

WORKING GROUP ON IMPLEMENTATION, RULES,
LDCs AND TECHNICAL COOPERATION

This working document is being circulated under the responsibility of the Chairman. It contains four sections:

A. Implementation of Existing Agreements and Decisions.

Annex - Possible Decisions at Seattle on Implementation.

B. WTO Rules.

C. Action in Favour of Least-Developed Countries.

D. Technical Cooperation.

IMPLEMENTATION OF EXISTING AGREEMENTS AND DECISIONS

14. As we agreed at Geneva in May 1998, we have further pursued our evaluation of the implementation of individual agreements and the realization of their objectives. In so doing we have considered, *inter alia*, the problems encountered in implementation and the consequent impact on the trade and development prospects of Members.

15. While the process of implementation has been satisfactory in many respects, this evaluation has also revealed serious concerns among many Members, especially developing countries, about the implementation of the results of the Uruguay Round. Particular areas of concern include textiles and clothing, agriculture, anti-dumping, subsidies, safeguards, technical barriers to trade, customs valuation, sanitary and phytosanitary measures, intellectual property rights, trade-related investment measures and services.

16. We have taken note of the concerns expressed by many developing country Members regarding realization of anticipated benefits, balance between rights and obligations, practical difficulties and resource constraints encountered in the implementation of various obligations and the effective operation of several provisions on special and differential treatment.

17. In the area of textiles and clothing, many developing, exporting countries have expressed their view that the integration programmes of the developed, importing countries have not been progressive in character, the increases in quota growth rates have not lessened the restrictive nature of the quotas, meaningful improvements for small suppliers and the least-developed countries have not been achieved and thus the anticipated liberalization has not materialized, even if the legal requirements of the ATC have been met.

18. To alleviate the problems of developing countries we have taken the decisions listed in the Annex to this Declaration.

19. Apart from the immediate decisions referred to in the previous paragraph we have agreed to address the remaining issues relating to the implementation of the existing WTO Agreements and Decisions raised during preparations for the Third Session of the Ministerial Conference.* To this end, we have decided to establish a Special Mechanism under the General Council, composed of representatives of all the Members. This process will be completed as far as possible within one year and in any case by the Fourth Session which shall, along with the mid-term review of the negotiations opened by this Declaration, take appropriate decisions by consensus on issues remaining unresolved at that time based on the recommendations received from the General Council to resolve these implementation issues.

20. Furthermore, we resolve that in the multilateral negotiations we are inaugurating here, development objectives will be given a high priority in keeping with our commitment to ensuring that the benefits of the multilateral trading system are extended as widely as possible and distributed in a fair and equitable manner.

* Note to delegations: At the time the Ministerial Declaration is adopted the Chair will make a statement that these issues include the issues raised by a number of developing countries during the course of preparations for the Third Session, as reflected in the draft Ministerial Text of 19 October Job(99)/5868/Rev.1.

Annex: Possible Decisions at Seattle on Implementation

(a) Anti-Dumping

Ministers

agree that investigating authorities should examine with particular care any application for the initiation of an anti-dumping investigation where an investigation of the same product resulted in the conclusion of the investigation without the imposition of final measures within the 365 days prior to the filing of the application.

(b) Subsidies

Ministers

agree not to invoke WTO dispute settlement procedures in respect of claims under Article 3.1(a) of the SCM Agreement against a developing country Member listed in Annex VII(b) of that Agreement whose GNP per capita per annum has reached US\$1000 in current dollars unless that Member's GNP per capita per annum as expressed in constant 1990 dollars reaches US\$1000 for three consecutive years.

agree not to invoke WTO dispute settlement procedures in respect of claims under Article 3.1(a) of the SCM Agreement against a developing country Member listed in Annex VII(b) whose GNP per capita per annum as expressed in constant 1990 dollars has reached US\$1000 for three consecutive years if that Member's GNP per capita per annum falls back below that level.

agree that the threshold of US\$1000 in Annex VII(b) to the SCM Agreement shall be reviewed with a view to considering the possibility of including in Annex VII Members in the low and lower-middle income categories as classified by the World Bank.

agree to instruct the Committee on Subsidies and Countervailing Measures to extend the application of the provisions of Articles 6.1, 8 and 9 of the Agreement on Subsidies and Countervailing Measures until the end of the Fourth Session of the Ministerial Conference, on the understanding that, during the extended period of application, Article 8 will be reviewed with a view to considering the possibility of including as non-actionable subsidy measures implemented by developing country Members in the furtherance of legitimate development objectives.

(c) Sanitary and Phytosanitary Measures

Ministers

urge the relevant international standard-setting organizations to ensure that they are organized and operated in a way which facilitates effective participation of Members at different levels of development and from all geographical regions, throughout all phases of standard-development.

request the Director-General to explore with the relevant international standard-setting organizations and relevant intergovernmental organizations financial and technical mechanisms and means to ensure the participation of representatives of developing countries in standard-setting activities.

instruct the SPS Committee to consider the means to assist developing country Members to fully and effectively benefit from the provisions of Article 4, taking into account the work being done by the relevant international standard-setting organizations.

agree that regulatory authorities of the Members, subject to the conditions set out in Article 10.2, should observe a longer time-frame accorded for compliance with a new measure on products of interest to developing country Members of normally at least 6 months following notification of the measure in accordance with Article 7 and Annex B.

instruct the Committee on Sanitary and Phytosanitary measures to grant to the least-developed country Members, in conformity with Article 10(3) of the Agreement, a delay in application of the provisions of the Agreement, other than paragraph 8 of Article 5 and Article 7, by a further period of three years with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.

request the Director-General to coordinate efforts with the relevant international standard-setting organizations to identify SPS-related technical assistance needs and how best to address these, taking into consideration the importance of bilateral and regional technical assistance in this domain.

(d) Technical Barriers to Trade

Ministers

urge international standardizing bodies to ensure that they are organized and operated in a way which facilitates effective participation of Members at different levels of development and from all geographical regions, throughout all phases of standard-development.

request the Director-General to explore with international standardizing bodies and relevant intergovernmental organizations financial and technical mechanisms and means to ensure the participation of relevant bodies from developing countries in standard-setting activities.

instruct the Committee on Technical Barriers to Trade, as part of its triennial work programme, to address the problems faced by Members, particularly the developing country Members, in both international standards and conformity assessment.

request the Director-General to coordinate efforts with the relevant international standard-setting organizations to identify TBT-related technical assistance needs and how best to address these, taking into consideration the importance of bilateral and regional technical assistance in this domain.

(e) Textiles

Ministers

recognize the importance of trade in textiles and clothing for the economies of many developing countries and take note of the concerns which they have expressed with respect to the implementation process of the Agreement on Textiles and Clothing. They agree to give consideration to these concerns, in particular in respect of [advancement of improved growth rates and] the interests of small suppliers and least-developed countries.

reconfirm, accordingly, their commitment to full and faithful implementation of the provisions of the Agreement on Textiles and Clothing.

(f) Trade-Related Investment Measures

Ministers

- (i) *instruct* the Council for Trade in Goods to consider requests received before 31 January 2000 from developing country Members under Article 5.3 of the Agreement on Trade-Related Investment Measures for an extension of the transition period provided for in Article 5.2;
- (ii) *agree* not to invoke WTO dispute settlement procedures until 31 December 2001 in respect of measures covered by such requests; and
- (iii) *instruct* the Council for Trade in Goods to accord sympathetic consideration to requests for an extension of the transition period.

Sub-paragraphs (i), (ii) and (iii) above shall also apply *mutatis mutandis* to TRIMs not previously notified that were introduced not later than 30 June 1999 and that are notified to the Council for Trade in Goods by 31 January 2000.

(g) Trade-Related Aspects of Intellectual Property Rights

Ministers

instruct the Council for TRIPS to prepare a recommendation, pursuant to Article 64.3 of the TRIPS Agreement, to extend the period referred to in Article 64.2, until the end of 2002, in order to permit the Council for TRIPS to examine fully the scope and modalities for complaints of the type provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994. This recommendation shall be submitted to the General Council, conducting the functions of the Ministerial Conference, in time for adoption by the General Council before the end of 1999.

(h) Agreement on Implementation of Article VII of GATT 1994

Ministers

agree that, when the Customs Administration of an importing Member has reasonable grounds to doubt the accuracy of the value declared, it may seek assistance from the Customs Administration of an exporting Member on the value of the good imported. In that case the exporting Member shall, in accordance with its domestic laws and regulations offer cooperation and assistance.

instruct the Committee on Customs Valuation to grant, in accordance with Annex III, paragraph 1 of the Agreement, an extension of the transition period provided for in Article 20:1 of the Agreement for a period of three years to least-developed country Members and up to one year and six months to other developing country Members once they:

- (a) Make an application before 30 June 2000; and
- (b) With their application submit a detailed work programme, involving the relevant ministries and agencies, to enable the elaboration and approval of its legislation on the completion of its domestic administrative and legal procedures, including training, dissemination of information and other actions, for implementing and applying the Agreement.

This paragraph shall also apply to regional integration groups of Members.

(i) Agreement on Rules of Origin

Ministers

agree that the Committee on Rules of Origin shall complete its remaining work on harmonizing non-preferential rules of origin by 31 December 2000.

(k) Agriculture

Ministers

agree that, in order to facilitate access of developing countries to tariff quotas, Members shall provide greater transparency by including details on guidelines and procedures for allocating such quotas in their notifications submitted to the Committee on Agriculture on the administration of these quotas (Table MA:1)

agree that work on the development of internationally-agreed disciplines to govern the provision of export credits, credit guarantees or insurance programmes in accordance with Article 10.2 of the Agreement on Agriculture shall be completed before the end of the year 2000.

agree that Members, in the framework of Article 18.4 of the Agreement on Agriculture, shall give the fullest consideration to the influence of excessive rates of inflation on the ability of a developing country Member to abide by its domestic support commitments. To this end a developing country Member shall have the flexibility to notify relevant data, for the purposes of demonstrating compliance with its domestic support commitments, in terms of a selected and consistently applied unit of account other than its own domestic currency, in conjunction with notification of such data in its domestic currency.

instruct the Special Mechanism under the General Council to work out recommendations designed to improve the effectiveness of implementation of the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. These recommendations shall be acted upon by the General Council before 1 January 2001.

(l) Services

Ministers

instruct the Council for Trade in Services to review the operation of contact points established pursuant to paragraph 2 of Article IV of GATS with a view to assessing their effectiveness in promoting the participation of developing countries in services trade.

(m) Special and Differential Treatment

Ministers

instruct the Committee on Trade and Development to examine all S&D provisions before 31 December 2000 with a view to making such provisions more operational to effectively meet developing countries' needs, having regard to the specificities of each WTO Agreement or Decision;

reaffirm the importance of generalized, non-reciprocal and non-discriminatory preferences in favour of developing countries, as encompassed in the Enabling Clause;

recognizing the significant role played by existing preferential trading agreements and arrangements between developed and developing countries in fostering the phased and balanced integration of developing countries into the multilateral trading system, Ministers *agree* to give favourable consideration, as appropriate, to the granting or extension of waivers covering these and other such agreements or arrangements.

WTO Rules

40. The WTO Rules identified below shall also be the subject of negotiations:

- **Anti-dumping:** the rules shall be reviewed, and where necessary amended, on the basis of proposals by participants, with a view to strengthening and clarifying the disciplines and facilitating their proper implementation.
- **Subsidies and countervailing measures:** the rules shall be reviewed, and where necessary amended, on the basis of proposals by participants, taking into account, *inter alia*, the important role that subsidies may play in the economic development of developing countries, and the effects of subsidization on trade. In the context of these negotiations, the areas to be considered shall include, *inter alia*, certain subsidies that may contribute to over-capacity in fisheries and over-fishing or cause other adverse effects to the interests of Members. The work on fisheries subsidies shall be carried out in cooperation with the FAO and drawing also on relevant work under way within other intergovernmental bodies, including regional fisheries management organizations. It shall consist of (1) the identification and examination of subsidies which contribute to over-capacity in fisheries and over-fishing, or have trade distorting effects, and (2) the clarification and strengthening, as appropriate, of disciplines under the SCM Agreement with respect to such subsidies. It shall take into account, *inter alia*, the importance of the fisheries sector to Members, particularly developing and least developed countries. It shall also take into account artisanal fisheries. Members shall also examine ways in which the burden of subsidy notification obligations could be lightened without sacrificing transparency.
- **Regional trade agreements:** Members shall clarify, and reinforce where appropriate, WTO rules and procedures regarding regional trade agreements with the aim of ensuring the compatibility of such agreements with the multilateral trading system and providing greater certainty in the relevant legal framework. In so doing, participants shall also take into account the developmental objectives of regional trade agreements.
- **State trading:** Participants shall examine whether Article XVII of GATT 1994 and the Understanding on its interpretation require further elaboration.

Text to be inserted in paragraph 53.

Recognizing the opportunity which the upcoming Triennial Review of the Agreement provides, the existing rules shall be reviewed, with a view to clarifying, strengthening and amending, as appropriate, the provisions of the TBT Agreement including in areas such as international standards, conformity assessment procedures, technical assistance, special and differential treatment, Article 2.2 and labelling. The result of the Triennial Review will be reported to be Fourth Session of the Ministerial Conference for appropriate actions.

Text to be inserted as paragraph 54

Members shall complete the Article 9 review of the Agreement on Trade-Related Investment Measures before the Fourth Session of the Ministerial Conference and, as appropriate, propose amendments to its text.*

* Note to delegations: This text may be revised in light of the results of work in the Working Group on the Singapore Agenda and Other Issues.

Action in Favour of Least-Developed Countries

72. Taking into account proposals for a comprehensive new plan of action (CNPA) for the full and effective integration of the least-developed countries into the multilateral trading system, we agree to:

- (a)
- (b) the full and effective implementation of the Integrated Framework for Trade-Related Technical Assistance (IF), including the provision of adequate financial resources. We instruct the WTO Secretariat to pursue all efforts to this end in cooperation with the other intergovernmental agencies, bilateral donors and beneficiary governments concerned. In this connection, we agree to:
 - examine the implementation of the IF for the least-developed countries and propose improvements to the programme;
 - improve coordination and cooperation amongst the core participating agencies in the IF;
 - assess the viability of a development partner programme for the least-developed countries to assist them in making full use of the IF;
 - improve cooperation among international intergovernmental organizations (IGOs) in the identification and delivery of technical assistance, with the objective of maximizing the number of participating IGOs, particularly those participating in the IF;
 - ensure that capacity-building assistance to address supply-side and/or regulatory and other infrastructure needs is appropriately addressed;
- The General Council shall review progress and report to Ministers;
- (c) give positive consideration to the extension of transitional periods for least-developed countries to the extent that individual national requests identify steps to be taken for the implementation of ~~specific~~ WTO Agreements and for periods which take into account the availability of resources required to implement individual agreements;
- (d) convert the Sub-Committee on Least-Developed Countries into a new Committee on Least-Developed Countries. The new Committee shall have as its terms of reference the current terms of reference of the Sub-Committee on Least-Developed Countries, and make recommendations for the expansion of the terms of reference as appropriate to the General Council. The Committee shall report to the General Council;
- (e) accelerate the pace of accession for the least-developed countries, bearing in mind that the pace of accession also depends on institutional capacity in the least-developed countries themselves. In the process of accession, LDCs should not be called upon to assume obligations or commitments that go beyond what is applicable to LDC Members. WTO Members would strive to complete current LDC accessions by the time of the Fourth Session of the Ministerial Conference;
- (f) establish a high-level coordinating mechanism within the WTO Secretariat to monitor regularly the implementation of the comprehensive new plan of action in cooperation with other agencies.
- (g) ensure that the special position of LDCs is fully taken into account in new negotiations and in reviews of existing agreements.

Technical Cooperation

73. We instruct the WTO Secretariat, in close collaboration with other relevant international intergovernmental organizations, including the United Nations and its UNDP and UNCTAD agencies, and regional institutions and bilateral donors as appropriate, to reinforce technical cooperation to developing countries, particularly least-developed countries, as well as small, vulnerable economies and transition economies in overcoming obstacles to their participation in the work of WTO bodies and the process of implementation of existing WTO commitments. This reinforced technical cooperation shall address the specific needs of national implementing authorities, and shall aim at facilitating the integration of these economies into the multilateral trading system, taking into account their special circumstances. It shall include steps, as stipulated under Articles 27.2 and 27.3 of the Dispute Settlement Understanding, to ensure that all Members are able to participate effectively in the dispute settlement system. We also endeavour to ensure that the specific needs of recipient countries are fully reflected in developing technical assistance programmes at the national level. We undertake to make available the necessary resources for these efforts as appropriate, both directly and through programmes in cooperation with other international institutions.

74. Furthermore, we agree to undertake an evaluation of WTO technical cooperation not later than December 2000, taking into account the implementation of the Integrated Framework (IF). This would include, *inter alia*, proposals for General Council consideration with regard to:

- exploring ways to improve cooperation among bilateral donors, IGOs, and relevant regional IGOs;
- working to establish a comprehensive framework for the funding of technical assistance, based on an evaluation of priority requirements, current funding mechanisms (including expenditures) and other potential funding sources to ensure effective use of resources and ensure their sustainability over the long term including the Secretariat's ability to coordinate the IF with adequate human and other resources;
- improving the mechanism for review and evaluation of capacity building and technical assistance activities by the Committee on Trade and Development including regular follow-up by the General Council; and
- extending to other developing countries and economies in transition which so require, the concepts used in the IF, following an assessment of implementation of the IF and review by the Committee on Trade and Development.

75. Taking into account the growing need for technical cooperation and the commitments we have made above, we decide that this activity shall be financed through the regular WTO budget. Voluntary extra-budgetary contributions shall be encouraged as an important source of additional funding. We also welcome and strongly encourage further bilateral technical cooperation by Members as an important means to enhance capacity-building.

76. We further agree that, to this end, the provision for the current annual estimated demand, i.e., CHF 10 million to be financed by all Members with a review by the Committee on Trade and Development to ensure that technical cooperation is extended as widely as possible in a fair and equitable manner, shall be phased into the regular budget over a period of three years, starting from the 2000 WTO budget exercise.