



DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS

Commission on Sustainable Development
acting as the preparatory committee for the
World Summit on Sustainable Development
Third preparatory session
25 March – 5 April 2002

FOURTH WTO MINISTERIAL CONFERENCE - WTO SECRETARIAT BACKGROUND NOTE

Background Paper No. 3

SUBMITTED BY THE
WORLD TRADE ORGANIZATION

THIRD SESSION OF THE PREPARATORY COMMITTEE FOR THE WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT

Background Note by the WTO Secretariat

I. INTRODUCTION

1. Trade and the protection of the environment need not be in conflict and may indeed be complementary. Poverty, the absence of appropriate regulations or taxes to internalise environmental costs and certain subsidies in such sectors as agriculture, fishing and energy, can all contribute in varying degrees to environmental degradation.¹

2. Efforts by governments to develop sound policies to protect the environment can be frustrated by low income levels. Countries that live on the margin may simply not be able to afford to set aside resources for pollution abatement, nor may they think that they should sacrifice their growth prospects to help solve global pollution problems for which they do not believe they have a central responsibility.

3. Measures that improve living standards and employment conditions in poor countries can have an important impact on protecting the environment and conserving valuable natural resources. There are at least two ways in which this positive impact on environment of rising incomes can occur. First, demand for a cleaner environment tends to increase at higher levels of income. A second mechanism is through improvements in technology, which are made possible by economic development, so that a given volume of goods can be produced with lower requirements for natural resources or with less pollution. In both these instances, trade can clearly play a valuable contributory role.

4. At the United Nations Conference on Environment and Development (UNCED) held in Rio in 1992, sustainable development² was identified as an overriding objective for global policy-making. Within this framework it was recognized that trade, as a motor for economic growth and poverty alleviation, could play an important role in achieving sustainable development. The Programme of action adopted in Rio (Agenda 21) calls for an open, equitable, secure, non-discriminatory and predictable multilateral trading system that facilitates market access for least-developed and developing countries. It further emphasizes the need for coherent and mutually supportive trade and environmental policies.

5. Issues relevant to sustainable development, and to the trade and environment interface more generally, have been addressed for a number of years in the GATT and WTO, within the limits of their competence over trade and trade-related aspects of environmental protection. Discussions in these bodies have greatly contributed to deepening the understanding of the complex links between trade and environment, but also to exploring ways of ensuring the compatibility between trade and environmental policies. At the Doha Ministerial Conference in November 2001, WTO Members reiterated their commitment to sustainable development, agreed on a work programme including negotiations and took other important decisions in which development issues, capacity-building and technical assistance figure predominantly.

6. In preparation of the World Summit on Sustainable Development, the WTO Secretariat wishes to offer the following contribution, which briefly reviews the discussions on trade and

¹ WTO (1999). *Trade and Environment: Special Issue*. (Geneva: World Trade Organization).

² "Sustainable development" was defined in the report of the World Commission on Environment and Development as development that "meets the needs of the present without compromising the ability of future generations to meet their own needs." *Our Common Future*, World Commission on Environment and Development, 1987.

environment undertaken in the GATT/WTO, and highlights some elements of the Doha Work Programme that may contribute to furthering the objective of sustainable development.³

II. TRADE AND ENVIRONMENT IN THE GATT/WTO

7. Discussions on the trade and environment interface are not new in the multilateral trading system. In 1971, GATT Contracting Parties agreed to establish a Group on Environmental Measures and International Trade (EMIT) to examine, upon request, any specific matter relevant to the trade policy aspects of measures to control pollution and protect the human environment. The work of the EMIT Group was activated in 1990 to examine the issues of trade provisions contained in multilateral environmental agreements (MEAs), the transparency of national environmental regulations likely to have trade effects, and the effects of environmental measures, such as packaging and labelling requirements, on international trade.

8. About a year after the Rio Summit, towards the end of the Uruguay Round of trade negotiations which resulted in the creation of the WTO, Ministers considered environmental-related concerns and the future role of the WTO in the field of trade and environment. In the Preamble to the Marrakesh Agreement Establishing the WTO, Ministers recognized that "their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, *while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.*" (emphasis added)

9. Ministers further adopted the Decision on Trade and Environment, which established a work programme on trade and environment, together with a new institutional structure for its execution.⁴ In adopting this Decision, Ministers considered that there should not be, or need not be any policy contradiction between upholding an open, non-discriminatory and equitable multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development. They also expressed their desire to coordinate policies in the field of trade and environment without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies that could result in significant trade effects for WTO members.

10. Pursuant to the Decision, the Committee on Trade and Environment (CTE) was given a broad based mandate to identify the relationship between trade measures and environmental measures in order to promote sustainable development, and to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required. The mandate refers to the need for rules to enhance positive interaction between trade and environmental measures for the promotion of sustainable development, with special consideration to the needs of least-developed and developing countries; the avoidance of protectionist trade measures and adherence to effective multilateral disciplines to ensure responsiveness of the multilateral trading system to the environmental objectives set forth in Agenda 21 and the Rio Declaration, in particular Principle 12;

³ This contribution is made by the WTO Secretariat on its own responsibility and does not in any way purport to reflect the individual or collective views of WTO Members.

⁴ The Decision on Trade and Environment was adopted by Ministers at the Meeting of the Trade Negotiations Committee in Marrakesh on 14 April 1994.

and surveillance of trade measures used for environmental purposes and of trade-related aspects of environmental measures with significant trade effects.⁵

11. Discussions in the CTE have been structured around two main clusters of issues: first, items of relevance to the theme of market access, and second, items related to the linkages between the multilateral environmental agenda and the multilateral trade agenda. Under the market access cluster, Members have examined the potential economic, developmental and environmental benefits of removing trade restrictions and distortions. The environmental and trade effects of various types of measures have been on the agenda, including tariff escalation, subsidies and other non-tariff measures, in a number of specific sectors, such as agriculture, energy, fisheries, forestry, non-ferrous metals, textiles and clothing, leather and environmental services. Members have also considered issues such as environmental/sustainability reviews of trade agreements; the effects of eco-labelling on market access; and the application of WTO rules to environmental taxes and charges. A WTO Environmental Database has been established to compile all environment-related notifications made under various WTO instruments.

12. Under the second cluster of issues, Members have looked at the interaction between WTO rules and MEAs, and have considered various ways of accommodating the two sets of rules. Discussions have covered other subjects as well, such as the relationship between the Convention on Biological Diversity and the TRIPS Agreement; the effects of the TRIPS Agreement on technology transfer, in particular environmentally sound technology; and possible benefits for both trade and the environment of liberalizing environmental services.

13. The work of the CTE has contributed over the last seven years to enhancing Members' understanding of the complex links between trade and the environment, and the importance of national and international coordination between trade and environment policy-makers. It has also helped identify areas of complementarity between trade liberalization, economic development and environmental protection.

14. GATT/WTO rules already provide significant scope for Members to adopt national environmental protection policies. The protection of human, animal or plant life or health, and the conservation of exhaustible natural resources are recognized exceptions to the application of GATT/WTO rules under Article XX of GATT 1994. Ministers reaffirmed in the Doha Ministerial Declaration that "under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements."⁶ In a case brought under WTO dispute settlement, the Appellate Body ruled that existing GATT/WTO provisions should be interpreted in light of the Preamble to the Marrakesh Agreement, which explicitly recognizes the objective of sustainable development.⁷

⁵ In accordance with the Decision on Trade and Environment, the CTE reported to the First Session of the Ministerial Conference in 1996, which directed the CTE to pursue its work under its existing terms of reference. The report of the CTE to the First Session of the Ministerial Conference is contained in WT/CTE/1.

⁶ Similarly, Principle 12 of the Rio Declaration states that "trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. "

⁷ In *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, the Appellate Body noted that since the Preamble reflects the intention of the negotiators, this language "must add colour, texture and shading to the interpretation of the agreements annexed to the WTO Agreement, in this case, the GATT 1994." The report is contained in WT/DS58/AB/R, 12 October 1998.

15. In the context of the work on trade and environment, the GATT, and subsequently the WTO have undertaken a number of initiatives aiming to promote greater coherence and mutual supportiveness of trade and environmental policies, as called for by Agenda 21. Increasingly, the CTE and the WTO Secretariat have been collaborating with UNEP and MEA Secretariats, as well as other international organizations dealing with trade and environment and trade and development issues, such as UNCTAD. A number of MEA Information Sessions have been held, where MEA Secretariats made presentations on various aspects of their work. These sessions have contributed to stimulate a constructive, open and informal dialogue between the WTO, trade and environment officials and intergovernmental organizations. Moreover, regional seminars with government representatives have been organized by the WTO, with the cooperation, as well as participation of UNEP, UNCTAD and MEA Secretariats. The presence of these organizations in such events has contributed to raising awareness of the links between trade, environment and sustainable development, and enhancing national coordination between trade and environment policymakers.

16. In the Preamble to the Doha Declaration, Ministers welcomed the WTO's continued cooperation with UNEP and other international organizations, and further encouraged efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development. In keeping with the aim of fostering greater cooperation with other international organizations, the WTO Secretariat has scheduled seven regional seminars in 2002. It has also begun to organize side-events at MEA Conference of Parties meetings. These events are aimed at increasing developing country participants' awareness of the links between rules and work regarding environmental issues at the WTO. The first such side-event was held at the Second Session of the United Nations Forum on Forests (UNFF2) in New York, in March 2002.

17. In recent years, the WTO Secretariat has also been able to hold a number of symposia with representatives of non-governmental organizations (NGOs) on trade, environment and sustainable development. The next WTO Symposium, on the "Doha Development Agenda and Beyond", will take place from 29 April to 1 May 2002. It will bring together representatives from governments, parliaments and the civil society to discuss how the new round of trade negotiations can be used to address the challenges facing the multilateral trading system, including developmental and environmental issues.

III. SUSTAINABLE DEVELOPMENT IN THE CONTEXT OF THE DOHA MINISTERIAL CONFERENCE

18. At the Fourth WTO Ministerial Conference in Doha, Qatar from 9-14 November 2001, Ministers agreed to launch trade negotiations based on a work programme which contains numerous references to development aspects, capacity-building and technical assistance. Ministers also adopted a separate Declaration on TRIPS and Public Health, as well as the Decision on Implementation-Related Issues and Concerns, both considered important achievements for developing countries.

A THE DOHA MINISTERIAL DECLARATION

19. Environment was probably one of the most delicate questions addressed at the Doha Ministerial Conference. After years of discussions on trade and environment in the CTE, negotiations in this area will now be undertaken. These will be conducted "with a view to enhance the mutual supportiveness of trade and environment", and will cover the following elements: (i) the relationship between existing WTO rules and specific trade obligations set out in MEAs, as regards the applicability of existing WTO rules among parties to the relevant MEAs and without prejudice to the WTO rights of any Member that is not a party to the MEA; (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees and the criteria for granting observer status; and (iii) the reduction or elimination of tariff and non-tariff barriers to environmental goods and services. Following this negotiating mandate, the CTE will meet in Special Sessions.

20. Apart from agreeing to negotiations on trade and environment issues, Ministers gave guidance for the conduct of future work in the CTE. In pursuing all items on its agenda within its current terms of reference, the CTE is instructed to give particular attention to certain issues, namely the effect of environmental measures on market access, especially in relation to least-developed and developing countries, and the situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development; the relevant provisions of the TRIPS Agreement; and labelling requirements for environmental purposes. The CTE 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." Ministers further recognized 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. They also encouraged Members to pursue national environmental reviews of trade policies on a voluntary basis, and to share expertise and experience among themselves regarding the performance of such reviews.

21. The Declaration provides that the Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, "in order to help achieve the objective of having sustainable development appropriately reflected."

22. The negotiations foreseen in the Declaration cover a number of areas. For instance, Ministers agreed to pursue negotiations in the area of services, "with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries". The same applies to agriculture, which is considered as a key to enhance welfare and growth prospects in the developing world. In this area, the Doha Declaration calls for negotiations aimed at substantial improvements in market access, reductions of all forms of exports subsidies with a view to phasing them out, and substantial reductions in trade-distorting domestic support.

23. With regard to market access for non-agricultural products, Ministers agreed to negotiations which shall aim to reduce or, as appropriate, eliminate tariff peaks, high tariffs, tariff escalation and non-tariff barriers, in particular in relation to products of export interest to developing countries. Negotiations on WTO rules will also take place in the areas of anti-dumping and subsidies/countervailing measures to clarify and improve disciplines as appropriate, taking into account the needs of developing and least-developed participants. In particular, Ministers agreed to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries.

24. In the area of Trade-Related Aspects of Intellectual Property Rights, Ministers instructed the TRIPS Council to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity. Work in this field shall take fully into account the development dimension.

B. ACTIONS TAKEN PURSUANT TO THE DOHA DECLARATION IN FAVOUR OF LEAST-DEVELOPED AND DEVELOPING COUNTRIES

1. Technical Cooperation and Capacity-Building

25. Ministers made commitments on technical assistance and capacity-building in various provisions of the Doha Declaration. They also acknowledged that sustainably financed technical assistance and capacity-building programmes have an important role to play in ensuring that least-developed and developing countries secure a share in the growth of world trade commensurate with the needs of their economic development.

26. At its first meeting following the Doha Ministerial Conference, in December 2001, the WTO General Council approved an increase of 6.75 per cent in the budget for 2002. These additional

funds will allow the WTO, for instance, to double the number of trainees from developing countries attending the recently established WTO Training Institute. Also, in order to establish a sound and predictable basis for WTO Trade-Related Technical Assistance, the General Council agreed to establish the "Doha Development Agenda Global Trust Fund", which will serve to develop and extend various technical assistance programmes provided by the WTO in response to government needs.

27. At a Pledging Conference held in Geneva on 11 March 2002, governments announced pledges of up to CHF 30 million, which was twice the amount set by the General Council as an initial target for the was Global Trust Fund. These funds will be deployed to finance a number of activities within the scope of the mandates for technical cooperation and capacity building set out in the Doha Declaration.

28. As outlined in the Coordinated WTO Secretariat Annual Technical Assistance Plan⁸, the WTO Secretariat will deliver in 2002 over 500 technical assistance activities to answer short-term trade-related technical assistance needs of beneficiary countries.⁹

29. In addition, a number of new initiatives will be undertaken by the WTO in collaboration with other agencies and partners to achieve a more effective coordination in the delivery of technical assistance. These include the establishment of inter-agency groups in all areas covered by the Ministerial Declaration where collaboration is required with other multilateral institutions, as well as strategic partnerships with regional banks, institutions and commissions for the implementation of the Doha mandates on technical assistance and capacity-building.

30. Moreover, in order to improve coherence and coordinated delivery of technical assistance by providers, including agencies and bilateral donors, it was decided to put in place at the WTO a Trade-Related Technical Assistance Database in collaboration with other agencies. This database will give an account of all activities delivered, on the basis of country files, agency and donor country providers. It will hopefully contribute to maximise available resources, minimize duplication, and act as a transparency mechanism in the exchange and sharing of information.

31. Cooperation between the WTO, other agencies and bilateral donors will also continue through the Integrated Framework on Trade-Related Technical Assistance to Least-Developed Countries, in order to promote an integrated approach to assist least-developed countries in enhancing their trade opportunities. At a meeting on 26 February 2002, heads and representatives of the core agencies¹⁰ reaffirmed their collective commitment to assist the meaningful integration of developing and least-developed countries into the multilateral trading system by facilitating their participation in the current trade negotiations, and agreed that the Integrated Framework would contribute to the realization of the Doha Work Programme.

2. Work on Special and Differential Treatment Provisions in WTO Agreements

32. A number of provisions in the WTO Agreements provide for special and differential treatment for least-developed and developing countries. While noting the concerns expressed regarding the operation of these provisions in addressing specific constraints faced by developing countries, and particularly least-developed countries, Ministers agreed that all special and differential treatment provisions would be reviewed, with a view to strengthen them and making them more precise, effective and operational. The Committee on Trade and Development was instructed, pursuant to the Decision on Implementation-Related Issues and Concerns, to conduct this review and to report back to the General Council with recommendations by July 2002. The Trade Negotiations

⁸ WT/COMTD/W/95/Rev.3.

⁹ Some of these activities will be delivered jointly with other organizations.

¹⁰ The other core agencies involved are: IMF, ITC, UNCTAD, UNDP and World Bank.

Committee established that work on special and differential treatment provisions should be carried out by the Committee on Trade and Development in Special Sessions.

3. Work Programme for Least-Developed Countries

33. Ministers recognized that the integration of least-developed countries 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. Pursuant to the Doha Declaration, the Sub-Committee on Least-Developed Countries agreed to a work programme for least-developed countries¹¹, which it presented to the General Council at its meeting on 13 February 2002.

4. Work Programme on Small Economies

34. A work programme was established under the auspices of the WTO General Council to examine issues relating to the trade of small economies, with a view to framing responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system. The General Council shall review the Work Programme and make recommendations for action to the Fifth Session of the Ministerial Conference. The Work Programme will be conducted in dedicated sessions of the Committee on Trade and Development, which will report regularly to the General Council on the progress of the work.

5. Working Groups on Trade, Debt and Finance, and Trade and Transfer of Technology

35. Members agreed to create two working groups under the auspices of the General Council to examine other issues of particular interest for developing countries. The working group on Trade, Debt and Finance will examine 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 least-developed and developing 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 working group on trade and the transfer of technology will examine steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. Both working groups are invited to make recommendations to the General Council, which shall report to the Fifth Session of the Ministerial Conference.

C. OTHER IMPORTANT HIGHLIGHTS OF THE DOHA MINISTERIAL CONFERENCE

1. Declaration on TRIPS and Public Health

36. At the Fourth Session of the Ministerial Conference of the WTO, Ministers adopted the Declaration on TRIPS and Public Health, which is designed to respond to the concerns that have been expressed about the possible implications of the TRIPS Agreement for access to drugs.

37. First, the Declaration emphasizes that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health and by reaffirming the right of Members to use to the full the provisions of the TRIPS Agreement which provide flexibility for this purpose. Governments should therefore not feel any reticence about fully using these provisions.

38. Second, the Declaration makes it clear that the TRIPS Agreement should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health, thus providing

¹¹ WT/COMTD/LDC/11.

important guidance to both individual Members and, in the event of disputes, WTO dispute settlement bodies.

39. Third, while maintaining Members' commitments in the TRIPS Agreement, the Declaration includes a number of important clarifications of some of the forms of flexibility available in it, in particular compulsory licensing and parallel importation. In addition, the Declaration provides for an extension until 2016 of the transition period for least-developed countries in regard to the protection and enforcement of patents and undisclosed information with respect to pharmaceutical products. With regard to the ability of countries with limited manufacturing capacities to make effective use of compulsory licensing, the Declaration recognizes the problem and instructs the WTO Council for TRIPS to find a solution before the end of 2002.

2. Decision on Implementation-Related Issues and Concerns

40. The Decision on Implementation-related issues and concerns adopted by Ministers in Doha represented a significant and credible effort to address the concerns of developing countries regarding their experience with the implementation and operation of existing WTO Agreements, and to facilitate their active participation in the WTO and fuller integration into the multilateral trading system.

41. Ministers took immediate action to address a number of the concerns raised by developing-country Members and agreed that remaining implementation issues would be addressed in the course of the future work programme of the WTO as set out in the Ministerial Declaration. Ministers further directed that WTO technical assistance should focus, as a matter of priority, on assisting developing countries in this area of activity.

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

MINISTERIAL DECLARATION

Adopted on 14 November 2001

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.
2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.
3. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We recall the commitments made by Ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.
4. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development.
5. We are aware that the challenges Members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making.
6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and

safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We welcome the WTO's continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services.

8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimension of globalization.

9. We note with particular satisfaction that this Conference has completed the WTO accession procedures for China and Chinese Taipei. We also welcome the accession as new Members, since our last Session, of Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession. These accessions will greatly strengthen the multilateral trading system, as will those of the 28 countries now negotiating their accession. We therefore attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries.

10. Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all Members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.

11. In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system.

WORK PROGRAMME

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

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.

AGRICULTURE

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-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

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.

SERVICES

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.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

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 *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* 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.

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

17. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.

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 other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

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, *inter alia*, 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 principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.

RELATIONSHIP BETWEEN TRADE AND INVESTMENT

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.

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.

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-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.

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 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.

TRADE FACILITATION

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.

WTO RULES

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.

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.

DISPUTE SETTLEMENT UNDERSTANDING

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.

TRADE AND ENVIRONMENT

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

- (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;

- (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

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:

- (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;
- (ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and
- (iii) labelling requirements for environmental purposes.

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.

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.

ELECTRONIC COMMERCE

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.

SMALL ECONOMIES

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.

TRADE, DEBT AND FINANCE

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.

TRADE AND TRANSFER OF TECHNOLOGY

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.

TECHNICAL COOPERATION AND CAPACITY BUILDING

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.

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 international 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.

LEAST-DEVELOPED COUNTRIES

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.

43. We endorse the Integrated Framework for Trade-Related 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.

SPECIAL AND DIFFERENTIAL TREATMENT

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 the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

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.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:

- (i) all Members of the WTO; and
- (ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

Adopted on 14 November 2001

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.
2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.
3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices.
4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:
 - (a) In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.
 - (b) Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.
 - (c) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.
 - (d) The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

Decision of 14 November 2001

The Ministerial Conference,

Having regard to Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

Mindful of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

Determined to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

Recalling the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

Noting the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

Noting also the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and the discussions as well as the clarifications provided and understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

Decides as follows:

1. General Agreement on Tariffs and Trade 1994 (GATT 1994)
 - 1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.

- 1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture

- 2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.
- 2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.
- 2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.
- 2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures

- 3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase "longer time-frame for compliance" referred to in Article 10.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.
- 3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.

- 3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.
- 3.4 Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years.
- 3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and
- (ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.
- 3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and
- (ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

- 4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.
- 4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.
- 4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

- 4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning

of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;

- 4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;

and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

- 5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.
- 5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.
- 5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and
- (ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.
- 5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and
- (ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6. Agreement on Trade-Related Investment Measures

- 6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.
- 6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

7. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
- 7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.
- 7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.
- 7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12 months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.
- 7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.
8. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
- 8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.
- 8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.
- 8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the

Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

- 9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.
- 9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.

10. Agreement on Subsidies and Countervailing Measures

- 10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US \$1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US \$1000 based upon the most recent data from the World Bank.
- 10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.
- 10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing

Measures regarding countervailing duty investigations and report to the General Council by 31 July 2002.

- 10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US\$ 1,000.
 - 10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article 27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.
 - 10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39.
11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- 11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.
 - 11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

- (i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;
- (ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and
- (iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 ("Enabling Clause")¹ should be generalised, non-reciprocal and non-discriminatory.

13. Outstanding Implementation Issues²

Agrees that outstanding implementation issues be addressed in accordance with paragraph 12 of the Ministerial Declaration (WT/MIN(01)/DEC/1).

14. Final Provisions

Requests the Director-General, consistent with paragraphs 38 to 43 of the Ministerial Declaration (WT/MIN(01)/DEC/1), to ensure that WTO technical assistance focuses, on a priority basis, on assisting developing countries to implement existing WTO obligations as well as on increasing their capacity to participate more effectively in future multilateral trade negotiations. In carrying out this mandate, the WTO Secretariat should cooperate more closely with international and regional intergovernmental organisations so as to increase efficiency and synergies and avoid duplication of programmes.

¹ BISD 26S/203.

² A list of these issues is compiled in document Job(01)/152/Rev.1.