

Issue Brief—The Doha Development Agenda

OVERVIEW OF THE NEGOTIATIONS AND WORK PROGRAM

Trade Ministers from 142 countries met in Doha, Qatar for the Fourth World Trade Organization (WTO) Ministerial Conference from November 9–14, 2001. The key document that emerged from the meeting was a Ministerial Declaration that launched a new round of trade negotiations that will include services, agriculture, industrial tariffs, environment, implementation issues, intellectual property, dispute settlement and WTO rules. In addition to launching negotiations, the Declaration seeks to develop consensus on rules for investment, competition policy, transparency in government procurement and trade facilitation (the Singapore issues) but delays launching negotiations on these issues until after the Fifth WTO Ministerial Conference in 2003. The Declaration also includes a mandate to examine in the Work Program trade-related aspects of electronic commerce; small economies; the relationship of trade, debt and finance; and transfer of technology. Emphasized throughout the Declaration is the importance of providing technical and financial assistance to integrate developing and least-developed countries (LDCs) into the multilateral trading system. The focus on developing countries has led the Work Program for the new round to be called the “Doha Development Agenda.”

The number of issues up for negotiation as well as the expansive Work Program will pose a substantial challenge to developing countries. Developing countries will need to quickly develop comprehensive negotiation strategies for each of the issues of importance to them, formulate requests for consideration by other countries, and actively participate in negotiation committees and other relevant Working Groups.

The rapid timetable for the negotiations and Work Program include the following action items:

- The first meeting of the Trade Negotiations Committee (TNC) will be held by January 31, 2002;
- A report on clear recommendation on use of special and differential treatment by July 2002;
- Substantial progress on agriculture, including the use of special and differential treatment by March 31, 2003;

- Requests for specific commitments in services by June 30, 2002 and initial offers by March 31, 2003;
- Working groups and committees will begin the Work Program immediately; and
- Negotiations need to conclude by January 1, 2005.

This accelerated timetable for achieving results requires developing countries to begin preparations immediately, accessing as much technical and financial assistance as is necessary to enable them to be active participants in the negotiations.

The Doha Development Agenda

In addition to the Doha Ministerial Declaration, ministers issued a Decision on Implementation-Related Issues and Concerns.¹ This Decision outlines

¹ The Ministerial Declaration can be accessed at

principles and guidelines that address developing country concerns with respect to implementation of numerous commitments in areas such as agriculture, textiles, antidumping, sanitary and phytosanitary measures, technical barriers to trade, investment, customs valuation, rules of origin, intellectual property and subsidies².

Another significant outcome of the Ministerial was a Declaration on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Public Health³. The Declaration highlights provisions in the TRIPS agreement that accord Members flexibility to address public health emergencies, such as epidemics of HIV/AIDS, tuberculosis and malaria.

Through the document, Members expressed their strong support for the TRIPS agreement and the importance of IPR protection for the development of life-saving drugs. Developing countries were generally pleased that Ministers agreed to extend until January 1, 2016 the time by which least-developed WTO Members must implement TRIPS provisions on protecting patent rights for pharmaceutical products. The Declaration also included language long sought by developing countries that the TRIPS Agreement “does not and should not prevent members from taking measures to protect public health.” Moreover, the Declaration clarified that each member has the right to grant compulsory licenses⁴, the right to determine what constitutes a national emergency, and the right to establish its own regime of parallel importing without challenge⁵.

http://www-chil.wto-ministerial.org/english/thewto_e/minist_e/min01_e/mindecl_e.pdf

² The Decision on Implementation can be accessed at http://www-chil.wto-ministerial.org/english/thewto_e/minist_e/min01_e/mindecl_implementation_e.pdf

³ The TRIPS and Public Health Declaration can be accessed at http://www-chil.wto-ministerial.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.pdf

⁴ Compulsory Licensing – government authorization for the use of a patent without the consent of the patent-holder.

⁵ Parallel Importing—allowing governments to obtain a patented drug more cheaply from the foreign supplier rather than from the manufacturer’s local subsidiary.

Scope and Principles

The Doha Development Agenda sets out a broad and balanced schedule of activities that incorporates both a negotiating agenda and a Work Program designed to further liberalize trade. It reiterates the role the WTO plays in contributing to economic growth, development and employment. It emphasizes the needs and interests of developing and least-developed countries as the heart of the Work Program to ensure that LDCs secure beneficial and meaningful integration into the multilateral trading system and the world economy.

The Declaration also calls for expeditious accession for countries currently in the accession process, especially LDCs. And in addition to increasing transparency and understanding of the WTO, the Declaration emphasizes the importance of environmental and labor concerns in international trade (long opposed by developing countries as potential instruments of protection).

Why the “Development Agenda”?

The Doha Ministerial Declaration contains various references to development-related issues, including:

- A framework for the WTO's technical assistance activities;
- A work program for LDCs that will be designed by the Sub-Committee on LDCs; and
- A work program for the fuller integration of small economies.

Also of importance to developing countries was the fact that members agreed to establish two Working Groups, one on Debt and Finance, and one on Technology Transfer. In addition, the Declaration commits the WTO's Budget Committee to develop a plan for adoption by the General Council in December 2001 to ensure that adequate funds are available for technical assistance. The Declaration also encourages member countries to provide duty-free and quota-free access for products originating from LDCs.

Regarding special and differential treatment, the Ministerial Declaration takes note of developing countries' proposals to negotiate a Framework

Agreement on Special and Differential (S&D) Treatment, but proposes no concrete action on the issue. Instead, ministers agreed to review all S&D provisions by July 2002 in order to strengthen and make them more precise, effective, and operational.

The strong capacity building and technical assistance language throughout the Ministerial texts, the decision on Implementation-Related Issues and Concerns, and ACP-EU waiver⁶ were all critical factors needed to obtain LDC support for the launch of a new round of trade negotiations.

Organization and Management of the Negotiations and Work Program

The negotiations and Work Program will start by January 31, 2001 and end by January 1, 2005. A Trade Negotiations Committee (TNC), under the authority of the General Council, will establish negotiating mechanisms (e.g. request-offer approach, bilateral and multilateral meetings) and will supervise the overall progress of the negotiations. The TNC will hold its first meeting no later than January 31, 2001.

The Fifth WTO Ministerial Conference to be held in November 2003, will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary to launch negotiations on the Singapore issues (investment, competition policy, transparency in government procurement, and trade facilitation).

With the exception of the negotiations on the Dispute Settlement Understanding (which will enter into force upon completion), entry into force of the negotiations will be a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or definitive basis.

For each of the topics discussed below, a specialized committee or working group will supervise the day-to-day negotiations. Each committee and working group will report to the TNC.

⁶ WTO Members granted a waiver to the EU allowing it to give further preferential market access for the African, Caribbean and Pacific (ACP) Group of Countries as part of the Cotonou Agreement (previously the Lomé Convention).

Topics Agreed for Negotiations

The Declaration provides for immediate negotiations in eight specific areas (agriculture, industrial tariffs, environment, implementation issues⁷, intellectual property, dispute settlement and WTO rules). WTO Members have already started negotiations on some of the topics as part of the built-in agenda (services and agriculture). Other topics to be negotiated are very focused (e.g., intellectual property negotiations will focus only on establishing a system of notification and registration of geographical indications for wines and spirits).

Services

In February 2000, members of the WTO began negotiations on global trade in services. The current round of negotiations will continue with the work already underway in the Council for Trade in Services. The negotiations will aim to progressively liberalize trade in services, and through liberalization, promote the economic growth of all WTO member countries.

Members will submit initial requests for specific commitments by June 30, 2002 and initial offers will be made by March 31, 2003.

Agriculture

Global agricultural negotiations were launched in March, 2000. The Committee on Agriculture will continue to conduct the negotiations. So far, 126 member governments (89 percent of the 142 members) submitted 45 proposals and four technical documents on how the negotiations should proceed.

Included in the comprehensive agricultural negotiation mandate is a mandate on “reductions of, with a view to phasing out, all forms of export subsidies,” which was a major victory for developing countries, as well as for agricultural exporting countries including the United States. Other major features of the agricultural mandate are substantial

⁷ Implementation issues will not receive special attention as a separate negotiating issue, as many developing countries had pushed for, but will rather be included in the wider mix of negotiations.

improvements in market access, substantial reductions in trade-distorting domestic support programs and improved special and differential treatment for development countries, including the creation of a *development box*⁸, a key demand of developing countries.

Modalities for commitments and special and differential treatment will be established by March 31, 2003 to allow enough time to reach consensus before the expiry date of the “peace clause” that currently shields some agricultural subsidies from dispute settlement and countervailing duty challenges.

Market Access for Non-Agricultural Products (Industrial Tariffs)

Negotiations on industrial tariffs will aim to reduce, or, as appropriate, to eliminate tariffs, tariff peaks and tariff escalation, as well non-tariff barriers in particular on products of export interest to developing countries.

While agreement on the industrial tariff negotiations found little opposition among many WTO members, most African and LDC members did express concern that they were not prepared to take on further liberalization in trade in goods before studies had been conducted. Although the Doha Declaration did not expressly mention these concerns, mention was made studies and capacity-building measures to assist LDCs to participate effectively in the market access negotiations.

Environment

During the negotiations on trade and the environment, the Committee on Trade and Environment (CTE) and the Committee on Trade and Development (CTD) will identify and debate the relationship between trade, the environment, and development in

⁸ Development box—modeled after the green box of agricultural support programs that are non-actionable. It would allow developing countries to use various support programs that would otherwise be prohibited or actionable in order to ensure food security, protect poor and small farmers, and assist in rural development.

order to help achieve sustainable development objectives.

The principal goal of the negotiations is to clarify the relationship between WTO rules and specific trade obligations set out in multilateral environmental agreements. In addition, negotiations will seek to reduce or, as appropriate, eliminate tariff and non-tariff barriers to environmental goods and services.

Members also agreed to conduct negotiations on clarifying and improving WTO disciplines on fisheries subsidies. Fishery subsidies are seen as stimulating over-fishing, which in turn leads to environmental degradation.

Because of developing country concern that environmental measures could be used for protectionist ends, the Declaration states that any outcome of the negotiations shall be compatible with WTO rules and not “add to or diminish the rights and obligations of Members under existing WTO agreements.”

Intellectual Property

Negotiations will begin on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the next Ministerial Conference. In addition, members agreed to study the relationship between the TRIPS Agreement and the Convention on Biological Diversity as part of the Work Program.

Dispute Settlement

Negotiations will proceed on improving and clarifying the Dispute Settlement Understanding (DSU). This will include work to expedite the process, make the process more transparent, and assist developing countries to understand and utilize the dispute settlement process. Recommendations on improvements and clarifications will be made no later than May 2003 and enter into force as soon as possible thereafter.

WTO Rules

Negotiations were also launched to clarify and improve disciplines on WTO rules. Of particular importance was the agreement to open up

negotiations on the use of antidumping and countervailing duties. While the open-ended negotiations would preserve the basic concepts, principles and effectiveness of current rules on the use of antidumping and countervailing duties, they will also seek to clarify and improve these rules.

In addition, the Decision on Implementation-Related Issues and Concerns states that consideration will be given to LDCs before initiating antidumping or countervailing duty investigations.

Negotiations were also launched on clarifying and improving disciplines and procedures for regional trade agreements.

Implementation Issues

Developing country members have been pushing developed countries to address imbalances stemming from the Uruguay Round Agreements. The Doha Ministerial Declaration mandates members to negotiate outstanding implementation issues outlined in an accompanying Decision on Implementation-Related Issues and Concerns. Implementation issues, however, will not receive special attention as a separate issue, as many developing countries had pushed for, but will rather be included in the wider mix of negotiations and the Work Program (a more detailed analysis of the implementation-related issues is provided in the following section).

The Work Program

The Doha Declaration also sets out a Work Program aimed at developing consensus and potential negotiations in four areas (investment, competition policy, transparency in government procurement and trade facilitation). It also mandates preliminary talks in four more areas (trade-related aspects of electronic commerce; small economies; the relationship of trade, debt and finance; and transfer of technology).

The Singapore Issues

The study process underway in the WTO since the Singapore Ministerial on investment, competition policy, transparency in government procurement and trade facilitation will continue until at least the WTO's Fifth Ministerial Conference in 2003. Members

agreed that negotiations would take place after the Fifth Session, provided that members can decide on the modalities of the negotiations by explicit consensus.

Electronic Commerce

The Doha Declaration mandates members to continue the Work Program on Electronic Commerce and to report any new developments at the Fifth WTO Ministerial Conference in 2003. Work will be conducted under the General Council with other relevant bodies contributing as necessary.

Furthermore, members agreed to extend the moratorium on customs duties for electronic transmissions until at least November 2003.

Small Economies

Members agreed to a Work Program, led by the General Council, to examine issues relating to the trade of small economies. The objective of the Work Program is to identify issues and develop strategies to ensure fuller integration of small, vulnerable economies into the multilateral trading system without creating a separate category of these countries. New developments and recommendations for action will be presented at the Fifth WTO Ministerial Conference in 2003.

Trade, Debt and Finance

Members agreed to a Work Program, led by the General Council, to examine issues in the relationship between trade, debt and finance. The objective of the Work Program is to develop and recommend steps to utilize the multilateral trading system as a means to reducing external indebtedness of developing countries. At the same time, the Work Program will develop steps to strengthen the coherence between international trade and financial policies. New developments and recommendations for action will be presented at the Fifth WTO Ministerial Conference in 2003.

Trade and Transfer of Technology

Members agreed to a Work Program, led by the General Council, to examine issues on the relationship

between trade and transfer of technology. The objective of the Work Program is to develop and recommend steps to increase flows of technology to developing countries. New developments and recommendations for action will be presented at the next WTO Ministerial.

Implementation Issues

Although some decisions were reached in the Decision on Implementation-Related Issues and Concerns, the majority of issues and concerns contained in the decision will be included in the Work Program to be completed by the end of 2002. The Work Program will address financial and technical assistance to LDCs for implementing their commitments.

The following are among the implementation issues addressed by the Decision on Implementation with regard to developing countries:

- **Agriculture**—restraining challenges for subsidies used under the *green box* (non-actionable government support programs); continuing the work program on tariff-rate quotas, food aid, and technical and financial assistance.
- **Sanitary and Phytosanitary (SPS) Measures** — except in urgent circumstances, allowing at least a six-month time frame for compliance with new SPS measures; developing a program for use of equivalent standards; and increasing participation of developing countries in standard-setting organizations.
- **Textiles and Clothing** —eliminating quota restrictions and integrating products expeditiously; exercising consideration before initiating dumping investigations; notifying changes in rules of origin; and advancing the “growth-on-growth” provision by one stage.
- **Technical Barriers to Trade (TBT)** —allowing at least a six-month time frame for compliance with new TBT measures; increasing participation of developing countries in standard-setting organizations.
- **Trade-Related Investment Measures (TRIMS)** —extending the five-year transition period and accounting for the particular circumstances of LDCs.
- **Antidumping and Countervailing Duties**—not initiating dumping cases within a year where a negative finding on the same product from the same member country has been found; reviewing and clarifying rules.
- **Customs Valuation**—extending the five-year transition period; accounting for the particular circumstances of LDCs; and strengthening the cooperation between customs administrations of members to prevent customs fraud.
- **Rules of Origin**—working to harmonize rules-of-origin requirements.
- **Subsidies and Countervailing Measures**—using export subsidies consistent with development needs so long as the country maintains a per capita GNP of \$1,000 or less for three consecutive years (in 1990 US\$).
- **Trade-Related Aspects of Intellectual Property (TRIPS)**—not initiating certain types of complaints under the TRIPS agreement.
- **Special and Differential (S&D) Treatment**—considering ways in which S&D treatment can be made more effective.