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**FROM DOHA TO THE JULY 2004 FRAMEWORK PACKAGE: A CONTENT ANALYSIS**

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## FROM DOHA TO THE JULY 2004 FRAMEWORK PACKAGE: A CONTENT ANALYSIS

### INTRODUCTION

1. On 31 July 2004, the WTO General Council decided to establish a framework for continued negotiations under the Doha Work Programme set out in the Doha Ministerial Declaration (DMD, WT/MIN(01)/DEC/1) of 2001. This note seeks to present a content analysis of the WTO General Council Decision of 31 July 2004 (WT/GC/W/535).
2. The analysis of the main text of the July Decision in the first part of this Analytical Note is arranged according to the substantive issue areas identified in the DMD for either negotiations or discussions as linked to the relevant texts in the July 2004 General Council Decision. It also identifies the new negotiating timeframes established for each negotiating area and provides a brief analytical comment on the extent to which the July 2004 Decision impacts on the original Doha mandates.
3. For ease of use, the Analytical Note has been divided into four main parts. Part I analyzes the main text of the July Decision, followed by Parts II, III, and IV, devoted to the analysis of Annex A (Agriculture), Annex B (Non-Agricultural Market Access), and Annex D (Trade Facilitation), respectively, of the July Decision.
4. It is hoped that this note will be useful to readers as the implementation of the mandates in the July Decision proceed after the summer of 2004.

**PART I – CONTENT ANALYSIS OF THE GENERAL COUNCIL JULY 2004 DECISION MAIN TEXT**

**A. Implementation-Related Issues and Concerns**

<b>Doha Ministerial Declaration</b>	<b>July 2004 General Council Decision</b>	<b>Timeframes</b>	<b>Analytical Comments</b>
<p>IMPLEMENTATION-RELATED ISSUES AND CONCERNS</p> <p>12. We attach the utmost importance to the implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them. In this connection, and having regard to the General Council Decisions of 3 May and 15 December 2000, we further adopt the Decision on Implementation-Related Issues and Concerns in document WT/MIN(01)/17 to address a number of implementation problems faced by Members. We agree that negotiations on outstanding implementation issues shall be an integral part of the Work Programme we are establishing, and that agreements reached at an early stage in these negotiations shall be treated in accordance with the provisions of paragraph 47 below. In this regard, we shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 46 below, by the end of 2002 for appropriate action.</p>	<p><b>Implementation:</b> concerning implementation-related issues, the General Council reaffirms the mandates Ministers gave in paragraph 12 of the Doha Ministerial Declaration and the Doha Decision on Implementation-Related Issues and Concerns, and renews Members' determination to find appropriate solutions to outstanding issues. The Council instructs the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority. Without prejudice to the positions of Members, the Council requests the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits, if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to the TNC and the General Council no later than May 2005. The Council shall review progress and take any appropriate action no later than July 2005.</p>	<p>Negotiations on implementation-related issues that are being addressed in various negotiating bodies, while designated as “a priority”, have not been given a specific timeframe for conclusion.</p> <p>On the Paragraph 12(b) DMD negotiations, the WTO Director-General is required to report to the TNC and the General Council by May 2005, and the General Council has to take appropriate action thereon by July</p>	<p>The July Decision falls far short of providing new stimulus to the negotiations on implementation-related issues and concerns. In fact, the July Decision text continues to allow work on implementation issues to remain dispersed among various negotiating bodies. In addition, by specifically mandating the WTO Director-General to continue his consultative process on all outstanding implementation issues under Paragraph 12(b) DMD, the General Council has effectively required Members to negotiate these issues through a top-down and exclusionary process in which the WTO Director-General and his appointed “Friends” will play a significantly disproportionate role in determining the outcomes of the negotiations.</p> <p>Requiring the WTO Director-General to effectively set the pace and direction of negotiations on outstanding implementation issues under Paragraph 12(b) DMD significantly expands the roles and functions of the WTO Director-General beyond what is laid down in the WTO Agreement. This involves the WTO Director-General directly into the negotiations, which should only be conducted among Members. This detracts from the “Member-driven” nature of the WTO in which the WTO Director-General, members</p>

		2005.	of the WTO Secretariat, as well as elected officers of WTO bodies, have very limited policy-making roles and functions.
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### B.1 Agriculture

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>AGRICULTURE</p> <p>13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-</p>	<p><b>Paragraph 1 Main text</b></p> <p><b>a. Agriculture:</b> the General Council adopts the framework set out in Annex A to this document.</p> <p><b>d. Development:</b></p> <p><b>Other Development Issues:</b> in the ongoing market access negotiations, recognising the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. <u>These particular concerns of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and</u></p>	<p>No timeframes for the negotiation and adoption of modalities in agriculture have been established.</p>	<p>The main task of WTO members in the following phase of the agriculture negotiations is to develop full modalities based on the framework adopted by the General Council in July 2004.</p> <p>The adoption of modalities will require not only the negotiation of specific reduction targets on the three pillars of the agreement – market access, domestic support and export competition – but also the development of rule elements which were left unresolved at the framework stage. This is particularly the case with respect to elements of Special and Differential Treatment (SDT) for developing countries including modalities for the designation and treatment of Special Products and Sensitive products, special safeguard mechanism, erosion of preferences, full liberalisation of trade on tropical products, etc.</p> <p>It is difficult to assess the balance of the framework adopted given the uncertainty with respect to key variables which will have to be negotiated in the coming months. For example, the actual end date for the elimination of export subsidies; whether the blue box criteria will be expanded or not to allow for additional flexibility to <u>increase</u> support levels in key agricultural exporters, such as the US; whether the criteria of the green box will be “clarified” in a way that significantly strengthens disciplines on direct payments, etc., and the extent of commitments in market access, including the formula for tariff reduction and the targets adopted, as well as the operationalisation of SDT for developing countries.</p>

<p>trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.</p> <p>14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.</p>	<p><u>NAMA negotiations (Emphasis added).</u> The trade-related issues identified for the fuller integration of small, vulnerable economies into the multi-lateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.</p>	<p>Regarding SDT, it is important to note that paragraph 1 d. of the main text of the Decision by the General Council provides relevant instructions to the negotiating groups on Agriculture and NAMA (<i>See second column underlined text</i>), highlighting specific issues of concern to developing countries which will have to be addressed in the market access negotiations on agriculture and non-agriculture goods. These provisions further <u>add</u> to the mandate and specific references on SDT included in the agriculture framework itself.</p> <p>Finally, it is important to note that paragraph 49 of the DMD states that negotiations shall be conducted with a view to ensuring benefits for all participants and also stresses the need for achieving an overall balance in the outcome of the negotiations. In that respect, it would be important to keep in mind the fact that the July Decision calls for members to present revised services offers by May 2005 whereas there are no clear targets for progress in agriculture. With a view to assuring balanced progress in the negotiations, Members may aim at the adoption of modalities in agriculture by May 2005, for example, to coincide with the date for the presentation for revised offers in Services and submit draft schedules at the Ministerial Conference. Were this not be possible, members may gauge the need for the approach to be taken with respect to the other deadlines provided in the Decision, for example in services.</p> <p>For detailed comments on Annex A of the July Decision on Agriculture, see Part II of this note.</p>
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### B.2 Cotton

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>No mandate provided in Doha</p>	<p><b>Paragraph 1 Main text</b></p> <p><b>b. Cotton:</b> the General Council reaffirms the importance of the Sectoral Initiative on Cotton and takes note of the parameters set out in Annex A within which the trade-related aspects of this issue will be pursued in the agriculture negotiations. The General Council also attaches importance to the development aspects of the Cotton Initiative and wishes to stress the complementarity between the trade and development aspects. The Council takes note of the recent Workshop on Cotton in Cotonou on 23-24 March 2004 organized by the WTO Secretariat, and other bilateral and multilateral efforts to make progress on the development assistance aspects and instructs the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments.</p> <p>Members should work on related issues of development multilaterally with the international financial institutions, continue their bilateral programmes, and all developed countries are urged to participate. In this regard, the General Council instructs the Director General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the</p>	<p>No specific timeframes have been established for decisions on the cotton initiative. However, Members committed to address this issue expeditiously and to give it priority within the context of the agriculture negotiations.</p>	<p>The cotton initiative was presented for consideration by WTO Members in the context of the preparation for the 5<sup>th</sup> Ministerial Conference held in September 2003 in Cancun, México. In fact, the lack of agreement on how to respond to the concerns of the cotton producers from the part of the developed countries, particularly the US, was one of the contributing factors to the failure of the Ministerial Conference. Cotton became part of the few elements on which consultations were held in the post-Cancun period aiming at an agreement in July 2004.</p> <p>The main concern of the cotton producers is to achieve an expeditious decision on the substantive elements of the cotton initiative, including the possibility of compensation for the losses incurred by these countries in the face of depressed prices resulting from subsidies to cotton in the North. This is justified by the magnitude of the damage caused and the pivotal role of cotton for the economy of these countries. Developed countries have been more concerned with the procedural aspects of the issue insisting that cotton initiative be submerged in the agriculture negotiations and making a distinction between the development and trade-related aspects of the issues at hand.</p> <p>According to the July Decision, negotiations on cotton will be handled by the agriculture negotiating group which should give this issue priority. In that context, a sub-committee on cotton will have to be established and report on progress to the Special Session of the Committee on Agriculture. The Decision is not clear as to how, when and by whom the subcommittee should be established. Nor it provides guidance with respect to its composition.</p> <p>Cotton producers may insist on establishing the sub-committee within the context of the special session of the agriculture committee in charge of the agriculture negotiations. These countries may also stress the need for broad participation of WTO members in the sub-committee, which should in fact be open-ended.</p>



	<p>International Trade Centre to direct effectively existing programmes and any additional resources towards development of the economies where cotton has vital importance.</p> <p><b>Annex A - Agriculture framework:</b></p> <p>4. The General Council recognizes the importance of cotton for a certain number of countries and its vital importance for developing countries, especially LDCs. It will be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. The provisions of this framework provide a basis for this approach, as does the sectoral initiative on cotton. The Special Session of the Committee on Agriculture shall ensure appropriate prioritization of the cotton issue independently from other sectoral initiatives. A sub-committee on cotton will meet periodically and report to the Special Session of the Committee on Agriculture to review progress. Work shall encompass all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition, as specified in the Doha text and this Framework text.</p> <p>5. Coherence between trade and development aspects of the cotton issue will be pursued as set out in paragraph 1.b of the text to which this Framework is annexed.</p>	<p>Furthermore, it is of extreme importance to discuss the details of the functioning of the sub-committee, as soon as negotiations resume in September. Some of the issues to be addressed include: the calendar of meetings in the light of the dates and frequency of the meeting of the agriculture special session, as well as the terms of reference for its work. According to the July Decision, the agriculture framework, <u>and the cotton initiative</u> presented by cotton producers, constitutes the basis for further discussions on cotton (paragraph 4 of the Agriculture framework). This is an issue to be stressed by supporters of the cotton initiative and to be taken into account when deciding on the concrete agenda and scope of the discussions within the subcommittee and the agriculture special sessions on cotton. A clear mechanism for reporting to the Agriculture special session by the sub-committee on cotton should also be established.</p> <p>It is interesting to note that the “cotton initiative” has been identified as the Sectoral Initiative on Cotton in the July Decision. The relevant text on cotton in the agriculture framework also emphasizes that the cotton issue will be given priority “independently of other sectoral initiatives.” Such references are necessary given the insistence of some developed countries, specially the US and Canada on including modalities for sectoral liberalisation in the agriculture negotiations. This is an issue where no agreement exists as reflected in the paragraph 49 of the agriculture framework where sectoral initiatives are mentioned as an issue of interest but not agreed. Hence, it is expected that discussions on sectoral initiatives will be very contentious and prolong over time. In that respect, it was important to differentiate the cotton initiative from the discussion on sectoral initiatives in general.</p> <p>The July Decision emphasizes the development aspects of the cotton issue and requires the Director General of the WTO to consult with other multilateral organizations to direct resources in favour of the development of the cotton sector in the interested countries. Two issues need to be stressed and insisted upon in the future: First, the need for coherence in the development and trade-related aspects affecting the development of cotton in developing countries. That is, development aid for cotton will be wasted if the distortions in the international market remain (paragraph 1 b. of the July Decision main text and paragraph 5 of the Agriculture framework). Second, the need for <u>additional</u></p>
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	<p>46. Work on cotton under all the pillars will reflect the vital importance of this sector to certain LDC Members and we will work to achieve ambitious results expeditiously.</p>		<p>resources to support the development of the economies involved in production and export of cotton (paragraph 1 b. of the main text of the July Decision). No good will be made to developing countries if only existing and insufficient aid resources are shifted from one sector or specific need, to cover another.</p> <p>Paragraph 46 of the agriculture framework also refers to the cotton initiative by acknowledging the importance of this issue for a number of LDCs.</p>
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### C. Services

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>SERVICES</p> <p>15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.</p>	<p><b>e. Services:</b> the General Council takes note of the report to the TNC by the Special Session of the Council for Trade in Services<sup>1</sup> and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the recommendations agreed by the Special Session, set out in Annex C to this document, on the basis of which further progress in the services negotiations will be pursued. Revised offers should be tabled by May 2005.</p>	<p>Members who have not yet submitted their initial offers are requested to do so as soon as possible. Revised offers should be tabled by May 2005.</p> <p>Members are also requested to intensify their efforts to conclude the negotiations on rule-making under Articles VI:4, X, XIII and XV in accordance with their respective mandates and deadline (i.e. for GATS Rules negotiations to be completed prior to the conclusion of the negotiations on specific commitments).</p>	<p>The July GC Decision clearly attempts to ensure that progress in the services negotiations continues in line with the Doha mandate.</p> <p>In contrast to the other annexes on agriculture and non-agricultural market access (NAMA) Annex C on services was not the object of intense negotiations since the text had already been adopted by the Special Session of the CTS. However, it is important to note that the final draft of the July GC Decision includes a separate paragraph on services while the initial July 16 draft had a sentence on services under the general heading of 'Other negotiating bodies'. This has the result of putting the services negotiations on an 'equal footing' with agriculture and NAMA negotiations.</p> <p>The timeframe for the submission of revised offers will probably have the effect of pushing the negotiations forward. However, as Members decision to put services on an 'equal footing' with Agriculture and NAMA indicates, the services negotiations should be kept to pace with developments in other negotiating bodies. This is particularly important given the fact that a timeline has been provided in services (May 2005) and not in the other areas and because there is no clear guidance as to the exact nature of the 6<sup>th</sup> Ministerial Conference (occasion for stock-taking?, timeline for presenting final offers?, conclusion of the negotiations?). Members should ensure that the timelines that are decided in the different negotiating areas maintains the parallelism of the negotiations.</p> <p>Similarly, Members should ensure that progress in the different components of the services negotiations is such that the market access and the rules negotiations continue to advance at the same pace.</p>

<sup>1</sup> This report is contained in document TN/S/16.

### D. Non-Agricultural Market Access

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS</p> <p>16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without <i>a priori</i> exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than</p>	<p><b>c. Non-agricultural Market Access:</b> the General Council adopts the framework set out in Annex B to this document.</p> <p style="text-align: center;">x x x</p> <p>Annex B, Paragraph 1</p> <p>1. This Framework contains the initial elements for future work on modalities by the Negotiating Group on Market Access. Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs in indent two of paragraph 5, the flexibilities for developing-country participants, the issue of participation in the sectorial tariff component and the preferences. In order to finalize the modalities, the Negotiating Group is instructed to address these issues expeditiously in a manner consistent with the mandate of paragraph 16 of the Doha Ministerial Declaration and the</p>	<p>No specific time-frame for the negotiations and adoption of modalities in NAMA have been established.</p> <p><u>Specific</u> 31 October 2004 A new deadline was established for the submission of notifications of non-trade barriers affecting members' exports (§14 Annex B).</p>	<p>Negotiations on market access for non-agricultural products (NAMA) have been going on since April 2002 as part of the Work Programme mandated by the Doha Ministerial Declaration. In Paragraph C of the July Decision, the General Council adopted a framework that will provide guidance for the next phase of negotiations, during which more detailed modalities of negotiation will have to be negotiated. That framework was added to the Decision in an "Annex B".</p> <p>The aim of this Framework agreement is to provide broad guidelines for the next phase of negotiations. Accordingly, it should have been a general guidance text, leaving more detailed provisions to be decided during the next stage of negotiations.</p> <p>In terms of timeframes, it is important to note that paragraph 49 of the DMD states that negotiations shall be conducted with a view to ensuring benefits for all participants and also stresses the need for achieving an overall balance in the outcome of the negotiations. In that respect, it would be important to keep in mind the fact that the July Decision calls for members to present revised services offers by May 2005 whereas there are no clear targets for progress in NAMA. With a view at ensuring the balanced outcome of negotiations, progress in NAMA must keep the same pace as that in Agriculture and also services (first linkage) and the various areas of negotiations within NAMA must also be conducted in parallel, instead of giving priority to the formula at the expense of NTBs, flexibilities for developing countries and preference erosion as is currently the case (second, internal, linkage).</p> <p>The following general comments can be made with respect to the aforementioned Annex:</p> <p>Firstly, that general structure was only partly respected since the Annex finally adopted contains some quite detailed provisions, some of which could be construed restrictively in order to exclude other more favourable alternatives for developing countries. One example of such provision is the choice of a non-linear formula contained in paragraph 4.</p> <p>Secondly, during negotiations, many developing countries opposed vehemently the adoption</p>

<p>full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII <i>bis</i> of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.</p>	<p>overall balance therein.</p>		<p>of the present annex as the only basis for negotiations since it did not reflect many of their priorities.</p> <p>Thirdly, the Annex adopted is a mere reproduction of a previous text, known as the Derbez text, which had been already discussed – and rejected – during the Cancun Ministerial Conference of 2003. Despite that opposition, the text has been adopted unaltered, except for an extension of the deadline for the submission of notifications of non-trade barriers (now extended until 31 October 2004).</p> <p>In more specific terms, it is worth noting that the Interpretation of Annex B – and thus the extent to which members will be bound by it – will depend on the construction of Paragraph 1. As a matter of fact, since the Annex did not represent a consensus text, it had been proposed that it be adopted subject to a provision stating that further negotiations were still necessary. That condition crystallised in Paragraph 1, which states that the framework contains only "<i>initial elements</i>".</p> <p>However, the Paragraph also lists a number of elements on which agreement had not been reached, creating doubts with two respects. Firstly, whether the other elements that were not listed are still negotiable. Secondly, whether, within one of the listed provisions, only "<i>specifics</i>" (details) or the whole provisions are negotiable.</p> <p>Furthermore, Paragraph 1 does not make clear whether other elements could still be imported into the negotiations or whether all elements have been covered. For instance, the Annex contains provisions which are specifically devised for developing and least developed countries, and Paragraph 1 states that such "flexibilities for developing country participants" will need additional negotiations. In case the type of flexibilities contained in the Annex are adequate, negotiations will concentrate in only refining them (percentages of binding coverage and choice of a coefficient for instance). Alternatively, if the flexibilities provided are not adequate, S&amp;D provisions and compensations of another nature will have to be designed.</p> <p>Overall, the adoption of the framework has not made the next phase of negotiations clearer. In many areas, it is still not clear what type of concessions will be required from developing countries, and what direction negotiations will take (for instance concerning a possible sectoral or supplementary approaches).</p>
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	<p><b>d. Development issues –</b> x x x</p> <p><b>Other Development Issues:</b> in the ongoing market access negotiations, recognising the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. These particular concerns of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations. The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.</p>	<p><u>Deadlines for §D</u></p> <p>No specific timeline was given for the operationalisation of this paragraph.</p>	<p>For detailed comments on Annex B of the July Decision on NAMA, see Part III of these Notes.</p> <p>Paragraph "d" on Development issues was a requirement made by many developing countries in order to accept the rest of the "July Package". The paragraph restates many of the priorities of developing countries and should permeate the reading of the whole Decision and the individual annexes.</p> <p>Within paragraph "d", the subsection entitled "Other Development Issues" relates more specifically to aspects of the negotiations on Non-Agricultural Products and recalls principles that should permeate negotiations in the Negotiating Group on market access.</p> <p>Operationalisation of this paragraph during the negotiations will require inventive solutions and a continued demand for differential treatment. Indeed, as it restates, developing countries cannot be required to negotiate further liberalisation on the same foot of developed countries. Before the Doha Ministerial Conference, developing countries had argue that they could reduce tariffs after a full assessment of the impact that liberalisation could have for their economies and society.</p> <p>Paragraph d also recalls the importance of recognising prior unilateral liberalisation undertaken by developing countries when negotiating present concessions. That statement is a clear reference to tiret 4 of paragraph 5 of Annex B on credit for previous autonomous liberalisation. In spite of the clear demand for credit, Annex B does not provide appropriate guidelines on this issue. Many developing countries have undertaken prior liberalisation, especially following programmes by the IMF and the World Bank and should not be required to give an equal contribution to the round. If countries that have unilaterally reduced tariffs are not granted appropriate credit and are required to make further concessions instead, there would be no incentive for autonomous liberalisation. However, granting credit now should not imply further future liberalisations.</p> <p>Finally, regarding the last sentence on the integration of small and vulnerable economies, no subcategory of members was created with relation to the negotiations on NAMA. However, the principle that weaker economies deserve differentiated treatment can be operationalised through S&amp;D provisions and the important "less than full reciprocity" requirement contained in paragraph 16 of the Doha Declaration. That principle is a clear mandate which requires</p>
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			<p>liberalisation to be undertaken proportionately to the varying levels of industrialisation and development of participants. Therefore, whatever the reduction approach retained for tariff negotiations, parameters could be negotiated in order to determine the extent of reductions for each member. Criteria could include previous autonomous liberalisation, the last year of implementation of concessions and trade indicators for instance. In any case, simplistic approaches should be avoided (such as using countries GDP only for instance). Members could consider whether these parameters are discussed in and restricted to the negotiating group on NAMA or whether the CTD could provide parameters that would permeate all other committees and negotiations.</p> <p>Other areas of possible application of principles contained in this paragraph are compensations for countries affected by preference erosion and the possibility of maintaining a gap between applied and bound tariffs in order to implement national industrial policies. When engineering compensation mechanisms, the interests of all developing countries should be fully taken into account.</p>
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### E. TRIPS

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS</p> <p>18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products</p>	<p><b>Rules, Trade &amp; Environment and TRIPS:</b> the General Council takes note of the reports to the TNC by the Negotiating Group on Rules and by the Special Sessions of the Committee on Trade and Environment and the TRIPS Council.<sup>2</sup> The Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates.</p> <p><b>h. Other elements of the Work Programme:</b> the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme</p>	<p><b>Geographical Indications:</b> No specific timeframes have been established for the DMD paragraph 18 issues. It can be assumed that the conclusion of these negotiations is tied to the end of the Doha Work Programme.</p> <p><b>CBD and TRIPS:</b> Progress on paragraph 19 issues will be reported to the Sixth Ministerial Conference in December 2005.</p>	<p><b>Geographical Indications:</b><sup>3</sup> The July Framework basically maintains the status quo and leaves it to the Special Session to make progress on this issue. Although these negotiations have not been prioritised by all developing countries and there remains ambivalence among some on the benefits, they remain important negotiations. In forthcoming Special Sessions of the TRIPS Council where, among others, the issues of the legal effect of registration and the administrative burden on developing and least-developed countries will be discussed, developing countries should ensure that account is taken of how any eventual system would best promote the goals of development.</p> <p>At the same time, developing countries that have been ambivalent about this issue should start thinking clearly of the pros and cons of a possible registration system. This is because in the end, this issue will be resolved in the context of the Doha Work Programme and clarity on the costs and benefits on the part of developing countries will be key for them in deciding what to give or what not to give with respect to the registration system.</p> <p><b>CBD and TRIPS:</b> The July framework does not change the status of this issue in the TRIPS Council. That said, however, there has been notable progress in the discussions on the relationship between the TRIPS Agreement and the CBD. A Checklist of Issues presented by a number of developing countries in March 2004 (IP/C/W/420) has become the <i>de facto</i> basis for future discussions.</p>

<sup>2</sup> The reports to the TNC referenced in this paragraph are contained in the following documents: Negotiating Group on Rules - TN/RL/9; Special Session of the Committee on Trade and Environment - TN/TE/9; Special Session of the Council for TRIPS - TN/IP/10.

<sup>3</sup> Note that this section only deals with the negotiations taking place in the Special Session of the TRIPS Council. Issues relating to extension of protection to other products other than wines and spirits are dealt with in the section on implementation.



<p>other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.</p> <p>19. We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, <i>inter alia</i>, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be guided by the objectives and</p>	<p>which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.</p>	<p style="text-align: center;"><b><i>Non-violation and Situation Complaints</i></b></p> <p>The moratorium on the application of non-violation and situation complaints to TRIPS has also been extended to run up to the Sixth Ministerial Conference in December 2005.</p>	<p>An important consideration for developing countries as they enter the next stage of the Doha Work Programme is therefore whether, owing to the difficulties associated with achieving progress under the broad article 27.3b review and the challenges associated with pushing forward the agenda under article 71.1, there is a good basis for pursuing the CBD issues in the broader context. Taking into account the progress that has been made including the large number of countries that welcomed the Checklist of Issues, there is a strong case for developing countries to consider concentrating on achieving specific results on the relationship between TRIPS and the CBD while continuing to push the 27.3b review as a long-term issue.</p> <p>With the checklist of Issues as defined by developing countries becoming the basis of discussions in the TRIPS Council, there is an important opportunity to push the issue further by elaborating on the various elements of the checklist. This is important because the better defined and elaborated the issues are, the better the chance that when it comes to the Sixth Ministerial or to the finalisation of the Doha Work Programme, a case could be made for taking a concrete decision to resolve this issue.</p> <p><b><i>Non-violation and Situation Complaints:<sup>4</sup></i></b></p> <p>As with GI's and CBD issues, the July Framework maintains the status quo on the issue and leaves it to the TRIPS Council to continue discussions with a view to presenting possible recommendations to the Sixth Ministerial Conference in December 2005. This was an expected result.</p> <p>The question, however, is what should be done between now and the Sixth Ministerial Conference? In other words, what should developing countries aim to achieve by the Sixth Ministerial Conference? Serious thought needs to be given to this question. Because of how this question has been pushed from one Ministerial to the next and the next, one would naturally be inclined to assume that the likely decision at the Sixth Ministerial Conference will be a further extension of the moratorium. In any case, the main proponent of applying non-violation and situation complaints to TRIPS, the United States, has not been vigorously pursuing its position in the TRIPS Council. This</p>
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<sup>4</sup> Although this issue was dealt with in Doha in the context of the Decision on implementation, it is an issue with a special character and its complexities are not susceptible to the possible general approaches to resolving implementation issues. The issue is therefore dealt with as a specific TRIPS issue and not part of implementation issues.

<p>principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.</p>			<p>is, however, a risky approach.</p> <p>First, the longer this issue remains unresolved the more likely it is that it will be available as a bargaining chip at the end of the Doha Work Programme. If the issue is resolved in this context, it is likely that developing countries will lose or at least have to pay a price for the United States to accept either a further moratorium thereafter or to accept that these complaints should be inapplicable to TRIPS.</p> <p>Second and more importantly, the longer the issue remains unresolved the more likely it is that the united opposition among developing countries and other opponents of non-violation will crumble with time. This is because while the United States has not pushed this issue in the WTO, it has been very aggressive in the context of bilateral Free Trade Agreements. Agreements such as the recently concluded US-Chile, Central American Free Trade Agreement (CAFTA), and US-Australia, for instance, place intellectual property within the scope of non-violation and situation complaints.</p> <p>There is therefore a clear danger that the WTO discussions on this issue may soon become an academic exercise as the matter is resolved under bilateral agreements and it is only a matter of time before many of its opponents apply it in the bilateral context. Consequently, the sooner this possibility is foreclosed the better. In essence therefore developing countries should consider pushing much harder for the resolution of this issue sooner rather than later. Their ultimate aim should be to have the WTO Ministerial to declare these types of complaints inapplicable to TRIPS disputes before a majority of countries get locked into the bilateral web.</p>
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**F. Singapore Issues (other than Trade Facilitation)**

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>RELATIONSHIP BETWEEN TRADE AND INVESTMENT</p> <p>20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.</p> <p>21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.</p> <p>22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-</p>	<p><b>Relationship between Trade and Investment, Interaction between Trade and Competition Policy and Transparency in Government Procurement:</b> the Council agrees that these issues, mentioned in the Doha Ministerial Declaration in paragraphs 20-22, 23-25 and 26 respectively, will not form part of the Work Programme set out in that Declaration and therefore no work towards negotiations on any of these issues will take place within the WTO during the Doha Round.</p>	<p>No negotiations-relevant timeframes have been established, in view of the fact that no negotiations (other than on Trade Facilitation) will take place within the Doha Work Programme on these issues.</p> <p>There are also no timeframes available for work on these issues to continue since the mandate for the various working groups on Singapore issues have not been renewed.</p>	<p>The July framework's text on Singapore issues (other than on trade facilitation) can be interpreted as having the effect of completely dropping these issues <i>not only from the Doha Work Programme but also from the WTO's agenda.</i></p> <p>It should be noted that from the introduction of these issues into the WTO's agenda in 1996 under the 1996 Singapore Ministerial Declaration up to the 2001 Doha Ministerial Declaration, the mandate for clarificatory work on these issues in the WTO has been time-bound and dependent on the continuation of such mandate (or the conversion thereof into a negotiating mandate) by a formal decision on the part of the General Council or the Ministerial Conference.</p> <p>In this connection, the 2001 Doha Ministerial Declaration further clarified the mandate and made it more time-limited, with an automatic "sunset" clause. In a phrase common to Paragraphs 22, 25, 26, and 27 DMD, each of the working groups as well as the CTG's special sessions on trade facilitation were supposed to continue their analytical work, albeit in a more focused way for each issue, as part of their respective study processes "in the period until the Fifth Session [of the Ministerial Conference]." When read in good faith and in light of the context, object, and purpose of the DMD, the ordinary meaning of this phrase is that it established a clear, unambiguous, and specific timeframe within which such study processes were supposed to be continued. This period is that</p>

type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

#### INTERACTION BETWEEN TRADE AND COMPETITION POLICY

23. Recognizing the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

from the end of the Doha Ministerial Conference to the conclusion of the Cancun Ministerial Conference. Hence, once such period had lapsed, i.e. at the conclusion of the Cancun Ministerial Conference on 14 September 2003, the mandate for the continuation of the study process under the DMD also lapsed automatically.

In addition, the study process mandate was expanded to include possible discussions on modalities due to a phrase common to Paragraphs 20, 23, 26, and 27 DMD – i.e. “we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.” Again when read in its ordinary meaning and in light of the object and purpose of the cited paragraphs, this phrase clearly shows that the intent of ministers to dis-establish the clarificatory study process mandates of the WTO bodies working on these issues after the Cancun Ministerial Conference by specifying that any work on these issues after Cancun would already have to be pursuant to a new negotiating mandate with negotiating modalities to be adopted by explicit consensus. There was no expressed intent on the part of the Ministerial Conference in 2001 to continue the study process after Cancun in the event that establishing a negotiating mandate for Singapore issues failed in Cancun.

24. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.

#### TRANSPARENCY IN GOVERNMENT PROCUREMENT

26. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. These negotiations will build on the progress made in the Working Group on

Since no consensus of any kind as to the post-Cancun mandate for Singapore issues were arrived at in Cancun, the expressed provisions of the DMD that called for the cessation of the study process mandate for Singapore issues at the Cancun Ministerial Conference would operate to close off any further discussion on Singapore issues post-Cancun in the absence of the creation, post-Cancun, of any new study mandate for them. Neither can Singapore issues be discussed post-Cancun under a negotiating mandate because such mandate was not established by explicit consensus at Cancun. In short, Singapore issues should no longer be deemed to be “outstanding issues” for purposes of the application of the instruction by ministers to trade officials under Paragraph 4 of the Cancun Ministerial Statement and hence should no longer be on the WTO’s agenda.

Since the study process mandate for Singapore issues begun in Singapore in 1996 and extended in the DMD up to the conclusion of the Cancun Ministerial Conference has already concluded, the conduct of which was the sole *raison d’etre* or function for the three Singapore issues working groups and the CTG’s special sessions on trade facilitation, these WTO bodies should therefore be deemed to have also been automatically dissolved upon the conclusion of the Cancun Ministerial Conference. Absent a clear mandate upon which to base their future work after Cancun, these WTO bodies would essentially be bodies without any function. Since such a situation is something that is not compatible with Art. IV.7 of the WTO Agreement (which requires that a WTO body established by the Ministerial Conference must have spe-

Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

cific assigned functions), the Singapore issues WTO bodies should hence be deemed to have been automatically dissolved upon the conclusion of the Cancun Ministerial Conference.

The July 2004 framework text on Singapore issues cannot be read as reviving the clarificatory study process mandate for Singapore issues and re-establishing their working groups. Instead, it will require a clear and explicit General Council or Ministerial Conference decision to revive such mandates and re-establish the working groups.

### G. Trade Facilitation

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>TRADE FACILITATION</p> <p>27. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.</p>	<p><b>g. Trade Facilitation:</b> taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate in paragraph 27 of the Doha Ministerial Declaration and the work carried out under the auspices of the General Council both prior to the Fifth Ministerial Conference and after its conclusion, the General Council decides by explicit consensus to commence negotiations on the basis of the modalities set out in Annex D to this document.</p>	<p>Annex D, Paragraph 10 establishes the following timeframes:</p> <ul style="list-style-type: none"> <li>(i) establishment of the Negotiating Group on Trade Facilitation and appointment of its Chair by the TNC – at the first meeting of the TNC after the July 2004 session of the General Council;</li> <li>(ii) agreement on a work plan and schedule of meetings of the Negotiating Group on Trade Facilitation – at the first meeting of the Negotiating Group; and</li> <li>(iii) conclusion of the negotiations on Trade Facilitation – at the same time as negotiations under the DWP single package are concluded</li> </ul>	<p>Paragraph 1(g) and Annex D of the July Decision has created a new negotiating mandate for Trade Facilitation negotiations. This is the only one of the Singapore issues for which a new mandate has been established.</p> <p>In this connection, the Negotiating Group on Trade Facilitation will be reporting to the TNC. It should ensure that the results of the negotiations fully reflect and take into account the principle of S&amp;DT in favour of developing countries and that the need for appropriate balance between national policy space and international disciplines and commitments (as recognized by the UNCTAD XI Sao Paulo Consensus) is effectively addressed.</p> <p>For detailed comments on Annex D of the July Decision on Trade Facilitation, see Part IV of this note.</p>

### H. WTO Rules

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>WTO RULES</p> <p>28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.</p>	<p><b>Rules, Trade &amp; Environment and TRIPS:</b> the General Council takes note of the reports to the TNC by the Negotiating Group on Rules and by the Special Sessions of the Committee on Trade and Environment and the TRIPS Council.<sup>5</sup> The Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates.</p>	<p>No specific deadline for negotiations on WTO Rules had been included in the Doha Ministerial Declaration. However, by virtue of the principle of single undertaking, it can be assumed that negotiations will evolve in parallel with other issues.</p> <p>No specific deadline was given for the various phases of negotiations in Rules in the July 2004 General Council Decision.</p>	<p>Negotiations in the Negotiating Group on WTO Rules had stagnated after the Cancun Ministerial Conference, but have resumed in March 2004.</p> <p>Since then, negotiations were marked by the following main features:</p> <ol style="list-style-type: none"> <li>1) Negotiations have shifted from the identification of provisions in the relevant agreements (mandated first stage of negotiations) to the more substantial discussion of elaborate proposals submitted by participants (identified as stage two of negotiations);</li> <li>2) A resulting intensification of negotiations and discussion of more technical issues;</li> <li>3) A clear and voluntary shift from formal discussions to an informal modus operandi;</li> <li>4) The submission of new proposals by a restricted group of countries.</li> </ol> <p>The purpose of July Framework decision was merely to take stock of the progress made this far. However, a few observations can be made with respect of prospective negotiations:</p> <p>Firstly, the choice of an informal method of discussion has led to more substantial discussions and a more detailed analysis of the proposals submitted. However, while a very limited number of developing countries have been actively involved in the negotiations (submissions were received from Brazil, Chile, Colombia, Costa Rica, Mexico, and Thailand), several proposals have been submitted by the United States.</p>

<sup>5</sup> The reports to the TNC referenced in this paragraph are contained in the following documents: Negotiating Group on Rules - TN/RL/9; Special Session of the Committee on Trade and Environment - TN/TE/9; Special Session of the Council for TRIPS - TN/IP/10.



<p>29. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.</p>		<p>It is desirable that other developing countries make an effort to participate more actively in discussions in order to increase their negotiating leverage and to advance their own positive agenda.</p> <p>Related to that point, developing countries should also unite forces in order to avoid a diversion of discussions towards more stringent domestic rules that could lead to increased abusive use of WTO rules for protectionist purposes against exports from developing countries.</p> <p>Developing countries should also take the opportunity to strengthen the relevant agreements in a way that ensures that market access opportunities obtained in other areas (such as NAMA for instance) are not nullified by arbitrary and discriminatory use of WTO Rules.</p> <p>From a procedural point of view, it should also be noted that informal negotiations should be kept open to all members desiring to participate in meetings.</p> <p>That is particularly important in view of a further intensification of discussions scheduled for September and October. Indeed a intensive programme of meetings of significant duration has been suggested by the Chairman of the Group and will take place starting on 27 September until 1<sup>st</sup> October. During that 5-day meeting, capital-based experts are invited to participate in the discussions and that is of course logistically difficult for the bulk of developing countries.</p> <p>Finally, while discussions in subsidies for fisheries are moving to more specific modalities of possible disciplines, the clarification and improvement of disciplines applying to RTAs have remained general for the moment (transparency and systemic issues).</p>
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### I. Dispute Settlement Understanding

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>DISPUTE SETTLEMENT UNDERSTANDING</p> <p>30. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.</p>	<p><b>Dispute Settlement:</b> the General Council takes note of the report to the TNC by the Special Session of the Dispute Settlement Body<sup>6</sup> and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the TNC's recommendation that work in the Special Session should continue on the basis set out by the Chairman of that body in his report to the TNC.</p>	<p>No new specific timeframes for the DSU negotiations have been established.</p>	<p>The July Decision simply reaffirmed and further extended the mandate for the DSB Special Session to negotiate improvements and clarifications of the DSU. By taking note of the DSB Special Session's report and adopting the TNC recommendation for the continuation of work of the DSB Special Session on the basis set out by the DSB Special Session Chair in his report to the TNC, the General Council affirmed the understanding of Members that "all the existing proposals would remain under consideration and [...] that these negotiations are outside the single undertaking."</p> <p>However, by adopting the DSB Special Session Chair's recommendations regarding continued work on this mandate, the General Council also accepted that there would not be any new specific target-date set for the conclusion of these negotiations. This is a clear departure from the action that the Ministerial Conference at Doha did in terms of specifying that the DSU negotiations should be concluded by May 2003.</p>

<sup>6</sup> This report is contained in document TN/DS/10.

### J. Trade and Environment

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>TRADE AND ENVIRONMENT</p> <p>31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:</p> <p>(i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;</p> <p>(ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;</p> <p>(iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.</p> <p>We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.</p> <p>32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:</p>	<p><b>Rules, Trade &amp; Environment and TRIPS:</b> the General Council takes note of the reports to the TNC by the Negotiating Group on Rules and by the Special Sessions of the Committee on Trade and Environment and the TRIPS Council.<sup>7</sup> The Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates.</p> <p><b>h. Other elements of the Work Programme:</b> the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementa-</p>	<p>No new specific timeframes for the trade and environment negotiations have been provided.</p> <p>Progress on the non-negotiating areas of the work programme on trade and environment should be reported to the Sixth Session of the Ministerial Conference in December 2005.</p>	<p>The July Decision simply reaffirms the existing negotiating and non-negotiating mandates with respect to trade and environment contained in the Doha Ministerial Declaration.</p>

<sup>7</sup> The reports to the TNC referenced in this paragraph are contained in the following documents: Negotiating Group on Rules - TN/RL/9; Special Session of the Committee on Trade and Environment - TN/TE/9; Special Session of the Council for TRIPS - TN/IP/10.

<p>(i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;</p> <p>(ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and</p> <p>(iii) labelling requirements for environmental purposes.</p> <p>Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.</p> <p>33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.</p>	<p>tion-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.</p>		
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### K. Electronic Commerce

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>ELECTRONIC COMMERCE</p> <p>34. We take note of the work which has been done in the General Council and other relevant bodies since the Ministerial Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.</p>	<p><b>h. Other elements of the Work Programme:</b> the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.</p>	<p>The timeframe indicated for the work programme on electronic commerce is for a report to be made to the Sixth Ministerial Conference as well as for the moratorium on customs duties on electronic transmissions to be extended to that date.</p>	<p>It would be important for progress to be achieved on the issues of the work programme on electronic commerce that relate more specifically to developing countries, e.g.:</p> <ul style="list-style-type: none"> <li>i. effects of electronic commerce on the trade and economic prospects of developing countries;</li> <li>ii challenges to and ways of enhancing the participation of developing countries in electronic commerce;</li> <li>iii. use of information technology in the integration of developing countries in the multilateral trading system;</li> <li>iv. implications for developing countries of the possible impact of electronic commerce on the traditional means of distribution; and</li> <li>v. financial implications of electronic commerce for developing countries.</li> </ul> <p>These substantive issues should be considered as crucial as the moratorium on duties.</p> <p>Moreover, the current institutional arrangement for the handling of the work programme may need to be revised to ensure that movement is made on this issue. It could be suggested for example that the three councils (Services, Goods and TRIPs) hold joint meetings with the COMTD.</p>

**L. Small Economies**

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>SMALL ECONOMIES</p> <p>35. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.</p>	<p><b>d. Development issues –</b> x x x <b>Other Development Issues:</b> x x x The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.</p>	<p>No timeframes are indicated for the work programme on small economies.</p>	<p>The paragraph on ‘Other Development Issues’ recalls the work programme on small economies that was established by the DMD. However, the current paragraph does not provide dates for the next reports to the GC or state whether recommendations will be made to the 6<sup>th</sup> Ministerial Conference.</p> <p>It is important that concrete recommendations for action – as mandated by the Doha Ministerial Declaration – be identified, at the latest by the Sixth Ministerial Conference.</p> <p>It is worth noting that during the discussion for the adoption of the July Decision the issue of whether special treatment, particularly in the agriculture and NAMA negotiations should be provided to weak and vulnerable economies, came strongly to the fore. After lengthy discussions on the ‘development paragraph’ of the Decision it was decided that further consideration of this issue will be addressed in the context of the work programme on small economies. It is not clear how the issue will be specifically dealt with and what relation this work programme may develop, if any, with the negotiations on specific areas.</p> <p>In order to ensure the best possible outcomes in this area it would be important for new timeframes to be decided on in the COMTD and GC for agreeing to specific measures and for the GC to propose all necessary measures (amendments, decisions, understanding, etc.) to implement the agreed work programme.</p>

**M. Trade, Debt and Finance**

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>TRADE, DEBT AND FINANCE</p> <p>36. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.</p>	<p><b>h. Other elements of the Work Programme:</b> the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.</p>	<p>Progress on this issue with any possible recommendations will be reported to the Sixth Ministerial Conference in December 2005.</p>	<p>The July Decision simply reaffirms and extends the mandate of Working Group on Trade, Debt, and Finance (WGTDF) up to the Hong Kong Ministerial Conference.</p> <p>However, considering that the WGTDF has been virtually inactive for practically the whole of 2003 and 2004, developing countries should seek to revive the work in the WGTDF and ensure that it becomes an effective vehicle for articulating and addressing their concerns in this area of work.</p> <p>One issue that should be fully discussed in this working group is the situation of commodity dependent developing countries, the effects and relationship between commodity-dependence and indebtedness and the consequences for development.</p>

### N. Trade and Transfer of Technology

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>TRADE AND TRANSFER OF TECHNOLOGY</p> <p>37. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.</p>	<p><b>h. Other elements of the Work Programme:</b> the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.</p>	<p>Progress on this issue with any possible recommendations will be reported to the Sixth Ministerial Conference in December 2005.</p>	<p>Although not specifically addressed as a separate issue, the mandate of the Working Group continues as set out in para. 37 of DMD save for the reporting timelines which have been moved to the Sixth Ministerial Conference. Unlike, Investment, competition and Government Procurement which are specifically excluded from the Doha Work Programme, trade and transfer of technology remains part of that Work Programme. This is one of the issues that are of interest to developing countries with respect to which the General Council emphasised the commitment to fulfil the Doha mandates.</p> <p>The July Framework, however, proceeds on the basis that there has been no significant progress in the Working Group to warrant scaling-up the mandate for this Working Group.<sup>8</sup> The Text does not also reflect any serious ambition for the work being undertaken in the Working Group. The aim of developing countries should, as before, be to push the discussions in the Working Group to a level where there is sufficient basis to argue for moving into negotiations on this issue.</p> <p>Consequently, it is important that developing countries seek to inject some ambition into the work of the Working Group in the next phase towards possible negotiations. This could be done by emphasising that the work of the Group is geared towards preparation of recommendations to the Ministerial.</p> <p>In this regard, developing countries could, for example, push for the Group to address, among others, possible recommendations on the deficiencies of the current transfer of technology clauses in WTO agreements and setting of a timetable for operationalising and improving these provisions; identification of other WTO agreements which affect technology transfer and in which there are currently no technology transfer clauses; recommendations on the desirability or otherwise for establishing a WTO framework agreement on trade and transfer of</p>

<sup>8</sup> See the Report of the Working Group to the General Council during the preparations for the Cancun Ministerial Conference. Document WT/WGTTT/5 dated 14 July 2003.



		<p>technology and if such an agreement is desirable, setting a timetable for negotiations; recommendations on the desirability to establish an impact assessment mechanism to monitor or assess the impact of WTO agreements, especially future ones, on technology transfer to developing countries.</p> <p>Finally, the strategy should also include raising the profile of the discussions on trade and transfer of technology. So far, the discussions have not attracted sufficient attention or built sufficient momentum either to propel the discussions into negotiations in future or at least to eventually exact a high trade-off price.</p>
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### O. Technical Assistance

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>TECHNICAL COOPERATION AND CAPACITY BUILDING</p> <p>38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced.</p> <p>39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant interna-</p>	<p><b>Paragraph 1 d. Development</b></p> <p><b>Principles:</b> development concerns form an integral part of the Doha Ministerial Declaration. The General Council rededicates and re-commits Members to fulfilling the development dimension of the Doha Development Agenda, which places the needs and interests of developing and least-developed countries at the heart of the Doha Work Programme. <u>The Council reiterates the important role that enhanced market access, balanced rules, and well targeted, <u>sustainably financed technical assistance and capacity building programmes can play in the economic development of these countries.</u></u></p> <p><b>Technical Assistance:</b> the General Council recognizes the progress that has been made since the Doha Ministerial Conference in expanding Trade-Related Technical Assistance (TRTA) to developing countries and low-income countries in transition. In furthering this effort the Council affirms that such countries, and in particu-</p>	<p>No timeframes have been established regarding technical assistance.</p>	<p>The July Decision acknowledges as a principle of the development dimension of the negotiations, the importance of “sustainably financed” technical assistance and capacity building programmes for developing countries.</p> <p>The paragraph on technical assistance only acknowledges the progress made so far on the provision of assistance to developing countries, LDCs and economies in transition, and commits Members to further enhance trade-related technical assistance and capacity building for such countries.</p> <p>It would be desirable that developing countries insist on the discussions on technical assistance, most likely in the context of the Committee on Trade and Development, for a thorough assessment of the adequacy and relevance of the technical assistance and capacity building measures provided, both in quantitative and qualitative terms. Specific timeframes should be established for this assessment early enough in the process so as to provide an opportunity for improvements. It could be proposed that the Director General provide an interim report to the General Council on technical assistance and capacity building, including results of the assessment mentioned above, on July 2005 in parallel with the deadlines established for implementation and S&amp;D is-</p>

tional and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

40. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.

41. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity-building programmes. We instruct the Director-General to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.

lar least-developed countries, should be provided with enhanced TRTA and capacity building, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies. In this context the Council welcomes and further encourages the improved coordination with other agencies, including under the Integrated Framework for TRTA for the LDCs (IF) and the Joint Integrated Technical Assistance Programme (JITAP).

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The issue of resource is also relevant. It would be appropriate to monitor that new or additional resources are committed for the provision of technical assistance and capacity building on a sustainable basis for all developing countries, based on their particular needs and priorities.

Furthermore, technical assistance and capacity building should be demand driven. Therefore, developing countries should insist that the programme of cooperation to be developed by the Secretariat be established in close consultation with Members to guarantee that the assistance provided meets the needs and priorities of the country concerned. In previous evaluations of technical assistance programmes, the need for involvement of regional and national experts has been highlighted by many developing countries. This issue should be taken into account when developing the new programmes of activities on technical assistance and capacity building.

The July Decision includes specific reference to technical assistance in areas such as NAMA; agriculture, in relation with the cotton initiative; services and trade facilitation. Support for the negotiations should be additional and complement other initiatives of technical assistance and capacity building which Members should have access to independently of whether there are negotiations or not.

**P. Least-Developed Countries**

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>LEAST-DEVELOPED COUNTRIES</p> <p>42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their Ministers in July 2001. We recognize that the integration of the LDCs into the multilateral trading system requires meaningful market access, support for the diversification of their production and export base, and trade-related technical assistance and capacity building. We agree that the meaningful integration of LDCs into the trading system and the global economy will involve efforts by all WTO Members. We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. In this regard, we welcome the significant market access improvements by WTO Members in advance of the Third UN Conference on LDCs (LDC-III), in Brussels, May 2001. We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs. Accession of LDCs remains a priority for the Membership. We agree to work to facilitate and accelerate negotiations with acceding LDCs. We instruct the Secretariat to reflect the priority we attach to LDCs' accessions in the annual plans for technical assistance. We reaffirm the commitments we undertook at LDC-III, and agree that the WTO should take into account, in designing its work programme for LDCs, the trade-related elements of the Brussels Declaration and Programme of Action, consistent with the WTO's mandate, adopted at LDC-III. We instruct the Sub-Committee for Least-Developed Countries to design such a work programme and to report on the agreed work programme to the General Council at its first meeting in 2002.</p> <p>43. We endorse the Integrated Framework for Trade-Related</p>	<p><b>Least-Developed Countries:</b> the General Council reaffirms the commitments made at Doha concerning least-developed countries and renews its determination to fulfill these commitments. Members will continue to take due account of the concerns of least-developed countries in the negotiations. The Council confirms that nothing in this Decision shall detract in any way from the special provisions agreed by Members in respect of these countries.</p>	<p>No timeframes are indicated for reporting on the work programme on Least Developed Countries.</p>	<p>The July GC Decision reaffirms commitments made in Doha concerning LDCs. However, though the DMD explicitly referred to the Zanzibar Declaration the question arises whether the objectives expressed by LDCs in various declarations since the Doha Ministerial Conference have truly been taken into account in the negotiations. Indeed though there have been some achievements so far (e.g. Decision on accession of LDCs, Modalities for the Special Treatment of LDCs in the negotiations on services) it is questionable whether the mandate of paragraphs 42 and 43 of the Doha Ministerial Declaration has been adequately addressed in all areas of the negotiations.</p> <p>In order to adequately fulfil the mandate on LDCs and to respond to the special needs of this category of countries, Members should agree to devoting particular focus to a number of market access and supply issues that have so far not been adequately addressed. These include several agreement-specific objectives of LDCs (e.g. achieving restraint in the application of TBT/SPS for LDC agricultural exports, bound duty-free and quota-free market access for LDCs exports, maximum credit for unilateral liberalisation by LDCs in industrial goods and services, a moratorium on AD, CVD and safeguard measures against LDC exports, the facilitation of the recognition of qualifications of LDCs service suppliers and their participation of LDCs in MRAs, simplified procedures for investigation to be devised for LDCs, exemption of</p>

<p>Technical Assistance to Least-Developed Countries (IF) as a viable model for LDCs' trade development. We urge development partners to significantly increase contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We request the Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in December 2002 and a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs.</p>		<p>export competitiveness thresholds for export subsidies of LDCs, and the extension of the transition periods for LDCs under TRIPS article 66.1.</p> <p>Moreover, efforts still need to go towards securing increased and sustainable financing of the Integrated Framework Trust Fund and the extension of country coverage shall be sought in the IF and other programmes in favour of LDCs.</p> <p>It would be important for new dates to be decided on for the report to the GC and a full report to the Sixth Session of the Ministerial Conference on all issues affecting LDCs.</p>
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### Q. Special and Differential Treatment

Doha Ministerial Declaration	July 2004 General Council Decision	Timeframes	Analytical Comments
<p>SPECIAL AND DIFFERENTIAL TREATMENT</p> <p>44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse</p>	<p><b>Special and Differential Treatment:</b> the General Council reaffirms that provisions for special and differential (S&amp;D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&amp;D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far. The Council instructs the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by July 2005. The Council further instructs the Committee, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&amp;D treatment into the architecture of WTO rules, as referred to in TN/CTD/7 and report, as appropriate, to the General Council. The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible</p>	<p>A new timeframe has been established by the July Decision, requiring the CTD Special Session and all WTO bodies to which Category II proposals have been referred to complete their work and submit clear recommendations to the General Council by July 2005.</p>	<p>Despite the length of the July Decision's text on S&amp;DT, it does not contain much substance other than the establishment of a new July 2005 deadline for work on S&amp;DT issues to be completed. No new substantive mandate that would break the current situation of virtual substantive stalemate and virtually lack of progress within both the CTD Special Session and the various WTO bodies working on Category II proposals has been provided by the July Decision.</p> <p>In fact, the language on SDT in the July framework seems to be contradictory. It indicates that the Special Session of the CTD should address, report and make recommendations to the General Council with respect to <u>all</u> the outstanding Agreement-specific issues. This would suggest that the CTD special session is the body where all those issues should be discussed and addressed. However, the second paragraph indicates that issues under Category II will be addressed by each of the regular bodies where those have been directed and that each of those bodies should report and make recommendations directly to the General Council.</p> <p>Developing countries have insisted on concentrating the discussion on SDT proposals within the CTD special session given their lack of resources to follow negotiations in many bodies, and the fact that the regular bodies do not have a negotiating mandate as the special session of the CTD does. This considerably restricts the possibility of what can be achieved on these issues within the regular bodies. Developing countries may insist on the clear reference in the first paragraph to the fact that the CTD special session should address all outstanding agreement-specific issues, and their lack of resources, to concentrate the discussion of all issues, including those under Category II within that body.</p> <p>Developing countries may also want to insist on discussing credible timeframes for the discussion and resolution of other outstanding issues to</p>

<p>the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.</p>	<p>and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions.</p>		<p>avoid fragmentation of the work. Developed countries may want to push for resolution of specific issues (many of them not economically meaningful after being water down in the negotiations) in exchange for concessions from developing countries, and refuse or postpone negotiations on other important proposals made by developing countries. It is important that the mandate is fulfilled and its integrity preserved.</p>
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**R. Single Undertaking Negotiations**

<b>Doha Ministerial Declaration</b>	<b>July 2004 General Council Decision</b>	<b>Timeframes</b>	<b>Analytical Comments</b>
<p>45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.</p>	<p>3. The General Council calls on all Members to redouble their efforts towards the conclusion of a balanced overall outcome of the Doha Development Agenda in fulfilment of the commitments Ministers took at Doha. The Council agrees to continue the negotiations launched at Doha beyond the timeframe set out in paragraph 45 of the Doha Declaration, leading to the Sixth Session of the Ministerial Conference. Recalling its decision of 21 October 2003 to accept the generous offer of the Government of Hong Kong, China to host the Sixth Session, the Council further agrees that this Session will be held in December 2005.</p>	<p>The 6<sup>th</sup> Session of the Ministerial Conference will be held in Hong Kong in December 2005.</p>	<p>The July Decision has extended the timeframe for the Doha negotiations beyond 1 January 2005 without, however, specifying a new end-date for the negotiations.</p> <p>Instead, by stating that the Doha negotiations may continue “beyond the timeframe set out in paragraph 45 of the Doha Declaration, leading to the Sixth Session of the Ministerial Conference”, the text seems to imply that the negotiations may continue even beyond the Hong Kong session of the Ministerial Conference, with such session simply becoming another waypoint during which the Ministerial Conference can review the progress of the negotiations. Note that the text does not say that the Hong Kong meeting will mark the conclusion of the negotiations.</p>





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