo                    | 62. Kuwait                     | 96. Romania                        | 130. Yemen                       |
| 30. Costa Rica               | 63. Lao's P.D.R.               | 97. Rwanda                         | 131. Zambia                      |
| 31. Côte d'Ivoire            | 64. Lebanon                    | 98. St. Kitts and Nevis            | 132. Zimbabwe                    |
| 32. Cuba                     | 65. Lesotho                    | 99. St. Lucia                      |                                  |
| 33. D.P.R. of Korea          | 66. Liberia                    | 100. St Vincent and the Grenadines |                                  |
|                              | 67. Libyan Arab Jamahiriya     | 101. Samoa                         |                                  |

**ANNEX 3: TEMPLATE NOTIFICATION TO EXPRESS A DELEGATIONS' INTEREST IN ACCEDING  
TO THE GSTP NEGOTIATIONS**

TO: GSTP PROJECT  
Mr Delfino Bondad  
Senior Advisor of the GSTP Project  
UNCTAD (DITC) - Room E-8049  
Palais des Nations  
CH 1211 Geneve 10, Switzerland  
Tel. (022) - 917 1644  
Fax (022) - 917 0044  
Email: gstp@unctad.org

To the President of the GSTP Committee of Participants,

The Permanent Mission of [*delegation*] in Geneva presents its compliments to the Committee of Participants to the General System of Trade Preferences Among Developing Countries and has the honour to inform that the Government of [*country*] is interested in acceding to the GSTP Agreement with a view to promoting and sustaining mutual trade and developing economic cooperation among developing countries through the exchange of concessions according to principles of the GSTP Agreement.

The Permanent Mission of [*delegation*] hopes that its request will be considered favourably by the Committee of Participants.

The Permanent Mission of [*delegation*] avails itself of this opportunity to renew to the President of the Committee of Participants and to the other delegations of GSTP Participants the assurances of its highest consideration.