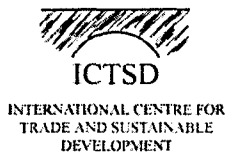




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A Southern Agenda on Trade and Environment

Midterm Report

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Midterm Report on the ‘Southern Agenda on Trade and Environment’ project-Phase 1

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Background

The Southern Agenda Project was launched by IISD and ICTSD with the objective of supporting the advancement of developing countries’ interests in the multilateral trading system. It aimed at helping developing countries evolve from a stance towards trade and environment from mistrust and negotiating resistance to discussing these issues to one of proactive and positive advancement of their own environmental interests in the multilateral trading system. The Doha Ministerial Meeting of 9-14 November has fundamentally altered the circumstances of the trade-environment debate for developing countries and consequently necessitated a refocusing of priorities for the Southern Agenda project as well. Consequently, the process during phase 1 of the project described below has been subdivided into ‘pre’ and ‘post’ Doha phases.

The Process

The process during Phase 1 of the project comprised 2 elements:

- a) Background research
- b) Informal consultations and workshops

a) Background research:

During the **pre-Doha phase** (August 1 to November 14) background research for the project was aimed at identification, collection, organization and presentation of existing environmental elements included in formal developing country proposals to the WTO. It also highlighted relevant environmental and sustainable development principles, themes and ideas as well as the evolution of language on trade, environment and sustainable development contained in the WTO draft Ministerial declarations of 26 September and 27 October, 2001 culminating in the Doha Ministerial declaration of 14 November, 2001. Most of the output for the background research was designed in a reader friendly form, easy to comprehend. And apply to negotiations. Analytical material was borrowed from ICTSD's Building the Trade and Sustainable Development project, dealing with the technology, differentiated treatment and competitiveness aspects of the WTO provisions. The aim of the background research has been to provide developing countries negotiators with elements that can be feed into the WTO informal consultations and serve as basis for discussion during the project's own dialogues.

The **post-Doha phase** (after November 14) saw a re-orientation of background research towards meeting the needs of delegates for the upcoming negotiations. As a result, the synoptic table on developing country proposals was updated and proposals relevant for the purposes of Paragraph 31 and 32 of the Doha Ministerial declaration and the CTE 2001 Work Programme were specially highlighted. In view of the forthcoming World Summit on Sustainable development at Johannesburg in September 2002, relevant principles of the Rio Declaration on Environment and Development and chapters of Agenda 21 were also mentioned along with each of the developing country proposals. This is expected to be a valuable input into the informal consultations for developing country delegates to be held in January at Geneva.

b) Informal consultations and workshops:

Informal consultations and workshops are designed to be the engines that drive the project forward and result in the crafting of a menu of elements for a truly 'Southern Agenda' on trade and environment based on Southern interests and priorities. The process of consultations during the **pre-Doha phase** began with an formal presentation and dialogue for and with ACP delegates on 23rd October, 2001 at Brussels.

i. Informal consultation with ACP delegates at Brussels (23rd October, 2001)

The project work plan called for a meeting with developing country delegates in Brussels with a two-fold purpose: (i) to expand outreach of the project to Brussels (critical decision-making centre on international trade) and collect the views of delegations that do not keep permanent visions in Geneva, as well as (ii) to learn about the developing country delegates experiences and concerns in their work vis-à-vis the European Union (EU) as they pertain to the trade and environment (t&e) debate. The latter objective was set not only in recognition of the prominent role played by the EU at the global level as demandeur of the inclusion of environment in trade policy formulation but also of the EU's specific initiative to place environment at the centre of economic integration arrangements other than the multilateral trading system. Evidence of this can be found in the EU's newest version of its generalized system of preferences (GSP). The

goal of *sustainable development* is a shared ACP-EU objective is contained in the Cotonou Agreement with African, Caribbean and Pacific (ACP) States and in the Lome Conventions which preceded it¹.

In this context, the Southern Agenda project convened a consultation in Brussels on 23rd of October with the ACP Group. Ambassador Lingston Cumberbatch, former representative of Trinidad and Tobago to the European Community, was retained by the project to help organize the consultation.

The dialogue took place in the context of the ACP Sub-Committee on Trade under the aegis of the ACP Secretariat and at their venue. The Kenyan Ambassador in Brussels presided over the consultation and representatives from 27 countries from the three ACP regions participated actively.

Ambassador Hill informed participants of the background and rationale for the project and provided an update of the preparations in the WTO for the Doha Ministerial and the proposals on trade and environment that had been submitted so far. He highlighted the linkages between the WTO proposals, in particular those emanating from the EU and the impending trade negotiations between the EU and the ACP.

There was considerable interest in the issue particularly in light of the imminence of the Doha Ministerial Meeting. In highlighting their interest, Ambassadors spoke of the need for a better and more widespread understanding of the relationship between trade and environment in general, the real implications for developing countries and the intricacies of the debate in connection with the various legal trade frameworks confronting them. Pressure was seen as particularly deriving from the timeline and deadlines for new WTO compatible trade negotiations set in the Cotonou Agreement. The negotiations which are scheduled to begin in September 2002 are meant to establish free trade agreements between the European Community and the six regions of the ACP Group or in new sub-regional aggregations. This all comes in a context of possible review of WTO rules and agreements and of the eventual launching of comprehensive multilateral negotiations, including on specific environment-related issues.

All speakers at the consultation reiterated their countries' fears about the possible abuse of environmental objectives through the use of restrictive trade measures, particularly by OECD countries. They also expressed concern about the trade competitiveness challenges that could ensue from stricter environmental norms and measures for countries with limited capacity. In this respect, they warned each other and the authors of the Project about the possible negative effects of furthering environmental objectives through what they generally perceived as presently unbalanced rule-making and standard setting international architecture. In fair-mindedness, most delegates who spoke agreed to the unquestionable importance of enhancing their environmental conditions at home and consequently of the need to seek, towards this end,

¹ The ACP-EU Partnership Agreement signed in Benin, Cotonou in June 2000 replaces the Lome IV Convention and establishes the bases for economic and political cooperation between the EU and its Member States and seventy seven countries in Africa, the Caribbean and the Pacific. Integration of ACP countries to the global economy; the eradication of poverty and, sustainable development, are among the driving aims of the Agreement.

enabling institutional solutions at the multilateral level. They also reiterated their countries' commitment to sustainable development and agreed that they face an urgent challenge in articulating a "positive", "pro-active", agenda in this respect.

A consensus view was expressed with respect to the ACP countries' need for effective and applied capacity building in the field of trade and environment. In this context, delegates welcomed the IISD-ICTSD initiative and requested the project to organize a follow-up consultation to take the discussion further. We are currently planning the follow-up consultation, end February or early March.

The project has agreed to this request and is working in organizing such a consultation in early 2002. It also intends to expand the dialogue to other developing countries in Brussels.

The informal consultation for Geneva based delegates originally scheduled to be held during October and November had to be postponed to January due to the preoccupation of delegates with the upcoming Doha Ministerial Conference.

- ii. Lunch meeting for Ambassadors and Heads of Delegations from developing countries at Doha (November, 2001)

A briefing on the Southern Agenda project was planned for delegates and NGOs attending the WTO Ministerial Meeting in Doha, Qatar, from 9-14th November. Uncertainty regarding dates and location and even whether the Conference would be held at all made it difficult to plan a briefing in advance. Other factors too hampered the possibility of holding a briefing. Security considerations led to a sharp reduction in the numbers of both delegations and NGO representatives at Qatar. The abandonment of NGOs of the NGO center made it difficult to organize events there. The delegates' time was also taken up by negotiations and delegation meetings after the first day. Finally, the dynamics of the Doha meeting changed the parameters of the Trade and Environment debate fundamentally. Environment became central to the emerging work programme and the participation of developing countries in the environment debate became one of necessity rather than choice if they were not to lose out.

As a result ICTSD and IISD opted for hosting a lunch for Ambassadors and Heads of delegations from developing countries. The matter now became one of dealing with the pressure from the countries present rapidly to transform the incipient project into a full -scale programme in support of the developing countries in approaching the environmental challenges of the new work programme. We believe the event helped reinforced a shift of mood and built considerable support for the project Three aspects of the final declaration from Doha reinforce this: the three paragraphs (31-33) setting out the environmental work programme for the WTO, and especially the call for technical assistance and capacity building in the developing countries in respect of their environmental challenges; the monitoring role over all of the negotiations allocated to the WTO Committees on Trade and Environment and Trade and Development; and the waiver given to measures taken under the Cotonou Agreement between

the EU and the ACP countries, which will allow a range of environmental measures to be taken under that agreement without risk of challenge in the WTO.

iii. The London Workshop for the Ring Partners (15 November, 2001)

The Southern Agenda project is a collaborative effort between IISD, ICTSD, and the Ring of Sustainable Development Research Institutes. While the Ring was involved in the discussions leading to the project, and in the elaboration of the project proposal, there is not a great role assigned to them in the first phase – based essentially on Geneva and Brussels-based consultations and desk research. The second phase, however, relies on their active involvement.

The meeting in London gathered the Ring members from around the world, and in particular those who have responsibility for organizing the regional consultations in the second phase of the project. The meeting, which took place on 15 November (the day after the adoption, in Doha, of the Ministerial Declaration), was the first workshop of the **post-Doha** phase and focused on:

- A detailed analysis of the results of the Doha Ministerial Conference, the implications of the agreements adopted and the work programme set out, and the consequences of these on the further development of the project.
- An update on the Southern Agenda project phase one by Ambassador Anthony Hill, and a discussion of scope and tactics.
- A first discussion of targets, scope, timing and organization of the second phase of the project.

Following the London meeting, the Ring members seem fully on board and enthusiastic at the prospect of getting involved in the coming phases of the project. Their advice, however, as to think in terms not only of a one-year cycle of regional consultations and a final report, but rather in terms of a more complete and more ambitious three-year programme.

Expected Outputs of Phase-1 of the Southern Agenda

1. An increased awareness of developing country environmental interests in the trade context especially with regard to Paragraphs 31 and 32 of the Doha Ministerial Declaration.

2. Concrete feedback from key developing countries with regard to their interests and priorities with specific focus on the agenda for negotiations contained in paragraph 31 of the Doha declaration and the CTE work programme contained in paragraph 32 of the Doha declaration. Also on complementary mandates such as paragraph 51 on the overseeing roles of the Committees on Trade and Environment and Trade and Development. This will be one of the key building blocks in the construction of a Southern Agenda on trade and environment. The feedback will be gathered through informal consultations among delegates in Geneva and Brussels. Consultations will be stimulated on the basis of existing developing country proposals in the WTO.



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A Southern Agenda on Trade and Environment

WTO Committee on Trade and Environment A Guide to the original Mandate

GATT/WTO Mandate for Work Programme on Trade and Environment :

GATT: Standing Group on Environmental Measures and International Trade (GEMIT) set up by GATT in November, 1971 to handle any specific problems arising out of conflicts between pollution control measures and trade policies. It was called upon to meet only in 1991 by (EFTA) members. The Reason was the increasing evidence of the impact of environmental policies on trade and vice-versa. Developments such as the Brundtland Commissions's Report (1987) and the 1991 GATT Tuna-Dolphin case between the U.S and Mexico also brought the links between trade and environment into the spotlight. Subsequent events such as the 1992 UN Conference on Environment and Development (The Rio Conference), to which the GEMIT was asked to contribute, underlined the importance of GATT's role in undertaking further work on this issue.

WTO:

- The Marrakesh Agreement establishing the WTO (1994) places environmental protection, the conservation of scarce resources and sustainable development firmly among the WTO's objectives. Its Preamble states that:

"The Parties, Recognising 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."

- The Ministerial Decision on Trade and Environment (1994) in its Preamble sets out the basis for establishing a work programme designed to clarify the relationship between trade measures and environmental measures and to develop recommendations on whether any modifications of the rules of the Multilateral trading system were needed.

The Preamble expresses confidence that *"there should not be, nor need be, any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system on the one hand, and acting for the protection of the environment and the promotion of sustainable development on the other."* Reflecting in particular a widespread view of developing country governments, it also states the desire to coordinate trade and environment policies *"without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members."*

The tasks for the work programme was entrusted to a **Committee on Trade and Environment**, an ad-hoc body established by the General Council and was required to report to the first meeting of the WTO Ministerial conference.

The tasks of the Committee are defined by the Ministerial decision (the tasks are based on the TNC decision of 15 December, 1993) as being:

- 1) To identify the relationship between trade measures and environmental measures in order to promote sustainable development and
- 2) To make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system

The Committee's **terms of reference** is constituted by the a) the language of the TNC decision and the b) preambular language mentioned above. The terms of reference explicitly covers services (as envisaged in the **Decision on Trade in Services and the Environment**) and *trade-related intellectual property matters* as well as goods. The Ministerial Decision calls on the Committee to report on the following items as listed in the table below.

<i>Item on the Work Programme</i>	<i>Issues</i>
Item 1: "The relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements"	<ul style="list-style-type: none"> - ensuring the compatibility of trade measures taken pursuant to MEAs and the WTO - adequacy of WTO transparency mechanisms concerning trade measures included in relevant MEAs - see item 5
Item 2: "The relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system"	
<p>Item 3: "The relationship between the provisions of the multilateral trading system and:</p> <p>(a) charges and taxes for environmental purposes</p> <p>(b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling"</p>	<ul style="list-style-type: none"> - environmental taxes which could be adjusted at the border and their WTO-consistency - applicability of the TBT Agreement to eco-labelling - adequacy, from both the trade and environmental perspectives, of WTO rules regarding eco-labelling and possible need for further disciplines and transparency
Item 3 (b) cont'd	<ul style="list-style-type: none"> - adequacy, from both the trade and environmental perspectives, of WTO rules regarding packaging, handling, and other environmental regulations, requirements and standards, including the possible need for further disciplines and transparency
Item 4: "The provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects"	<ul style="list-style-type: none"> - examination of the proposal that Members should establish environmental enquiry points - see items 1 and 3
Item 5: "The relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements"	<ul style="list-style-type: none"> - see item 1 - environmental expertise in trade dispute settlement - trade expertise in environmental dispute settlement
Item 6: "The effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions"	<ul style="list-style-type: none"> - the effect of environmental measures on market access - the environmental benefits of removing trade

	restrictions and distortions, including tariff escalation, subsidies, state trading, excessively high tariffs
Item 7: "The issue of exports of domestically prohibited goods"	- DPGs, and whether there is a need for a DPG Agreement
Item 8: "Trade-Related Aspects of Intellectual Property Rights and the environment"	- the relationship of the TRIPs Agreement to access to and transfer of technology and the development of environmentally-sound technology - the relationship between the TRIPs Agreement and MEAs which contain IPR-related obligations
Item 9: "Services and the environment"	- sufficiency of Article XIV of GATS - possible points of contact between relevant MEAs and GATS
Item 10: "Appropriate arrangements for relations with non-governmental organizations referred to in Article V of the WTO and transparency of documentation"	



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Elements for Discussion – Pre Doha

Elements for Discussion – Pre Doha

The objective of the present document is try to identify the issues that both developed and developing countries could mention in their work for the next WTO Ministerial Meeting (Doha) regarding environmental matters.

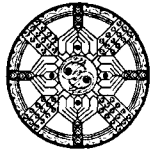
The issues are organized in sections identifying pro and contra positions: Ministerial Declaration and matters of negotiation and identifying, in general terms.

This document could be the basis of consultation with developing country trade representatives in Geneva and Brussel.

ISSUES	PRO	CONTRA
<i>Ministerial Declaration</i>		
Are environmental elements necessary on a Ministerial Declaration?	The WTO has a responsibility to promote sustainable development.	The WTO already has the effective legal basis.
<ul style="list-style-type: none"> • Trade and environment are mutually supportive 	Mutual supportiveness of trade and environment is a precondition of sustainable development.	It is redundant to ensure mutual supportiveness, since it is already agreed.
<ul style="list-style-type: none"> • Environmental protection shall not to be used as a cover for protectionism. 	Environmental standards could be misused by developed countries for protectionist purposes.	There is no need to deal with that issue in a Declaration.
<i>Matters of Negotiation</i>		
To encourage coherence and co-operation between the multilateral trading system and other relevant international fora.	This is consistent with the general approach of coherence in the WTO	This imply duplication of work and could create confusion about responsibilities.

<p>To ensure the maximization of positives synergies between trade and environment</p>	<p>It is necessary to establish guidelines to ban measures that create distortions in trade and deteriorate the environment (Win - win situations).</p>	<p>This matter requires more analysis</p>
<p>The objective of sustainable development shall be appropriately reflected throughout the negotiations</p>	<p>Environmental assessments of trade negotiation can help to ensure that the objective of sustainable development is met throughout the negotiations.</p>	<p>This matter will only create more obligations for developing countries. Developing countries first require a signal in the consolidation of implementation issues regarding WTO agreements</p>
<p>Clarification of the relationship between WTO rules and trade measures</p>	<p>This will provide predictability and stability.</p>	<p>This is a theoretical rather than a practical problem,</p> <p>The Dispute Settlement System has resolved matters in a perfectly manner.</p> <p>WTO can be the platform to resolve all the problems. Development in other for a require government to act in these fora.</p>
<p>Labeling</p>	<p>These issue are of interest since they are also of importance of the discussion of Biosafety Protocol and other for a dealing with GMO labeling</p>	<p>There is no need for a clarification on that issue. Labeling is regulated in TBT and SPS agreement.</p> <p>Ecolabeling is not a trade matter and the discussion open a pandora box for trade restrictive measures</p>

Precautionary Principle	Clarification is needed on the compatibility of measures based on the precautionary principle	<p>This is very controversial and precaution is far so clear as a principle.</p> <p>It is only the interest of the EU.</p> <p>The Disputes Settlement System has proven capable of addressing this issue adequately.</p>
<i>Other Issues</i>		
<ul style="list-style-type: none"> • The role of the CTE • To establish a working group on biotechnology • Fisheries subsidies • New redaction art. XX of GATT 		



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Synoptic Table on some Principles of Environmental Policy – and their Reflection in International Law

- ◆ Three important environmental policy principles relevant to discussions on trade, environment and sustainable development are
 - The Polluter Pays Principle and
 - The Precautionary Principle
 - Access to Information, public participation in decision making and access to Justice in environmental matters

Some important legal conventions	<i>Polluter pays principle</i>	<i>Precautionary Principle</i>	<i>Access to environmental justice</i>
Multilateral	<p><i>-Rio Declaration 1992:</i> Principle 16 states that "National authorities should endeavour to promote the internalisation of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment."</p> <p><i>-The Energy Charter Treaty 1994:</i> Article 19 (1) states that: "the Contracting Parties agree that the polluter in the Areas of Contracting Parties, should, in principle, bear the cost of pollution, including transboundary pollution, with due regard to the public interest and without distorting Investment in the Energy Cycle or international trade."</p>	<p><i>-Rio Declaration 1992:</i> Principle 15 codifies the Precautionary principle for the first time at the global level. Principle 15 states that "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific uncertainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."</p>	<p><i>- UN Economic Commission for Europe (UNECE) Aarhus Convention on Access to Information, public participation in decision making and access to Justice in environmental matters 1998.</i> Article 5.8 of the Convention seems particularly relevant to debates on product labelling. It states that "Each party shall develop mechanisms with a view to ensuring that sufficient product information is made available to the public in a manner which enables the consumer to make informed environmental choices."</p>
	<i>Polluter pays principle</i>	<i>Precautionary Principle</i>	<i>Access to environmental</i>

		<i>justice</i>
<p>(... Multilateral continued)</p>		<p>Other relevant conventions include:</p> <ul style="list-style-type: none"> - Article 6 of the <i>Fish Stocks Agreement 1995</i>, i.e. <i>The Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea, 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks</i> - the 9th Preambular paragraph of the <i>Convention on Biological Diversity (CBD)1992</i> - Article 3.3 of the <i>United Nations Framework Convention on Climate Change 1992</i> -Annex II, Article 3(3)(c) of the <i>Convention for the Protection of the Marine Environment of the North-East Atlantic1992</i> - Article 19 (1) of the <i>Energy Charter Treaty1994 states that</i> ““In its policies and actions each Contracting Party shall strive to take precautionary measures to prevent or minimize environmental degradation. ” - The Cartagena Protocol on Biosafety to the Convention on Biological Diversity 2000. Article 10 (8) states, “Lack of scientific uncertainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of the living modified organism on the conservation and sustainable use in the Party of import, taking also into account risks to human health, shall not prevent that party from taking a decision, as appropriate, with regard to the import of that living modified organism intended for direct use as food or feed, or for processing, in order to avoid or minimise such potential adverse effects.”

	<i>Polluter pays principle and/or Precautionary Principle</i>	<i>Access to environmental justice</i>
<p>European Union</p>	<p>- <i>Article 172 (4) of the EC Treaty</i> states, "Community policy on the environment shall be (...) based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage as a priority rectified at source and that the polluter should pay."</p> <p>-The European Council Resolution () was adopted at the European Council meeting in Nice on 7-9 December as Annex III of the Presidency Conclusions. It called on the Commission to incorporate the <i>precautionary principle</i>, wherever necessary, in drawing up its legislative proposals and in all its actions and also to ensure that it is taken into account in relevant international fora particularly the WTO.</p> <ul style="list-style-type: none"> • minority opinion <p><i>The Resolution</i> also</p> <ul style="list-style-type: none"> • recalls various international texts where the Principle is included such as the Rio Declaration, the Climate Change Convention and the Cartagena Protocol • recalls that the recognition of this principle is to be seen from a perspective of sustainable development • considers the measure must not be applied in a way resulting in arbitrary or unwarranted discrimination • states that the principle must not be used to introduce disguised trade restrictions and considers the use of the least trade-restrictive measure for attaining the same level of health and environmental protection if a number of measures exist • states that the EU attaches great importance to helping developing countries to participate in the SPS and TBT Agreements in view of their particular difficulties in that respect • recalls the recommendations made by the WTO Panels, in particular the Appellate Body in the <i>Hormones case</i> concerning the right of WTO members to establish their level of sanitary protection which may be higher than that implied in existing international standards and to take into consideration 	<p>-The White Paper on Environmental Liability (COM (2000) 66 Final, dated proposes a Community Framework Directive on environmental liability providing for a strict liability - with defences - for traditional damage (to health and property) and a fault based liability for non-hazardous environmental damage. This includes contamination of sites, damage to nature and biodiversity in the Community.. The new environmental liability regime is intended to ensure that polluters are held responsible for environmental damage, thus prioritising the protection of the natural environment and, in the Commission's opinion, limiting adverse health implications for all Europeans.</p> <p>-the White paper proposes that compensation to be paid by the polluter should be spent on effective restoration of the damage</p> <p>- for cases concerning environmental damage, the paper proposes that public interest groups should have a right to step into the shoes of public authorities, where these are responsible for tackling environmental damage but have not acted. This is in line with the 1998 Aarhus Convention on access to information, public participation in decision-making and access to justice</p>



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A Synoptic Table Comparing Trade, Environment and Sustainable Development Provisions in the WTO Draft Ministerial Declaration

Comparison of Trade, Environment and Sustainable Development provisions in the WTO Draft Ministerial Declaration

26 September, 2001. JOB(01)/140	27 October, 2001, JOB(01)/140/Rev.1
<p>◆ Preamble:</p> <ul style="list-style-type: none"> ● Paragraph 5 of makes reference to the “<i>mutually supportive.. aims..</i>” of the Multilateral Trading System and “<i>..protection of the environment and promotion of sustainable development..</i>” ● Paragraph 5 recognises.... “<i>the right under the multilateral rules to take measures ...(for).. environmental protection they deem appropriate, including the right to regulate, and to introduce new regulations on, the supply of services</i>”. (Emphasis added) 	<p>◆ Preamble:</p> <ul style="list-style-type: none"> ● Paragraph 6 makes reference to the Preamble of the Marrakesh Agreement .It reaffirms ...commitment to the “objective of sustainable development as stated in the Preamble to the Marrakesh Agreement” and it repeats the “mutually supportive aims.. (of).. the MTS” and “protection of the environment and promotion of sustainable development” . ● Paragraph 6 further reads, “We recognise the right of Members under WTO rules to take measures to uphold and enforce the levels of health, safety and environmental protection they deem appropriate. We agree to ensure that measures taken to address such concerns shall not be used for protectionist purposes.” ● Paragraph 7 reads, “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.”

Comments on the Preamble:

1. The 27 October Draft has a separate paragraph (paragraph 6) exclusively on sustainable development and the environment.
The other important changes are:
2. The 27 October draft deletes “..the right to regulate or to introduce new regulations on the supply of services.” (found in paragraph 5 of 26 September)
3. In both drafts, the discretion remains as the words “right to take measures” and “deem appropriate” are retained. This needs to be clarified whether it materially improve the discretion to take unilateral measures. Further, under what conditions can “deem appropriate” be challenged? Is it only under Article XX of GATT 1994?
4. The 26 September draft (paragraph 5) reads “...the right... to take measures ...under the multilateral rules”, whereas in 27 October (paragraph 6) there is a reference to “WTO rules”. Is there a legal distinction to be made? (Do “multilateral rules” refer to both WTO and MEAs? In the 27 October draft, exclusive right appears to be accorded to WTO rules. What is the significance of the changes are what are the implications?
5. Additionally, a new paragraph 7 in 27 October introduces “..the right of Members under the GATS to regulate, and to introduce new regulations on, the supply of services.” (This is close to the language of paragraph 5 of the 26th September draft.)
-This too, has major implications if it is intended that Members have the right to protect the environment through recourse to the GATS. Note that paragraph 7 reads, “We reaffirm the right...”. Does this now reintroduce the idea set out in paragraph 5 of the 26 September draft? Is it agreed that the GATS covers environmental services and members can therefore “reaffirm the right” as proposed? It should be noted that paragraph 5 in 26 September reads “...the right to regulate and introduce new regulations on, the supply of services.”

<p>26 September, 2001. JOB(01)/140.</p>	<p>27 October, 2001 JOB(01)/140/Rev.1</p>
<p>◆ Future Work Programme including Organisation and Management:</p> <ul style="list-style-type: none"> • The 26 September draft in paragraph 27 instructs the CTE to carry out its work pursuant its terms of reference and “..the WTO’s objective of sustainable development...” • The 26 September draft refers in particular to “..deepen the understanding of the relationship between the multilateral trading system and the MEAs ” (CTE Agenda Item No.1,5,7(?) and 8(?)) • The 26 September draft refers to a “single undertaking” for the subjects included in the negotiations “..the overall conduct..supervised by a Trade Negotiations Committee (TNC) under the authority of the General Council”(paragraph 39). Paragraph 41 reads that the Committee on Trade and Development (CTD) and the CTE “<u>within their respective mandates, each (will) 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 in the negotiations.</u>” (emphasis added). 	<p>◆ Future Work Programme including Organisation and Management:</p> <ul style="list-style-type: none"> • The 27 October draft in Paragraph 27(i) does not refer to “ the objective of sustainable development” but introduces the effect of “environmental measures on market access...” (CTE Agenda Item No.6) • The 27 October draft in Para 27 (ii) does not repeat the words “deepen the understanding.” The subparagraph begins directly with the words “the relationship..” (CTE Agenda Item No.1, 5, 7(?) and 8(?)) • Para 27(iii) introduces a reference to TRIPS.(This does not appear in the 26th September draft) (CTE Agenda Item No.8) • Para 27 (iv) introduces “Labelling”. (This does not appear in the 26th September draft) (CTE Agenda Item No. 3(b), 2(?),4 (?) and 7(?)) • A new sentence is added in paragraph 27 which reads, “Work on these issues should include the identification of any need to clarify relevant WTO rules” (This does not appear in the 26th September draft) (There does not seem to be a CTE Agenda Item specifically related to this.) • A new sentence is added in paragraph 27 which reads, “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.” • It is to be noted that paragraph 44 strengthens the negotiating intention. But paragraph 44 does not repeat the words “..in the negotiations” towards the end of the sentence unlike paragraph 41 of the September 26 draft. Instead it terminates with “ ..having sustainable development appropriately reflected.”

Comments on Future Work Programme including Organisation and Management:

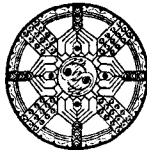
There are two points which require clarification and careful consideration:

1. “The objective of sustainable development” in paragraph 27 of the 26th September draft is replaced by “the effects of environmental measures on market access” (**CTE Agenda Item.No.6**) in paragraph 27(i) of the October 27 draft. Are “the effects” to be realised before a member may take action? In that case would damage have to be proven? Also is there a right for action exclusively under Article XX of GATT 1994, Article XIV of GATS or other appropriate rules?
2. On the face of it all CTE items seem to be included in the Ministerial Drafts except a specific reference to Domestically Prohibited Goods (DPGs) (**CTE Agenda Item.No.7**) and appropriate arrangements for relations with non-governmental organisations referred to in Article V of the WTO and transparency of documentation.” (**CTE Agenda Item.No.10**) as well as possibly the “Environmental benefits of removing trade restrictions and distortions” (**CTE Agenda Item.No.6(b)**) though this could be considered as being included in the reference to “market access.” (**Agenda Item.No.6**).

General Comment:

It would appear that all CTE Agenda Items plus others which might be identified by the CTD and CTE as well as those in specific WTO Agreements, could be the proper subjects of “a single undertaking negotiations.” However it is not clear whether this would have to await a decision at the Fifth Ministerial Meeting when recommendations would be made by the CTD and CTE within their terms of reference.

[End of Document]



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A Southern Agenda on Trade and Environment

Synoptic Table comparing Members' Positions on key issues before and after the 4th Doha WTO Ministerial Conference

Synoptic Table comparing Members' positions on key issues before and after the 4th Doha WTO Ministerial Conference

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the final Draft Ministerial Declaration/decision)	Other proposals
<p>Agriculture</p>	<p>a) <u>Creation of a "development box" on agricultural support measures that would shield developing countries' subsidies and other support measures targeted at ensuring food security and rural development goals:</u></p> <p>U.S: The only country reportedly entirely opposed to it.</p> <p>Many developed countries especially Cairns Group: want to proceed with greater caution to ensure that policies falling within its scope correspond to specific criteria. Such criteria will most likely be developed during the post-Doha agricultural negotiations.</p> <p>Developing countries: Needs to be created. Change in the text to address tariff peaks and escalation in agricultural trade also needed.</p> <p>Countries supporting "multifunctionality", Russia, China and Four Mercosur countries : Support proposal. (according to unconfirmed and unverifiable reports)</p> <p>(continued on next page..)</p>	<p>a) The E.U has agreed to incorporate the words '...reductions of, with a view to phasing out all forms of export subsidies;..' in paragraph 13 of the 14th November Ministerial declaration. However this is softened by the preceding phrase '... without prejudging the outcome of the negotiations' ... However the special and differential language addressing development needs, food security and rural development for developing countries seems stronger than the language addressing other non-trade concerns.</p> <p>b) <u>Creation of a "development box" on agricultural support measures that would shield developing countries' subsidies and other support measures targeted at ensuring food security and rural development goals: is conspicuously absent from the 14th November draft ministerial declaration.</u> This is a notable failure to meet developing country concerns. Instead the language as before merely restates the principle of "special and differential treatment... operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development."</p>	

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the final Draft Ministerial Declaration/decision)	Other proposals
<p>Agriculture</p>	<p>(..continued from previous page)</p> <p>b) <u>Export Subsidies</u>- Cairns Group: Ministerial Declaration should call for its elimination and agriculture should be fully integrated into WTO rules governing trade in goods. EU: Draft language on export subsidy reduction already goes too far.</p> <p>c) <u>Non-trade concerns</u>- Cairns Group: Draft language is too ambitious EU: Need for special recognition of rural development, food safety and the environment. Preservation of countryside and ensuring that generations of family farmers are not forced out of business is a matter of sovereignty that cannot be traded away.</p>	<p>c) <u>Elimination of tariff peaks, tariff-escalation and non-tariff barriers:</u> a key demand of developing countries has not found specific mention in the 14th November Draft declaration. Instead there is the restatement of ‘..comprehensive negotiations aimed at substantial improvements in market access;..’ as found in the October 27 Declaration.</p> <p>The 14th November Draft states that ‘ Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31st March, 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later the date of the 5th Session of the Ministerial Conference.’</p>	

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the final Draft Ministerial Declaration/decision)	Other proposals
<p>Implementation</p>	<p>a) <u>Textiles:</u> Market Access a major stumbling block. Developing countries: Concessions in the Draft Ministerial Decision on Implementation are insufficient U.S and Canada: have political difficulties in accepting textile concessions outlined in the Draft Ministerial Decision on Implementation U.S., Canada, Portugal, Spain and Italy: Want the Draft Ministerial Decisions' growth-on-growth provisions of textiles scaled back</p> <p>b) <u>Subsidies:</u> Another Contentious area Latin American countries: Disagreement over mechanisms for extension under Article 27.4 of the Subsidies (SCM) Agreement. Smaller Central American countries support differentiated approach (based on 27 October language) extending eligibility criteria to countries with a Gross National Income below \$U.S.20 billion and/or a share of world merchandise trade not greater than 0.10%. Countries below those levels would be entitled to maintain subsidy programmes consistent with their economic, financial and development needs (Continued on next page...)</p>	<p>Unsatisfactory for most developing country textile exporters The November 14 Ministerial draft declaration merely relegates textiles to be addressed as a "matter of priority by relevant WTO bodies.." (paragraph 12 of the Declaration.)</p> <p>Paragraph 4.4 of the November 13th Implementation draft relegates the "growth on growth" provisions of Tirts 20, 21 and 25 of the October 27 Implementation draft to a mere 'examination' by the Council for Trade in Goods.</p> <p>Most of the paragraphs in the 13th November Draft Decision on Implementation-related Issues and Concerns on the Agreement on Textiles and Clothing contain "best-endeavour" language:</p> <p>Paragraph 4.1 states that 'the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised'.</p> <p>Paragraph 4.2 states that " Members will exercise particular consideration before initiating investigations in the context of anti-dumping remedies on textiles and clothing exports from developing countries..."</p>	<p>Before/During Doha Dominican Republic: Raised issue of unfulfilled expectations of technology transfer under Article 66.2 of TRIPS.</p> <p>Bangladesh: Increased technical and financial assistance for least-developed countries</p>

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the final Draft Ministerial Declaration/decision)	Other proposals
<p>Implementation</p>	<p>(..continued from previous page)</p> <p>c) <u>Extension of Transition periods for TRIPs and TRIMs Agreements</u> : Differences among some but not all developing countries</p> <p>The contents of a “Doha-down-payment” appear firmly linked to progress on other issues in the Ministerial Agenda inspite of developing countries’ demands that Implementation issues must be addressed independently of the launch of a “new round” of trade talks.</p>	<p>Paragraph 10.6 of the 13 November Draft Decision on Implementation-related Issues and Concerns relating to the Agreement on Subsidies and Countervailing Measures provides for extension of the transition period under the rubric of Article 27.4 and pursuant to the procedures set forth in document G/SCM/W/471.Rev.1. In addition to the provisions in Tired 82 of the 27 October Draft, Paragraph 10.6 of the 13 November draft also provides for equal treatment for members at similar stages of development after the SCM Committee takes account of the relative competitiveness in relation to other developed country members who have requested an extension of the transition period.</p> <p>Paragraph 10.5 restates the proposal of developing countries found in Tired 82 of the 27 October draft regarding exemption from the prohibition on export subsidies.</p> <p>Proposal by developing countries on Article 5.3 of the TRIMS Agreement (regarding extension of transition periods) and Article IX.3 of the WTO Agreement as found in Tired 36 of the 27 October draft has been incorporated as Paragraph 6.2 of the 13th November draft.</p>	

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the final Draft Ministerial Declaration/decision)	Other proposals Before/ During Doha U.S: WTO Committee on Trade and Environment should be granted greater procedural freedom with respect to MEAs
Environment	<p>No opposition to text on Environment. Paragraph on Environment likely to emerge</p> <p><i>E.U:</i> Steps up controversial demand for an “operational negotiating mandate” on clarifying WTO Rules on environmental issues linked to market access and labelling as well as the relationship between multilateral trade and environmental regimes. Backed by Norway, Switzerland and Japan</p> <p><i>E.U:</i> Willing to show flexibility by delaying the start of the negotiations, provided that there is a firm commitment to launch negotiations at the 5th Ministerial Conference in 2003.</p>	<p><u>a) Change in the Preamble:</u> There are new additions to as well as change in language towards the end of paragraph 6 of the October 27 draft. The first new sentence added in paragraph 6 of the 14th November draft is ‘We take note of the efforts by Members to conduct national environmental assessment of trade policies on a voluntary basis.’ The change in language is as follows: ‘ We recognise the right of Members under WTO rules to take measures to uphold and enforce the levels of health, safety and environmental protection they deem appropriate. We agree to ensure that measures taken to address such concerns shall not be used for protectionist purposes’ in the 27th October draft is replaced by ‘We recognise 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... (reiteration of the language of the chapeau of Article XX of GATT) ...and are otherwise in accordance with the provisions of the WTO Agreements.’ The second and third new sentences is added at the end of paragraph 6 and includes a welcoming of continued cooperation between WTO and UNEP and other intergovernmental organisations. It also encourages efforts to promote such cooperation especially in the lead up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa in September, 2002.</p> <p><u>b) Change in the Work Programme</u> ♦ This includes a new paragraph (paragraph 31) on an agreement on negotiations ‘...without prejudging their outcome.’ (new addition) 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 right of any Member that is not a party to the MEA in question.’ (..continued on the next page)</p>	

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the final Draft Ministerial Declaration/decision)	Other proposals
<p>Environment</p>	<p>Developing countries: Opposed to language on negotiations <i>Zambia, Malaysia, Egypt, Guatemala and Botswana:</i> Speaks against E.U proposal which goes further than the current Ministerial Draft.</p>	<p>(..continued from the previous page)</p> <p>ii) Procedures for regular information exchange between multilateral environmental agreements (MEAs) Secretariats and the relevant WTO Committees and the criteria for the granting of observer status.</p> <p>(iii) the reduction, or as appropriate, elimination of tariff or non-tariff barriers to environmental goods and services, especially in relation to developing countries ,in particular, the least developed among them.</p> <p>The paragraph ends with a note by Members that fisheries subsidies form part of the negotiations provided for in paragraph 28 of the (November 14th)Draft Declaration.</p> <ul style="list-style-type: none"> ◆ The previous paragraph 27 of the October 27 draft (paragraph 32 of the 14th November draft also contains a few changes and additions: <ul style="list-style-type: none"> ▪ In subparagraph (i) the words ‘the effect of environmental measures on market access.’ is followed by the new sentence, ‘..especially in relation to developing countries, in particular the least developed among them,.’ ▪ Subparagraph (iv) on ‘labelling’ is clarified by the addition of the sentence ‘..requirements for environmental purposes.’ ▪ A new sentence is added , namely that ‘ 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.’ ◆ A new paragraph (paragraph 33) on technical assistance and capacity building has been added. It includes an encouragement by members on the sharing of expertise and experience with Members wishing to perform environmental reviews at the national level. ‘A Report shall be prepared on these activities for the 5th Session’ it states. <p>The inclusion of negotiations on ‘the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs) seem to be a setback to many developing countries who were resisting the inclusion of this agenda.</p>	

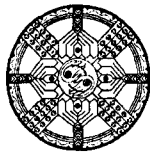
Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the final Draft Ministerial Declaration/decision)	Other proposals
<p>Rule Making</p>	<p>a) <u>Anti-Dumping</u>: U.S: Under pressure from domestic constituencies not to weaken trade remedy laws or put anti-dumping up for renegotiation or clarification. Developing countries: continue to call for stricter disciplining on anti-dumping actions and stronger language on strengthening special and differential rules. Japan and Korea: Anti-dumping an indispensable component of future negotiations. b) <u>Subsidies</u>: U.S and Iceland: Welcomed the opportunity to address fisheries subsidies in the new round. E.U and others: No single sector should be singled out for specific attention in the subsidies discussions. Later the E.U shows flexibility and willingness to “analyse and identify problems” with fisheries subsidies within the framework of the WTO as an indication that its environ-mental agenda was not protectionist.</p>	<p>The 14th November draft agrees on negotiations aimed at clarifying and improving disciplines under the Anti-dumping and Subsidies Agreements. This follows a major climb down by the U.S from its prior stance of refusing to concede negotiations. This is perceived as a major concession by the U.S.</p> <p>The new draft makes a few additions to the language of the 27th October draft.</p> <ul style="list-style-type: none"> • It reaffirms the agreement to negotiate in the 27th October draft ‘..while preserving the basic concepts, principles, and effectiveness of these <u>Agreements, and their instruments and objectives..</u>’ (new addition). The word “..underlying them..” in the 27th October draft is removed. • It restates that ‘In the initial phase of the negotiations, participants will indicate the provisions, <u>including disciplines on trade-distorting practices, they seek to clarify and improve in the subsequent phase.</u>’ (new addition). • There is a re-affirmation to clarify and improve WTO disciplines on fisheries subsidies with a <u>reference also to paragraph 31</u>(new addition) 	<p>Before/During Doha Peru: <i>Requests further discussions on fisheries subsidies</i></p> <p>After Doha. Adequately addressed in the November 14th draft (Paragraphs 28 and 31)</p>

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the final Draft Ministerial Declaration/decision)	Other proposals
<p>New or “Singapore” Issues- (Investment, Competition policy, Government Procurement and Trade facilitation)</p>	<p><i>South Asian and African countries:</i> Opposed to negotiations</p> <p><i>Latin American countries:</i> More nuanced reservations</p> <p><i>E.U., Chile, Japan, Costa Rica and Korea:</i> Called for more ambitious language on investment and other Singapore issues.</p> <p><i>Developing country members especially least developed countries:</i> appear to be taking a solid, united stand in opposition to negotiations This also applies to the opt-in / opt-out approach proposed in the current draft Declaration.</p> <p>Most discussions in informal consultations focussed on investment and competition policy with countries holding to traditional positions.</p>	<p>The most significant aspects are:</p> <p>a) <u>Relationship between Trade and Investment and Trade and Competition Policy</u> :</p> <ul style="list-style-type: none"> • The November 14th draft e states that “..we agree that negotiations will take place after the 5th session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations” . Thus negotiations are effectively agreed to. • The words ‘ clarification of elements of a possible multilateral framework ... have been deleted in the paragraph 20 and 21 of the 27th October draft. The former has been replaced with ‘Recognising the case for a multilateral framework.’ New paragraphs have been added. • There is a separate paragraph on the ‘ ..the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building ..including policy analysis and development so that they may better evaluate the implications for closer multilateral cooperation for their developmental 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.’ <p>The draft goes against developing countries in that there is an agreement to negotiate. What will be decided at the Fifth session are just the modalities of the negotiations.</p>	

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the Final Draft Ministerial Declaration/decision)	Other proposals
<p>TRIPS and Public Health</p>	<p>Paragraph 4 of the 27 October Draft Declaration on Intellectual Property and [Access to Medicines][Public Health] is the focus of contention. Differences, mainly, between developing and developed countries over which of the 2 options (provided for in paragraph 4 of the 27 October Draft declaration is to be adopted.)</p> <p>Option 1 of the paragraph in the 27 October declaration reads, ‘Nothing in the TRIPs Agreement shall prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPs Agreement, we affirm that the Agreement shall be interpreted and implemented in a manner supportive of WTO Members’ right to protect public health and, in particular to ensure 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.’</p> <p>Option 2 of the same paragraph reads:</p> <p>‘ We affirm a Member’s ability to use, to the full, the provisions in the TRIPs Agreement which provide flexibility to address public health crises such as HIV/AIDS and other pandemics, and to that end, that a Member is able to take measures necessary to address these public health crises, in particular to secure affordable access to medicines. Further, we agree that this Declaration does not add to or diminish the rights and obligations of Members provided in the TRIPs Agreement. With a view to facilitating the use of this flexibility by providing greater certainty, we agree on the following clarifications.’</p> <p>(...continued on next page)</p>	<p>Significant aspects of the 13th November 1 Draft Declaration on the TRIPS Agreement and Public Health.</p> <ul style="list-style-type: none"> • The Agreement seems to be a compromise between options 1 and 2 in the 27th October draft. While paragraph 4 of the 13th November declaration states that ‘...the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health..’ This reflects developing country concerns in Option 1 of the 27th October draft that public health in general rather than public health crises be the basis for the measures. At the same time the language used, ‘...does not and should not..’ is not legally binding as ‘ shall not’ would have been. This was pushed for by India, Pakistan and the Philippines and was apparently not realised. • Paragraph 4 of the 13th November draft also softens language used in the 27th October draft from ‘... WTO Members’ right to ..ensure access to medicines for all’ to ‘... WTO Members’ right...to promote access to medicines for all.’ 	<p><u>Before/During Doha</u> <u>Options 1 and 2 of Paragraph 4 of the 27 October Draft Declaration on Intellectual Property and Access to Medicines</u> <u>Public Health</u> <i>Some developing countries:</i> now think that the best option would be to go back to a previous “sovereign rights” paragraph submitted by developing countries in September that say they would prefer that the final text include either this or nothing</p>

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the Final Declaration)	Other proposals
<p>TRIPs and Public Health</p>	<p>(..continued from the previous page) <i>Developing countries:</i> very strong and very unified' in opposition to option 2 of paragraph 4. <i>Sub-Saharan and Least-developed countries:</i> continue to reject option 2 despite efforts by the U.S, Switzerland and others to entice them to that option with language in paragraphs 10 and 11 that would provide these Members with special rights not granted to developing countries <i>The U.K, Ireland, Italy and Denmark:</i> Confirm commitment to Option 1. <i>Rest of the E.U:</i> Seems to be leaning towards Option 2.</p>	<p>(..continued from the previous page)</p> <ul style="list-style-type: none"> • Paragraph 5 (d) is an improvement over paragraph 9 of the 27 October draft as it provides that '..Members (are) free to establish its own regime for such (intellectual property rights) exhaustion without challenge (new addition) subject to the MFN and National Treatment provisions of Articles 3 and 4.' This means that Members may enact IPR legislation that permits them to import medicines from third countries rather than purchasing them directly from the manufacturer or its local licensee <p>The words without challenge make the paragraph legally stronger.</p> <p>The new paragraph 7 of the 13th November draft, which otherwise resembles former para.10 of the 27th October draft, adds an important element by affirming at the outset developed country Members' commitment to provide incentives to their own firms 'to promote and encourage technology transfer to least-developed country Members'. Paragraph 7 also prolongs LDCs' exemption from patenting obligations from 2006 to 2016, adding that this extension will be '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.'</p> <p>While not totally satisfactory with regard to strength of the language used the 13th November Draft Declaration on the TRIPs Agreement and Public Health may be considered to be satisfactory to developing country needs.</p>	<p>(continued from the previous page) <i>The text of the 'Ministerial Declaration On The TRIPs Agreement and Public Health' submitted by the African Group, Bangladesh, Barbados Bolivia, Brazil, Cuba, Dominican Republic, Ecuador, Haiti, Honduras, India, Indonesia, Jamaica, Pakistan, Paraguay, Philippines, Peru, Sri Lanka Thailand, and Venezuela on 19 September, 2001 reads</i> <i>'...Affirming that the protection and promotion of public health and nutrition is a fundamental obligation and prerogative of the State and that Members retain their sovereign power in this regard'. Paragraph 1 of the Declaration reads</i> <i>'..Nothing in the TRIPs Agreement shall prevent Members from taking measures to protect public health.'</i></p>

Issue Area	Position before/during Doha	Position after Doha (As Incorporated in the Final Declaration)	Other proposals
<p>Other Issues raised</p>	<p>a) <u>Labour standards</u>: Trade Unions :are lobbying member governments to strike out the third sentence of paragraph 8 of the Draft Ministerial declaration which reads 'The ILO provides the appropriate forum for a substantive dialogue on various aspects of the issue' or to substitute it by the following language, 'We support the work begun in the International Labour Organisation on the social dimensions of globalisation, and we commit the WTO to working effectively with the ILO in a permanent working forum.' The E.U.: submitted the above proposal to the Committee of the Whole on 11 November (Sunday). New-Zealand, Canada and South Africa: backed the E.U proposal. India and Pakistan: rejected the E.U proposal. They intended to demand the entire provision (the only reference to labour standards in the entire document) be removed if the third sentence of paragraph 8 were struck out.</p>	<p>Paragraph 8 of the 14th November Ministerial Declaration eliminates an explicit reference to the ILO as 'the appropriate forum for a substantive dialogues on various aspects of this issue.' (as mentioned in paragraph 8 of the 27 October text).</p>	<p>Before/During Doha a) <u>External transparency</u>: by Canada, the US and the EU b) <u>Improving the procedures for sequencing steps prior to trade retaliation procedures under the DSU</u>: by Japan c) <u>The relationship between trade, debt and finance</u> by Pakistan, Malawi, Malaysia and others d) <u>Industrial tariff negotiations</u>: by Mauritius and other African countries who requested that feasibility studies and analyses be undertaken before new negotiations in this area. e) <u>TRIPS and Biodiversity and the Cotonou Agreement waiver</u>: Does not appear in the Doha draft documents but has been bogged down in the WTO Council for Trade in Goods for well over a year.</p>



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Synoptic Table comparing Trade, Environment and
Sustainable Development provisions in the WTO
Draft Ministerial Declarations and in the Doha
Ministerial Declaration

Synoptic Table comparing Trade, Environment and Sustainable Development provisions in the WTO Draft Ministerial Declarations, 26 September, 2001 (JOB(01)/140), 27 October, 2001 (JOB (01)/140/Rev.1), -and the 14th November, 2001 Doha Ministerial Declaration (WT/MIN(01)/DEC/W/1), and the Draft Decision on Implementation-Related Issues and Concerns, 3 October (JOB (01)/139), 27 October (JOB (01)/139/Rev.1) and the 14 November Doha Decision (WT/MIN(01)/W/10)

<p>26 September, 2001. JOB(01)/140</p> <p>◆ Preamble:</p> <ul style="list-style-type: none"> • Paragraph 5 of makes reference to the “mutually supportive.. aims..” of the Multilateral Trading System and “..protection of the environment and promotion of sustainable development..”. • Paragraph 5 recognises.... “the right under the multilateral rules to take measures environmental protection they deem appropriate, including the right to regulate, and to introduce new regulations on, the supply of services”. (Emphasis added) 	<p>27 October, 2001, JOB(01)/140/Rev.1</p> <p>◆ Preamble:</p> <ul style="list-style-type: none"> • Paragraph 6 makes reference to the Preamble of the Marrakesh Agreement .It reaffirms ...commitment to the “objective of sustainable development as stated in the Preamble to the Marrakesh Agreement” and it repeats the “mutually supportive aims.. (of).. the MTS” and “protection of the environment and promotion of sustainable development” . • Paragraph 6 further reads, “We recognise the right of Members under WTO rules to take measures to uphold and enforce the levels of health, safety and environmental protection they deem appropriate. We agree to ensure that measures taken to address such concerns shall not be used for protectionist purposes.” • Paragraph 7 reads, “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.” 	<p>14 November, 2001, Doha Ministerial Declaration WT/MIN (01)/DEC/W/1</p> <p>◆ Preamble:</p> <p><i>Change in the Preamble</i></p> <p>There are new additions to as well as change in language towards the end of paragraph 6 of the October 27 draft.</p> <ul style="list-style-type: none"> • The first new sentence added in paragraph 6 of the 14th November draft is ‘We take note of the efforts by Members to conduct national environmental assessment of trade policies on a voluntary basis.’ • The change in language is as follows: <ul style="list-style-type: none"> ‘ We recognise the right of Members under WTO rules to take measures to uphold and enforce the levels of health, safety and environmental protection they deem appropriate. We agree to ensure that measures taken to address such concerns shall not be used for protectionist purposes’ in the 27th October draft is replaced by ‘We recognise 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...(reiteration of the language of the chapeau of Article XX of GATT)...and are otherwise in accordance with the provisions of the WTO Agreements.’ • The second and third new sentences is added at the end of paragraph 6 and includes a welcoming of continued cooperation between WTO and UNEP and other intergovernmental organisations. In an unprecedented move it also encourages ‘.. efforts to promote cooperation between the WTO and relevant international and developmental organisations (NGOs) especially in the lead up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa in September, 2002.’ UNEP is recognised for the first time as a WTO partner albeit not an exclusive one
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Comments on the Preamble (26 September and 27 October drafts):

1. The 27 October Draft has a separate paragraph (paragraph 6) exclusively on sustainable development and the environment.

The other important changes are:

2. The 27 October draft deletes “..the right to regulate or to introduce new regulations on the supply of services.” (found in paragraph 5 of 26 September)

3. In both drafts, the discretion remains as the words “right to take measures” and “deem appropriate” are retained. This needs to be clarified whether it materially improve the discretion to take unilateral measures. Further, under what conditions can “deem appropriate” be challenged? Is it only under Article XX of GATT 1994?

4. The 26 September draft (paragraph 5) reads “...the right.. to take measures ...under the multilateral rules”, whereas in 27 October (paragraph 6) there is a reference to “WTO rules”. Is there a legal distinction to be made? (Do “multilateral rules” refer to both WTO and MEAs? In the 27 October draft, exclusive right appears to be accorded to WTO rules. What is the significance of the changes are what are the implications?

5. Additionally, a new paragraph 7 in 27 October introduces “..the right of Members under the GATS to regulate, and to introduce new regulations on, the supply of services.” (This is close to the language of paragraph 5 of the 26th September draft.)

-This too, has major implications if it is intended that Members have the right to protect the environment through recourse to the GATS. Note that paragraph 7 reads, “We reaffirm the right...”. Does this now reintroduce the idea set out in paragraph 5 of the 26 September draft? Is it agreed that the GATS covers environmental services and members can therefore “reaffirm the right” as proposed? It should be noted that paragraph 5 in 26 September reads “...the right to regulate and introduce new regulations on, the supply of services.”

<p>26 September, 2001. JOB(01)/140.</p>	<p>27 October, 2001 JOB(01)/140/Rev.1</p>	<p>14 November, 2001, Doha Ministerial Declaration WT/MIN(01)/DEC/W/1</p>
<p>◆ Future Work Programme including Organisation and Management:</p> <ul style="list-style-type: none"> • The 26 September draft in paragraph 27 instructs the CTE to carry out its work pursuant its terms of reference and "...the WTO's objective of sustainable development..". • The 26 September draft refers in particular to "...deepen the understanding of the relationship between the multilateral trading system and the MEAs" (CTE Agenda Item No.1,5,7(?) and 8(?)) • The 26 September draft refers to a "single undertaking" for the subjects included in the negotiations "...the overall conduct...supervised by a Trade Negotiations Committee (TNC) under the authority of the General Council"(paragraph 39). Paragraph 41 reads that the Committee on Trade and Development (CTD) and the CTE "<u>within their respective mandates, each (will) 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 in the negotiations.</u>" (emphasis added). (..continued on next page) 	<p>◆ Future Work Programme including Organisation and Management:</p> <ul style="list-style-type: none"> • The 27 October draft in Paragraph 27(i) does not refer to "the objective of sustainable development" but introduces the effect of "environmental measures on market access..." (CTE Agenda Item No.6) • The 27 October draft in Para 27 (ii) does not repeat the words "deepen the understanding." The subparagraph begins directly with the words "the relationship.." (CTE Agenda Item No.1, 5, 7(?) and 8(?)) • Para 27(iii) introduces a reference to TRIPS.(This does not appear in the 26th September draft) (CTE Agenda Item No.8) • Para 27 (iv) introduces "Labelling". (This does not appear in the 26th September draft) (CTE Agenda Item No. 3(b), 2(?),4 (?) and 7(?)) • A new sentence is added in paragraph 27 which reads, "Work on these issues should include the identification of any need to clarify relevant WTO rules" (This does not appear in the 26th September draft) (There does not seem to be a CTE Agenda Item specifically related to this.) • A new sentence is added in paragraph 27 which reads, "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." <p>It is to be noted that paragraph 44 strengthens the negotiating intention. But paragraph 44 does not repeat the words "...in the negotiations" towards the end of the sentence unlike paragraph 41 of the September 26 draft. Instead it terminates with "...having sustainable development appropriately reflected."</p>	<p>◆ Future Work Programme including Organisation and Management:</p> <p><u>Change in the Work Programme</u></p> <ul style="list-style-type: none"> • This includes a new paragraph (paragraph 31) on an agreement on negotiations "...without prejudging their outcome" (new addition) 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 right of any Member that is not a party to the MEA in question. ii) Procedures for regular information exchange between multilateral environmental agreements (MEAs) Secretariats and the relevant WTO Committees and the criteria for the granting of observer status. (iii) the reduction, or as appropriate, elimination of tariff or non-tariff barriers to environmental goods and services, especially in relation to developing countries ,in particular, the least developed among them. The paragraph ends with a note by Members that fisheries subsidies form part of the negotiations provided for in paragraph 28 of the (November 14th)Draft Declaration (..continued on next page)

<p>26 September, 2001, Job(01)/140.</p> <p>(..continued from the previous page)</p> <p>This is operative language and is unprecedented in the GATT/WTO system as sustainable development and environmental concerns will be mainstreamed throughout the forthcoming negotiations.</p>	<p>27 October, 2001, JOB(01)/140/Rev.1</p>	<p>14 November, 2001, Doha Ministerial Declaration WT/MIN (01)/DEC/W/1</p>
		<p>(...continued from the previous page)</p> <ul style="list-style-type: none"> ◆ The previous paragraph 27 of the October 27 draft (paragraph 32 of the 14th November draft also contains a few changes and additions: <ul style="list-style-type: none"> ▪ In subparagraph (i) the words ‘the effect of environmental measures on market access..’ is followed by the new sentence, ‘..especially in relation to developing countries, in particular the least developed among them..’ ▪ Subparagraph (iv) on ‘labelling’ is clarified by the addition of the sentence ‘..requirements for environmental purposes.’ ▪ A new sentence is added, namely that ‘ 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.’ ◆ A new paragraph (paragraph 33) on technical assistance and capacity building has been added. It includes an encouragement by members on the sharing of expertise and experience with Members wishing to perform environmental reviews at the national level. ‘A Report shall be prepared on these activities for the 5th Session’ it states.

<p>26 September, 2001, Job(01)/140.</p> <p>◆ In the 26th September draft paragraph 16 on TRIPS instructs the TRIPS Council, ‘.in pursuing its work programme to give due attention to the relationship between the .. (TRIPS Agreement)..and the Convention on Biological Diversity, the protection of traditional knowledge, non-violation complaints, and keeping the TRIPS Agreement abreast of new technological and other developments.’ It further reads ‘ In undertaking this work, the TRIPS Council shall be guided by the objectives and principles of the TRIPS Agreement and shall take fully into account the development dimension.’</p> <p>◆ Paragraph 15 provides in square brackets the option for the TRIPS Council to either negotiate or ‘.to examine issues related to possible negotiations on.. the extension of the protection of geographical indications provided for in Article 23 to additional product areas.’</p>	<p>27 October, 2001, JOB(01)/140/Rev.1</p> <p>◆ Paragraph 19 of the 27 October draft clarifies, improves upon and changes in part the language in paragraph 16 of the 26 September draft on TRIPS. These changes are as follows:</p> <ul style="list-style-type: none"> • Paragraph 19 now reads ‘We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3 (b),the <u>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, <i>inter alia</i>, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the <u>protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1.</u>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.’ (new additions have been underlined)</u> • Reference to ‘..non-violation complaints..’ and ‘..keeping the TRIPS Agreement abreast of new technological and other developments’ has been deleted in paragraph 19 of the October 27 text. ◆ Paragraph 18 on TRIPS states that ‘ We (Members) 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..’ 	<p>14 November, 2001, Doha Ministerial Declaration WT/MIN (01)/DEC/W/1</p> <ul style="list-style-type: none"> ◆ Language in paragraph 19 the 27 October draft on TRIPS has been retained in the 14 November Doha Ministerial Declaration. ◆ The language on extension of geographical indications as found in paragraph 18 of the 27 October draft has been retained in unchanged in the 14 November Doha Ministerial Declaration. Some literature, so far cautiously accepted by developing countries, claims that GIs are a method of promotion of bio-trade.
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<p>26 September, 2001, Job(01)/140.</p> <p>◆ Paragraph 11 on Agriculture provides for text to be elaborated on 'special and differential treatment' and 'non-trade concerns'</p> <p>◆ Vulnerability. A work programme is established under the General Council in order to "frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies". (paragraph 30)</p>	<p>27 October, 2001, JOB(01)/140/Rev.1</p> <p>◆ Members agreed under Paragraph 13 on Agriculture 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 developmental needs, including food security and rural development.' Members also took note of 'non-trade concerns reflected in the negotiating proposals submitted by Members..' and confirmed that 'non-trade concerns will be taken into account into the negotiations as provided for in the Agreement on Agriculture.' Non-trade concerns includes measures and policies for environmental purposes in agriculture such as landscape preservation and biodiversity conservation.</p> <p>◆ The language on small economies (vulnerability) of paragraph 30 in the 26 September draft has been retained unchanged in paragraph 29.</p>	<p>14 November, 2001, Doha Ministerial Declaration WT/MIN (01)/DEC/W/1</p> <p>◆ The language on 'special and differential' treatment and 'non-trade concerns' has been retained unchanged in paragraph 13 of the 14th November Doha Ministerial Declaration. Thus environmental concerns find reflection as part of 'non-trade concerns'</p> <p>◆ The language on small economies (vulnerability) of paragraph 30 of the 26 September draft has been retained unchanged in paragraph 35 of the 14th November Doha Ministerial Declaration.. The only international relevant work on this is that related to indexes of vulnerability, a concept all-too relevant to global sustainability. Some of these "small, vulnerable economies" include countries host to rich biodiversity reserves, e.g. Bolivia; Caribbean and Pacific Islands.</p>
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Comments on Future Work Programme including Organisation and Management: (26 September and 27 October drafts)

There are two points which require clarification and careful consideration:

1. “The objective of sustainable development” in paragraph 27 of the 26th September draft is replaced by “the effects of environmental measures on market access” (CTE Agenda Item.No.6) in paragraph 27(i) of the October 27 draft. Are “the effects” to be realised before a member may take action? In that case would damage have to be proven? Also is there a right for action exclusively under Article XX of GATT 1994, Article XIV of GATS or other appropriate rules?
2. On the face of it all CTE items seem to be included in the Ministerial Drafts except a specific reference to Domestically Prohibited Goods (DPGs) (CTE Agenda Item.No.7) and appropriate arrangements for relations with non-governmental organisations referred to in Article V of the WTO and transparency of documentation.” (CTE Agenda Item.No.10) as well as possibly the “Environmental benefits of removing trade restrictions and distortions” (CTE Agenda Item.No.6(b)) though this could be considered as being included in the reference to “market access.” (Agenda Item.No.6).

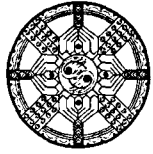
General Comment:

It would appear that all CTE Agenda Items plus others which might be identified by the CTD and CTE as well as those in specific WTO Agreements, could be the proper subjects of “a single undertaking negotiations.” However it is not clear whether this would have to await a decision at the Fifth Ministerial Meeting when recommendations would be made by the CTD and CTE within their terms of reference.

Sustainable development provisions in the Draft Decision on Implementation-Related Issues and Concerns		
3 October, 2001, Job (01)/139	27 October, 2001, Job (01)/139/Rev.1	14 November, 2001 Doha Decision, WT/MIN (01)/W/10
<p>♦ Sanitary and Phytosanitary measures</p> <ul style="list-style-type: none"> • Tires 9 and 10 provides that '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 SPS Agreement)..shall be understood to mean normally a period of not less than 6 months.' The tires also states that 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 a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.' • Tires 11 includes the statement " It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure, actions necessary to implement the measure, and the fact that SPS measures can contribute to trade liberalization." 	<p>♦ Sanitary and Phytosanitary measures</p> <ul style="list-style-type: none"> • Tires 9 and 10 of the 27 October draft incorporate the same language as in Tires 9 and 10 of the 3 October draft without change. • The language in Tiret 11 shows a change from the 3 October draft. The words '..and the fact that SPS measures can contribute to trade liberalization' is deleted. A new sentence is added , "The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed." 	<p>♦ Sanitary and Phytosanitary measures</p> <ul style="list-style-type: none"> • Paragraph 3.1 of the 14 November decision incorporates without change the language of Tires 9 and 10 of the 3 October and 27 October texts. • Paragraph 3.2 of the 14 November decision incorporates without change the language of Tiret 11 of the 27 October text.

<p>3 October, 2001, Job (01)/139</p> <p>◆ Technical Barriers to Trade</p> <ul style="list-style-type: none"> • Tired 35 states that ‘ Subject to the conditions specified in paragraph 12 of Article 2 of the ... (TBT Agreement)..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.” • Tired 35 states that the General Council ‘ ..urges the Director-General to continue his cooperative efforts with these.. (relevant international standard setting and financial institutions) ..’ in order to facilitate increased participation of Members at different levels of development in the work of the relevant international standard setting organizations and also to identify TBT-related technical assistance need and how best to address them (by coordination efforts with these organizations and financial institutions). 	<p>27 October, 2001, Job (01)/139/Rev.1</p> <p>◆ Technical Barriers to Trade</p> <ul style="list-style-type: none"> • Tired 35 repeats the language of the 3 October draft. • Tired 35 of the 27 October repeats the language of the 3 October draft with regard to cooperation with international standard setting organizations. While the Ministerial Conference urges the Director-General as before to ‘ ..continue his cooperative efforts with these organizations and institutions..’ it adds a new sentence ‘ ..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.” Thus interests of the least developed countries are sought to be addressed in this text. • Tired 35 also includes two proposals be least developed countries urging Members to: <ul style="list-style-type: none"> (i) ‘ ..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).. 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 ..(TBT Agreement).’ 	<p>14 November, 2001 Doha Decision, WT/MIN (01)/W/10</p> <p>◆ Technical Barriers to Trade</p> <ul style="list-style-type: none"> • Paragraph 5.2 of the 14 November decision repeats the language in Tired 35 of the 3 October and 27 October draft. • Paragraph 5.3 incorporates without change the language of Tired 35 of the 27October draft relating to cooperation with international standard setting institutions. • Paragraph 5.4 incorporates without change the least-developed countries’ proposals on technical assistance found in Tired 35 of the 27 October draft.
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<p>3 October, 2001, Job (01)/139</p>	<p>27 October, 2001, Job (01)/139/Rev.1</p>	<p>14 November, 2001 Doha Decision, WT/MIN (01)/W/ 10</p>
<p>◆ Agreement on Subsidies and Countervailing Measures</p>	<p>◆ Agreement on Subsidies and Countervailing Measures</p> <ul style="list-style-type: none"> • Tired 69 ‘..takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as ...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..’ (relating to Outstanding Implementation Issues). .It adds that ‘During the course of the negotiations. Members are urged to exercise due restraint with respect to challenging such measures.’ 	<p>◆ Agreement on Subsidies and Countervailing Measures</p> <ul style="list-style-type: none"> • Paragraph 10.2 repeats the language of Tired 69 in the 27 October draft.



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Regional and International Networking Group
of organisations working for sustainable development

A Southern Agenda on Trade and Environment

Synoptic Table on Developing Country Proposals relevant
to the Doha Ministerial Declaration - Paragraphs 31 and 32
and the CTE 2001 Work Programme

Southern Agenda on Trade and Environment

**Trade and Environment:
Synoptic Table on Developing Country Proposals relevant to
the Doha Ministerial Declaration-paragraphs 31 and 32
and the CTE 2001 Work Programme**

ICTSD DRAFT

CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
1	Trade Measures (incl. MEAs) and the WTO	ASEAN N-31	<p><u>a least restrictive trade measure capable of addressing environmental issues?</u> (WT/CTE/W/95)</p> <p>ASEAN proposes <i>inter alia</i> a multi-year waiver option, on a case-by-case basis, accompanied by the use of non-binding guidelines, as an alternative approach to addressing the issue of MEAs and Members' obligations under the WTO. The elements of the proposal are as follows: <u>The waiver option accompanied by non-binding guidelines</u></p> <p>1. This option will extend to both existing and future MEAs. Under this option, specific trade measures contained in MEAs may be recognized on a case-by-case basis, as exceptional circumstances qualifying for a waiver under Article IX of the Marrakesh Agreement establishing the WTO, subject to the application of the following non-binding guidelines: (a) necessity; (b) least trade restrictiveness; (c) effectiveness; (d) proportionality (e) the degree of scientific evidence.</p> <p>2. Non-specific trade measures pursuant to MEAs and the use of unilateral trade measures not pursuant to MEAs will be subject to <i>status quo</i>, i.e. the current scope of GATT Article XX does not allow a WTO Member to take such extra-jurisdictional measures against other WTO Members to protect extra-jurisdictional environmental resources.</p> <p>3. In a <i>quid pro quo</i> for the opening of an "environmental window" in relation to specific measures included in MEAs, WTO Members shall formally agree not to in</p>		CTE	Principle 12 Chapter 39

Key to the table

1. Proposals have been sorted by CTE Agenda Item
2. The proposals have been divided according to date as those made before the Seattle Ministerial Conference (Under the heading 'Pre-Seattle') and those made after the Seattle but before the Doha Ministerial Conference (Under the heading 'Post-Seattle/ Pre-Doha')
3. The Committees in which these proposals have been made have been indicated under the column heading –'WTO Body/Committee'.
4. Proposals relevant to post-Doha negotiations (paragraph 31 of the Doha Ministerial Declaration) are highlighted in bold and marked by 'N-31' (N-for negotiations, 31-for paragraph 31 of the Doha Ministerial Declaration) under the country names
5. Proposals relevant to the CTE work programme (paragraph 32) are highlighted in bold italics and marked by CTE-32 (CTE-for Committee on Trade and Environment work programme, 32-for paragraph 32 of the Doha Ministerial Declaration) under the country names.
6. Principles of the Rio Declaration on Environment and Development and Chapters of Agenda 21 deemed as providing a relevant context to the substance of the proposals have been included under the column heading-'WTO Body/Committee.'
7. The Annex includes for ready reference:
 - a) The items of the CTE Agenda (Annex 1)
 - b) Paragraphs of the Doha Ministerial Declaration (WT/MIN (01)/DEC/W/1) relevant to Trade, environment and sustainable development (Annex 2)
 - c) The Rio Declaration on Environment and Development (Annex 3)
 - d) Chapter titles of Agenda 21(Annex 4)
 - e) Chapter 2 of Agenda 21(Annex 5)

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
			<p>concern itself only with a limited number of existing environmental agreements. Such criteria should include the following elements:</p> <p>(d) It should have been negotiated under the aegis of the United Nations or specialized agencies like UNEP;</p> <p>(b) Its procedures should stipulate that participation in the negotiations was open to all countries;</p> <p>© There must have been effective participation in the negotiations by countries belonging to different geographical regions and by countries at different stages of economic and social development; and</p> <p>(d) The agreement procedures should provide for the accession of countries which are not its original members on terms that are equitable in relation to those of its original members.</p> <p>Trade measures are not the best way to address environmental problems, since the causes of environmental problems do not primarily lie in trade.</p> <p>Trade measures, which are restrictive in nature in MEAs, even if taken for enhancing environmental protection, must respect the rule-based nature of the multilateral trading system, and their costs in terms of trade restriction must be fully taken into account. We are concerned at attempts to promote environmental protection by using only negative measures. Trade, especially for developing countries, is the engine of</p>			

ICTSD DRAFT

CIE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
1	Trade Measures (incl. MEAs) and the WTO	Egypt N-31	<p>are potentially in conflict with WTO provisions can be accommodated by a WTO waiver, Members may adopt a set of mechanisms designed to enhance the waiver procedures so that they accord greater transparency and predictability to MEAs, in recognition of the compatibility of trade and environmental goals; and (iii) while recognizing that WTO Members who are Parties to an MEA can elect to resolve their disputes in accordance with the DSM contained in the MEA concerned, Members may reaffirm their commitment to preserve the integrity of the DSM under the WTO. (Non-paper dated 22 July, 1996)</p>		CIE	Principle 12 Chapter 39
			<p>The following elements need to be adequately addressed when striving to define MEAs: (iii) the scope, where we have to emphasize the universality aspect and clearly distinguish between international agreements under the aegis of the United Nations from regional or plurilateral agreements; (ii) definition of amendments containing trade provisions and introduced at a later stage to the MEAs; (iii) the domestic versus the international impact of the trade provisions introduced for environmental purposes in MEAs. We have to differentiate between trade measures taken "pursuant to" and MEA</p>			

ICTSD DRAFT

CTE Agenda item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
2	Technical Assistance/SPS	Chile	<p>-restate avoidance of unilateral trade measures that are inconsistent with the existing MTS;</p> <p>-develop modalities for notification of trade measures for environmental purposes and for cooperative mechanism between MEA and MTS. (For details see Non-paper by Korea on Item 1 dated 13 June, 1996)</p>	<p>It is ..particularly important that measures have appropriate justification, in an essentially technical area in which a distinction must be made between measures with a scientific basis and protectionist trade practices with other objectives.</p> <p>Technical assistance and cooperation programmes for implementation of the WTO/SPS Agreement need to be coordinated, insofar as many ad hoc activities have been carried out as specific initiatives: these experiences could have been shared, but this has not been done. ..it will be extremely important to establish a programme which includes diagnosis and follow-up, as well as a register of assistance providers and beneficiaries (including institutions and countries)</p> <p>Specific suggestions on Technical assistance by Chile focus on: (a) Strengthening of sanitary programmes and services (b) Proof of sanitary condition (and guarantees that it will be maintained) (c) Determination of the appropriate level of protection (d) Adapting legislation (e) Awareness of the WTO/SPS Agreement (f) Risk Analysis and (f) Transparency</p>	SPS	Principle 9 Chapter 34

ICTSD DRAFT

CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
2	Precautionary Principle	Brazil		In response to the EC's communication on the need to establish guidelines for a correct and reasonable application of the precautionary principle (G/SPS/GEN/168), it was felt that the guidelines went beyond the letter and spirit of the SPS Agreement. They allowed for too much flexibility and leeway for discretionary actions. Thus, the document lacked the concept of least-restrictive trade measures and of minimizing trade effects when determining the appropriate level of protection (Article 5.6), and it placed political, consumer and environmental concerns on the same level as science when applying SPS measures. (G/SPS/R/18)	SPS	Principle 15 Chapter 35
2	Precautionary Principle	Cameroon		In view of the weakness or lack of risk analysis structures in the developing countries, the delegation of Cameroon would like those countries to be able to take protective measures on the basis of the precautionary principle with respect to the import into their territories of foodstuffs declared somewhere in the world to be a presumed risk to human, animal and plant health without first being obliged to conduct a risk analysis. These measures would apply until the exporting country produced formal evidence that the risk had been entirely eliminated. (G/SPS/GEN/192)	SPS	Principle 15 Chapter 35
2	Precautionary Principle	India Egypt Mexico	Environmental standards are a function of the stage of development of the economy. Therefore, to impose on low income developing countries environmental standards prevailing in	The precautionary principle has no place in the TBT, and should be discussed in the CTE under agenda item 2. (G/TBT/M/21)	TBT	Principle 15 Chapter 35
2	Enviro standards and principles, Article XX	Kenya			General Council	Principles 6,7,11 and 12

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
			<p>if ISO does not set specific PPM criteria if it adopts International Guidelines for eco-labelling .it is not a sufficient guarantee to provide the protection to developing countries against the use of country-specific PPMs and to prevent the resulting trade distorting effects from taking place. ISO does not represent the International consensus.</p> <p>2) the fact that we have agreed in TBT to recognize ISO as a standard setting body is because it has dealt up to the present time with very precise standards adhering to quality measures defining end-product aspects based on safety and performance. Hence, it would be inappropriate to equate such standards with PPMs criteria based on values and public policies that differ from one society to another making it all the more difficult to internationalize PPMs;</p> <p>3) Eco-labelling schemes based on life-cycle analysis may then come into conflict with the product-based rules of the GATT/WTO trading system, for instance if they discriminate between "like products" and make market access conditional on complying with PPMs.</p> <p>..Claiming voluntary eco-labelling programmes fall within the scope of the TBT Annex 3, Code of Good Practice is not compatible with our general understanding, if that would mean introducing unincorporated PPMs through</p>			

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
			<p>participate in the transparency exercise underpinning the process of formulation of such eco-labels, so that exporters from our countries can better understand the requirements of such environmental measures. In this context, we would also be interested in discussing issues related to the eco-label itself, including, inter alia, transfer of appropriate technology and the use of criteria that are verifiable and scientifically-based, keeping in mind the CTE's objective of promoting sustainable development, with special consideration to the needs of developing countries. Of course, this discussion would have to take into account the relevant provisions of the multilateral trading system. (Non-paper dated 23 July, 1996)</p>			
3	Labelling	Colombia CTE-32	<p>Colombian flower-exporting industry has identified the following as the most risky aspects of private eco-labelling:</p> <ul style="list-style-type: none"> -The lack of supervision or compliance with internationally accepted standards guaranteeing transparency, impartiality and objectiveness in the demands made and the absence of monitoring to allow for self-correction. This situation entails a serious risk for the bodies managing these labels in that they could fall prey to interests that have nothing to do with the actual environmental conditions of cultivation. - The absence of any common minimum 		CTE/TBT	Principles 6.8.10.11 Chapters 2,4,8,30, 39,40

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			<p>choosing their product coverage, selecting the criteria on which they are based and in working out any audit procedures.</p> <p>Colombia once again underscores the importance of implementing paragraph 185 of the Report of the Committee on Trade and Environment to the Ministers at Singapore, which reads:</p> <p>"...the CTE stresses the importance of WTO Members following the provisions of the TBT Agreement and its Code of Good Practice, including those on transparency. In this context, the CTE underlines the particular importance of ensuring fair access of foreign producers to eco-labelling schemes/programmes."</p> <p>For Colombia, it is of capital importance for the Code of Good Practice for the Preparation, Adoption and Application of Standards of the Agreement on Technical Barriers to Trade to be applied to voluntary eco-labels. This Code is open for acceptance by governmental and non-governmental bodies and is an important instrument for monitoring the adoption of labelling standards applicable to a product.</p> <p>..By observing the principles of the Code of Good Practice, private organizations would ensure that products originating in the territory of any WTO Member receive treatment no less favourable than that accorded to similar products of national origin or originating in any other country. In that way they would effectively prevent the elaboration, adoption or application of</p>			

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				<p>in order to consider whether the appropriate level of protection is reached in the same way as at the national level; equivalence should be based on bilateral agreements, with a general part establishing overall principles, objectives and long-term targets, and specific annexes for the products traded; the national lists of products that could potentially be exported between the two countries involved should be analysed at the bilateral level, with special emphasis on historical trade and previous refusals; special consideration should be given to historical trade, ensuring that it is not interrupted during the negotiation of an equivalence agreement; a standstill clause should be included, if necessary, in order to guarantee the situation that prevailed at the time of initiation of the negotiations; there should be a fast-track procedure involving automatic recognition of historically traded products; distinctions should be drawn between the risk categories of products under analysis; low-risk products should be considered eligible for immediate equivalence; in the case of new products which are being exported for the first time, the procedure for determining equivalence should be applied in its totality, leaving open the possibility, where feasible, of using the information contained in the risk analyses carried out by the importing country or by any other country; the correct information should be supplied so that the exporting country can meet the requirement of demonstrating that its product is equivalent; the importing country should</p>		

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5	MEAs and the WTO/Dispute Settlement	Chile N-31	<p>Chile points out the advantages in the approach taken in the Convention on the Law of the Sea including the following: It seems to us that the approach taken in the Convention on the Law of the Sea has several advantages, including the following: 1) Although the GATT/WTO is not accorded competence in environmental aspects of the Convention on the Law of the Sea, for which there are specific dispute settlement provisions, it does have competence in trade aspects even for countries that are not members of the General Agreement; 2) This could be a mechanism that would ensure the convergence of, and relationship between, the various environmental agreements and the World Trade Organization; 3) For these purposes it singles out the situation arising where parties to a dispute are not all members of the respective agreements; and 4) It safeguards the spheres of competence of the agreements, overcoming the problems arising from the overlapping or coexistence of jurisdictions.</p>	<p>insisted that the issues had to lie within the framework of the Agreement, and that there should not be any intention to widen the scope of the Agreement. She emphasized that discussion on the issue of labelling was one thing, the proposal on developing multilateral guides on labelling was another. (G/TBT/M/20)</p>	CTE	Principles 12,26 Chapters 2,39

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
6a	TBT-technical assistance, S&D, standards	India CTE-32	In reference to standards and environment-related measures which may represent a barrier to exports from developing countries, proposal to amend the TBT agreement as follows: 1) Article 11 implementation – make technical assistance obligatory rather than best endeavour; 2) Article 12 – strengthen provisions for S&D; 3) Make it obligatory for International standardizing bodies to ensure presence of developing countries during process of standard setting and compliance with the Code of Good Practice; 4) Define International standards. (WT/GC/W/223 and WT/GC/M/39)		General Council	Principles 6,9,11 Chapters 2,3,4,40
6a	Subsidies	LDCs CTE-32	SCM Article 8.2.c – Financial resources should be made available for LDCs in relation to subsidies concerning environmental compliance. (WT/GC/W/251)		General Council	Principles 6,7 Chapters 2,33
6a	Subsidies	Malaysia CTE-32		Article 8.2 of the Agreement on SCM provided for assistance for research activities, assistance to disadvantaged regions within the territory of a Member and assistance to promote adaptation of existing facilities to new environmental requirements. Those subsidies presently classified as prohibited under Article 3.1 should be considered as non-actionable when provided by developing-country Members. Some of the programmes currently classified as prohibited are necessary tools for economic development and this prohibition limits policy options. Furthermore, Malaysia supports the proposal that the prohibition on using export subsidies under Article 27.6	General Council	Principles 6,7 Chapters 2,33

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
6b	Fisheries/Subsidies	Korea, Republic of N-31		<p>initatives for cost effective solutions. Similarly, technical assistance can be focussed on mechanisms that internalize externalities without putting too much stress on monitoring capacities of the government. 1</p> <p>Infrastructural investment required to mitigate pressing environmental problems could result in a double benefit - capacity building from the development point of view as well as broad-based environmental protection measures resulting in better access to developed markets. A study of areas where price and other premiums are more likely to accrue could help in better focusing infrastructural investments.</p> <p>Standard setting efforts have to be informed by their impact on trade and competitiveness, high costs of adaptation and irrelevance of many foreign standards to local conditions. Where environmental objectives could be met in a more trade facilitative way, unilateral trade measures should be avoided, and challenged through the supremacy of the multilateral trading system. (WT/CTE/W/177)</p>	CTE	Principles 2, 7,8,12 Chapters 11,17
	Fisheries/Subsidies	Korea, Republic of N-31		<p>Proposes the following concerning fisheries and subsidies, 1) The relationship between subsidies and resource conservation is dealt with in the FAO, which should serve as a guide for discussions on this subject in the CTE; 2) a consensus is needed on the definition of fisheries subsidies; 3) a comprehensive approach is best that takes into account, a) the socio-economic</p>	CTE	Principles 2, 7,8,12 Chapters 11,17

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			<p>In this respect the participants referred to Earth Summit + 5 (Special Session of the United Nations General Assembly in 1997): "The special and differential treatment for developing countries, especially the least developed countries, and the other commitments of the Uruguay Round of multilateral trade negotiations should be fully implemented to enable those countries to benefit from the international trading system, while conserving the environment. There is a need for continuing the elimination of discriminatory and protectionist practices in international trade relations, which will have the effect of improving access for the export of developing countries." (WT/CTE/W/127)</p>			
6b	Subsidies	Brazil CTE-32	<p>Pursuant to Principle 12 of the Rio Declaration of 1992, Agenda 21 established, in Chapter 14 ("Promoting Sustainable Agriculture and Rural Development"), the following role for GATT and other international organizations in the activities of international and regional cooperation and coordination: "Encourage, in the context of achieving sustainable agricultural development and consistent with relevant internationally agreed principles on trade and environment, a more open and non-discriminatory trading system and the avoidance of unjustifiable trade barriers which together with other policies will facilitate the further integration of agriculture and environmental policies so as to make them mutually supportive".</p>		CTE	Principles 6.7,8,12,16 Chapters 2,8,14,32

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CIE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
6b	Agriculture/ Subsidies	Argentina, Australia, Brazil, Canada, Chile, Colombia, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, Thailand, United States and Uruguay CIE-32	<p>As stated in Agenda 21, the multifunctionality of sustainable agriculture – which is directly related to the higher objective of reducing poverty, for example – should be promoted in the context of a more open and non-discriminatory trade system. (WT/CTE/W/109)</p> <p>Agenda 21 (the UN Programme of Action on the environment and sustainable development) identified the urgent need to achieve the substantial and progressive reduction of export subsidies and other types of distortive support. Agenda 21 also highlighted the need to encourage a more open and non-discriminatory trading system and avoid unjustifiable trade barriers and in doing so facilitate the further integration of agricultural and environmental policies so as to make them mutually supportive. The environmental costs of export subsidies include the direct adverse effects on land-use in the countries providing the subsidies; and indirect effects through their impacts on the countries receiving subsidized product and other exporting countries. In the case of both the direct and indirect effects, the wider global environment pays a cost. Export subsidies have compounded the inefficient use of resources in the countries that have used them by distorting world markets and adversely affecting the opportunities for more efficient agricultural producers to gain the benefits of trade that could assist them to promote the sustainable development of their</p>		CIE	Principles 6,7,8,12,16 Chapters 2,8,14,32

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
			<p>certain minimalistic measures required in three specific situations, namely: (i) MEAs; (ii) mandatory national environmental standards; and (iii) voluntary international environmental standards. Such reconciliation of technical standards with IPRs is being attempted in several fora, including in courts in the United States.</p> <p>India's proposal on the reduction of patent term is limited to the three specific situations listed in its paper and not to all EST&Ps (Environmentally sound technologies and products.) With the certainty of markets ensured by MEAs or national/ international standards, India feels that there could be a reduction in patent term without a consequent reduction in rewards for invention. The patent term decided under the TRIPS Agreement did not consider the optimal patent length for rewarding innovation and certainly did not consider the specific three cases mentioned in India's submission. In the case of an MEA which has time-bound targets, the issue of the patent term becomes especially relevant.</p> <p>In practice, for technical and commercial reasons, the market tends to favour particular EST&Ps and this tends to become the virtual standard for implementing a certain aspect of an MEA or a certain national or international standard. Further, in future there may be a situation where one particular EST&P is the only available substitute to implement an MEA or an environmental standard. In such circumstances it is important that the</p>			

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			<p>recommendations at this stage;</p> <p>(iv) While recognizing the differences in policy priorities among individual countries, the CTE should respect the need for food self-sufficiency towards food security, particularly in developing and net food importing countries. Furthermore, it is not appropriate to overemphasize only a few specific sectors in deliberation of Item 6;</p> <p>(v) Taking into account country specific and heterogenic conditions, it is advisable to conduct empirical studies of the environmental effects of agriculture in close collaboration with other relevant intergovernmental organizations; and</p> <p>(vi) The framework of the WTO Agreement on Agriculture remains the best suited forum for the consideration of agricultural liberalization, given that many of the factors relevant to this issue, such as market failure and food security are cross-cutting in nature and may not be fully considered within the CTE.</p> <p>Furthermore, the Agreement on Agriculture is unique in that it already has a built in structure for dealing with such issues. (Non-paper dated 24 July, 1996)</p>			
6a/b	Effects of Environmental Measures on Market Access/ Environmental benefits of trade liberalisation	India CTE-32	Trade cannot be the arbiter of all environmental concerns of the international community. Sustainable development is a much larger issue, encompassing efficient allocation of world's resources, domestic environmental imperatives based on the extent of		CTE	Principles 3.5.6.12 Chapters 2.3.39.

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6b	Environmental benefits of trade liberalisation	Argentina CTE-32	<p>recycling jute, and giving encouragement to jute packaging for environmental protection. Similar environmentally friendly products could be identified elsewhere for granting improved market access. (non-paper dated 20 June, 1996)</p> <p>Argentina quotes an OECD Report (OECD, "Trade, Environment and Development Cooperation," OECD/GD(95)7, Paris, 1995, page 12.)</p> <p>"Agricultural policies in some OECD Member countries have had certain negative effects on the environment and sustainable development, for example, to distort world agricultural trade patterns, depress returns to developing country and other exporting country producers, inhibit badly needed investments in agriculture, and contribute to the spread of low-yield farming and ranching into ecologically vulnerable tropical forests."</p> <p>Despite some progress made in the Uruguay Round, agricultural trade and practices are still highly distorted by support and protectionist policies. Therefore, the analysis of the environmental consequences that existing trade restrictions and distortions in agricultural trade are responsible for has to continue...</p> <p>the CTE has to be mandated to develop a work programme on the identification of ways and means to reduce/eliminate the environmental damage due to trade restrictions and distortions in the</p>		CTE	Principles 6,7,8,12,16 Chapters 2,8,14,32

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			<p>existing mechanisms of other international organizations which have competence and expertise in the areas concerned. The WTO's contribution in the field of DPGs should be to "fill the gaps" in order to strengthen the network of international agreements. In that regard, the solution contained in the 1991 draft Decision should be carried on, i.e. a WTO Member does not need to notify other WTO Members of a product which it already notifies under another international instrument in which those Members are participants.</p> <p>(ii) <u>Coverage</u> Disciplines on DPGs should cover products which are banned or severely restricted on the domestic market of the exporting country because they are determined to present risks for human, animal or plant life of health, or the environment, but which may nevertheless be exported.</p> <p>(iii) <u>WTO Disciplines Relating to DPGs</u> Disciplines in the field of trade in DPGs must not go beyond the competence and expertise of WTO but should aim at improving and strengthening the network of related international agreements. At a minimum, WTO disciplines should aim at increasing transparency on trade in DPGs through a notification system. When a product is banned or severely restricted on the domestic market, but may nevertheless be exported, the exporting country should notify other WTO Members of the measures relating to the product, as well as the reasons for which they were</p>			

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
7	Domestically Prohibited Goods (DPGs)	Kenya	Proposes all exported products must meet international standards and/or national standards of the exporting country. (WT/GC/W/233)	as toxic enough to represent a health hazard for consumers is formally prohibited in the developing countries which lack efficient control structures. (G/SPS/GEN/192)	General Council	Chapters 6,8,16,19,20 21,22,34,35,37, 38 Principles 2,10,13,14, 18,19. Chapters 6,8,16,19,20 21,22,34,35,37, 38
7	Domestically Prohibited Goods (DPGs)	LDCs	Define which DPGs should be covered at the WTO, establish and implement notification system mechanisms to increase transparency, and develop technical assistance to monitor trade in DPG for LDCs. (WT/GC/W/251)		General Council	Principles 2,10,13,14, 18,19. Chapters 6,8,16,19,20 21,22,34,35,37, 38
8	TRIPS/MEAs/ Transfer of Environmentally Sound Technologies (ESTs)	India CTE-32	The TRIPS Agreement does not.. address the question.. of encouraging the global use of proprietary EST&Ps. (Environmentally Sound Technologies and Products) This is an imbalance that needs immediate correction at least in the limited context where proprietary EST&Ps are mandated to be used by third countries by national or international law. This is because if such technologies are in the public domain, in terms of not being covered by any type of IP protection, one can expect a certain amount of competition in the market place to lead to easy access and reasonably low prices of EST&Ps, especially given the volumes required for mandatory global consumption. If, on the other hand, these		CTE	Principles 6,7,9,11,12. Chapters 2,8,30,34,39,40

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			<p>countries, even if these are voluntary in nature.</p> <p><u>Suggestions:</u></p> <p>i) Possible modification of Article 31 of TRIPS to serve environmental interests as some sub provisions notably (b) regarding efforts to obtain prior permission, (g) regarding termination of such licences, (h) regarding taking into account the economic value of the licence and (i) regarding strict conditions for dependent patents, may prove to be hurdles in the quick and effective transfer of such technologies where environmental standards and measures need to be compiled with within fixed time limits.</p> <p>ii) Members may be allowed, through a suitable amendment of the TRIPS Agreement, to reduce this (normal minimum protection period of 20 years) to a much shorter term of protection so as to allow free access to patented EST&Ps within a shorter period in order to deal rapidly with environmental problems.</p> <p>iii) Revocation of the patent</p>			

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			<p><i>that where these are taken from the country of origin, there should be fair and equitable sharing of any subsequently developed benefits. It also seeks to protect, preserve and benefit, by an equitable sharing of the utilisation of the indigenous and traditional knowledge systems which do not readily fit into any standard form of IP protection. The TRIPS Agreement, on the other hand, recognizes IPRs to be private rights and believes in rewarding inventions by IPRs, without referring to the sources of biological or genetic materials, or the sourcing of indigenous and traditional knowledge systems and the fair and equitable sharing of benefits with the country of origin.</i></p> <p><i>This paper attempts to focus the discussion in the CTE on this contradiction and seeks to reconcile the TRIPS Agreement with the CBD on provisions requiring accommodation of IPR-related obligations already undertaken by the international community under an MEA called the CBD. One immediate and important contradiction between the TRIPS Agreement and the CBD is the lack of any conditions on patent applicants (in Article 29 of the TRIPS Agreement) to mention the origin of biological/genetic resources and indigenous/traditional knowledge used in the biotechnological invention. It could be considered whether the objectives of the CBD could be incorporated through inclusion in Article 29</i></p>			<p>Chapters 2,8,15,26,30,34, 39,40</p> <p>Statement of Forest Principles</p>

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8	TRIPS/MEAs/ Transfer of Environmentally Sound Technologies (ESTs)	Korea CTE-32	<p>CBD. The CTE can also examine the pros and cons of evolving a system for patenting of indigenous knowledge and local, contemporary innovations of traditional folk. (Non-paper dated 19 July, 1996) (See also Communication from India-WT/CTE/W/65)</p> <p>The transfer of EST is as important a vehicle for achieving the objectives of an MEA as financial assistance.² The TRIPS Agreement clearly provides that one of the ultimate objectives of the protection of IPR is to encourage the transfer of technology. In this regard, the TRIPS Agreement will serve as a solid basis for achieving the objective of an MEA.</p> <p>In some cases, an MEA will prohibit the use of a certain type of technology in favour of alternative environment-friendly methods. Under such parameters, IPR protection could have adverse environmental effects. If an MEA does not provide an adequate mechanism for the transfer of EST, and if patent holders refuses to license technology on reasonable commercial terms, licensee countries will be forced to depend upon outdated and less environmentally-sound technology. Under the Montreal Protocol, for example, the use of existing technology is controlled. As such, those with the rights for alternative technology are able to exercise monopoly</p>		CTE	Principles 6,7,9,11,12, Chapters 2,8,30,34,39,40

²For example, Article 4.1(c) of the UNFCCC "Promote and cooperate in the development, application and diffusion, including transfer, or technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases..."

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
8	TRIPS-27.3(b)	African Group CTE-32	<p>food products. (WT/GC/W/302)</p> <p>TRIPs Article 27.3(b) – Proposes 1) to clarify why the option of exclusion of patentability of plants and animals does not extend to micro-organisms ... and why the option of exclusion of patentability of "essentially biological processes" does not extend to "microbiological processes" as the latter are also biological processes; 2) to clarify that plants and animals as well as microorganisms and all other living organisms and their parts cannot be patented, and that natural processes that produce plants, animals and other living organisms should also not be patentable; 3) insert a footnote to confirm that sui generis law for plant variety protection can provide for indigenous and local farming innovations consistent with the CBD and the IU; continuation of traditional farming practices include saving and exchanging seeds; and preventing anti-competitive practices which threaten food sovereignty in developing countries as per TRIPs Article 31. (WT/GC/W/302)</p>	<p>TRIPs Article 27.3(b) – Proposal includes the same recommendations found in WT/GC/W/302 and adds, 1) The obligation to protect plant varieties, in requiring protection of plant breeders' rights, raises the question of the exemption for other breeders to innovate around protected varieties, without overly restrictive or prohibitive compensatory conditions in favour of breeders of protected varieties, and 2) While making provision for the protection of plant varieties through patents and sui generis systems, the Article does not provide the condition of access to genetic resources on the basis of mutually agreed terms, as well as the requirements for prior informed consent and benefit sharing. Consequently, compliance with its provisions does not require compliance with these conditions and requirements. The African Group is of the view that the TRIPS Agreement should contain provisions to promote and not undermine the conservation and sustainable use of genetic material, and to prevent the associated biopiracy. (IP/C/W/206)</p>	General Council	<p>Statement of Forest Principles</p> <p>Principles 6,9,22</p> <p>Chapters 2.8,14,15,16,32,39</p>
8	TRIPS-CBD	African Group CTE-32	<p>Harmonize TRIPs Article 27.3(b) with the CBD and the International Undertaking (IU) concerning the issues of biodiversity, rights and knowledge of indigenous and local communities and farmers' rights. (WT/GC/W/302)</p>		General Council	<p>Principles 2,6,7,11,12,22</p> <p>Chapters 2.8,15,26,30,34,39,40</p> <p>Statement of Forest Principles</p>

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CTE Agenda item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
8	TRIPS-CBD, 27.3(b)	Brazil Honduras Cuba India CTE-32		<p>varieties; 4) The review of Article 27.3(b) should take into account Members' concerns over ethical issues on patentability of life forms. (WT/CTE/W/186, IP/C/W/228, IP/C/M/26)</p> <p>Believes that the TRIPS Agreement and the CBD should be mutually supportive and ensure sustainable use of genetic resources. In order to avoid conflicts in the implementation of both agreements, Brazil proposes to amend Article 27.3(b) to include the requirements of: (a) the identification of the source of the genetic material; (b) the related traditional knowledge used to obtain that material; (c) evidence of fair and equitable benefit sharing; and (d) evidence of prior informed consent from the Government or the indigenous community for the exploitation of the subject matter of the patent. (WT/CTE/W/186, IP/C/W/228) A review of TRIPs should include a substantial analysis of the compatibility of the implementation of TRIPs and the CBD. (IP/C/M/27)</p>	TRIPs	Principles 2.6,7,9,11, 12,22 Chapters 2,8,15,26,30,32, 34,39,40 Statement of Forest Principles
8	TRIPS-compulsory licenses	Cuba, Dominican Republic, Honduras, Nicaragua CTE-32	<p>TRIPs Article 31 – Proposed that the use of compulsory licenses should be made more specific and more flexible, especially in respect to the circumstances under which Members have the right to use compulsory licenses in the interests of public health and environmental protection. (WT/GC/M/39)</p> <p>Considered that the TRIPS Agreement should include provisions, consistent with the Convention on Biological Diversity, indicating: (i) that the State exercises sovereignty and inalienable rights over the biological resources within its national</p>		General Council	Principles 3.5.6,7,9, Chapters 6,8,30,34,39
8	TRIPS-CBD	Cuba, Dominican Republic, Honduras, Nicaragua CTE-32			General Council	Principles 2.6,7,11, 12,22

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
8	TRIPS-27.3 (b)	LDCs CTE-32	TRIPs Article 27.3(b) – Proposes, 1) a formal clarification that naturally occurring plants, animals, the parts of plants and animals, including the gene sequence and essentially biological processes for the production of plants, animals and their parts, must not be granted patents; 2) a provision that patents must not be granted without the consent of the country of origin or if inconsistent with Article e 15 of the CBD; 3) retention of flexibility to develop sui generis protection regimes for seed supply. (WT/GC/W/251)		General Council	Principles 6,9,22 Chapters 2,8,14,15,16,32, 39
8	TRIPS-27.3 (b)	Malaysia CTE-32		Article 27.3(b) - Said it would be very useful to continue the discussions of the Article, particularly on the definitions of the patentability of life forms or the kind of "effective sui generis system" for plant varieties, bearing in mind the issues under the CBD. (IP/C/M/27)	TRIPS	Principles 6,9,22 Chapters 2,8,14,15,16,32, 39
8	TRIPS-27.3 (b), UPOV	Mexico CTE-32		In Mexico's view, the UPOV system could also provide a useful benchmark for the review exercise given that it had been adopted by a large number of Members. The UPOV system was in any event less sui generis than other mechanisms intended to protect plant varieties. Therefore, Mexico was open to continuing with this exercise and to studying other systems which might be presented by Members as a means of protecting plant varieties, this should not be interpreted as meaning that Mexico was ready to consider fundamental or radical changes to the provisions of Article 27.3(b), that would imply additional requirements to the measures that many Members, including Mexico, had adopted to comply with their obligations under this provision.	TRIPS	Principles 2,6,7,9,11, 12,22 Chapters 2,8,15,26,30,32, 34,39,40 Statement of Forest Principles

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
8	TRIPS-traditional knowledge, biodiversity	Peru CTE-32		<p>(For details please refer WT/CTE/W/176)</p> <p>The efforts being undertaken by many countries, including Peru, to put into effect the principles laid down in Agenda 21 of the United Nations and in the Convention on Biological Diversity should be accompanied by the development of an international regulatory framework and appropriate implementation measures in order to give effect to the intellectual property rights of local and indigenous communities and regulate access to genetic resources including the principle of fair and equitable sharing of the benefits arising out of traditional knowledge and the use of biological diversity, as well as prior informed consent for their utilization. (IP/C/W/246)</p>		<p>Principles 2,6,7,9,11, 12,22</p> <p>Chapters 2,8,15,26,30,32, 34,35,39,40</p> <p>Statement of Forest Principles</p>
8	TRIPS-CBD, 27.3(b)	Turkey CTE-32		<p>During the review process of Article 27.3(b), the TRIPS Council should take into account the natural rights of the country of origin of genetic resources. Article 27.3(b) should be harmonized with and should be mutually supportive of the related articles of the CBD, namely Articles 8(j), 15, 16 and 19, and also particularly with the outcome of the 5th Conference of the Parties to the CBD. The review process under Article 27.3(b) should consider the clarification and the standardization of terminology regarding biotechnological inventions, namely plants and animals, plant and animal varieties, microbiological processes, essentially biological processes and effective sui generis systems, taking into consideration other related conventions and agreements. Considering the complexity of the required</p>	TRIPS	<p>Principles 2,6,7,9,11, 12,22</p> <p>Chapters 2,8,15,26,30,32, 34,39,40</p> <p>Statement of Forest Principles</p>

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CTE Agenda Item ¹	Issue	Country	Pre-Seattle proposal	Post-Seattle / Pre-Doha proposal	WTO Body / Committee	Relevant Principles of the Rio Declaration And Chapters In Agenda 21
9	Services and the Environment	India N-31	<p>resources. (WT/GC/W/282)</p> <p>It is useful to recall that the CTE's terms of reference essentially focus on the issue of "sustainable development", bearing in mind the need to provide a positive relationship between environmental policies and objectives and the provisions of the multilateral trading system. At its meeting on 21 June 1995, the CTE attempted to explore the following three issues:</p> <p>(I) what measures would need to be taken for environmental purposes in the area of services;</p> <p>(II) whether such measures were likely to be inconsistent with the provisions of the GATS, i.e. whether there would be any need to rely on the general exception provided by Article XIV of GATS; and</p> <p>(III) If there were such a need, would the provisions of Article XIV provide an adequate basis for taking such measures.</p> <p>It was clear from the discussion held in the CTE in June 1995 that, given the lack of adequate experience in the area of trade in services, it was presumed that, until specific problems arose from the effective operationalisation of GATS, the provisions of Article XIV(b) could be considered to be adequate.</p> <p>There was a convergence of views that one of the issues the CTE should examine was the compatibility of trade measures taken under multilateral environmental agreements with the GATS. There was interest in examining the evolution of disciplines in areas such as standards,</p>		CTE	<p>Principles 3,4,5,6,11, 12,15,16,22,23, Chapters 2,6,8,15,18,21,2 6,30,32,34,39</p>

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<p>CTE Reports</p>	<p>CTE Report 1999 Continued analysis of cluster themes via 3 meetings: 1) [18-19 Feb] Market access (CTE Agenda items 2, 3, 4, and 6) with particular attention to agriculture and fisheries, as well as energy, forestry, non-ferrous metals, textiles and clothing, leather and environmental services; 2) [29-30 Jun] Linkages between multilateral environment and trade agendas (CTE Agenda items 1, 5, 7 and 8) with an information session with five MEA Secretariats in order to inform the WTO of trade-related developments in those Agreements. 3) [12-13 Oct] Addressed item 9 (including the work programme envisaged in the Decision on Trade in Services and the Environment) and item 10, as well as the two thematic clusters. Observer status was extended to five intl inter-governmental organisations and the WTO Environmental Database continues to be updated. The WTO organized a High Level Symposium on Trade and Environment (15-16 Mar) with senior level representatives from trade, environment and development ministries, as well as a host of other governmental and civil society actors. The WTO also organized a two regional seminars on trade and environment for developing country government officials. The CTE will hold 3 meetings in 2000 and will continue analysis on the work programme based on the thematic clusters. (WT/CTE/5)</p>	<p>CTE Report 2000 Continued analysis of cluster themes via 3 meetings: 1) [29 Feb - 1 Mar] Market access (CTE Agenda items 2, 3, 4, and 6) with particular attention to fisheries; 2) [5-6 July] Linkages between multilateral environment and trade agendas (CTE Agenda items 1, 5, 7 and 8) with particular attention to trade related developments in MEAs. 3) [24-25 Oct] Addressed item 9 (including the work programme envisaged in the Decision on Trade in Services and the Environment) and item 10, as well as the two thematic clusters. The meeting also addressed the relationship between WTO and MEAs - included the Director-General of the WTO and the Executive Director of UNEP (in cooperation with MEA Secretariats) to identify synergies and enhance mutual supportiveness. The WTO Environmental Database continues to be updated. The WTO organized a second series of regional seminars on trade and environment for developing country government officials. The CTE will hold 3 meetings in 2001 and will continue analysis on the work programme based on the thematic clusters. (WT/CTE/5)</p>	<p>CIE</p>	
<p>CTE Report 2001 DRAFT</p>		<p>Continued analysis of cluster themes via 3 meetings: 1) [13-14 Feb] Market access (CTE Agenda items 2, 3, 4, and 6) with particular attention to agriculture and fisheries. Discussion of the precautionary principle took place in relation to a paper submitted by the European Communities on the European Council resolution pertaining to the principle adopted in Dec 2000; 2) [27-28 Jun] Linkages between multilateral environment and trade agendas (CTE Agenda items 1, 5, 7 and 8) with an informational session with the Secretariats of MEAs to enhance understanding of the compliance and dispute settlement provisions in MEAs and the WTO. Discussions of item 7 included a UN Secretariat presentation³ on DPGs.</p>	<p>CIE</p>	

³ Entitled, *UN Consolidated List of Products Whose Consumption and/or Sale has been Banned, Withdrawn, Severely Restricted or Not Approved by Governments*

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	<p>The objectives of sustainable development and responding to the needs of the developing countries and especially of the least-developed countries. Their deliberations will provide useful input for national authorities in developing their negotiating positions. [We note the intentions of some Members at a national level to [review the potential environmental effects][undertake a sustainability review] of the negotiations as an important means of identifying trade and environmental linkages.] [In this regard, Members are encouraged to share information on the methodologies and results of their reviews.] (JOB[99]/5868/Rev.1)</p>	<p>disguised restrictions on trade, and to report to the Fifth Session of the Ministerial Conference. (JOB(01)/140</p>			
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ANNEX 2

Paragraphs of the Doha Ministerial Declaration (WT/MIN(01)/DEC/W/1) relevant to Trade, environment and sustainable development

PREAMBLE

Paragraph 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.

Paragraph 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.

WORK PROGRAMME

Trade-Related Aspects of Intellectual Property Rights

Paragraph 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.

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.

Paragraph 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.

Small Economies

Paragraph 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 and Transfer of Technology

Paragraph 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

Paragraph 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.

Paragraph 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).

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Paragraph 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

Paragraph 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.

Paragraph 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.

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Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 5

All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

Principle 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

Principle 7

States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Principle 8

To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

Principle 9

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States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

Principle 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

Principle 18

States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.

Principle 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

Principle 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

Principle 21

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Notes:

a/ **Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972** (United Nations publication, Sales No. E.73.II.A.14 and corrigendum), chap. I.

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- 19. Environmentally sound management of toxic chemicals, including prevention of illegal international traffic in toxic and dangerous products 19.1 - 19.76
- 20. Environmentally sound management of hazardous wastes, in hazardous wastes 20.1 - 20.46
- 21. Environmentally sound management of solid wastes and sewage-related issues 21.1 - 21.49
- 22. Safe and environmentally sound management of radioactive wastes 22.1 - 22.9

SECTION III. STRENGTHENING THE ROLE OF MAJOR GROUPS

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- 24. Global action for women towards sustainable and equitable development 24.1 - 24.12
- 25. Children and youth in sustainable development 25.1 - 25.17
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- 27. Strengthening the role of non-governmental organizations: partners for sustainable development 27.1 - 27.13
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- 29. Strengthening the role of workers and their trade unions 29.1 - 29.14
- 30. Strengthening the role of business and industry 30.1 - 30.30
- 31. Scientific and technological community 31.1 - 31.12
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- 40. Information for decision-making 40.1 - 40.30

the light of country-specific conditions, which allows for full participation of all parties concerned. These attributes are essential for the fulfilment of the policy directions and objectives listed below.

2.7. The commodity sector dominates the economies of many developing countries in terms of production, employment and export earnings. An important feature of the world commodity economy in the 1980s was the prevalence of very low and declining real prices for most commodities in international markets and a resulting substantial contraction in commodity export earnings for many producing countries. The ability of those countries to mobilize, through international trade, the resources needed to finance investments required for sustainable development may be impaired by this development and by tariff and non-tariff impediments, including tariff escalation, limiting their access to export markets. The removal of existing distortions in international trade is essential. In particular, the achievement of this objective requires that there be substantial and progressive reduction in the support and protection of agriculture - covering internal regimes, market access and export subsidies - as well as of industry and other sectors, in order to avoid inflicting large losses on the more efficient producers, especially in developing countries. Thus, in agriculture, industry and other sectors, there is scope for initiatives aimed at trade liberalization and at policies to make production more responsive to environment and development needs. Trade liberalization should therefore be pursued on a global basis across economic sectors so as to contribute to sustainable development.

2.8. The international trading environment has been affected by a number of developments that have created new challenges and opportunities and have made multilateral economic cooperation of even greater importance. World trade has continued to grow faster than world output in recent years. However, the expansion of world trade has been unevenly spread, and only a limited number of developing countries have been capable of achieving appreciable growth in their exports. Protectionist pressures and unilateral policy actions continue to endanger the functioning of an open multilateral trading system, affecting particularly the export interests of developing countries. Economic integration processes have intensified in recent years and should impart dynamism to global trade and enhance the trade and development possibilities for developing countries. In recent years, a growing number of these countries have adopted courageous policy reforms involving ambitious autonomous trade liberalization, while far-reaching reforms and profound restructuring processes are taking place in Central and Eastern European countries, paving the way for their integration into the world economy and the international trading system. Increased attention is being devoted to enhancing the role of enterprises and promoting competitive markets through adoption of competitive policies. The GSP has proved to be a useful trade policy instrument, although its objectives will have to be fulfilled, and trade facilitation strategies relating to electronic data interchange (EDI) have been effective in improving the trading efficiency of the public and private sectors. The interactions between environment policies and trade issues are manifold and have not yet been fully assessed. An early, balanced, comprehensive and successful outcome of the Uruguay Round of multilateral trade negotiations would bring about further liberalization and expansion of world trade, enhance the trade and development possibilities of developing countries and provide greater security and predictability to the international trading system.

Objectives

- 2.9. In the years ahead, and taking into account the results of the Uruguay Round of multilateral trade negotiations, Governments should continue to strive to meet the following objectives:
- a. To promote an open, non-discriminatory and equitable multilateral trading system that will enable all countries - in particular, the developing countries - to improve their economic structures and improve the standard of living of their populations through sustained economic development;
 - b. To improve access to markets for exports of developing countries;

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2.14. The following policies should be adopted by developing countries with respect to commodities consistent with market efficiency:

- a. Expand processing, distribution and improve marketing practices and the competitiveness of the commodity sector;
- b. Diversify in order to reduce dependence on commodity exports;
- c. Reflect efficient and sustainable use of factors of production in the formation of commodity prices, including the reflection of environmental, social and resources costs.

(c) Data and information

Encouraging data collection and research

2.15. GATT, UNCTAD and other relevant institutions should continue to collect appropriate trade data and information. The Secretary-General of the United Nations is requested to strengthen the Trade Centre: Measures Information System managed by UNCTAD. Improving international cooperation in commodity trade and the diversification of the sector

2.16. With regard to commodity trade, Governments should, directly or through appropriate international organizations, where appropriate:

- a. Seek optimal functioning of commodity markets, *inter alia*, through improved market transparency involving exchanges of views and information on investment plans, prospects and markets for individual commodities. Substantive negotiations between producers and consumers should be pursued with a view to achieving viable and more efficient international agreements that take into account market trends, or arrangements, as well as study groups. In this regard, particular attention should be paid to the agreements on cocoa, coffee, sugar and tropical timber. The importance of international commodity agreements and arrangements is underlined. Occupational health and safety matters, technology transfer and services associated with the production, marketing and promotion of commodities, as well as environmental considerations, should be taken into account;
- b. Continue to apply compensation mechanisms for shortfalls in commodity export earnings of developing countries in order to encourage diversification efforts;
- c. Provide assistance to developing countries upon request in the design and implementation of commodity policies and the gathering and utilization of information on commodity markets;
- d. Support the efforts of developing countries to promote the policy framework and infrastructure required to improve the efficiency of export and import trade;
- e. Support the diversification initiatives of the developing countries at the national, regional and international levels.

Means of implementation

- a. Financing and cost evaluation

2.17. The Conference secretariat has estimated the average total annual cost (1993-2000) of implementing the activities in this programme area to be about \$8.8 billion from the international community on grant or concessional terms. These are indicative and order-of-magnitude estimates only and have not been reviewed by Governments. Actual costs and financial terms, including any that are non-concessional, will depend upon, *inter alia*, the specific strategies and programmes Governments decide upon for implementation.

- a. Elaborate adequate studies for the better understanding of the relationship between trade and environment for the promotion of sustainable development;
- b. Promote a dialogue between trade, development and environment communities;
- c. In those cases when trade measures related to environment are used, ensure transparency and compatibility with international obligations;
- d. Deal with the root causes of environment and development problems in a manner that avoids the adoption of environmental measures resulting in unjustified restrictions on trade;
- e. Seek to avoid the use of trade restrictions or distortions as a means to offset differences in cost arising from differences in environmental standards and regulations, since their application could lead to trade distortions and increase protectionist tendencies;
- f. Ensure that environment-related regulations or standards, including those related to health and safety standards, do not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade;
- g. Ensure that special factors affecting environment and trade policies in the developing countries are borne in mind in the application of environmental standards, as well as in the use of any trade measures. It is worth noting that standards that are valid in the most advanced countries may be inappropriate and of unwarranted social cost for the developing countries;
- h. Encourage participation of developing countries in multilateral agreements through such mechanisms as special transitional rules;
- i. Avoid unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country. Environmental measures addressing transborder or global environmental problems should, as far as possible, be based on an international consensus. Domestic measures targeted to achieve certain environmental objectives may need trade measures to render them effective. Should trade policy measures be found necessary for the enforcement of environmental policies, certain principles and rules should apply. These could include, *inter alia*, the principle of non-discrimination; the principle that the trade measure chosen should be the least trade-restrictive necessary to achieve the objectives; an obligation to ensure transparency in the use of trade measures related to the environment and to provide adequate notification of national regulations; and the need to give consideration to the special conditions and developmental requirements of developing countries as they move towards internationally agreed environmental objectives;
- j. Develop more precision, where necessary, and clarify the relationship between GATT provisions and some of the multilateral measures adopted in the environment area;
- k. Ensure public input in the formation, negotiation and implementation of trade policies as a means of fostering increased transparency in the light of country-specific conditions;
- l. Ensure that environmental policies provide the appropriate legal and institutional framework to respond to new needs for the protection of the environment that may result from changes in production and trade specialization.

C. Providing adequate financial resources to developing countries

Basis for action

- 2.23. Investment is critical to the ability of developing countries to achieve needed economic growth to improve the welfare of their populations and to meet their basic needs in a sustainable manner, all without deteriorating or depleting the resource base that underpins development. Sustainable

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2.28. With regard to debt owed to official bilateral creditors, the recent measures taken by the Paris Club with regard to more generous terms of relief to the poorest most indebted countries are welcomed. Ongoing efforts to implement these "Trinidad terms" measures in a manner commensurate with the payments capacity of those countries and in a way that gives additional support to their economic reform efforts are welcomed. The substantial bilateral debt reduction undertaken by some creditor countries is also welcomed, and others which are in a position to do so are encouraged to take similar action.

2.29. The actions of low-income countries with substantial debt burdens which continue, at great cost, to service their debt and safeguard their creditworthiness are commended. Particular attention should be paid to their resource needs. Other debt-distressed developing countries which are making great efforts to continue to service their debt and meet their external financial obligations also deserve due attention.

2.30. In connection with multilateral debt, it is urged that serious attention be given to continuing to work towards growth-oriented solutions to the problem of developing countries with serious debt-servicing problems, including those whose debt is mainly to official creditors or to multilateral financial institutions. Particularly in the case of low-income countries in the process of economic reform, the support of the multilateral financial institutions in the form of new disbursements and the use of their concessional funds is welcomed. The use of support groups should be continued in providing resources to clear arrears of countries embarking upon vigorous economic reform programmes supported by IMF and the World Bank. Measures by the multilateral financial institutions such as the refinancing of interest on non-concessional loans with IDA reflows - "fifth dimension" - are noted with appreciation.

Means of implementation

Financing and cost evaluation*

D. Encouraging economic policies conducive to sustainable development

Basis for action

2.31. The unfavourable external environment facing developing countries makes domestic resource mobilization and efficient allocation and utilization of domestically mobilized resources all the more important for the promotion of sustainable development. In a number of countries, policies are necessary to correct misdirected public spending, large budget deficits and other macroeconomic imbalances, restrictive policies and distortions in the areas of exchange rates, investment and finance, and obstacles to entrepreneurship. In developed countries, continuing policy reform and adjustment, including appropriate savings rates, would help generate resources to support the transition to sustainable development both domestically and in developing countries.

* See chap. 33 (Financial resources and mechanisms).

2.37. More specifically, all countries should develop policies that improve efficiency in the allocation of resources and take full advantage of the opportunities offered by the changing global economic environment. In particular, wherever appropriate, and taking into account national strategies and objectives, countries should:

- a. Remove the barriers to progress caused by bureaucratic inefficiencies, administrative strains, unnecessary controls and the neglect of market conditions;
- b. Promote transparency in administration and decision-making;
- c. Encourage the private sector and foster entrepreneurship by improving institutional facilities for enterprise creation and market entry. The essential objective would be to simplify or remove the restrictions, regulations and formalities that make it more complicated, costly and time-consuming to set up and operate enterprises in many developing countries;
- d. Promote and support the investment and infrastructure required for sustainable economic growth and diversification on an environmentally sound and sustainable basis;
- e. Provide scope for appropriate economic instruments, including market mechanisms, in harmony with the objectives of sustainable development and fulfilment of basic needs;
- f. Promote the operation of effective tax systems and financial sectors;
- g. Provide opportunities for small-scale enterprises, both farm and non-farm, and for the indigenous population and local communities to contribute fully to the attainment of sustainable development;
- h. Remove biases against exports and in favour of inefficient import substitution and establish policies that allow them to benefit fully from the flows of foreign investment, within the framework of national, social, economic and developmental goals;
- i. Promote the creation of a domestic economic environment supportive of an optimal balance between production for the domestic and export markets.

(b) International and regional cooperation and coordination

2.38. Governments of developed countries and those of other countries in a position to do so should, directly or through appropriate international and regional organizations and international lending institutions, enhance their efforts to provide developing countries with increased technical assistance for the following:

- a. Capacity-building in the nation's design and implementation of economic policies, upon request;
- b. Design and operation of efficient tax systems, accounting systems and financial sectors;

(c) Promotion of entrepreneurship.

2.39. International financial and development institutions should further review their policies and programmes in the light of the objective of sustainable development.

2.40. Stronger economic cooperation among developing countries has long been accepted as an important component of efforts to promote economic growth and technological capabilities and to accelerate development in the developing world. Therefore, the efforts of the developing countries to promote economic cooperation among themselves should be enhanced and continue to be supported by the international community.



IISD INTERNATIONAL INSTITUTE FOR
SUSTAINABLE DEVELOPMENT
INSTITUT INTERNATIONAL DU
DÉVELOPPEMENT DURABLE



ICTSD
INTERNATIONAL CENTRE FOR
TRADE AND SUSTAINABLE
DEVELOPMENT



Regional and International Networking Group
of organisations working for sustainable development

A Southern Agenda on Trade and Environment

Outputs of informal consultations with Geneva based
Delegates

CONSULTATIONS GENEVA JANUARY 2002 Outputs of informal consultations with Geneva based Delegates

Country	Sustainable Development or Trade & Environment	CTE Work Programme	Paragraph 31 & 32/ Environmental Negotiations	Institutional Change	Needs of the Country / Technical Assistance
A		The CTE work programme does not necessarily have to follow the Doha agreement in a stringent manner. If developing countries define their own needs, they could shape the work programme so as to comply with their interests.	There should not be an environmental negotiations group. Environmental goods should be negotiated in the goods group etc. There is a need for balance and coherence. The issues of paragraph 32 will be discussed in CTE special sessions.	Once the environmental issues are properly defined an environment negotiations body could be a good idea.	<i>Define</i> environmental goods, environmental services, environmental investment etc.
B	Perceives WTO issues as trade & environment issues and not as part of a sustainability discussion	The CTE work programme should not be widened. The WTO deals with rules and not principles. The work programme will focus on the 3 Doha issues of paragraph 31.	Environmental negotiations should not take place separately but in the already existing relevant bodies. The issues of paragraph 32 will be discussed in CTE special sessions.	There is no need for an institutional change. The WTO should not deal with more issues. Environmental issues are taken care of through MEA's and should not be part of the WTO rule making discussions.	<i>Define</i> the three items of paragraph 31 and 32. Analyse the chapeau of paragraph 20. <i>Clarify</i> the meaning of environmental measures. <i>Clarify</i> whether there is a need to strengthen WTO rules. <i>Make</i> a list of relevant MEAs. If the Southern Agenda could come up with <i>new issues</i> , such as for example why is there

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C	Agrees to that the overall framework of the CTE work programme should be sustainable development	env. services is not an CTE issue. The issues discussed in the CTE should be limited to what the current work programme. Because envntal issues can impair market access for developing countries, hence prefer that SD issues not discussed within context of trade.	The negotiations of env. goods will take place in the goods council, negotiations on env. services will take place in the services council. It is important to have a knowledge regarding various MEAs and its links with WTO rules. There is a need to have one global vision of this relation.	There should not be a major institutional change. Not sure of the institutional changes.	no exemption from patent rules due to environmental considerations. <i>Define</i> the relevant MEAs and their impact on trade. Our priorities currently focus on market access and services. Technical assistance from ICTSD will be important in helping us identify SD issues of interest to us.
D	Overall framework is sustainable development. However trade liberalisation does not result in sustainable development. It does not necessarily have to lead to	How can environmental measures imposed from developed countries be avoided? Will labelling requirements be used against countries exporting ag. products? The production of organic products is	Environmental issues can be used for and against developing countries. How can the relationship between MEAs and WTO be addressed? Actually Thailand does not see the need to discuss MEAs in the WTO, but	Not sure of the institutional changes. There is a need to dwell upon the desirability on a separate group on the environment	The <i>interpretation</i> of the relationship between MEAs and trade. ICTSD can <i>assist</i> in turning env. issues to be advantageous for developing countries. <i>Find, realise and analyse</i> the right proposal to use for the above purpose. <i>Help</i> address the issue of

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	<p>development at all. We will have to deal with environmental issues both due to pressure from developed countries and consumer groups within these countries as well as our own domestic constituencies.</p>	<p>only a minor part of the total production. Therefore, labelling does not seem to be an advantage for us, but rather a concern.</p>	<p>now that it is in the Declaration one has to find a way to deal with it.</p>		<p>labelling.</p>
E			<p>We will have to especially consider the views of the E.U and the U.S on Paragraph 31 and 32 issues including those those on GMOs. The issue of the relationship between MEAs and WTO rules is very important. Issues such as what happens if WTO members are not members of an MEA are significant.</p>	<p>The institutional aspects are important as we need to know how the CTE will manage subjects that fall under the purview of other agreements. Labelling for instance is being discussed in other Committees as well.</p>	

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F	Sustainable development is the overall frame. The Doha issues (paragraph 31 and 32) have both environment and sustainable development aspects. (Eg: Labelling. Developing countries should try and highlight the sustainable development aspects.	The CTE work programme should focus on sustainable development.	There is a need to clarify the subject of MEAs. There is a need to clarify how the subject of the relationship between WTO rules and MEAs will be approached. There is no evidence that one set of rules is predominant over another. The WTO regime has to be connected to other legal regimes. It is not clear how negotiations will approach this subject as a number of issues will have to be clarified such as the inclusion of compliance, enforcement and dispute settlement.	Institutional aspects will have to be examined closely as the trade, environment and sustainable development relationship is widespread across a number of Committees.	
G		Nature of work in the CTE on Para 32 issues in the 2 years leading upto the 5 th Ministerial	Negotiations on clarification between WTO rules and MEAs could have spillover	Negotiations on environmental goods and services are envisaged as	There is a need for intellectual input in defending developing countries' interests. Issues

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		<p>important. Countries might face pressures from EU on labelling and precautionary principles resulting in strengthening rather than relaxation of existing rules. This could affect market access.</p> <p>(Ambassador Hill: The work programme be given a sharper focus so that it moves beyond the routine way in which it has been handled)</p>	<p>effects. A conflict can arise not only because of the existence of MEAs <i>per se</i> but also because of differing perceptions on the disproportionality or necessity of measures. While the Shrimp turtle case may not constitute jurisprudence, it carries weight. Any clarification exercise must place limits on the capacity of countries to apply measures unilaterally. Any MEA considered must be <i>open</i> for it to be considered multilateral.</p>	<p>part of broader negotiations on market access.</p>	<p>like Biotechnology will emerge later on and countries will have to be clear on their interests and priorities.</p>
H		<p>What is meant by env. goods and services? Is water supply services and env. service? The relationship between MEAs and the WTO is important. MEAs</p>	<p>How will MEAs be involved in the negotiations process? We need to be clear on what we are negotiating. There will be special sessions of</p>		

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		should be granted observer status. We need a clarification on paragraph 31 and fisheries.	the CTE where env. issues will be discussed		
I	It is premature to look at this issue. What is much more important right now is the actual negotiation process and the institutional change		Negotiations on env. goods and services will take place in the already existing negotiation bodies. There will be special sessions of the CTE Env. goods are not defined as to how whether they are produced environmental friendly or not. Developing countries are not major producers of env. goods and/or services, the issue, which is more important is market access.		
J	Sustainable Development is important. There is		The concerns are whether env. measures will become new trade		

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	a mutual relationship between trade and environment		barriers		
K	We need to approach trade and environment issues from an environmental perspective, not from the trade perspective.	Access to Genetic Resources is important to them ASEAN is drafting an agreement on that. Signing up to an MEA can kill a domestic industry	We approach the paragraphs from a defensive point of view. Sustainable development in the trade context should be conceptualised in the interests of developing countries. This could include dismantling protectionist measures in developed countries that worked against environmental sustainability as well as development interests of developing countries. The relationship between MEAs and WTO rules will take a long time to be resolved. Each MEA has different	The initial thought was to put services to services etc. however this might have implication which we are still looking at.	<i>Identify</i> the relevant MEAs and their trade provisions. They are many and very diverse in their membership and constituency, this makes them difficult to approach. In the long-term capacity building is important. We would like the Southern Agenda project to move into Capacity building efforts but we would prefer it to not to prejudice a particular outcome which should be left to the particular conditions, interests and discretion of the developing country.

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			<p>constituency and different membership. Regional agreements are specific to a region but could provide a useful model for universal application. It is better to have an information flows between the government, industry, environmentalists etc. before an MEA is negotiated as it could give time to industry in adjusting and reduce opposition to MEAs that could be very positive for the environment.</p>		
L	<p>We have to deal with the environmental mandate we got at Doha. It is important that the precautionary</p>	<p>Specific items that could be looked at are TRIPS, 27.3b, BASEL conv. etc.</p>	<p>The env. negotiations need a more conceptual line of arguments in order to keep them under the sustainable development perspective. This will</p>	<p>We are interested in keeping the timeframe and are therefore flexible on how the institutional set up will be. It is more</p>	<p>Identify the relevant MEAs. Regional agreements are not part of MEAs. Negotiators will appreciate tech. assistance. Developing countries must exercise leadership as the</p>

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	<p>principle does not slip into the backdoor. However we need a positive issues, ideas for negotiations. A pure env. agenda is not progressive we need development as well. Therefore, the emphasis has to be on 'trade and sustainable development'. It is important to define concepts in a manner beneficial to developing countries. An example would be to identify 'relevant MEAS' as those from which developing countries would benefit such as TRIPS-CBD</p>		<p>keep env. protectionism under the lid. We need a positive negotiating agenda, but in defensive terms, it is important for developing countries to avoid the precautionary principle and new barriers to agricultural trade from emerging. Developed country protectionist practices especially in agriculture that is actually harmful to sustainable development must be emphasised. It is important to look at only those MEAs which have provisions, i.e. specific trade obligations. The MEAs considered must <i>at least</i> be open. We</p>	<p>important who is going to chair the groups.</p>	<p>true flagbearers of Sustainable Development in an open transparent manner. ICTSD can certainly help in this process especially in helping countries identify negotiating positions. Financial resources are a constraint in implementing capacity building at the national level and ways to address this must be sought perhaps with assistance from multilateral institutions and banks.</p>

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			<p>would not consider provisions in Regional Trade agreements as these are covered under the paragraph on rules.</p> <p>Other specific issues relevant to sustainable development such as the CBD-Article 27.3 link must be identified and pushed for by developing countries.</p>		

