

WTO'S MC9: SUMMARY OF ISSUES

SYNOPSIS

10 documents were distributed to WTO Members on 26 November 2013 at the last General Council meeting before the Bali Ministerial Conference (MC9). These documents are being transmitted to Bali. They include:

Trade Facilitation (Rm W text – JOB/TNC/35)

Agriculture

- General Services (JOB/TNC/28)
- Public Stockholding for Food Security Purposes (JOB/TNC/29)
- Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as Defined in Article 2 of the Agreement on Agriculture (JOB/TNC/30)
- Export Competition (JOB/TNC/31)

Cotton (JOB/TNC/32)

Development and LDC Issues

- Preferential Rules of Origin for LDCs (JOB/TNC/24/Rev.1)
- Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of LDCs (JOB/TNC/25/Rev.1)
- Duty-Free and Quota-Free Market Access for LDCs (JOB/TNC/33)
- Monitoring Mechanism on Special and Differential Treatment (JOB/TNC/34)

As the negotiations are not completed, these texts are still bracketed. This paper provides in bullet points, what the proponents of these issues had wanted, what they attained in these still-to-be-finalised documents, and provides a short commentary of the outcomes obtained.

On balance, the package for developing countries remains highly imbalanced: a legally binding Trade Facilitation Agreement demanded primarily by developed countries, versus outcomes on issues of importance to developing countries that are not legally binding (LDC issues; export competition); very weak (Monitoring Mechanism); or time-limited and partial (food security; tariff-rate quota administration) in application.

November 2013
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TABLE OF CONTENTS

I.	Summary of the Bali Package.....	3
II.	5 Page table of the Bali Package.....	4
III.	Public stockholding for food security purposes	8
IV.	General Services - Agreement on Agriculture (Annex 2)	9
V.	Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as defined In Article 2 of the Agreement on Agriculture.....	10
VI.	Export Competition.....	11
VII.	Trade Facilitation.....	12
VIII.	Monitoring Mechanism (MM).....	13
IX.	LDC Package	15

I. SUMMARY OF THE BALI PACKAGE

Proposals by primarily Developed Countries and Possible Outcome	Proposals by Developing Countries and Possible Outcome
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- A full binding trade facilitation agreement

This agreement will be costly to implement, will increase imports of net-importing countries and requires the input of significant resources.

In the area of expedited shipments, demandeurs are also asking countries to liberalise courier services.

- Food Security – a 4 year Peace Clause giving only partial coverage from WTO’s dispute challenges

- Export Competition – no binding commitments taken by developed countries

- Tariff Rate Quota (TRQ) Administration– likely to be no longer applicable to US after 6 years

- LDC issues – low ambition non-binding outcomes (market access; cotton; services waiver)

- Monitoring Mechanism – ineffective Mechanism since it does not have the mandate of strengthening Special and Differential Treatment (S&D) provisions

- Binding Trade Facilitation Agreements Versus Non-Binding or Time-Limited Outcomes in Areas Proposed by Developing Countries

- Whilst it looks like there are many developing country issues on the table for harvest in the Bali package, the reality is that the outcomes on these issues are of little if any real value since the language is weak (Monitoring Mechanism); non-binding (LDC issues, export competition); or are time-limited and partial (food security; Tariff-Rate Quota Administration) in application.

II. 5 PAGE TABLE OF THE BALI PACKAGE

Issue	Key demands by developing countries	Outcome for Bali (MC9)	Assessment/comments
Public stockholding for food security purposes	Partial harvest Annex B (Green Box) of Rev.4 – Acquisition of stocks of foodstuffs by developing country Members with the objective of supporting low-income or resource-poor producers shall not be required to be accounted for in the AMS. (i.e. Green Box)	Temporary and partial peace clause for 4 years – shall refrain from starting dispute settlement cases for countries using public stockholding programmes. However <ul style="list-style-type: none"> - the WTO’s Agreement on Subsidies and Countervailing Duties can still be used to take countries to dispute; - inclusion of onerous conditions when using (notification, enhanced transparency, traditional food staples only) - stockholding programmes not to distort trade - standstill on other programmes falling under the AMS or de minimis. 	The current rules of the Agreement on Agriculture consider the difference between acquisition price and historical low price of 1986-88 as a subsidy, even if purchases are made at market prices. This anomaly is not being corrected. The partial Peace Clause for only 4 years is unsatisfactory and will leave countries in the same or even more exposed position after 4 years as they would have had to give details of their stockholding programmes.
List of General Services (Agreement on Agriculture – Annex 2)	Partial harvest Annex B of Rev.4* ¹ – Developing countries wanted additional measures to promote rural development and poverty alleviation to be added under ‘General Services’ of the Green Box (not subject to ceiling limits) in the Agreement on Agriculture.	Listing of measures that can be considered Green Box measures, to be used by all WTO members (developing as well as developed)	Listed measures have been formerly notified by Members as Green Box measures. There is value – but it is extremely limited.
G-20 – Tariff Rate Quota Administration (TRQ)	Harvest TRQ administration from Rev.4*. This was not an ambitious proposal. Only calling for slight modifications to the administration of tariff quotas so that fill	A Decision with the same text as in Rev.4, only addition is a review provision. Possibly revised text by MC12. US reserves a permanent right not to change its TRQ	US has obtained ‘Special and Differential Treatment’ as of 2019 regarding its TRQ administration.

¹ *Rev.4 refers to TN/AG/W/4/Rev.4, dated 6 December 2008. This is the last version of the Doha Round’s agriculture modalities text.

Issue	Key demands by developing countries	Outcome for Bali (MC9)	Assessment/comments
	rates can be improved.	administration methods after MC 12 (2019).	
G-20 - Export Competition -	Partial harvest of Export Competition as down payment/interim measure based on Rev.4* - 50% cut in scheduled export subsidy commitments and maximum repayment period for export financing	A best endeavour standstill on export subsidies and 'a similar level of discipline will be maintained on the use of all export measures with equivalent effect.'	Best endeavour language - no tangible commitment
Section I Trade Facilitation	Developing countries were by and large not demanders of the Trade Facilitation rules. Most of the Section I rules have come from developed countries and are in fact, to a large degree, the current practices of many developed countries.	<p>A text of 22 pages containing 13 articles of rules and sub-rules that go far beyond the GATT Articles V, VIII and X on this issue.</p> <p>Text remains bracketed in a number of areas including:</p> <ul style="list-style-type: none"> • Expedited shipments • Consularisation • Use of customs brokers • Freedom of transit amongst others. 	<p>Whilst many developing countries acknowledge the utility of Trade Facilitation guidelines, taking on binding rules which are expensive to implement and which are likely to increase imports has been a concern especially for a large number of lower-income developing countries. There are also measures that under expedited shipments that will require countries to liberalise their courier services!</p> <p>Many developing countries are apprehensive that they might be pressured into implementing these commitments on a permanent basis when they may not have the sustained implementation capacity and when they have more pressing national priorities to deal with.</p>
Section II Trade Facilitation	Implementation of Category C provisions should be conditional on the acquisition of sustained implementation capacity by developing countries and LDCs and the provision of adequate technical and financial assistance and capacity building	Provision of support and capacity building is not binding. No real self-assessment of implementation capacity (but LDC-specific flexibility not yet determined). Developing countries can end up in a situation where they have to implement but did not receive	<p>The outcome is disappointing. The position of developing countries on self-assessment has been considerably eroded.</p> <p>In 'Category C', developing countries are to take on permanent binding</p>

Issue	Key demands by developing countries	Outcome for Bali (MC9)	Assessment/comments
	<p>measures by developed countries.</p> <p>Countries to self-assess whether or not they have the implementation capacity.</p>	<p>adequate support and technical assistance.</p>	<p>commitments upon receipt of time-limited assistance. Issue of whether their implementation capacity can be sustained over the long-term has not been addressed.</p>
<p>Monitoring Mechanism (MM)</p>	<p>Originally, the Monitoring Mechanism (MM) was to be operationalized after the strengthening of Special and Differential Treatment (S&D) provisions had taken place (para 44 of the Doha Round).</p> <p>Given that that had not taken place, developing countries wanted the MM to strengthen S&D Provisions in accordance with the mandate of paragraph 44 of the Doha Declaration</p>	<p>No mention of strengthening S&D provisions. The mandate is largely about reviewing the implementation of S&D provisions.</p>	<p>The Monitoring Mechanism process is <u>CTD-Minus</u> because</p> <ul style="list-style-type: none"> - Unlike CTD it 'subservient' to the other negotiating bodies - Limited in the type of instructions it can give to the other bodies - Negotiations largely do not take place in the MM but in the other bodies. <p>In fact the biggest danger is that it could in practice disable the CTD's ability to review the application of S&D provisions since the MM is going to be a 'focal point' within the WTO looking at reviewing the implementation of S&D provisions.</p> <p>With its weak mandate, it is possible that S&D provisions become weaker after the review!</p>
<p>LDCs - cotton</p>	<p>Duty-free and Quota-free market access (DFQF) for cotton by 1 Jan 2015; elimination export subsidies on cotton; draft Decision on the definitive resolution of the cotton issue to be submitted to General Council by 31 December 2014 at the latest.</p>	<p>States that the July Package (2004), Hong Kong Ministerial Declaration (2005), and Rev.4* provide the basis/reference point for future work.</p> <p>Agrees to a dedicated discussion on a bi-annual basis (i.e. twice a year) to examine</p>	<p>No specific deliverable for MC9, continuation of discussions. No mandate for the discussions to deliver on a concrete outcome by a specific date.</p>

Issue	Key demands by developing countries	Outcome for Bali (MC9)	Assessment/comments
		relevant trade-related developments across the three pillars of Market Access, Domestic Support and Export Competition in relation to cotton.	
LDCs - DFQF	An improvement from the commitment in Hong Kong (Annex F, No. 36)	Best endeavour commitment to increase existing coverage of LDC-preference schemes - 'developed countries that do not yet provide DFQF for at least 97%...shall seek to improve their existing DFQF coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference'.	'Shall seek to improve' is a best endeavour promise i.e. there is no tangible commitment
LDCs - LDC preferential rules of origin	Binding agreement on rules of origin for LDC-preference schemes	Non-binding agreement	Non-binding language - Language in the December 2008 draft negotiating modalities in agriculture and NAMA is even more binding.
LDCs - operationalization of services waiver	LDC Services waiver allowing developed countries to provide LDCs with preferential market access in services was already adopted 2 years ago in MC8. However, it has remained an empty shell. LDC Group made earlier proposals but Members have not offered preferences for LDC services/service suppliers.	High-level meeting six months after the submission of an LDC collective request identifying the sectors and modes of supply of particular export interest to them	<p>Outcome remains wanting since developed countries have not come forward to actually make concrete offers to LDCs and there is no binding language saying that they will do so.</p> <p>There is simply a promise of a High Level Conference where developed and developing Members in a position to do so, 'shall indicate sectors and modes where 'they <u>intend</u> to provide' preferential treatment to LDCs - language remains best endeavour.</p>

III. PUBLIC STOCKHOLDING FOR FOOD SECURITY PURPOSES

Original/latest proposal	Outcome for Bali (MC9)	Assessment/comments
<p>G33 proposal - JOB/AG/22 of 13 November 2012</p> <ul style="list-style-type: none"> • Early harvest of Annex B on Public stockholding for food security purposes of December 2008 modalities • Acquisition of stocks of foodstuffs by developing country Members with the objective of supporting low-income or resource-poor producers shall not be required to be accounted for in the Agreement on Agriculture's Aggregate Measure of Support (AMS) but to be counted into the Green Box or Annex 2 of the Agreement on Agriculture, where there are no limits on the subsidies that can be provided. 	<ul style="list-style-type: none"> • <u>Temporary</u> peace clause for 4 years – shall refrain from starting dispute settlement cases for countries using public stockholding programmes under the conditions of this clause • Permanent solution to be negotiated after MC9 • <u>Limited coverage</u> <ul style="list-style-type: none"> - public stockholding programs could be challenged in the WTO's dispute settlement body as an actionable subsidy under the Agreement on Subsidies and Countervailing Measures (ASCM) - only for 'traditional staple food crops' (mostly low value cereals) i.e. programmes for dairy, cotton, poultry, vegetable oils etc not covered. • Requirement not 'to distort trade' which is more stringent than the Green Box requirement (no or <u>minimally</u> trade-distorting). • Obliges <u>enhanced transparency</u> for those countries wanting to make use of it, providing incriminating information for future dispute settlement cases • It has a <u>standstill clause</u> on subsidies classified under the Aggregate Measure of Support (AMS) or de minimis that are not notified under the peace clause - 'This Decision shall not be used in a manner that results in an increase of the support (..) provided under programmes other than those notified under paragraph 2.a.' 	<ul style="list-style-type: none"> • The peace clause does not provide peace as developing countries can still be taken to the WTO's dispute settlement body under the ASCM. • The transparency obligations go far beyond what developed countries have to do vis-à-vis their tens of billions of agriculture domestic supports. They could be too onerous for developing countries. • It is a poor outcome of the original proposal which was already 'stabilised' text in the December 2008 modalities (Rev.4*). • For LDCs, no value addition – under the WTO's dipute settlement body as Members are to already 'shall exercise due restraint' in initiating cases against LDCs.

IV. GENERAL SERVICES - AGREEMENT ON AGRICULTURE (ANNEX 2)

Original/latest proposal	Outcome	Assessment/comments
<p>General Services (G33 proposal - JOB/AG/22 of 13 November 2012)</p> <ul style="list-style-type: none"> • Early harvest of Annex B on General Services of December 2008 modalities • <u>Amendment</u> of the Agreement on Agriculture - Addition of new subparagraph (h) to the existing paragraph 2 of Annex 2 of Agreement on Agriculture • Examples: Provision of infrastructural services, land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programmes, nutritional food security, issuance of property titles and settlement programmes 	<ul style="list-style-type: none"> • <u>No amendment</u>, but a listing of programmes that Members consider as Green box measures (under the non-exhaustive list of general services programmes in Annex 2, paragraph 2 of the AoA): land rehabilitation; soil conservation and resource management; drought management and flood control; rural employment programmes; issuance of property titles; and farmer settlement programmes. 	<ul style="list-style-type: none"> • Outcome partially reflects original proposal. Worthwhile noting that the new measures to be introduced have already been formerly notified as Green Box measures by various Members. Nevertheless, this would arguably give some additional legal security
<ul style="list-style-type: none"> • Policies and services related to farmer settlement, land reform programmes, rural development and rural livelihood security <u>in developing country Members</u> to promote rural development and poverty alleviation should be accounted for as Green Box measure 	<ul style="list-style-type: none"> • This listed measures are <u>applicable to all Members</u> (developing and developed) 	<ul style="list-style-type: none"> • Developed countries enjoy the same flexibilities as developed countries too (to the extent that the outcome provides additional flexibility compared with current situation)

V. UNDERSTANDING ON TARIFF RATE QUOTA ADMINISTRATION PROVISIONS OF AGRICULTURAL PRODUCTS, AS DEFINED IN ARTICLE 2 OF THE AGREEMENT ON AGRICULTURE

Original/latest proposal	Outcome	Assessment/comments
<p>G-20 non-paper –JOB/ AG/20 of 5 October 2012</p> <ul style="list-style-type: none"> • Early harvest of para 115-125 and Annex E of Rev.4* December 2008 draft agriculture modalities text 	<ul style="list-style-type: none"> • TRQ admin text adopted. • Addition to the Rev4*: A review with the objective ‘to promote a continuing process of improvement in the utilization of tariff rate quotas’ will start within 4 years from MC9. The General Council shall make recommendations by MC12/2019. 	
<ul style="list-style-type: none"> • All importing Members to take specific actions to increase fill rate of TRQs when 1) fill rate is below 65% or not notified for two consecutive years and 2) specific trade concern was raised in a preceding year (para 2 of the Annex) 	<ul style="list-style-type: none"> • Same text as the G20 had proposed (as in left column) 	<ul style="list-style-type: none"> • Developing and developed countries have the same obligation
<ul style="list-style-type: none"> • All importing Members to change TRQ administration method to first come first service or license on demand when fill rate is below 65% for at least 3 years. Developing countries may maintain current TRQ administration method (para 4). 	<ul style="list-style-type: none"> • Same text as G20 had proposed (as in left column), with the exception that countries listing themselves in Annex B (US) gained special and differential treatment – Annex B countries can choose to no longer apply these provisions after 2019 regardless of the outcome of the review. 	<ul style="list-style-type: none"> • From 2019, US has special and differential treatment as it most likely will list itself in Annex B and no longer have to apply the disciplines in this Understanding. • This could be seen to be a permanent ‘peace clause’ for the US on TRQ administration. In contrast, developing countries can only rely on a partial and temporary peace clause with respect to public stockholding.

VI. EXPORT COMPETITION

Original/latest proposal	Outcome	Assessment/comments
<p>G-20 non-paper -JOB/AG/24 of 21 May 2013</p> <ul style="list-style-type: none"> “Downpayment”/“intermediate commitments” based on paragraphs 162-165 of the Rev.4 * December 2008 draft agriculture modalities text. 		
<ul style="list-style-type: none"> Developed country Members shall reschedule their export subsidy reduction commitments in Section II of Part IV of their Schedule by the end of 2013 as follows: <ul style="list-style-type: none"> a. budgetary outlay commitments shall be reduced by 50 per cent, and b. export quantity commitments shall be reduced to the actual average of quantity levels in the 2003-2005 base period. 	<ul style="list-style-type: none"> All Members shall exercise utmost restraint with regard to any recourse to all forms of export subsidies and all export measures with equivalent effect. The progress towards the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect will be maintained; The level of export subsidies will remain significantly below the Members' export subsidy commitments ; A similar level of discipline will be maintained on the use of all export measures with equivalent effect. 	<ul style="list-style-type: none"> No rescheduling, but ‘shall exercise utmost restraint’ Developed and developing countries make a similar commitment All export measures of equivalent effect - Food aid and STEs were not part of G-20 proposal
<ul style="list-style-type: none"> Maximum repayment term: as from the end of 2013, the maximum repayment term for export financing support, this being the period beginning at the starting point of credit and ending on the contractual date of the final payment, shall be no more than 540 days 	-	<ul style="list-style-type: none"> No specific commitments
<ul style="list-style-type: none"> Maximum repayment term not applicable for export finance operations in which Least-developed and net food-importing developing countries are a recipient 	<ul style="list-style-type: none"> No mentioning of special situation of LDCs and net food importing developing countries 	<ul style="list-style-type: none"> No reference to LDCs/NFIDCs
<ul style="list-style-type: none"> In accordance with paragraph 11 of the Hong Kong Ministerial Declaration, those export subsidies for cotton referred to in paragraph 3 above are prohibited. 	-	<ul style="list-style-type: none"> No reference to cotton

VII. TRADE FACILITATION

Section I Trade Facilitation	<p>Developing countries were by and large not demandeurs of the Trade Facilitation rules. Most of the Section I rules have come from developed countries and are in fact, to a large degree, the current practices of many developed countries.</p>	<p>A text of 22 pages containing 13 articles of rules and sub-rules that go far beyond the GATT Articles V, VIII and X on this issue.</p> <p>Text remains bracketed in a number of areas including:</p> <ul style="list-style-type: none"> • Expedited shipments • Consularisation • Use of customs brokers • Freedom of transit amongst others. 	<p>Whilst many developing countries acknowledge the utility of Trade Facilitation guidelines, taking on binding rules which are expensive to implement and which are likely to increase imports has been a concern especially for a large number of lower-income developing countries.</p> <p>Many developing countries are apprehensive that they might be pressured into implementing these commitments on a permanent basis when they may not have the sustained implementation capacity and when they have more pressing national priorities to deal with.</p> <p>The important issue of how this agreement (if and when agreed to) will enter into force and be incorporated into Annex 1 of the Marrakesh Agreement has not been adequately discussed. Entry into force must be in accordance with Article X.3 of Marrakesh Agreement, and para 47 (Doha Declaration) provides that early Agreements enter into force as parts of the single undertaking.</p>
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Original/latest proposal	Outcome	Assessment/comments
Section II Trade Facilitation <ul style="list-style-type: none"> Implementation of Category C provisions should be conditional on the acquisition of sustained implementation capacity by developing countries and LDCs and the provision of adequate technical and financial assistance and capacity building measures by developed countries. 	<ul style="list-style-type: none"> Provision of support and capacity building is not binding. No commitments to financial assistance like in Multilateral Environmental Agreements (e.g. UN Desertification Convention), despite pledges for ‘complementary assistance’ by 27 governments and organizations during the 4th Global Aid for Trade meeting in July 2013 (e.g. USD 381 million in 2011) 	<ul style="list-style-type: none"> What is in the current text is a severe dilution compared with the latest text from the Negotiating Group on Trade Facilitation (Rev.18)
<ul style="list-style-type: none"> Implementation capacity shall be self-assessed 	<ul style="list-style-type: none"> No self-assessment. The implementation capacity is to be reviewed by a third party – an Expert Group who gives its recommendation to the TF Committee 	<ul style="list-style-type: none"> LDC-flexibility in this area has to be determined. LDCs should be able to self-assess their implementation capacity
<ul style="list-style-type: none"> Where technical and financial assistance and capacity building has not been provided or lacks the requisite effectiveness, developing countries and LDCs are not bound to implement the provisions notified under Category C. 	<ul style="list-style-type: none"> Developing countries and LDCs can end up in a situation where they have to implement but did not receive adequate support and technical assistance 	<ul style="list-style-type: none"> The adequacy and effectiveness of support and technical assistance is not being reviewed, despite Aid for Trade

VIII. MONITORING MECHANISM (MM)

Monitoring Mechanism (MM)	<p>Mechanism to strengthen Special and Differential Treatment (S&D) provisions in line with para 44 of the Doha Declaration : ‘We agree that all S&D provisions shall be reviewed with a view to strengthening them and making the more precise, effective and operational’.</p>	<p>MM does not have a reference to paragraph 44.</p> <p>Negotiations are not envisaged to take place within the MM itself. See para 5: The MM will not alter Members’ rights and obligations or interpret the legal nature of WTO Agreements.</p> <p>The MM can only initiate negotiations in other bodies ‘aiming at improving the S&D provision’.</p> <p>Yet even this possibility is curtailed by Para 7 which says the MM cannot ‘define or limit the</p>	<p>Developing countries have attempted to ensure that the MM can lead to the strengthening of S&D provisions.</p> <p>Developed countries on the contrary have attempted to limit the MM to the review of implementation of S&D provisions.</p> <p>The goals of developed countries have prevailed. These limits of the MM are reflected in paras 3 and 4 of the MM’s terms of reference – reviewing implementation of S&D provisions.</p>
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		<p>final determination' of the other bodies.</p>	<p>The Monitoring Mechanism process is CTD-Minus (Committee on Trade and Development):</p> <ul style="list-style-type: none"> - in terms of the hierarchical relationship between the CTD or MM vis-à-vis other bodies - the ability to make recommendations to General Council and the type of recommendations the MM can make - in-built constraints to the recommendations, periodicity of meetings, and the permanency of the Mechanism. <p>The MM has been rendered toothless by its own terms of reference.</p> <p>The biggest danger is that it could in practice disable the CTD's ability to review the application of S&D provisions since the MM is going to be a 'focal point' within the WTO looking at reviewing the implementation of S&D provisions.</p> <p>With its weak mandate, it is possible that S&D provisions become weaker after the review!</p> <p>All in all, tis Mechanism, if adopted as is, would be step backwards instead of forwards.</p>
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IX. LDC PACKAGE

Original/latest proposal	Outcome	Assessment/comments	
LDCs: cotton Original proposal: TN/AG/GEN/33 of 24 October 2013			
<u>DFQF for cotton and cotton products</u> <ul style="list-style-type: none"> • Early harvest of para 155 and 156 of December 2008 modalities. • From 1 January 2015: Developed countries and developing country declaring themselves in a position to do so, to grant DFQF market access for cotton from the cotton exporting LDCs,. Other countries to look positively at the possibilities for increased import opportunities for cotton from LDC Members. 	<ul style="list-style-type: none"> • Language on cotton in December 2008 modalities ‘provides a reference point for further work’ • Dedicated discussion on a bi-annual basis (i.e. twice a year) in the context of the Committee on Agriculture in Special Session to examine relevant trade-related developments across the three pillars of Market Access, Domestic Support and Export Competition in relation to cotton. 	<ul style="list-style-type: none"> • No specific deliverable for MC9, continuation of discussions. • No mandate for the discussions to deliver a specific proposal by a specific date. 	
<u>Export subsidies</u> <ul style="list-style-type: none"> • Early harvest of para 168 of December 2008 modalities. • Elimination of all forms of <u>export subsidies</u> for cotton 			
<u>Domestic support:</u> <ul style="list-style-type: none"> • Draft Decision on the definitive resolution of the cotton issue to be submitted to General Council by 31 December 2014 at the latest 			
<ul style="list-style-type: none"> • <u>Inclusion of elements into Work Programme for LDCs:</u> Identification and examination of market access barriers, annual reviews of the market access improvements and of any market access measures undertaken by Members • <u>WTO Secretariat to map all domestic support measures</u> (AMS, blue box, de minimis, green box, etc.) over the past ten years in the main cotton producing, exporting and importing countries. 	N/A	<ul style="list-style-type: none"> • The Bali draft text does not take on board the constructive proposals by the Cotton-4 	
<u>‘Development-component’:</u> Developing countries, and in particular the LDCs having a substantial trade interest in cotton to submit proposals for ‘regional scale integrative projects’	<ul style="list-style-type: none"> • Commit to continued engagement in the Director-General’s Consultative Framework Mechanism on Cotton to strengthen the cotton sector in the LDCs. • LDCs to continue identifying their needs linked to cotton or related sectors, including on a regional 	<ul style="list-style-type: none"> • Original proposal did not ask for enhancement of the development-component 	

Original/latest proposal	Outcome	Assessment/comments
	basis, through their respective dialogues with development partners and national development strategies.	
LDCs: DFQF <ul style="list-style-type: none"> • Proposal on S&D Treatment for LDCs (TN/CTD/W/4, 24 May 2002) • Hong Kong 2005 ministerial declaration • Proposal on Implementation of HK Decision (TN/AG/GEN/23 or TN/MA/W/78 , 30 June 2006) • Latest proposal - (TN/C/W/63 of 31 May 2013 - LDC package for Bali) 		
<ul style="list-style-type: none"> • Developed country Members that yet do not provide duty-free quota-free market access for at least 97 per cent of all products originating in LDCs shall do so by [insert date of implementation] ensuring enhanced and commercially-meaningful market access for all LDCs. In doing so, due care shall be taken not to diminish the existing market access enjoyed by any LDC, as of the date of this decision. 	<ul style="list-style-type: none"> • Developed-country Members that do not yet provide duty-free and quota-free market access for at least 97% of products originating from LDCs, defined at the tariff line level, shall seek to improve their existing duty-free and quota-free coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference; 	<ul style="list-style-type: none"> • This language applies to one country, the US. US is encouraged, i.e. “shall seek to improve” the coverage of its LDC preference (but is not bound to reach 97%). The phrase “commercially-meaningful” has been dropped
<ul style="list-style-type: none"> • All developed country Members shall progressively work towards duty-free quota-free market access for all products originating from all LDCs if they have not achieved this goal on the date of this decision. 	N/A	<ul style="list-style-type: none"> • There is no obligation/encouragement for developed countries to reach full DFQF
<ul style="list-style-type: none"> • Developing country Members that have provided duty-free quota-free market access for products originating in LDCs as of the date of this decision shall endeavour to expand the current duty-free quota-free coverage to the goal of providing such access for at least 97 per cent of all products originating in LDCs. 	<ul style="list-style-type: none"> • Developing-country Members, declaring themselves in a position to do so, shall seek to provide duty-free and quota-free market access for products originating from LDCs, or shall seek to improve their existing duty-free and quota-free coverage for 	<ul style="list-style-type: none"> • Encouragement for developing countries to provide DFQF or to increase coverage of existing LDC preference

Original/latest proposal	Outcome	Assessment/comments
	such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference;	schemes
<ul style="list-style-type: none"> Developing country Members that yet do not provide duty-free quota-free access will also endeavour to provide increasingly DFQF access in an expeditious manner and in line with the 2005 Decision. 	N/A	<ul style="list-style-type: none"> LDCs wished to encourage all developing countries to provide LDC preferences
<p>LDCs: preferential rules of origin</p> <ul style="list-style-type: none"> Longstanding demand for binding agreement on preferential rules of origin applicable to LDCs' exports (TN/AG/GEN/20 or TN/MA/W/74, 12 June 2006). Revised submissions in 2010 and 2011. Latest proposal in 2013(TN/C/W/63 of 31 May 2013 - LDC package for Bali) TN/MA/W/74 is already reflected in both the negotiation modalities (NAMA and Agriculture): Members are urged to use the model provided in document TN/MA/W/74, as appropriate, in the design of the rules of origin for their autonomous preference programs. Latest submission: TN/ TN/C/W/63/Add.1 of 17 September 2013 	<ul style="list-style-type: none"> Non-binding preferential rules of origin: Members <u>should endeavour</u> to develop or build on their individual rules of origin arrangements applicable to imports from LDCs in accordance with the following guidelines. These guidelines do not stipulate a single set of rules of origin criteria. Rather, they provide elements upon which Members <u>may wish</u> to draw for preferential rules of origin applicable to imports from LDCs under such arrangements. 	<ul style="list-style-type: none"> Current text has weaker language than that obtained in the NAMA and Ag modalities
<ul style="list-style-type: none"> The value of non-originating materials must not exceed 75% of the ex-work price of a product 	<ul style="list-style-type: none"> It is noted that the LDCs seek consideration of allowing foreign inputs to a maximum of 75% of value in order for a good to qualify for benefits under LDC preferential trade arrangements 	<ul style="list-style-type: none"> The intent of LDCs is captured but the current wording does not oblige any WTO Member to do anything
<ul style="list-style-type: none"> Rules of origin should be as simple as possible; avoiding wherever possible different product-specific rules; In the case of rules based on the change in tariff classification criterion (CTC) or in specific processes (SP), the rule must 	<ul style="list-style-type: none"> It is recognized that (..) origin may be conferred by substantial or sufficient transformation, which can be defined in a number of ways, including through: (..) (c) specific manufacturing or processing 	<ul style="list-style-type: none"> The Bali text does not make rules of origin more simple for LDCs, to the contrary, it

Original/latest proposal	Outcome	Assessment/comments
require compliance with simple operations	<p>operation. <u>It is also recognized that these methods in certain cases may be used in combination</u></p> <ul style="list-style-type: none"> In the case of rules that allow a specific manufacturing or processing operation for the purpose of conferring origin, such rules should, as far as possible, take into account the productive capacity in LDCs. 	recognizes that LDCs would have to face complex rules of origin
<ul style="list-style-type: none"> LDCs <u>shall</u> be able to cumulate with other countries to meet rules of origin requirements 	<ul style="list-style-type: none"> Cumulation <u>should</u> be considered as a feature of non-reciprocal preferential trade arrangements. 	
<ul style="list-style-type: none"> The documentary requirements regarding compliance with the rules of origin must be simple and transparent. 	<ul style="list-style-type: none"> The documentary requirements regarding compliance with the rules of origin should be simple and transparent. With regard to certification of rules of origin, whenever possible, self-certification may be recognized. 	
<ul style="list-style-type: none"> Preference-granting Members shall notify their preferential rules of origin to the Committee on Trade and Development and a factual presentation of such rules shall be made in that Committee. 	<ul style="list-style-type: none"> Preferential rules of origin for LDCs shall be notified as per the established procedures 	<ul style="list-style-type: none"> Repeats status quo
<ul style="list-style-type: none"> The Committee of Trade and Development shall annually review the progress made in the implementation of these measures and report to the General Council. 	<ul style="list-style-type: none"> The Committee on Rules of Origin shall annually review the developments in preferential rules of origin applicable to imports from LDCs, in accordance with these guidelines, and report to the General Council. 	<ul style="list-style-type: none"> Partially the same as proposed, 'review development' instead of 'review the progress made'
Original/latest proposal	Outcome	Assessment/comments
<p>LDCs - operationalization of the LDC services waiver</p> <ul style="list-style-type: none"> Proposal on modalities for the Special Treatment for LDCs in Services Negotiations (TN/S/W/13, 7 May 2003) A Mechanism to Operationalize Article IV: 3 of the GATS (TN/S/W/59, 28 March 2006) LDC Group Request on Mode 4 (JOB(06)/155, 24 May 2006) 		

Original/latest proposal	Outcome	Assessment/comments
<ul style="list-style-type: none"> • LDC Services waiver already adopted 2 years ago in MC8 but it has remained an empty shell (Preferential Treatment to Services and Service Suppliers of Least-Developed Countries", Decision of 17 December 2011, WT/L/847) • Latest proposal - (TN/C/W/63 of 31 May 2013 - LDC package for Bali) <p>The Services waiver allowing developed countries to provide LDCs with preferential market access in services was already adopted 2 years ago in MC8. However, it has remained an empty shell. LDC Group has made earlier proposals (including on Mode 4) for preferential market access. However, members have not as yet offered preferences to LDC services / service suppliers.</p>		
<ul style="list-style-type: none"> • Convening of a signalling conference to garner political will from potential preference granting countries and prompt them to respond to the LDCs' preferred modes and sectors of trade in services. 	<ul style="list-style-type: none"> • The Council for Trade in Services shall convene a High-level meeting six months after the submission of an LDC collective request identifying the sectors and modes of supply of particular export interest to them. At that meeting, developed and developing Members, in a position to do so, shall indicate sectors and modes of supply where they intend to provide preferential treatment to LDC services and service suppliers. 	<p>Outcome is wanting since developed countries have not come forward to actually make concrete offers to LDCs and there is no binding language in the text committing them to do so.</p> <p>There is simply a High Level Conference where developed and developing Members in a position to do so, 'shall indicate sectors and modes' where 'they intend to provide' preferential treatment to LDCs. Language remains best endeavour and non-binding.</p>



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