



International Centre for Trade  
and Sustainable Development

# Bridges

## Daily Update

### On the Fifth WTO Ministerial Conference

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## AT THE ELEVENTH HOUR, DIVERGENCE ALL OVER AGAIN

Ministers have entered the final crunch of round-the-clock negotiations in an attempt to find enough common ground to avert total gridlock. Reactions to the revised draft Ministerial Text released mid-Saturday, however, showed Members more determinedly apart than at any time in recent weeks, and all bets are off on whether the vast gaps could be bridged. If not, the best that can be hoped for are new deadlines for making crucial decisions, and sending virtually all contentious issues back to Geneva.

The most important – and most bitterly contested – changes in the new draft are the proposals to launch negotiations on three of the Singapore issues, in particular on investment. Agriculture, however, remains the main bone of contention; the effort to reconcile positions seems to have fallen on infertile soil. In fact, the second draft differs little from the first one: it contains no numerical targets or timeframes and continues to paper over the cracks regarding export subsidies. The principal differences between the two drafts are highlighted below.

### Agriculture

The revised draft Text on agriculture does not depart substantially from the original, with the exception of a few key details in each of the three pillars. To summarise:

On domestic support, the text adds provisions capping product-specific Aggregate Measurement of Support (AMS) levels to their average levels during a reference period that remains to be determined. That tariff reductions be product-specific was a key demand of the G-21. On market access, the major change is the addition of bracketed text creating a minimum level of overall tariff reductions across all agricultural products. Also, bracketed text has been included that would provide additional flexibility for developed countries for “a very limited number of products to be designated on the basis of non-trade concerns”. The draft also explicitly identifies measures for special and differential treatment (S&D) of developing countries, including new language on special products.

However, while the G-21 had proposed formula cuts only for industrialised countries, the draft does propose applying formula cuts to an (unspecified) percentage of developing country tariff lines. For least-developed countries (LDCs), there is some good news; the revised draft takes a more active stance in calling for developed countries to provide duty-free and quota-free access to products originating from LDCs.

There is little change from the original draft text on the issue of export competition, except an emphasis on the need for reforms of export subsidy and export credit programmes to move in tandem. Finally – reflecting a major demand of the EC and the G-10 – new language proposes the extension of the peace clause for a period, the length of which remains to be determined.

Every single Member disagreed with major aspects of the agriculture draft, and the vast majority of their interventions dealt with those dissatisfactions. The EC objected to the capping of the blue box and made clear it would not accept the elimination of export subsidies except for products (to be determined) of particular export interest to developing countries. The G-10, which comprises such Members as Japan, Korea, Norway and Switzerland, called the draft far too

ambitious. The G-21 said it did not go far enough, particularly as it allows continued blue box support, does not clearly spell out the total elimination of export subsidies, and extends the peace clause.

### Cotton: 100% US

The four Western and Central African (WCA) countries – as well as their sympathisers – expressed outrage over the new draft Ministerial Text paragraph 27 on the cotton initiative. Under the initiative, the countries seek the total elimination of export subsidies, as well as compensation to LDCs for lost income while subsidies are being phased out. Closely reflecting the US approach, the new draft instructs the Chair of the WTO Trade Negotiations Committee to consult with the Chairs of the Agriculture, Non-agricultural Market Access (NAMA), and Rules Negotiating Groups to “address the impact of distortions that exist in the trade of cotton, man-made fibres, textiles and clothing to ensure comprehensive consideration of the entirety of the sector”. The text instructs the Director-General to consult with the relevant international organisations to effectively direct ‘existing’ (rather than new) resources toward economic diversification. In a sop to the cotton producers, the draft would have Members “pledge” not to use the discretion allowed under the agriculture draft on domestic subsidies to avoid making reductions in domestic support for cotton.

In their initial reactions, African delegates said they were utterly shocked over the draft. “We are used to hardship, disease and famine,” said a representative of the cotton industry. “Now the WTO is against us as well. I think this will stay in history – the mountain did not give birth to a mouse, it gave birth to an ant”. The ACP stressed that the initiative had received overwhelming support among Members, and said the group hoped the final text would address their concerns. European Trade Commissioner Pascal Lamy described the cotton text as “too vague” and called for the problem to be addressed under all three pillars of the agriculture negotiations (Bridges Daily Update No.4). He did not mention the transitional compensation mechanism. At the HOD meeting Saturday evening, a number of countries made references to the cotton initiative. Mali wanted to see the original proposal adopted as such, and was supported by many other countries. Some developed countries also expressed their disappointment with the new text.

During the negotiations overnight, the ACP/LDC/African Union coalition was to present an alternative proposal for para. 27. This paragraph would commit Members to take, within three months, specific measures including the elimination of export subsidies in three years and the elimination of production subsidies in four years starting from 2005. In addition, a transitional fund to support the cotton sector in cotton-producing and -exporting LDCs would be created, with a working group to be set up under the WTO Director-General to define the practical modalities for financing it.

### Singapore Issues

To the surprise of some observers, the revised draft Ministerial Text would launch negotiations on transparency in government procurement and trade facilitation, to begin immediately after the Cancun meeting, as well as on investment (following further clarification) – but not on the fourth area, competition.

On investment, the draft outlines a process under which Members “intensify the clarification process” and meet in Special Sessions of the Investment Working Group to flesh out modalities. The General Council would then adopt modalities “that will allow the negotiation of a multilateral investment framework”. The timeline for this would coincide with the date for agreeing on the modalities for agriculture and NAMA. For competition policy, the clarification process would continue including consideration of “possible modalities for negotiations”.

As set out in the modalities for negotiations included in an annex to the draft Ministerial Text, discussions on transparency in government procurement would focus on which government entities and products to cover. In contrast to the modalities in the previous draft Text, recourse to the WTO dispute settlement system is “not prejudged”, nor is the scope of application. Trade facilitation negotiations would also begin immediately, based on Paragraphs 45-51 of the Doha declaration.

The EC – one of the main *demandeurs* for negotiations – expressed dissatisfaction with the Text, calling for investment negotiations to proceed immediately. Some civil society groups called the text “scandalous”, stressing that it ignored the wishes of developing countries. India, which continues to strongly oppose launching negotiations, noted that there was no reference to “explicit consensus” required to launch negotiations in the paragraphs on investment and competition. Malaysia said that it could not support any text that implied starting negotiations, and added that this position was not negotiable regardless of developments in any other area. In a 12 September letter sent to Pierre Pettigrew, facilitator of the talks on the Singapore issues, a number of ACP, African and least-developed countries stressed that the clarification phase should continue for all issues.

## Development

Despite longstanding demands by developing countries to address the systemic imbalances that cut across the WTO Agreements, the Text makes clear that these demands have again fallen on deaf ears. This group of development issues, which includes implementation and S&D, have seen little air-time in Cancun, as broader development concerns have been shadowed by agriculture. One delegate noted that this was no surprise in light of what little value was on the table for the issues in this dossier, especially in Annex C on S&D provisions.

The Chair of the Development Working Group, Mukhisa Kituyi (Kenya), expressed frustration over the lack of development concerns being reflected in the draft. One Asian delegate said that so far Cancun had confirmed for him that the ‘development’ agenda launched in Doha was nothing more than a “wolf in sheep’s clothing”, and that it was clear that the clothing was now off. An African delegate commented that the general disregard for the commodity issue was one of the “most offensive” omissions in the draft.

While the number of S&D ‘decisions’ has increased from 24 to 27, the heavy watering down of the original proposals has left little, if any, meaningful economic value. As a result, some developing countries suggest putting them in the ‘fridge’, while continuing to work on the package in Geneva. One Quad delegate hoped that developing countries had finally been convinced that adopting the 27 proposals now and going back to Geneva to continue was the best route forward.

On implementation, talks have moved slowly, with the issue of the extension of geographical indications (GIs) reportedly having “hijacked” the agenda. The EC succeeded in keeping the language on GIs in the text, thereby linking it firmly to the implementation mandate and deadline. So far, no deadline has been set to replace the one missed on 31 December 2002, although some have suggested March 2004.

## Non-agricultural Market Access

Few dramatic changes were made to the original 24 August draft Ministerial Text on a framework for establishing modalities on the liberalisation of non-agricultural goods, on which many developing

countries had expressed major concern. The Text confirms Members’ intention to use a 19 August WTO paper as a reference for the future work of the Negotiating Group on NAMA, and leaves identification of numeric tariff liberalisation targets for later on in the Geneva process. It leaves open the date for agreeing to negotiating modalities, which has been tied elsewhere in the draft to agreement on modalities in agriculture and investment. Efforts by many developing countries, particularly India, to replace language on a non-linear formula for tariff reduction by a linear formula have so far been unsuccessful; this difference was not even reflected by inclusion of alternative text in square brackets. Nor has language been changed to reflect most developing countries’ view that a sectoral tariff elimination initiative be made voluntary. At the HOD meeting late Saturday night, countries remained far apart on all these areas, with many pointing to the lack of balance between the commitments to be taken by developed and developing countries.

Notably, Members did include two paragraphs in the new draft Annex on non-reciprocal preferences and countries highly dependent on tariff revenue; and environmental goods. On the former, the draft merely instructs the NAMA Negotiating Group to “take into consideration” the particular needs that may arise for the Members concerned. On environmental goods, the draft Text encourages the NAMA Negotiating Group to work closely with the Committee on Trade and Environment special session (CTESS) “with a view to addressing the issue of non-agricultural environmental goods covered in paragraph 31(iii) of the Doha Ministerial Declaration”. This language leaves ambiguous where agricultural-based environmental goods (for which a number of African countries have indicated they have a comparative advantage) would be addressed. One trade source said that this might open space for countries to raise this issue in the context of the agriculture negotiations.

## Other Issues

The text on Doha para. 19, which deals with issues related to the review of Article 27.3(b) on patentability of life, biodiversity and traditional knowledge, simply instructs the TRIPs Council to continue its work and requests the General Council to report to the next session of the Ministerial meeting. This raises the question of whether paragraph 19 – which includes implementation issues related to, *inter alia*, the TRIPs-CBD relationship and the protection of traditional knowledge – would be de-linked from the other implementation issues and the mandate in Cancun para. 13, which instructs the General Council to “review progress and take any appropriate action”. The same applies to the implementation issue of TRIPs non-violation included in Cancun para. 22, which instructs the TRIPs Council to make recommendations to the “first Ministerial Conference to be held after 1 August 2004” (with a dispute settlement moratorium in place until that time).

The draft Ministerial Text takes note of progress made in the CTES, but does not include language calling for the acceleration of the Committee’s work as called for by the EC. However, one of the key EC demands on observership for CTES was taken on board in the revised Text, in which Members would agree to invite MEA Secretariats, UNEP and UNCTAD to the Sessions for the duration of the negotiations. These invitations would be extended “in accordance with [the CTE’s] current practice”, under which observers have been confined to responding to questions raised by Members and have only been allowed to be present during discussions on Doha para. 31(i) on the WTO-MEA relationship. Also lacking is reference on the relationship between WTO rules and trade-related MEAs.

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