

**THE UNCTAD XI:
COMMENTS ON THE 13 MAY 2004 DRAFT NEGOTIATED TEXT**

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I. INTRODUCTION

1. This paper is intended as a follow-up to the South Centre’s informal paper entitled “The UNCTAD XI: Defining UNCTAD’s Future Mandate” in which readers were provided with a brief overview of the current state of play (as of late March 2004) of the pre-conference negotiations, and then a paragraph by paragraph description of the differences in negotiating positions among various countries.
2. This current paper now looks at the Draft UNCTAD XI Negotiated Text (TD(XI)/PC/CRP.7, 13 May 2004) transmitted by the UNCTAD XI Preparatory Committee to the UNCTAD XI Conference Chair (Brazil) on 13 May 2004. This text will be the basis for further negotiations during the UNCTAD XI Conference in Sao Paulo from June 13-18, 2004. Comments are provided in this paper on a selection of the few remaining bracketed paragraphs – i.e. those paragraphs on which consensus had not been reached during the pre-conference negotiations.

II. SELECTED PARAGRAPH BY PARAGRAPH COMMENTS

| 13 May 2004 Draft Negotiated Text | Comments |
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| <i>A. Sub-Theme I – Development Strategies in a Globalizing World Economy</i> | |
| 20. [Building on] [Consistent with] the Monterrey Consensus, developed countries should assist developing countries in attaining internationally agreed development goals, including those contained in the Millennium Declaration, by providing | The bracketed text in regular font suggested by the PrepComm Chair in his 28 April 2004 text should be retained. The bracketed bold-face suggested new text, most likely coming from developed countries, will make the paragraph weaker and even more hortatory |

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| <p>adequate technical and financial assistance and by making concrete efforts towards the targets for ODA of 0.7 per cent of GNP to developing countries and 0.15 per cent to 0.2 per cent of GNP to least developed countries. This should be linked to efforts to improve the quality and effectiveness of aid, including through better coordination, closer integration with national development strategies, greater predictability and stability, and genuine national ownership. [[Donors should be encouraged to take steps] [It is desirable] to ensure that resources provided for debt relief do not detract from ODA resources intended to be available for developing countries.] Developing countries are encouraged to build on progress achieved in ensuring that ODA is used effectively to help achieve development goals and targets.</p> | <p>than it already is. While the April 28 Chair's text tries to incorporate language that would highlight the importance of ODA for development and tries to support the provision of ODA beyond that required under the Monterrey Consensus, the developed countries' suggested text would instead remove such forward-looking intent and make the text very hortatory.</p> <p>The phrase "Building on" should be retained, and the suggested bold-face text with respect to donors should be rephrased to "Donors should take steps".</p> |
| <p>[22. There is a need for the elimination of the continuing use of coercive economic and trade measures against developing countries, through, <i>inter alia</i>, unilateral economic and trade sanctions, in particular new attempts aimed at extraterritorial application of domestic law, which constitutes a violation of the United Nations Charter and WTO rules.]</p> | <p>This proposed new language (in bold-face bracketed text) highlights a key aspect of some developed countries' trade and economic policies that may adversely affect developing countries.</p> |
| <p><i>B. Sub-Theme II – Building Productive Capacities and International Competitiveness</i></p> | |
| <p>[45. Private firms are important agents of development throughout the world. Within their respective spheres of action, corporate actors, especially TNCs, play an important role in supporting technology transfer, supplier linkages and the provision of access to export markets for developing countries. Corporate responsibility was recognized at the Johannesburg World Summit on Sustainable Development. [Corporate responsibility [entails] [includes]] [Corporate actors can play] a positive role in stimulating the economic development of host countries and in supporting social and environmental development and the competitiveness of local enterprises. There are various voluntary international instruments that could be improved and made more coherent, covering economic, social and environmental dimensions, to help increase the contribution of corporate actors, especially TNCs, to the advancement of</p> | <p>The issue of corporate responsibility has been one that has been of interest to developing countries. In particular, the G77 was at the forefront during the 2002 Johannesburg World Summit on Sustainable Development (WSSD) in ensuring that significant language on the need to promote and ensure corporate responsibility are reflected in both the political declaration and the plan of implementation.</p> <p>Such language on corporate responsibility can be found in Paragraph 29 of the Johannesburg Declaration on Sustainable Development and in Paragraphs 18, 49, and 140(f) of the WSSD Plan of Implementation (see Annex 1 below).</p> <p>In view of the above, the phrase "Corporate responsibility entails playing" could be inserted in the bracketed paragraph, in order to ensure that the actions of corporate actors</p> |

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| development goals.] | need to be supportive of developing countries' developmental objectives. |
| [58. UNCTAD should provide policy analysis on ways and means to promote a positive corporate contribution to the economic and social development of host countries, taking into account existing international initiatives in this area. It should develop [precepts] [guidelines] on good corporate practices, as far as the development dimension is concerned, with a view to making this information available to interested parties.] | The bracketed words "precepts" and "guidelines" are not exactly synonymous with each other. "Precepts" refer to teachings – i.e. an analytical outcome that need not necessarily be complied with nor implemented. "Guidelines", on the other hand, carry a more mandatory meaning, and is essentially synonymous with "rules," "principles," "procedures," or "courses of action" – i.e. essentially a set of instructions that lay down a precise set of actions that can be followed. From the perspective of developing countries' interest in ensuring good corporate practices and corporate responsibility, the word "guidelines" should be supported. |
| <i>C. Sub-Theme III – Assuring Development Gains from the International Trading System and Trade Negotiations</i> | |
| 69. [The use of unilateral actions that are inconsistent with WTO rules can have a negative effect on efforts to move towards a truly non-discriminatory and open system.] [The use of coercive economic measures through, <i>inter alia</i>, unilateral trade sanctions has a negative effect on efforts to move towards a truly non-discriminatory and open system.] | The bracketed paragraph referring to the use of WTO-inconsistent unilateral trade actions as "coercive economic measures" essentially highlights a key aspect of some developed countries' trade and economic policies that may adversely affect developing countries and the development of an open and non-discriminatory trading system. The bold-face bracketed suggested text seeks to make the existing text even stronger. |
| [81. In addition, the elimination of all unilateral economic and coercive measures against developing countries, which contravene the basic principles of the multilateral trading system, should remain a priority for the international community.] | The bracketed bold-face suggested text seeks to introduce language that would highlight the need to eliminate the use of unilateral and coercive economic measures against development countries as a matter of international priority. This reflects the current reality vis-à-vis some developed countries' trade policies, and hence this kind of text calling for the elimination of such discriminatory trade policies needs to be included in the text (together with the bracketed paragraphs 22 and 69). |
| 85. The particular problems of small developing [and vulnerable] economies, including small island developing States and landlocked [and transit] developing countries, should be given special consideration. Priority should be given to the full and timely implementation of the [Almaty Programme of Action and the Almaty Ministerial Declaration for landlocked and transit | Text on the problems of small economies (including land-locked and transit developing countries, small island developing states, and other small and vulnerable economies) need to be included in the UNCTAD XI text in recognition of the particular difficulties that such countries face. However, the suggested bold-face bracketed text, especially the words "consistent with the Doha Work |

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| <p>developing countries] [Almaty Ministerial Declaration and the Almaty Programme of Action: Addressing the Special Needs of Landlocked Developing Countries within a New Global Framework for Transit Transport Cooperation for Landlocked and Transit Developing Countries]. All efforts must be made to ensure a successful outcome of the International Meeting for the 10-year Review of the Barbados Programme of Action in Mauritius in August 2004, which should contribute to the beneficial integration of the small island developing States (SIDS) into the international trading system and the world economy. [The Doha Work Programme on small economies should continue with a view to achieving appropriate measures and actions to address the specific constraints faced by small, [and] vulnerable economies in integrating more fully into the multilateral trading system.] [The examination of issues relating to the trade of small, vulnerable economies, and the framing of responses to these trade-related issues to facilitate their fuller integration into the multilateral trading system should be actively pursued consistent with the Doha Work Programme].</p> | <p>Programme,” will effectively restrict the examination of issues relating to the trade of these countries and the responses thereto only to the context of the WTO’s work on small economies under the Doha Work Programme. Given the very slow pace of discussions on this issue within the WTO Committee on Trade and Development’s Dedicated Session on Small Economies, and the virtual lack of progress in effectively addressing the issues raised by small economies in that forum, restricting future work on such issues to the WTO would be a recipe for further non-action on such issues. The April 28 PrepComm chair’s text provides a more flexible alternative in that it does not require any examination of the issues to be “consistent with the Doha Work Programme” and hence may allow UNCTAD to do more work on these issues.</p> |
| <p>95. While developing countries must continue to assume responsibility for their own development, the international community should assist developing countries, especially LDCs, in their efforts to develop human, institutional, [legal, judicial], regulatory and R&D capacities and infrastructures for effective, informed and beneficial participation in international trade and the international trading system and for effective negotiations on international trade and related areas. Adequate resources should be allocated for these purposes, in particular within the framework provided by national development strategies and priorities [and poverty reduction strategies] [including those aimed at poverty reduction] that integrate trade-related assistance and capacity building needs, including supply-side needs.</p> | <p>The introduction of the suggested bold-face bracketed words “legal, judicial” in this paragraph should not be supported as it may lead towards an opening of the door towards the use of ODA from developed countries to require developing countries to establish or agree to new domestic legal adjudicatory mechanisms or bodies outside of existing judicial avenues to serve as the fora for trade-related disputes between local and foreign firms.</p> |

ANNEX 1: WSSD TEXT ON CORPORATE RESPONSIBILITY

| Johannesburg Declaration on Sustainable Development | Johannesburg WSSD Plan of Implementation |
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| <p>29. We agree that there is a need for private sector corporations to enforce corporate accountability, which should take place within a transparent and stable regulatory environment.</p> | <p>18. Enhance corporate environmental and social responsibility and accountability. This would include actions at all levels to:</p> <ul style="list-style-type: none"> (a) Encourage industry to improve social and environmental performance through voluntary initiatives, including environmental management systems, codes of conduct, certification and public reporting on environmental and social issues, taking into account such initiatives as the International Organization for Standardization standards and Global Reporting Initiative guidelines on sustainability reporting, bearing in mind principle 11 of the Rio Declaration on Environment and Development; (b) Encourage dialogue between enterprises and the communities in which they operate and other stakeholders; (c) Encourage financial institutions to incorporate sustainable development considerations into their decision-making processes; (d) Develop workplace-based partnerships and programmes, including training and education programmes. <p>49. Actively promote corporate responsibility and accountability, based on the Rio principles, including through the full development and effective implementation of intergovernmental agreements and measures, international initiatives and public-private partnerships and appropriate national regulations, and support continuous improvement in corporate practices in all countries.</p> <p>140. The international community should:</p> <ul style="list-style-type: none"> (f) Promote corporate responsibility and accountability and the exchange of best practices in the context of sustainable development, including, as appropriate, through multi-stakeholder dialogue, such as through the Commission on Sustainable Development, and other initiatives; |



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