

ACP DECLARATION ON THE 5TH MINISTERIAL CONFERENCE OF THE WTO

We, the Ministers responsible for trade matters from the African, Caribbean and Pacific (ACP) Group of States, meeting in Brussels, Belgium on 31 July and 1 August 2003 to, inter alia, examine the state of the progress of negotiations of the Doha Work Programme at the World Trade Organization and coordinate positions on issues of common interest for the Fifth Ministerial Conference of the WTO scheduled for 10-14 September 2003 in Cancun, Mexico;

Having regard to the Doha Ministerial Declaration in which WTO Members undertook to place the needs and interests of developing countries at the heart of the Work Programme adopted in the Declaration;

Recalling the relevant provisions of the Nadi Declaration of the 3rd Summit of ACP Heads of State and Government held in Fiji in July 2002;

Taking into account the outcomes of the recent meetings convened in preparation for the Fifth WTO Ministerial Conference including, the Dhaka Declaration of the Trade Ministers of Least Developed Countries (LDCs) adopted in Dhaka, Bangladesh in June 2003, the Mauritius Declaration on the Fifth Ministerial Conference of the WTO adopted by the African Union Ministerial Meeting in Mauritius in June 2003 and endorsed by the Second Ordinary Session of the Assembly of Heads of State and Government of the African Union in Maputo, Mozambique, in July 2003 and the Decisions of the Twenty-Fourth Meeting of the Conference of the Heads of Government of the Caribbean Community adopted in Montego Bay, Jamaica in July 2003;

Affirming the significance of commodities, in particular Cotton, Sugar, Rice, Bananas, Coffee, Tea, Tuna, Beef and Veal, to the economies of ACP States;

Reaffirming the importance of longstanding trade preferences for ACP States and in particular the significance of the preferential trade arrangements put in place by the European Communities for products originating from ACP States which aim at fostering their smooth and gradual integration into the world economy in harmony with their socio-economic development objectives;

Recognising the importance of international trade based on equitable rules as a tool for sustainable economic development and alleviating poverty and the need for members of the ACP Group, particularly the least developed, small and vulnerable among them, including countries in war and post-conflict situations, to secure a meaningful share of world trade;

Convinced that a rules-based multilateral system that is equitable and responsive to the development needs of members of the ACP Group is essential to achieve an increased share of international trade;

Realising that the implementation of the Doha Work Programme presents an opportunity to reform the multilateral trading system through balanced rules, enhanced market access and well targeted and sustainably financed technical assistance and capacity building programmes that will enhance the legitimacy, credibility and universal nature of the system and create a basis for a new equitable global economic order for the benefit of all WTO Members;

Recognising that effective participation of members of the ACP Group in the implementation of the Doha Work Programme is constrained by their limited institutional, human and financial capacity;

Considering that approximately fifty percent of ACP States are Least Developed Countries (LDCs) and emphasizing the need for this category of countries to receive priority attention in order to facilitate their full integration into the multilateral trading system;

Emphasising that the ACP Group of States comprise most of the vulnerable countries, i.e. Small Island Developing States, landlocked countries, Net Food Importing Developing Countries (NFIDCs), Highly Indebted Poor Countries (HIPC), limited commodity exporting countries, and countries in war and post-conflict situations, whose vulnerability and lack of resilience to external shocks expose them to a high risk of marginalization from the multilateral trading system;

Concerned by the slow progress in the implementation of the Doha Work Programme, and that important deadlines on issues of particular interest to developing countries such as TRIPS and Public Health, Special and Differential Treatment, Implementation, and Agriculture Modalities have been missed;

Concerned that the lack of meaningful progress on these issues has the potential to undermine the confidence of ACP States in the multilateral trading system;

Declare that with regard to -

The Multilateral Trading System

1. We reiterate the importance of reforming the multilateral trading system to remove the existing imbalances which impact negatively on ACP Member States. Further, we call for flexibility in the rules and their application, and for greater policy space for developing countries and particularly the least developed, small and vulnerable among them, including countries in war and post-conflict situations.
2. We stress that it is urgent and essential to address development issues that have been placed at the centre of the Doha Work programme.

Trade Preferences

3. We reiterate the vital importance of long standing trade preferences for ACP States for offsetting the loss of competitiveness, and call upon WTO members to provide for the maintenance and security of such preferences, through flexible rules and modalities that allow for exemptions based on special development needs. In addition, the erosion of preferences must be addressed through, inter alia, the establishment of compensatory and other appropriate mechanisms, including measures to promote exports. Technical and financial assistance should be provided to ACP States for improving infrastructure, productivity and diversification, and for development of facilities and systems to achieve compliance with the SPS and TBT requirements for exports from members of the ACP Group. We also call upon WTO Members not to take measures which would further erode preferences, in order to enable preference beneficiary countries which trade on a limited number of products or commodities to continue to benefit from equitable share of the world market while progressively developing their competitive advantages and facilitate their integration into the multilateral trading system.

Decision-Making Process

4. We reiterate the critical importance of creating a transparent, democratic, all-inclusive and consultative decision-making process in the WTO, as this is vital to enhancing the credibility of the WTO and the multilateral trading system. We reiterate the importance of taking decisions by consensus, in accordance with paragraph 1 of Article 9 of the WTO Agreement.
5. We urge the WTO Members to ensure that the decision-making process at the upcoming Ministerial Conference in Cancun is transparent and inclusive, through the adoption of

procedural rules. Those rules should ensure, among other things, that: (a) proposals of the various members or groups of members are reflected in draft texts that form the basis of negotiations, (b) appointment of the Chairpersons of working groups is made by a decision of all WTO members; (c) all WTO members are informed of all meetings and are entitled to participate in them, and (d) issues of importance, including consideration of a proposal to extend the length of the Conference, should be put before all WTO Members for a decision.

Doha Work Programme

Special and Differential Treatment

6. We emphasise that Special and Differential Treatment (S&DT) is a core principle in the WTO and an important instrument for mainstreaming development in the multilateral trading system. In that regard it is necessary to (i) strengthen and operationalize existing S&DT provisions; (ii) introduce new effective provisions in existing disciplines; (iii) entrench mandatory and binding S&DT provisions during the present and future negotiations.

7. We call on WTO Members, particularly the developed countries, to reflect the political will necessary to meaningfully address S&DT proposals made by developing countries, so that agreement may be reached on concrete results before the fifth Ministerial Conference.

Implementation Issues

8. We note, with concern, that despite the commitment in the Doha Declaration to give the "utmost importance" to implementation-related issues, there has been little progress, and that the majority of the issues remain unresolved long past the end of 2002 deadline. We call upon all the WTO members, especially the developed countries, to demonstrate the political will to seriously and effectively address in a substantive manner all of the outstanding implementation issues before the fifth Ministerial Conference.

Agriculture

9. We express concern at the failure to meet the deadline for the establishment of modalities for further commitments in Agriculture, which represents a major setback in the negotiations. Agriculture is of critical importance to the economic development of ACP States and holds the potential to lift millions of people out of poverty. Progress in the agricultural negotiations is essential for the successful conclusion of the Doha Work Programme.

10. We note with concern that there has been little movement on key outstanding issues such as the formula to be used for reducing tariffs and special provisions for developing countries. We note that the Harbinson text on draft modalities does not adequately deal with the structural problems of the Agreement on Agriculture.

11. We reiterate the need to improve the market access for all agricultural products originating from ACP States and call for the implementation of a programme to support the enhancement of the supply capacities in the agricultural sectors of ACP States.

12. We reiterate the need to address export subsidies and domestic support in accordance with the Doha WTO Ministerial Declaration while preserving existing preferential arrangements.

13. We reiterate the need for the developed countries to eliminate export subsidies and reduce trade distorting domestic support significantly on certain products of interest to ACP countries.

14. We also request the setting up of a financial compensatory mechanism to cover the revenue losses resulting from export subsidies by developed countries.

15. We call on the developed countries to exercise restraint in applying TBT and SPS measures on products from ACP countries. Where such measures are necessary, technical assistance should be provided to enable ACP countries to overcome them.

16. We reaffirm the critical importance of food security, rural development, security of livelihood and other public policy objectives of the members of ACP Group and call upon WTO Members to take these objectives into account in the modalities to be established in Agriculture.

17. We emphasise that the new Special Safeguard Mechanism (SSM), Strategic Products (SP) and the special needs of NFIDCs are of priority interest to developing countries and reiterate the need for these to be appropriately provided for in the agriculture negotiations.

18. We urge the developed countries to provide bound duty-free and quota free market access to all imports from LDCs. The product coverage should include agricultural products in their primary, semi-processed and processed forms. Further we reiterate that LDCs are exempt from reduction commitments, in accordance with Article 15.2 of the Agreement on Agriculture.

19. We strongly welcome as an important step forward proposals on preferences as contained in the Harbinson text and call upon WTO Members to build upon and also address the issue of erosion of preferences, including through the adoption of an appropriate formula as regards tariff reduction.

20. We wholeheartedly support the initiative by West and Central African countries in the context of the WTO, to address urgently the negative impact experienced by them and other cotton producing Members of the ACP Group as a consequence of export and production subsidies on cotton and other trade distorting practices employed by some developed countries.

21. We call upon the Ministers at the fifth Ministerial Conference to take a decision on the rapid elimination of subsidies on cotton and adopt measures so as to compensate those countries adversely affected by these practices. We appeal to WTO members to recognise cotton as essential to the development policy of the ACP Groups' cotton producing members.

22. We recognise the urgent need to pay priority attention to the serious problem of commodity dependence, continuous declines and sharp fluctuations in the prices of commodities of export interest to ACP States. We therefore support initiatives taken within the WTO to resolve these problems.

23. We emphasise the importance of longstanding preferential arrangements for sugar to the development of ACP economies. We deeply regret the recourse to the WTO dispute settlement procedures by Australia, Brazil and Thailand against the EU Sugar regime which, if upheld, would result in serious adverse effects on the livelihood of many farmers and serious political, economic and social problems in the ACP States concerned. We are therefore determined to work with other members of the WTO to establish the appropriate modalities in order to secure our vital preferential arrangements.

Services

24. We note that the gains derived from services liberalisation have accrued primarily to developed countries, due to their greater supply capacity, efficiency and competitiveness. We underscore the need for targeted measures geared at redressing the imbalances and inequities that currently exist. To that end, we reiterate the need to respect the principle of progressive liberalisation, in particular, the flexibility provided to ACP States and other developing countries to open fewer sectors, in line with their national development objectives, and the liberalisation by developed countries in sectors and modes of export interest to ACP countries, particularly through the movement of natural persons (Mode 4).

25. We stress that, due to capacity constraints, ACP States have not been able to actively take part in the current request and offer negotiations, as there are few sectors in the other countries in which the local enterprises from ACP States can meaningfully participate. In light of this, we urge other WTO Members to refrain from making excessive demands on members of the ACP Group in this regard. We further urge that due respect must be given to the right of members of the ACP Group to regulate trade in services and liberalise according to their national policy objectives.

26. We call upon the WTO membership to expeditiously finalise and adopt modalities for LDCs.

27. We highlight the importance that the ACP Group places on the operationalisation of Article IV of the General Agreement on Trade in Services, as set forth in paragraph 15 of the Guidelines and Procedures for the Negotiations on Trade in Services.

28. We ask that the requisite assistance be given, in the context of the WTO and other relevant international organisations and agencies, to carry out an assessment of the effects of previous services liberalisation and the potential effects of future liberalisation in ACP States individually and as a Group, so that our negotiating position may be more informed.

Market Access for Non-Agricultural Products

29. We are of the view that the objectives of the current negotiations on non-agricultural market access are to facilitate the development and industrialization processes in our countries and thus these negotiations must give attention to: (i) providing market access for products of export interest to ACP States; (ii) ensuring that ACP States are allowed to choose their own rate and extent of future import liberalization, so as not to cause further adverse effects on local industries; (iii) addressing the problems that ACP States will face from erosion of preferences; and (iv) addressing the need for ACP States to build their supply capacity so that they can take advantage of any increased market access opportunities. We have highlighted these issues individually and collectively in the Negotiating Group.

30. We welcome the Chairman's proposal to exempt LDCs from making reduction commitments. However, we are deeply disappointed that the draft elements of modalities proposed by the Chairman of the Negotiating Group on Market Access for Non-Agricultural products do not take these issues into account and in fact contain other provisions, including the complete elimination of tariffs in specific sectors that are likely to have serious negative consequences for ACP States. We therefore urge that the revised text on modalities take fully on board the elements proposed by the ACP States.

31. We also call for the adoption of a tariff reduction formula that should provide sufficient flexibility and scope to enable ACP States to continue to have adequate and effective levels of preferences necessary for the maintenance of their competitiveness in their export markets. Only such an approach would guarantee balance, equity and benefits for all WTO members in the outcome of the Doha Round. Moreover, any tariff reduction which will adversely impact on the revenues of ACP States should be adequately compensated.

32. We call for the operationalisation of the concept of "less than full reciprocity in reduction commitments. . ." for developing countries as expressed in the Doha Declaration. In that regard, the modalities should enable ACP States and other developing countries to decide their own rate, pace and scope of liberalisation, undertaking commitments only to the extent consistent with their individual development, financial and trade needs.

TRIPS and Public Health

33. We call attention to the fact that grave public health challenges continue to afflict many developing and least developed countries and underscore the commitment in the Declaration on the TRIPS Agreement and Public Health that "the [TRIPS] Agreement can and should be

interpreted and implemented in a manner supportive of WTO's Members' right to protect public health and, in particular, to promote access to medicines for all."

34. We reaffirm that the Declaration on the TRIPS Agreement and Public Health clarifies the relationship between the TRIPS Agreement and Public Health policies and we are deeply concerned by the impasse in finding a solution to the issues identified under paragraph 6 of that Declaration. We strongly urge WTO Members to demonstrate the political will necessary to forge a sustainable, simple, predictable and legally binding multilateral solution, without restrictions and according to the manner outlined in the Declaration, before the Ministerial Conference.

Trade-Related Aspects of Intellectual Property Rights

35. We continue to urge that the review of Article 27.3(b) of the TRIPS Agreement should conclusively clarify that all living organisms including plants, animals and parts of plants and animals, including gene sequencing and biological and other natural processes for the production of plants animals and their parts should not be patented.

36. We support the position of the LDCs as set forth in the Dhaka Declaration that WTO members "shall select their own sui generis system for plant variety protection, including recognising traditional knowledge and the rights of farmers to use, save, re-sow, exchange or sell seeds", and the position of the Africa Group, that Members have the right and the freedom to determine and adopt appropriate regimes in satisfying the requirement to protect plant varieties by effective sui generis systems and any sui generis system adopted should enable Members to retain their right to adopt and develop measures that encourage and promote the traditions of their farming communities and indigenous peoples in innovating and developing new plant varieties and enhancing biological diversity.

37. We reaffirm our position that WTO Members should develop mechanisms that require, as a condition for the grant of a patent, patent applications to disclose the country or area of origin of any biological resources and traditional knowledge used or involved in the invention, and to provide confirmation of compliance with all regulations in the country of origin, including prior informed consent, and access and benefit sharing arrangements. The TRIPS Agreement should be supportive of and not run counter to the objectives of the Convention on Biological Diversity. This is essential to, among other things, achieving a fair and equitable sharing of benefits.

38. We note, however, that while important, such disclosure requirements, cannot address the basic concern that patents on plants, animals, micro-organisms and their parts, as per Article 27.3(b) give patent holders exclusive rights over the use of the resources and thus, denies communities the ability to determine the conditions for their use.

Singapore Issues

39. We reaffirm that the discussion in the WTO on these issues thus far confirms that each has its own peculiar aspects and complexities and that WTO Members have not reached a common understanding on how any of these issues should be dealt with procedurally or substantively in a multilateral context. We welcome all technical assistance and capacity building measures in these areas, especially those targeted to facilitating the evaluation by ACP States of the implications of adopting multilateral frameworks in these areas on our development policies and objectives.

40. We fully recognise that most ACP States do not have the capacity to meaningfully negotiate these issues, as we grapple with the implementation of existing WTO rules and, especially, taking into account, the expanded work programme after the Doha Ministerial. Furthermore, the benefits of negotiating a multilateral framework for all the Singapore issues are not evident and this, coupled with the fact of our scarce resources and limited capacity in this area, does not provide a basis for the commencement of negotiations in these areas.

Rules

Anti-Dumping and Subsidies

41. We take note of the progress thus far in the initial phase of the negotiations in these areas as WTO Members identified the provisions of the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures that they will seek to clarify and improve in the subsequent phase of the negotiations.

42. We reiterate the commitment contained in the Doha Declaration that the process of clarification and improvement of the disciplines under these Agreements must take into account the needs of developing and least developed Members, despite of the fact that the heavy workload and limited resources have constrained the participation of ACP States in the Negotiating Group on Rules.

43. We insist that the improved disciplines in the Agreement on Subsidies and Countervailing Measures should provide greater flexibility in the use of certain subsidies for ACP countries, including fisheries and agricultural subsidies, as subsidies are a necessary tool to further their development.

Regional Trade Agreements

44. We urge that, in the process of clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements (RTAs), WTO members should allow sufficient flexibility for developing countries, parties to RTAs. In this regard, the ACP Group requires the preservation of the Enabling Clause and the revision of Article XXIV of the GATT so as to explicitly include Special and Differential Treatment and asymmetry. Any improvement and clarification of disciplines and procedures on RTAs should take account of differing levels of development and should address the definition of "substantially all the trade", transitional time frames and reciprocity, in a manner that responds to the needs and interests of developing countries.

Dispute Settlement

45. We support the extension of the mandate of the Special Session of the Dispute Settlement Body in order to facilitate the completion of work on the proposals for the improvement and clarification of the Dispute Settlement Understanding (DSU). This area is of particular concern to members of the ACP Group as many of the proposals relate to needed improvements of the DSU that will make the dispute settlement system more efficient, more accessible for developing countries and responsive to their needs and interests.

46. We emphasise that it is imperative that the WTO rules and the rules and procedures of the DSU regarding participation of developing country third parties in such processes be reviewed, so that their participation is guaranteed throughout and is no less effective than the parties to the dispute; indeed WTO Rules and the DSU in principle, aim at promoting the interests of all WTO Members.

Trade and Environment

47. We consider that the negotiations and on-going work at the WTO can contribute to strengthening the mutually supportive relationship between trade and environment. However, the legitimate needs of developing countries, in relation to market access for their export products and the effective use of their natural resources for the benefit of their populations, should be fully taken into account within the context of the work on the interaction between trade and the environment. In this regard, targeted capacity building and technical assistance will play a major role for developing countries and particularly for LDCs.

48. We reaffirm our position that environmental considerations should not be used as protectionist measures to thwart the export of products from developing countries.

Small Economies

49. We urge that the particular structural disadvantages and vulnerabilities of small developing economies, in particular of Small Island Developing States and land-locked countries must be taken into account in the formulation and application of multilateral trade rules as well as in the liberalisation undertakings required of these countries, in order to avoid their further loss of market share and marginalisation within the world economy.

50. We therefore emphasise the need for the WTO membership to address in a substantive and meaningful manner the particular challenges faced by small, vulnerable economies, due to their structural and inherent constraints which impede their integration into the world economy.

51. We are concerned that little progress has been made on these issues and call on the fifth Ministerial Conference to take a political decision so that solutions are found to address the trade problems of small vulnerable economies, to ensure their participation and fuller integration into the multilateral trading system.

Trade, Debt and Finance

52. We reaffirm our support for the establishment of a mechanism that will contribute to a durable solution to the problem of external indebtedness of developing and least developed members.

53. We emphasise that the relationship between trade, debt and finance is a crucial one. The ACP Group is of the view that problems arising in the trade area (such as decline in commodity prices, lack of market access opportunities, and over-rapid import liberalization) can lead to increased trade deficits which contribute to debt and financial problems. On the other hand, continued indebtedness or financial crises can hinder the ability of developing countries to trade.

54. We underscore the importance of the deliberations of the Working Group on Trade, Debt and Finance and would like to see recommendations emerge from the Working Group as to concrete action that could be taken within and outside the WTO to assist developing countries to remedy their trade debt and finance problems. In this regard, the ACP Group is of the view that the Working Group should continue its work beyond the Ministerial Conference. In particular, we urge that Highly Indebted Poor Countries (HIPC)s be treated as if they were LDC States and be given special and differential treatment afforded to LDC States in all trading agreements and arrangements.

Trade and Transfer of Technology

55. We are disappointed that the WTO has yet to significantly contribute to technology transfer to developing countries and that some WTO rules may hinder the technology transfer process, whereas technology transfer is a necessary requirement for development.

56. We insist that the various WTO provisions pertaining to transfer of technology be operationalised with a view to making technology easily accessible to ACP countries, on a non-discriminatory basis.

57. We underscore the importance of the deliberations of the Working Group on Trade and the Transfer of Technology and would like to see recommendations emerge from the Working Group as to concrete action that could be taken in this area. In this regard, the ACP Group is of the view that the Working Group should continue its work beyond the Ministerial Conference.

Technical Cooperation and Capacity Building

58. We are appreciative of the efforts made by the WTO, UNCTAD, other international organisations, agencies and donors in organizing or financing training seminars in ACP States. We are of the view that these programmes could be improved, through a better collaboration between the ACP States and the organisers of these programmes in determining the course content and in the selection of resource persons, who should have a sound understanding of development and, as far as possible, come from developing countries.

59. We emphasise the necessity for ACP States to receive technical assistance and support in our efforts to become more active members of the WTO by developing our capacity to more effectively negotiate, monitor and implement WTO Agreements, especially in view of the heavy work load arising from the Doha Work Programme.

60. We underline that technical cooperation and capacity building must also include building supply capacity so that members of the ACP Group can take advantage of increased export opportunities and increasing the productivity of local producers so that they can better face the challenges of globalisation.

61. We are appreciative of the Integrated Framework (IF) and JITAP and request the WTO Members to enhance financial resources to these programmes.

Least Developed Countries

62. We emphasize that the integration of LDC's into the multilateral trading system requires meaningful market access, support for the diversification of their production and export base and trade related technical assistance and capacity building and that effort from all WTO members is required to achieve the beneficial integration of the LDC's into the global economy. The members of the ACP Group reaffirm their commitment to these goals and encourage other WTO Members to do so as well, taking into account the positions and proposals contained in the Dhaka Declaration.

63. We underscore, in this regard, the importance of the Integrated Framework for Trade Related Technical Assistance and call for its strengthening through the provision of additional financial resources, in order to reinforce the supply capacity of LDCs in accordance with the results of the planned diagnostic assessment, in order to facilitate the attainment of their development objectives.

Accession

64. We are concerned with the lack of progress in the accession process for LDCs and other developing countries to the WTO. While welcoming the adoption by the General Council of the new Guidelines on WTO Accession Procedures for LDCs, we call upon WTO Members to fully adhere and implement these guidelines, and, in that same spirit, to refrain from placing onerous demands on LDCs and other Members of the ACP Group in the accession process.

65. We urge that targeted technical assistance should be provided to acceding LDCs covering all stages of accession negotiations, on a priority basis, in view of the high costs involved in these negotiations

Observer Status

66. We reiterate the need for the WTO to grant Permanent Observer Status to the ACP Group of States and ACP inter-governmental and regional organisations.

Coherence in Global Economic Governance

67. We call for the strengthening of cooperation and coherence among international organizations, including the WTO, UNCTAD and other agencies of the United Nations, the IMF and the World Bank, in order to contribute to better coherence in policy making relating to the global economy.

68. We request that attempts to achieve greater coherence be aimed at expanding, not narrowing, the policy space for development in developing countries. They should further promote, without cross-conditionalities or additional conditions, consistent and mutually supportive policies that will contribute to improved coordination of technical and financial assistance, reduction or cancellation of the debt burden, recognition of autonomous liberalisation and eradication of poverty.

Brussels, 1st August 2003