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KAMAL NATH OUTLINES INDIA'S ROADMAP FOR POST-JULY WTO FRAMEWORK NEGOTIATIONS



The Union Minister of Commerce and Industry Mr. Kamal Nath at the inaugural session of the "Consultation on the Framework WTO Agreement of July 2004: The Way Forward" in New Delhi on October 26, 2004.

Delivering the keynote address at the Consultation on "The WTO Framework Agreement of July 2004: the Way Forward", organised by UNCTAD in New

Delhi on October 26, 2004, Mr. Kamal Nath, Minister of Commerce & Industry, Government of India, said:

THE ROAD MAP

- There should be effective and substantial reduction in domestic agricultural support by developed countries which distort production and prices.
- Special policy space and flexibilities essential for developing countries like India in the matter of tariff reductions.
- Special and differential treatment and less than full reciprocity the key to the agri tariff formula.
- Sectoral initiatives for elimination of tariffs should be voluntary and not mandatory.
- India's interests in Modes 1 and 4 has already expressed in her requests on services.
- Happy that 3 contentious Singapore issues are now off the table and that negotiations agreed upon in respect of Trade Facilitation only, through explicit consensus.
- Development related issues like Implementation and Special & Differential Treatment provisions, a major area of interest to India.

It seems just a few days ago that the General Council of the WTO adopted the Framework Agreement. But on closer reflection, one realizes that almost three months have passed since those

S.N. MENON TAKES OVER AS COMMERCE SECRETARY



Mr. S.N. Menon took over as the Secretary, Department of Commerce, in the Ministry of Commerce & Industry, Government of India on October 1, 2004. Earlier, he had served in the Department of Commerce for almost three and a half years, initially as Additional Secretary & Financial Adviser

from February 2001 and then as Special Secretary with effect from September 2003, in which capacity he headed the Trade Policy Division (TPD), handling matters pertaining to multilateral trade negotiations in the World Trade Organisation (WTO) and regional and bilateral trade agreements. Mr. Menon is an officer of the 1969 batch of the Indian Administrative Service (IAS: West Bengal Cadre).

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hectic days in Geneva – the FIPs process, Green Rooms, Blue Boxes – even Red Alerts – and what not! And now once more negotiations begin to flesh out things, to give concrete shape to what we envisioned when we reached agreement. **The Framework Agreement adopted by the General Council indicates the contours of the way forward. It provides the principles and criteria, and points the direction in which negotiations should proceed in order to bring the Doha Development Agenda to full fruition.** However, a multitude of issues will have to be defined and refined, and numbers and dates will have to be specified before the final substantive agreement emerges.

I am delighted to be 'kicking off', so to say, the post-Framework debate in India today. It is eminently appropriate for a forum such as the UNCTAD-DFID-DOC Project on 'Strategies and Preparedness for Trade & Globalisation in India', to be organizing this consultation. This Project has in recent months undertaken a number of capacity building activities and studies, and has facilitated detailed consultations which provided useful inputs during our pre-Framework negotiations. The dates of the Hong Kong Ministerial in December 2005 have just been announced. Things have begun to develop a sense of urgency and gather momentum. **A lot of hard work will have to be put in during the course of the next 13 months if anything concrete is to emerge at Hong Kong.**

The main concern at present relates to identification of the issues and assessment of the benefits and costs, as well as the rights and obligations that may arise in case the provisions in the Framework are defined one way or the other. **Tentative negotiations have already**

commenced in Geneva, and so it is important for us to set things on the correct course right from the beginning. This requires wide-ranging consultations with all stakeholders, including producers, consumers, academics, researchers and NGOs. I am happy that it has been possible to organize this three day consultation programme sufficiently early, so as to be both, illuminating and useful.

Prior to the July Package, the international mood was one of hesitation, even disillusionment. Cancun had ended in collapse, and the ambitious mandate captured at Doha was in ruins. Fortunately, a more constructive engagement evolved in June and July of this year, and a significantly satisfactory Framework materialized, surprising many. **As we now embark on detailed negotiations on modalities, the determinants of agricultural policy and liberalization will remain at the core of how swiftly we are able to complete the exercise.** As an optimist, encouraged in no small part by the resolve I witnessed at Geneva on the July Package, I hope that we will all show an equal determination to succeed in reaching our goals.

One of India's principal concerns relates to Agriculture. Agriculture has been a major contributor to national wealth and employment in developing countries, so much so that it determines the very social fabric of countries like India. **The possibilities, therefore, of trade-offs between agriculture and other areas in the negotiations stand diminished, when we consider the role our agriculture sector plays in our economy and society, and simultaneously the malaise of high distortions and protectionist barriers**

that characterize the global agricultural situation. Let me elaborate. Distortions, characterized by export subsidies and high domestic support, provide asymmetric opportunities for production and export to some, leaving a multitude of poor farmers in developing countries at risk of extreme poverty and even lower standards of living than at present.

All this would point to the possibility that poor countries subsidise their agricultural activities to a far greater extent than rich countries. And it would be rational to presume this. But the truth is just the opposite - for the simple reason that poor countries cannot afford it. **The disparity between interventions by governments in developed countries and those in developing countries is stark. It is estimated that subsidies given in all OECD countries put together amount to a billion dollars a day, while a developing country like India is able to provide a mere one dollar per month per farmer in the form of minimum agricultural support. In India, more than 90% of the cultivators are small and marginal with the average size of holdings being less than 2 hectares (in Europe I understand it is 20 hectares, and in the US it is 20,000 hectares!)** The majority of cultivators in developing countries live on the edge of poverty. I am not speaking only of India. This is a situation that prevails across the globe: in Africa, in Asia, in Latin America.

I feel that the time is ripe for us to discuss precisely how far we can go in Agriculture, based on the elements that are contained in the Framework Agreement. I look on the consultations being held over the next few days as providing us with indicators and levers on a variety of offensive

and defensive considerations. India has never taken the position that we are not ready to offer commitments, and that we should focus solely on what developed countries can and should do, and that developing countries are to do nothing. **Rather, India remains committed to robust domestic reform and progress in agriculture.**

I have said so publicly before, and I say so again: the Indian farmer is not afraid of the farmer from a developed country. He is willing to compete with him. But he cannot compete with the Governments of the developed countries! In the entire negotiation on agriculture, the positions we have had to take, the strategies we have had to adopt, are not because we are protectionist per se. We do not deny the developed world agricultural market access on a whim, or because we do not want to engage in trade. We have been forced to turn protectionist because we have no alternative; there is no level playing field. Agriculture sustains the daily lives of the majority of our people. Subsidised products flooding in from abroad would play havoc with the social fabric. Eliminate subsidies completely and fully, in all its guises, and we would not be hesitant to liberalise substantially. But we must be clear that this is not a chicken-and-egg situation. **There is no doubt as to what needs to be done first – it is the removal of subsidies. It is logical that market access can only succeed this, not precede it.**

What is paramount is that there should be effective and substantial reductions in domestic support provided by developed countries to their farm sector, which willy-nilly end up

distorting production and prices. It is time to set in stone an early date for complete elimination of export subsidies in any form, without resorting to the tactic of backloading the commitments or creating loopholes in the guise of food aid concerns. I do not intend to convey that some issues should not be taken up until others are resolved. I quite realize that, in the context of negotiations on modalities, clearly all aspects of the negotiations must be discussed. But rather, I do wish to highlight the time-sequential nature of liberalization itself.

Unfortunately, the focus of attention seems to be only on market access into developing countries by getting them to lower tariffs. **But I attach equal importance to market access commitments by developed countries to developing countries, so that the prospect of a wider distribution of benefits for all peoples remains. Developed countries may already have lower tariffs, but the non-tariff barriers they have erected end up nullifying our free access into their markets.** Thus, when we speak of market access we should not talk only tariffs, but also about how to deal with non-tariff barriers.

India has been autonomously reducing its applied tariffs over the last several years. The country's economic blue-print points to further reductions in applied tariffs over the next few years. This is in view of the benefits that may accrue due to such opening up. Tariff reduction has been undertaken by us in a calibrated manner so as to minimize any negative effects. **But I must emphasise that developing countries cannot be asked to, nor will they agree to, make commitments beyond their capacities or**

by disregarding their specific concerns which relate to alleviating poverty, promoting rural development, and safeguarding the livelihood of their people. These considerations are central to their economic growth strategy. Therefore, it remains essential that developing countries like India are afforded sufficient 'policy space' and flexibilities in instruments so as to lift the large proportion of their populations employed in agriculture from their present level of backwardness to a viable and vibrant level.

We feel that the formula for the **tariff negotiations is a critical element** of the negotiations. Discussions on the formula must be accorded priority, not because it is the only significant issue – (it is not; there are other important ones too) – but because it would be more fruitful and easier to decide other issues after there is some clarity on the nature of the formula. **It is essential that the formula reflects what we see as key features of the Doha mandate, namely 'special & differential treatment' and 'less than full reciprocity'.** If the intention is to have a **formula that is aimed at harmonization,** then I am afraid that it will not wash – since harmonisation is only another name for getting developing countries to do more than developed ones – which is the exact opposite of S&DT and the 'less than full reciprocity' principle.

We come now to NAMA matters. On the table is a proposal for sectoral initiatives in seven sectors identified as being of export interest to developing countries. These sectors include fish products, leather, footwear, textiles, jewellery, electronic goods and auto components. The proposal is for all countries,

developed as well as developing, to bring their tariffs down to zero in these sectors. The only special treatment for developing countries is a longer phase-out period – developing countries would get 3 times the period that a developed country would have. India welcomes the idea of sectoral initiatives, as we see considerable scope for enhanced trade in these areas. But our concern is regarding the nature of participation as well as the equality in the tariff concession to be offered. We are clear that participation in the sectoral initiatives cannot be mandatory. It has to be voluntary. The Framework Agreement now requires the issue of participation to be specifically negotiated and agreed to, and we hope to introduce the required flexibility in this.

Flexibility for developing countries in the NAMA negotiations is important. Since the completion of the Uruguay Round, the implications of tariff commitments have become somewhat clearer and there is also more clarity about domestic sensitivities. The flexibilities for developing countries should be such that they address the specific development related requirements of all developing countries. The present Framework, by focusing on the issue of flexibilities, is certainly an improvement on the Derbez text. It provides flexibility for sensitive products of developing countries through no cuts, or through reduced cuts, for a designated percentage of tariff lines. We need to identify products that are to be covered. We are now in a position to have a more comprehensive negotiation that could result in the creation of a mechanism that would make it possible for a more

substantial addressing of the sensitivities of individual developing countries.

Services is an area of offensive interest for India in view of our specific strengths and comparative advantage. We played a major role in including services in the July package by having a separate paragraph for it in the Framework along with an Annex containing recommendations for future progress. The text specifically refers to the need for “high quality of offers” by developed countries, especially in sectors and modes of export interest to developing countries. This, as well as the specific reference to Mode 4, covers India’s offensive interests in Modes 1 and 4 where we have already expressed interest through our requests. One of the few specifics in the July Package is the last date for these revised offers. It has been fixed as May 2005. It is important to note that this is the only market access area where benchmarks have been fixed, given the differing nature of the services negotiations from those on agriculture and goods – a fact which was repeatedly highlighted by India.

We are happy that out of four Singapore Issues, the three contentious ones are now off the table. Negotiations have been agreed upon in respect of Trade Facilitation only, through explicit consensus. Our reservations on the Singapore issues were regarding curtailment of development policy space if a multilateral agreement on Investment or Competition was brought in. It was also our contention that these were non-trade issues and WTO was not the appropriate forum for a discussion on them.

Trade Facilitation is in a different category. It deals mostly with procedures relating to import and export, and is of interest to India. It is universally recognized that trade facilitation improves the business climate by reducing transaction costs and lending predictability to international trade. In any case, India is already in the process of trade facilitation, and international agreement on this would not only supplement our efforts, but also ensure that Indian exports get facilitated in foreign ports. We have also been successful in introducing an entirely new element in the modalities, namely, that of having an effective customs cooperation mechanism on issues relating to trade facilitation and customs compliance.

While this consultation exercise covers Agriculture, non-Agricultural Market Access and Services as well as Trade Facilitation, a major area of interest to us, **namely development related issues like Implementation Issues and Special and Differential Treatment Provisions does not seem to be specifically covered. This does not mean that this is of less priority for us.** I am sure that as part of the deliberations these issues also would come up. These must consciously and thoroughly be discussed, as they are cross-cutting, and in my view, all-pervasive.

We believe that we have a balanced Framework Agreement, and during the next stage of negotiation. we have to ensure that the elements that we have built into it are fully benefited from. While we need to safeguard our concerns, we also need to identify our offensive interests, and our needs and priorities in these areas. We need to deliberate what is suitable in the Indian context and what kind of ambition level we should have when we talk of taking on commitments. We need to deliberate how we can dovetail our on-going autonomous policies and programmes in the context of the WTO negotiations. We need to assess what would help our business, trade and industry. The window of opportunity cannot be successfully exploited without concrete inputs of business, trade, industry and civil society in general.

We have with us here stakeholders from all over the country, and also well known personalities who have recognized expertise in the relevant areas. I have no doubt that the deliberations will be fruitful and will provide useful inputs for the Government. I look forward to receiving your recommendations, and also to a continuing interaction between you and my Ministry, as events unfold in the coming months.

GOODS COUNCIL

WTO STARTS FINAL REVIEW OF TEXTILES ACCORD

The WTO Council for Trade in Goods, on 1 October, started its third and final review of the implementation of the Agreement on Textiles and Clothing (ATC), under which all remaining quota arrangements in the sector would be removed on 1 January 2005.

The Chairman of the WTO Textiles Monitoring Body (TMB), Mr. András Szepesi, presented the main document of the major review: a 200-page report of the Textiles Monitoring Body on the implementation of the ATC since 1 January 2002 (during the third stage of implementation). Quoting part of the report, he pointed out the TMB's view that the "timely and full implementation of the ATC should also be regarded as a renewed manifestation of WTO members to their commitments undertaken in the framework of the multilateral trading system, thereby also strengthening the credibility of this system". Members expressed their appreciation for the serious work carried out by the TMB in presenting its report.

India presented the submission* of a group of developing country textile exporters (the International Textiles and Clothing Bureau: Argentina; Bangladesh; Brazil; China; Colombia; Costa Rica; Egypt; Guatemala; Hong Kong, China; India; Indonesia; Republic of Korea; Macao, China; Maldives; Pakistan; Paraguay; Peru; Sri Lanka; Thailand; Uruguay; and Vietnam). It said that the ATC had been hailed as a major achievement of the Uruguay Round, and was estimated to contribute as much as one-third of the entire gains from negotiations. India pointed to the welfare

gains that would follow ATC, which it stressed was part of the Round's "single undertaking".

The submission, according to India, contained specific proposals regarding possible conclusions of the review, including the following: that the Goods Council should take note of the TMB report; express regret over certain measures by the European Communities, Turkey and the United States; express disappointment over the denial of carry forward quotas in 2004; recall the Doha Ministerial Decision that Members should exercise care before initiating anti-dumping investigations on textile and clothing products previously under quota; and exercise close oversight of process until full and faithful implementation of the ATC. These countries also strongly welcomed the statement by Norway expressing the hope that the abolition of quotas would not be replaced by other forms of restrictions.

Turkey and Tunisia intervened to signal their interest for the agenda item that would follow on adjustment-related issues. Their initial response was to underline the socio-economic importance of the sector for income generation, employment and poverty reduction. They noted that there were "different perceptions of experience among WTO Members in the last stage of integration". They expressed concern over the "sustainability of economic and social development after ATC expiry", adding while generating opportunities and challenges, the quota phasout would result with a few enjoying the opportunities, and most coping with the challenges. Tunisia and the European Communities mentioned Article 7 (on improved

* Text of submission/communication dated 29 September, 2004 on page 10.

market access for textiles and clothing) of the ATC and the need for an equitable trading environment in the textiles and clothing sector.

The United States said that the past year has been trying times for the US textile industry, but that it would fully abide by its commitments. The EC expressed satisfaction with the contents of the TMB report, adding that different perceptions were inevitable.

In the light of statements made, the Chairman (Amb. Alfredo Chiaradia of Argentina) proposed and the Council agreed to hold dedicated sessions for the review. The Chairman announced an indicative list of issues for these sessions:

- The ATC integration process (implementation of the third stage of integration; overview of ATC integration; accessions and integration; and the final stage of integration);
- EU enlargement;
- Use of transitional safeguard mechanism;
- Carry forward; and,
- Administrative arrangements for quota administration and implementation.

It was understood that this list would not preclude Members from adding other issues. The EC indicated that it would add an issue drawn from ATC Article 7 on improvements in market access for fair and equitable trading conditions. The first dedicated meeting is scheduled for 18 October 2004.

Under another agenda item, on "post-ATC adjustment-related issues", Mauritius presented a proposal on behalf of co-sponsors Bangladesh, Dominican Republic, Fiji, Madagascar, Sri Lanka and Uganda for the WTO Secretariat to carry out a study aiming at identifying the adjustment-related issues and costs that may arise with the phase-

out of the ATC, including recommendations on measures to address such issues; and for the Goods Council to establish a Work Programme with a view to finding solutions to the problems identified in the paper. Jamaica and Nepal joined as co-sponsors at the meeting.

Mauritius and the other co-sponsors stressed that the textiles and clothing sector was critical for them as a source of employment, particularly for women, income generation and poverty reduction. They expressed concern that the ATC expiry would result in industry losses and revenue shortfalls, create zero sum outcomes with few winners and many losers, and have an impact on global sectoral trade flows.

Some delegations, like the Dominican Republic, said that the back-loading of implementation has led to the impending problem of sharp adjustment shocks.

Mauritius and other co-sponsors stressed the need for solutions to the adjustment costs and other challenges that would follow ATC expiry, and urged that this be made part of future Council agenda. They were supported by a number of countries, including Tunisia, Haiti, Lesotho, Jordan, Romania, Turkey, El Salvador, Nicaragua, Israel, Mexico, Kenya, Nigeria, Chinese Taipei, Morocco, Panama, Namibia, Rwanda.

Many delegations expressed understanding for the concerns expressed by the co-sponsors and a pre-disposition to having these issues addressed but there was a wide range of reactions and suggestions on how these should be tackled in the WTO.

A number of delegations, including China, Chinese Taipei, India, Thailand, Brazil and Cuba, said that adjustment costs and challenges were inseparable from trade reform, including in commitments

undertaken in WTO Agreements. They said they themselves have undertaken adjustment, and stressed that in addressing adjustment costs and challenges, the foundations of the rules-based system must not be undermined.

Several delegations, like China, Brazil and Chinese Taipei, felt that the issues raised could only be meaningfully addressed on a systemic and cross-cutting basis.

China and India also urged a more active role by the IMF and the World Bank.

Brazil suggested an exchange of national experiences in responding to adjustment challenges. It said that while the textiles and clothing sector is important, its adjustment considerations were not different from those in other sectors. Thailand stressed that whatever solution was considered should be one that would enable comparative advantage to work.

Several delegations, including India and Cuba, said that Members should examine closely the possible implications of the proposal.

The World Bank and the IMF identified opportunities and mechanisms existing in their institutions for dealing with adjustment considerations. The IMF drew attention to its outreach activities with the WTO to address adjustment issues in the textiles and clothing sector.

The Chairman noted the important issues raised in the discussions. He proposed, and the Council agreed, to hold open-ended informal consultations in an expeditious manner on this item.

The Goods Council also:

- Agreed to extend the deadline for withdrawal of concessions under Article XXVIII:3 for six months as set out in an EC communication and to refer the matter to the General Council for adoption. This item — “EC Enlargement: Procedures under Article XXVIII:3 of GATT 1994” — was added to the agenda at the request of Argentina, Australia, Brazil, India, Malaysia and Thailand.
- Forwarded for examination to the Committee on Regional Trade Agreements the following: Armenia’s free trade agreements with Ukraine, Kazakhstan, Moldova, the Russian Federation and Turkmenistan; and the Protocol on Trade in the Southern African Development Community (SADC).
- Approved and forwarded to the General Council waiver requests in connection with the introduction of Harmonized System 2002 changes by Argentina and Israel.
- Agreed that the Chairman will conduct informal consultations on a joint proposal by Brazil and India for a study on the trade and investment effects of TRIMs and of their elimination.



THIRD MAJOR REVIEW OF THE IMPLEMENTATION OF THE AGREEMENT ON TEXTILES AND CLOTHING BY THE COUNCIL FOR TRADE IN GOODS

The following is the text of the communication from Argentina; Bangladesh; Brazil; China; Colombia; Costa Rica; Egypt; Guatemala; Hong Kong, China; India; Indonesia; Republic of Korea; Macao, China; Maldives; Pakistan; Paraguay; Peru; Sri Lanka; Thailand; Uruguay; and Vietnam, to the WTO Council for Trade in Goods dated 29 September, 2004 in the context of the major review of the implementation of the Agreement on Textiles and Clothing in the third stage of the integration process:

INTRODUCTION

1. Together with agriculture, trade in textiles and clothing has long remained outside the mainstream of WTO rules and principles. Therefore, the completion of the process of integration of textile and clothing sector into the normal rules and disciplines of GATT 1994 in another three months' time is of great systemic value to the strengthening of the multilateral trading system. At the same time, it will be another step towards fulfilling the promise of the Uruguay Round.
2. To be certain, however, the 10-year long process of winding down the complex regime of quota restrictions inherited from the Multi-fibre Arrangement (MFA) into the Uruguay Round Agreement on Textiles and Clothing (ATC) has not been smooth or free of problems. Indeed, ever since the coming into effect of the WTO, the implementation of the ATC has been a constant concern and the subject of consideration both within and outside the WTO. Numerous meetings and countless hours have had to be devoted to considering the issues involved and to keeping the process on track.
3. Although in a few months, the ATC and all restrictions under it shall stand terminated, the final major review of its implementation by the Council for Trade in Goods (CTG) is significant in more than one way. For one thing, it is critical to ensuring that all requirements of the Agreement will have been fully and faithfully met. For another, it is important in terms of the lessons to draw from the process.
4. In this connection it may be recalled that, in accordance with Article IV of the Marrakesh Agreement Establishing the World Trade Organization, the CTG is responsible for overseeing the functioning of all Agreements in the area of trade in goods including the ATC. In addition, the ATC specifically mandates the CTG to conduct a major review of its implementation before the end of each stage of the integration process. Finally, in successive Ministerial Conferences (barring the unsuccessful ones in Seattle and Cancun), Ministers emphasised the need for ensuring full and faithful implementation of WTO Agreements. More significantly, at the very first WTO Ministerial Conference held in Singapore, they confirmed their commitment to such implementation specifically with respect to all "the provisions of the ATC", not with respect to implementation in some general way; this, given the widespread concerns expressed by developing countries regarding the implementation of a number of provisions of the Agreement. For ease of reference, relevant excerpts from various Ministerial declarations and decisions are provided in Annex 1 to this paper. Also included in the Annex are decisions of the General Council and the CTG germane to ATC implementation. Finally, as a further context for CTG's consideration, also provided in the Annex are statements at

the meetings of these Councils and notifications to the TMB by the restraining Members.

5. To assist the CTG in its review, the Textiles Monitoring Body has provided a comprehensive report (G/L/683). The report embodies a wealth of detailed information with regard to all the various aspects of implementation and is a highly useful contribution to the major review. We offer our commendation for the Body's hard work.
6. This paper is being presented to bring to light only a few pertinent aspects of the implementation process and is intended to assist the CTG in its consideration, especially against the background and objectives mentioned in paragraph 3 above. First, it seeks to highlight certain specific examples of the introduction of new restrictions or intensification of existing restrictions to the detriment of exporting developing countries. Second, it is followed by some additional issues from ATC implementation in general. The final section contains some specific proposals for consideration by the CTG.

New restrictions: some examples

Introduction of new restrictions by the EU following its enlargement from May 2004

7. As mentioned in Annex 1, at the very first Ministerial Conference in Singapore, Ministers declared as follows: "We confirm our commitment to full and faithful implementation of the provisions of the Agreement on Textiles and Clothing" (emphasis added).
8. The issue under reference has been discussed by the TMB in its comprehensive report to the CTG in paragraphs 325 through 334, and 588.
9. In a nutshell, with the enlargement of the EU following the accession of ten new member States from May 2004 (namely, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia), the EC extended its quotas on textiles and clothing to include these newly acceding States, and also determined the levels of these quota limits unilaterally.
10. The ten newly acceding states, WTO Members in their own rights, did not apply any quota restrictions before their accession to the EU. Indeed, despite the fact that prior to this accession they have had Free Trade Area

agreements with the EU, none of them were obliged to, or felt the need to, do so.

11. The imposition of these quotas by the EU is incompatible with Article 2.4 of the ATC according to which "no new restrictions in terms of products or Members shall be introduced except under the provisions of [the ATC] or relevant GATT 1994 provisions".
12. It may be recalled in this connection that a dispute panel and the Appellate Body had ruled that similar restrictions imposed by Turkey following its customs union with the EC violated Article 2.4 of the ATC. Both had further ruled that those restrictions were not justified by reference to GATT Article XXIV either. The following finding by the Panel is especially noteworthy:

"The prohibition on 'new restrictions' must be interpreted taking into account the preceding sentence [in Article 2.4 of the ATC]: 'The restrictions notified under paragraph 1 shall be deemed to constitute the *totality of such restrictions* applied by the respective Members on the day before the entry into force of the WTO Agreement'. The ordinary meaning of the words indicates that WTO Members intended that as of 1 January 1995, the incidence of restrictions under the ATC could only be reduced. *We are of the view that any legal fiction whereby an existing restriction could simply be increased and not constitute a 'new restriction', would defeat the clear purpose of the ATC which is to reduce the scope of such restrictions, starting from 1 January 1995....* Thus, we consider that, setting aside the possibility of exceptions and justifications mentioned in Article 2.4 of the ATC, any increase of an ATC compatible quantitative restriction notified under Article 2.1 of the ATC, constitutes a 'new' restriction.

On 28 February 1995 (therefore within the 60-day period of Article 2.1 of the ATC), the European Communities notified its previous restrictions maintained under the MFA. This notification referred to restrictions applicable only to EC territory. After the period of 60 days (under Article 2 of the ATC) the European Communities is prohibited from notifying any new restrictions or changes to existing and notified restrictions, except if adopted in compliance with the ATC or any other provisions of GATT 1994. Apart from these special cases the European Communities is not entitled to notify any increase of its MFA-derived restrictions ..."¹ (Emphasis added)

¹ Panel Report, Turkey – Restrictions on Imports of Textiles and Clothing Products, WT/DS34/R, adopted on 19 November 1999, paragraphs 9.71 and 9.72

13. It is equally clear that the action was contrary to the solemn commitments made by Members in successive Ministerial declarations with respect to "faithful implementation" of the ATC.
 14. In reply to a question from the TMB, the EU took the position that "the Community does not consider its extension of the geographical application of existing restrictions to constitute new restrictions in the sense of Article 2:4 of the ATC".
 15. After a thorough examination of this EU contention, the TMB concluded that the measures taken by the EC constituted "new restrictions" and that the "action could not find justification under the provisions of the ATC". It is unnecessary to reproduce the details of TMB's analysis and arguments in this regard, as these are available in its comprehensive report to the CTG.²
 16. Regrettably, the EU has chosen not to give any credence to the TMB findings, leaving the restrictions in question to remain in effect apparently in the knowledge that dispute settlement proceedings were both time-consuming and costly for the developing countries concerned to pursue.
- Continuation of quota restrictions by Turkey despite Panel and Appellate Body rulings*
17. This matter is referred to in paragraphs 408 through 410, 413 and 420 – 421 of the TMB report.
 18. Following the establishment of its customs union with the EU, Turkey imposed quota restrictions on textile and clothing imports from countries on which the EU also imposed these restrictions. Later, it withdrew these restrictions vis-à-vis the Czech Republic, Hungary, Poland, Romania, the Slovak Republic, Bulgaria, Malta, Morocco and Tunisia.
 19. On a challenge by India, a WTO dispute panel found that the measures adopted by Turkey were inconsistent with the provisions of Articles XI and XIII of GATT and *Article 2.4 of the ATC*. The Panel rejected Turkey's claim that these restrictions were compatible with Article XXIV of the GATT. The Panel concluded that Turkey's action nullified or impaired the benefits accruing to India. The Appellate Body upheld the Panel conclusion and ruled that Article XXIV did not allow Turkey to adopt these GATT-inconsistent measures. The Dispute Settlement Body adopted the Appellate Body and Panel reports³.
 20. As the TMB report to the CTG notes (paragraphs 408-410 and 421 of G/L/683), Turkey continues to maintain these restrictions on imports from Argentina; Brazil; China; Egypt; Hong Kong, China; India; Indonesia; Korea; Macao, China; Malaysia; Pakistan; Peru; the Philippines; Singapore; Sri Lanka; Chinese Taipei; and Thailand.
 21. It is obvious that Turkey's action is inconsistent with its obligations and that it also amounts to a disregard of the disciplines of the ATC and various declarations and decisions of Ministers, especially as the Panel and the Appellate Body ruled them to be unjustified.
- Changes to product classification by the United States*
22. It is well known that during the implementation of the ATC, the US substantially changed its rules of origin relating to the import of textile and clothing products, creating significant adverse effects on trade.
 23. In the process of these changes, US also enlarged the coverage of certain cotton made-up products. Thus, it is now specified that these products are of cotton even if they contain as little as 16 per cent of cotton by weight. (Prior to this, these products were considered to be that of cotton only if they contained cotton as their chief weight). Indeed this was the disposition under the pre-ATC bilateral agreements between the United States and the respective developing countries which were the basis of restrictions carried over from the MFA and notified to the TMB under Article 2 of the ATC.
 24. Notwithstanding that a dispute panel ruled in a case brought by India that the complainant did not succeed in establishing that the changes had been effected in violation of obligations under the *Agreement on Rules of Origin*, the change in classification of cotton products enlarged the scope and incidence of restrictions on these products under the ATC to the disadvantage of the exporting Members concerned.
 25. Lest it is misconstrued, the point that we seek to highlight in connection with the CTG's major review is specifically the one relating to the widening of the coverage of some cotton products in the context of quota access under the ATC, not the changes to rules of origin *per se*.

² G/L/683, paragraphs 325 through 334 (hereinafter the Report).

³ Appellate Body Report, Turkey – Restrictions on Imports of Textile and Clothing Products, WT/DS34/AB/R, adopted 19 November 1999 and Agreement under Article 21.3(b) of the DSU, WT/DS34/10 dated 18 January 2000.

26. It is apparent that the change in the definition and coverage of these products led to more exports being classified and counted as those of cotton than was the case previously. Thus, for example, products which were exported under US Category 666 (Other man-made fibre furnishings) now came to be classified and counted under Categories 360, 361, 362 (cotton pillowcases, cotton sheets and bedspreads respectively), etc., in which a number of exporting Members had high rates of quota utilization.
27. Unfortunately, with respect to this issue, the TMB report simply states as follows: “[...] while noting the concerns expressed in this regard, the TMB observes that none of the Members has referred any such specific matter to the TMB ...” under its dispute resolution functions⁴.
28. While that might well be the case, the real question to highlight for CTG’s consideration, as in the case of the two issues mentioned above (i.e., EU’s introduction of new restrictions in the territories of the newly acceding member states and Turkey’s maintenance of restrictions despite the Panel and Appellate Body rulings about their being inconsistent with Turkey’s WTO obligations), is the neglect by the restraining countries of their obligations and the failure to implement their commitments faithfully, leaving the developing countries concerned with the burden of expensive recourse. The change resulted in effective diminution of access (or, to put it differently, in enlarging the scope and incidence of relevant restrictions) in violation of Article 2.4 of the ATC, and causing disruption to established trade.
- Additional aspects of ATC implementation
29. In the same way, the integration programmes in general have been implemented in such a way as to leave a host of consequences to contend with.
- Integration process in general*
30. This issue is dealt with in a number of paragraphs in the TMB report spread over several sections.
31. The ATC provided for a ten-year transitional period to accomplish the phase-out of quota restrictions. This long period was intended to facilitate a smooth and progressive process.
32. Against this objective and purpose of the Agreement, it should be instructive to see how major restraining countries did actually phase out the quota restrictions. In this connection, a table at Annex 2 to this paper summarises the process of actual elimination of quotas by the three major restraining countries. In its report to the CTG, the “TMB observes that in terms of the total number of specific restrictions applied by restraining Members, the information at the Body’s disposal is either identical with or very close to the picture presented by ITCB members in [Annex 2]”⁵. In a nutshell:
- Of a total of 937 quotas applied by the United States on imports of textiles and clothing products from WTO Members under the MFA, it phased out only 103 quotas up until now. This number includes 17 quotas on Kenya and Mauritius which were lifted only under the AGOA legislation. The United States will thus abolish 834 quotas, or 89 per cent of the total, at the end in one go.
 - The EU carried over 303 quotas; phased out 91 as of now; and would abolish 212, or 70 per cent, on 1 January 2005. The number 91 includes 13 quotas that the EU suspended in return for market access concessions that it secured from two WTO Members.
 - Likewise, out of a total of 368 quotas carried over by Canada, it has so far phased out 76. Consequently, it will abolish 292, or over 79 per cent, at the end of the process.
 - Contrary to the above three, Norway had already abolished all 54 quotas (46 before the end of 1997 and the remaining eight at the beginning of 2001).
33. Looked at from a different angle, and taking as the basis the portion of 1990 import trade that was actually under quota restriction, the United States has thus far integrated less than 20 per cent, while the EU, based on 1995 imports when its membership increased to 15, only 32 per cent. Consequently, the amount of restrained trade left to be integrated by the two at the end of the process is 80 per cent and 68 per cent respectively (the large bulk in each case, consisting of trade in apparel). Unfortunately, for lack of necessary information, it is not been possible to assess similar percentages in respect of Canada and Turkey.

⁴ Paragraph 479 of the Report

⁵ Paragraph 640 of the Report

34. The above, despite the fact that (i) Ministers repeatedly reaffirmed their commitment to full and effective implementation of the process, and (ii) at Doha, they had also decided that "the provisions of the [ATC] relating to the early integration of products and the elimination of quota restrictions should be effectively utilised"⁶.
35. Regrettably, the major restraining Members did not accord any deference either to the explicit objective of phasing out the quota restrictions "progressively" or to the Ministerial decision at Doha to facilitate this by using "the provisions of the [ATC] relating to the early integration of products and the elimination of quota restrictions ...". They maintained that they had the full period of ten years for adjustment and therefore back-loaded the elimination of the bulk of quotas to the end of the phase-out process.

Denial of carry forward quotas in 2004

36. Due to the inflexible stance on the part of the major restraining Members, the CTG and the General Council have also been kept from providing a positive resolution to the issue of decrease in quota access in the final year of the ATC (2004) due to non-availability of so-called *carry forward* quotas. This matter has been the subject of discussion in several General Council meetings and is also dealt in the TMB report in paragraphs 256 to 261, 589 and 643.
37. It may be pertinent in this regard to recall the TMB's observation that although "the ATC does not contain any explicit disposition concerning the matter [relating to carry forward in 2004], the denial of this flexibility would run counter to the basic concept of *progressive* liberalization embodied in the ATC. *In fact, it would be absurd* if a more restrictive application of the flexibility provisions had been foreseen for the last year of ATC implementation compared to the preceding years. In addition, what would justify such an approach in economic terms, since all the restrictions will have to be eliminated on 1 January 2005?"⁷
38. The TMB goes on to "express its hope that appropriate solution to this matter, addressing the concern about potential reduction in market access opportunities in 2004, will be found and adopted by the General Council in the near future"⁸ adding that "the TMB believes that [such] appropriate solutions to avoiding potential reduction in market access in 2004 can be sought by relying on a number of different mechanisms or combination thereof"⁹.

Trade remedy actions

39. In addition, stemming from the manner in which the major restraining Members and Turkey chose to implement their obligations under the ATC leaving the bulk of quota restrictions only at the end of the transitional period, is the fact that it leaves another significant problem to contend with: that of the sudden downward pressure on export prices following the abolition of all quota restrictions.
40. Under the quota regime, trade transactions in textiles and clothing have not been driven by normal commercial considerations alone. Quota considerations have been an important component of pricing decisions and arrangements. Most business operators therefore believe that the elimination of quota restrictions will exert downward pressure on prices. The deliberate policy of postponing the elimination of most quota restrictions at the end of ten years in one go therefore is liable to exacerbating the situation and encouraging the protection seeking interests to cry dumping and spark political pressures for alternate methods of protection.
41. Developing Members have repeatedly brought this problem to the attention of the WTO including by presenting a proposal for a specific short term disposition to allow time for trade to find its normal course, especially as allegations about dumping in the immediate aftermath of the abolition of quotas could not be reasonably evaluated unless there was sufficient opportunity for businesses to adjust to normal pricing¹⁰.
42. It is worth noting in this regard that the Ministers in Doha decided that "Members will exercise particular consideration before initiating investigations in the context of anti-dumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement [on Textiles and Clothing] for a period of two years following full integration of this Agreement into the WTO"¹¹. The precise disciplines for giving effect to this decision however are yet to be established.
43. Unfortunately, as in the case of the carry forward issue, the major developed countries

⁶ WT/MIN(01)/17, paragraph 4.1.

⁷ Paragraph 260 of the Report.

⁸ Paragraph 261 of the Report.

⁹ Paragraph 643 of the Report.

¹⁰ WT/GC/W/502.

¹¹ *Op. cit.* paragraph 4.2.

continue to refuse to shoulder their responsibility resulting from the manner in which they chose to implement their commitment to phase out the quota regime, despite the fact that Ministers in Doha had "pledge[d] to reject the use of protectionism"¹².

Implementation of ATC provisions relating to specific categories of suppliers

44. The ATC established guiding principles as well as specific provisions for preferential treatment of certain categories of exporting countries. Thus it required that, in the implementation of quota growth rates, small suppliers and new entrants shall be so treated as to permit meaningful increases in their access possibilities "at the entry into force of WTO Agreement and for the duration of this Agreement [i.e., ATC]" and that "such improvements shall be notified to the TMB". Likewise, it was provided that "special treatment should be accorded to the least-developed country Members"¹³ and they may also "benefit from meaningful improvements in access possibilities as for small suppliers". And a separate Ministerial decision on measures in favour of least-developed countries adopted at the conclusion of the Uruguay Round provided that the various agreements and instruments should be applied in a flexible and supportive manner for the least-developed countries and that, to this effect, sympathetic consideration shall be given to specific and motivated concerns raised by them¹⁴. Finally, the ATC envisioned that "the particular interests of cotton-producing exporting Members should, in consultation with them, be reflected in the implementation the provisions of [the ATC]"¹⁵.

45. In this connection, it is pertinent to refer to TMB's final comments in paragraphs 520–522. The following observations are worthy of consideration in particular. They succinctly bring out the fact that despite repeated exhortations and decisions at various levels, restraining countries either ignored these provisions or failed to give them any meaningful effect.

With regard to least-developed countries: "Noting the statement of the United States that 'virtually all LDCs are small suppliers not subject to quotas', it should be noted that that at least there is one important exception (Bangladesh) whose imports into the United States continue to be subject to restrictions

under the ATC. Furthermore, the reference by the United States to significant preferences granted to LDCs through regional trade preference programmes is duly noted. However these programmes have not yet been notified to the WTO; therefore, the TMB has no basis to assess their possible impact"¹⁶.

- *With regard to small suppliers:* "Regarding the implementation of the provisions of Article 2.18 in favour of small suppliers and new entrants, the TMB recalls that the methodology chosen by the respective restraining Members for the implementation during stage 1 predetermined the possible impact of the implementation of the same provisions during the successive integration stages. The TMB notes *with regret* that, as a follow-up to the Doha Ministerial Decision, the Council for Trade in Goods was not in a position to make recommendations to the General Council in the matter. It is also observed that, despite the TMB's respective comments made in the previous comprehensive reports, Members have made no attempt to implement Article 2.18 by implementing 'at least equivalent changes as may be mutually agreed with respect to a different mix of base levels, growth rates and flexibility provisions'"¹⁷.
- *With regard to cotton-producing exporting countries:* "... while noting the statement of the United States according to which some consideration had been given in establishing 'the base levels of quotas [...] [to] parameters appropriate [*inter alia*] for cotton-producing countries', it should be observed that (i) there is no explanation regarding what were 'parameters appropriate' to these Members and that (ii) Article 1.4 appears to address the particular interests of such Members throughout the period of ATC implementation and is not limited to the process of establishing the base levels (prior to the beginning of the implementation of the ten-year transition period)"¹⁸.

The issue of administrative arrangements maintained for implementation and administration of quota restrictions

46. This issue is discussed in the TMB report over several paragraphs. Reference in particular may be made to paragraphs 137 and 366 through 370.
47. Together with the quota restrictions, there have existed arrangements for the purpose of

¹² WT/MIN(01)/DEC/1, paragraph 1.

¹³ Article 2.18 of the ATC.

¹⁴ Decision on Measures in Favour of Least-Developed Countries.

¹⁵ Article 1.4 of the ATC.

¹⁶ Paragraph 520 of the Report.

¹⁷ Paragraph 521 of the Report.

¹⁸ Paragraph 522 of the Report.

implementing and administering these restrictions, containing such aspects as product classification, export licenses/visas, procedures for exchange and reconciliation of information pertaining to the use of quotas, arrangements for treatment of shipments in excess of quotas, and so forth. With the termination of quota restrictions (and the ATC), it is essential that these administrative arrangements should also expire.

48. Earlier this year, the three major restraining Members notified their final integration programmes to the TMB, indicating that with the integration of remaining ATC products they will also eliminate all remaining quota restrictions¹⁹. These notifications however remained silent with respect to the administrative arrangements and procedures that, as noted above, have been in place only for the implementation and administration of quota restrictions.
49. In examining the above integration programmes from the three major restraining Members, the TMB remarked as follows: "... in view of the importance attached to the administrative arrangements under the ATC regime, the TMB believes that it has made a useful contribution by pointing out that with the elimination of all quantitative restrictions maintained under the ATC, all related administrative procedures, including those specified in the administrative arrangements notified pursuant to Article 2.17, shall stand terminated. *In fact, the process of integration in the sense of the ATC will only become complete if the administrative requirements that were related to the administration of the restrictions are also abolished.*"²⁰. (Emphasis added)
50. Most importantly, these arrangements have not been applicable to all WTO Members; only to those whose exports have been under quota restriction. Exporters of the same products, particularly those from developed countries, are not required to carry the burden of fulfilling the requirements of these arrangements. These arrangements are thus inconsistent with the fundamental GATT obligation of MFN treatment for all. It may be recalled in this connection that according to Article I of the GATT, "[...] with respect to all *rules and formalities* in connection with importation [...], any advantage, favour, privilege or immunity granted by any [Member] to any product originating in [...] any other country *shall be accorded immediately and unconditionally* to the like products originating in ... the territories of all other [Members]". (Emphasis added)
51. The administrative arrangements are also inconsistent with the restraining countries' obligations under GATT Articles XI and XIII. Besides, they add to the cost of export transactions and are contrary to the avowed purpose of trade facilitation so forcefully advocated by the restraining countries, in particular.
52. When commenting on views conveyed to the TMB by different Members (in response to its general request for any comments/views), the Body noted "the statement by Canada according to which the administrative arrangements undertaken pursuant to Article 2.17 were used to administer the provisions of the ATC and [that they] will expire, along with the ATC, on 31 December 2004".²¹ However, the TMB went on to state as follows: "Regarding comments made [by the United States] with respect to the period following the termination of the ATC, the TMB observes that with the expiry of the ATC on 1 January 2005, all the provisions of the Agreement will expire and the measures notified pursuant to those provisions will have to cease to be applied, *unless justified under other applicable provisions of the WTO Agreement, including GATT 1994.*"²² (Emphasis added)
53. In regard to the above (highlighted) remark in the TMB observations, it is difficult to see what, if any, in these administrative arrangements can be justified under the other applicable provisions of the WTO Agreement, including GATT 1994.

CONCLUSION

54. In light of the above, and given that in another three months time the process of full integration of the sector would have been completed, we propose that the Council for Trade in Goods:
 - (i) Take note of the TMB report.
 - (ii) Express its regret over the introduction and maintenance of certain measures by EU, Turkey and the United States in disregard of the disciplines of the ATC.
 - (iii) Express disappointment over the manner in which the major restraining Members implemented their integration programmes during the integration process, especially (a)

¹⁹ G/TMB/N/465, 464, 469 and G/TMB/R/110.

²⁰ Paragraph 137 of the Report.

²¹ Paragraph 368 of the Report.

²² Paragraph 370 of the Report.

by postponing the elimination of bulk of quota restrictions until the end of the implementation process, and (b) by not giving meaningful effect to ATC provisions with regard to special and differential treatment of small suppliers, least-developed countries and cotton-producing exporting countries.

- (iv) Reaffirm the TMB observation that "the process of integration in the sense of the ATC will only become complete if the administrative requirements that were related to the administration of quota restrictions are also abolished".
- (v) Express disappointment that the restraining Members have not yet responded positively to concerns about potential reduction in market access opportunities due to denial of

carry forward quotas in 2004 and reiterate the TMB's hope that an appropriate solution will be found and adopted by the General Council in the near future.

- (vi) Recall the Doha Ministerial decision that Members will exercise particular consideration before initiating investigations in the context of anti-dumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the ATC for a period of two years following full integration of textile and clothing sector into the WTO, establish appropriate procedures to operationalize the decision.
- (vii) Exercise close oversight of the process until full and faithful implementation of the ATC in all its aspects.(Footnotes)

ANNEX 1

ATC Implementation Declarations/Decisions over the years

AGREEMENT ON TEXTILES AND CLOTHING

"There shall be no extension of this Agreement". (ATC Article 9)

MINISTERIAL CONFERENCE

Singapore, Declaration, 13 December 1996

"We confirm our commitment to full and faithful implementation of the provisions of the Agreement on Textiles and Clothing (ATC)". (WT/MIN(96)/DEC, paragraph 15)

Geneva, Declaration, 25 May 1998

"We reaffirm the commitments and assessments we made at Singapore...." (WT/MIN(98)/DEC/1, paragraph 2)

"Full and faithful implementation of the WTO Agreement and Ministerial Decisions is imperative for the credibility of the multilateral trading system..." (Paragraph 8)

"...we decide that a process will be established...to ensure full and faithful implementation of existing agreements..." (Paragraph 9)

Doha, Declaration, 14 November 2001

"We attach the utmost importance to the implementation related issues and concerns raised by Members and are determined to find appropriate solutions to them." (WT/MIN(01)/DEC/1, paragraph 12)

Doha, Decision on Implementation-Related Issues and Concerns, 14 November 2001

"[The Ministerial Conference] reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

- that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.
- that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.
- that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

- that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most

favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;

- that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;

and make recommendations to the General Council by 31 July 2002 for appropriate action. (WT/MIN(01)/17, paragraph 4)

GENERAL COUNCIL

Meetings held on 8 and 31 July 2002; Agenda item: Proposal relating to advancing the implementation of growth-on-growth referred by the Ministerial Conference

Statement by the European Commission

"The process of integration of the textiles and clothing sector under the normal rules of the WTO was in its seventh and a half year, and all Members were committed to the full and faithful implementation of the ATC, which included the termination of the ATC on 1 January 2005." (Minutes of meeting, WT/GC/M/75, paragraph 207)

Statement by the United States

"Despite the hardship to its industry resulting from the ATC, the United States was faithfully implementing its requirements and remained committed to its full integration" (paragraph 218)

Statement by Canada

"Canada remained committed to the full integration of the textile and clothing sector into GATT 1994 disciplines by 1 January 2005, as provided for in the ATC, and for the elimination of all remaining quotas by that date." (Paragraph 219)

Meeting held on 24 – 25 July 2003; Agenda item: Consideration of proposal to allow use of carry forward quotas in 2004

Statement by the United States

"...his delegation appreciated the comments from several Members concerning the final year of the quota phase-out programme. The United States urged these Members not to lose sight of the fact that the important watershed event of the completion

of the quota phase-out programme required by the ATC was nearly at hand...The United States had continually reaffirmed to its trading partners that it would fully and faithfully implement the ATC as scheduled, and did so again at the present meeting." (Minutes of meeting, WT/GC/M/81, paragraph 47)

Council for Trade in Goods (CTG)

First Major Review of ATC Implementation, 1997/98

"The [CTG] reiterated the commitment by Members to the full and faithful implementation of all provisions of the Agreement on Textiles and Clothing. The Council noted that, as specified in Article 9, the ATC and all restrictions there under shall stand terminated on 1 January 2005, on which date the textiles and clothing sector shall be fully integrated into GATT and that there shall be no extension of the ATC." (Report adopted on 16 February 1998, G/L/224)

Second Major Review of ATC Implementation, 2001/02

"Based on the discussions, which are set out in detail in the reports on the meetings, the Council...arrived at certain conclusions, [*inter alia*], the reaffirmation by all Members of their commitment to achieve the full and faithful implementation of the ATC by 1 January 2005." (Report adopted on 23 July 2002, G/L/556)

Meeting held on 13 June 2002, Agenda item consideration of proposal to advance growth-on-growth referred by the Ministerial Conference

Statement by the United States

"The entry into force of the ATC ... established an irreversible schedule for the phased elimination of the quota regime that regulates a significant portion of world trade in the sector... The ATC is a very important agreement for the United States, and it took very seriously its commitment to ensure that the provisions of the ATC, in its entirety, are fully and faithfully implemented." (Minutes of the meeting held on 13 June 2002, G/C/M/62, page 3)

Statement by Canada

"As had been indicated on numerous occasions and re-affirmed by Ministers in Doha, Canada remained fully committed to the full implementation of the Agreement on Textiles and Clothing, which will occur only two and a half years from now.... In conclusion, that Canada remained firmly committed to the full implementation of the ATC, and to the removal of the quota restrictions by no later than 1 January 2005." (G/C/M/62, page 6)

Statement by European Commission

"The spokesman for the European Union re-stated its position that it had fully complied with the obligations of the ATC, would continue to do so, and would respect the deadline of the end of 2004." (G/C/M/62, page 7)

Textiles Monitoring Body (TMB)

Final implementation notifications

By the United States (11 February 2004)

"I have the honour to notify that on 1 January 2005 the United States will integrate into GATT 1994 all textile and clothing products to which the ATC applies, ..., that were not integrated during the first three stages of integration under the ATC. On this date, the United States will eliminate all remaining restrictions under the ATC on such products, and the United States will have integrated into GATT 1994 all products listed in the Annex to the ATC." (G/TMB/N/465)

By Canada (11 February 2004)

"I have the honour to notify that on 1 January 2005, Canada will integrate into GATT 1994 all textile and clothing products to which the ATC applies, ..., that

were not integrated during the first three stages of integration under the ATC. On this date, Canada will eliminate all remaining restrictions under the ATC on such products, and Canada will have integrated into GATT 1994 all products listed in the Annex of the ATC." (G/TMB/N/464)

By the European Union (16 March 2004)

"I have the honour to notify that on 1 January 2005, the European Community will integrate into GATT 1994 all textile and clothing products to which the ATC applies, ..., that were not integrated during the first three stages of integration under the ATC. On this date, the European Community will eliminate all remaining restrictions under the ATC on such products, and thus the European Community will have integrated into GATT 1994 all products listed in the Annex of the ATC". (Notification to the TMB, G/TMB/N/469)

"The Community's notification to the TMB of 17 March about the elimination of restrictions on schedule as foreseen by the ATC by the end of 2004 remains valid also for the enlarged Community of 25 members." (TMB report of on its meeting dated 21-22 June 2004, G/TMB/R/110)

ANNEX 2

Pace of Quota Abolition

	USA	EU	Canada	Norway
Total number of quotas at start of ATC ^a	937	303	368	54
Of which phased-out ^b :				
(i) Stage 1 (from 1995): By integration under Art. 2.6 By early elimination under Art. 2:15	0	0	8	0 46
(ii) Stage 2 (from 1998): By integration under Art. 2.8(a) By Art.2.8(a) and Art.4 By early elimination under Art. 2:15	3 2 10 ^c	21	26	0 8
(iii) Stage 3 (from 2002): By integration under Art. 2.8(b) By Art.2.8(b) and Art.4 Under bilateral agreements Under AGOA	69 2 17	57 13	42	0
Total number of quotas abolished as of March 2004	103	91	76	54
Quotas to be abolished on 1 Jan. 2005	834	212	292	0

a. Including specific limits and sub-limits notified under Art.2 of the ATC.

b. Numbers do not include product categories on which quotas have been eliminated only partially.

c. Eliminated only for Romania, not for any other restrained Member.

DEVELOPING COUNTRIES TO GAIN SUBSTANTIALLY FROM REMOVAL OF TEXTILE QUOTAS

CONCLUSIONS OF UNCTAD STUDY ON IMPLICATIONS OF MFA TERMINATION

Both developed and developing countries stand to gain substantially from the removal of textile quotas under Multi-Fibre Arrangement (MFA) and the full integration of trade in textiles and clothing into the normal World Trade Organisation (WTO) rules, as per the WTO Agreement on Textiles and Clothing (ATC). According to a note by the UNCTAD Secretariat on implications of MFA termination on 31st December, 2004, **developing countries with a comparative advantage in the sector should see their production and exports increase in a post-ATC world, and in developed countries, lower prices for clothing will mean that consumers should be big gainers. Such predictions are of course predicated on the premise that major developed countries will avoid filling the ATC void with a barrage of new barriers. Should they refrain from such trade distortions, developing country firms that respond to market demands, move up the value chain, and capture niche markets are poised to reap substantial gains in a post- ATC world.**

Some countries and segments of the industry are likely to experience some level of dislocation and therefore would require assistance with post-ATC adjustment. However, the post-ATC picture needs to be seen in its proper perspective as there are several factors and assumptions that come into play in determining

the extent, type and scope of the post-ATC impact. LDCs and small economies might feel the impact of ATC expiry most, and providing support measures to them would be a priority. There are outstanding issues which could affect development gains to be reaped from the ATC expiry, and these issues must be addressed properly. Giving in to protectionist demands to extend the ATC or to replace it by plethora of protectionist non-tariff barriers, including contingency measures, would equate to taking away with one hand what ATC expiration gives with the other, the UNCTAD note says.

The dynamics of textiles and clothing trade will be influenced by the factors discussed above, while **the international market for textile and clothing products continues to grow as world population, incomes and standards of living increase. Also, the economies of some populous developing countries are growing fast, and the markets in the South will thus become increasingly important for Southern exporters. The sector also provides tremendous opportunities and prospect for developing countries given their leverage on labour cost, as well as the possibility for positive spillover effects into other sectors, particularly upstream commodities sectors and downstream industries, the note adds.**

REMOVE SUBSIDIES BEFORE SEEKING AGRI MARKET ACCESS – INDIA AT PARIS INTERNATIONAL CONFERENCE ON AGRICULTURAL POLICY

Developed countries must remove their trade distorting agricultural subsidies completely and fully before seeking agri market access in developing countries like India, Shri Kamal Nath, Union Minister of Commerce & Industry, said while participating in a **high-level international conference on “Liberalisation and the Future of Agricultural Policy” organised by the French Institute of International Relations (IFRI)** in Paris on October 7, 2004. Signalling India’s approach in the detailed negotiations for modalities following the conclusion of the WTO Draft Framework Agreement of July in the current Doha Round, Shri Kamal Nath emphasised that for India agriculture would remain the core factor in determining how quickly progress was made in the modalities negotiations in the World Trade Organisation (WTO), while stressing that mercantilist compulsions of agriculture corporates should not drive the WTO negotiations.

Shri Kamal Nath participated in the debate with several other eminent persons at the conference whose objective was to highlight the possible future of the agricultural policy beyond the present multilateral or bilateral negotiations, taking into account both the positions of the major international partners, and empirical evidences concerning the strengths and weaknesses of their agricultural sectors. The other prominent speakers along with Shri Kamal Nath were Mr. Herve Gaymard, French Minister of Agriculture, Alimentation,

Fisheries and Rural Affairs; Ms. Ann-Christin Nykvist, Minister for Food and Consumer Affairs, Sweden; Mr. Carlos Morgado, Minister for Economy and Commerce, Mozambique; Mr. Jean-Paul N’Goupande, Former Prime Minister of Central African Republic; Mr. John Bensted-Smith, Director in-charge of Economical Analysis and Evaluation, European Commission, Agricultural DG; Mr. Henri Nallet, Former French Minister of Agriculture; Mr. Terry Roe, Director, Centre for Political Economy, University of Minnesota; Dr. Tibor Szanyi, Political State Secretary, Hungarian Ministry of Agriculture & Rural Development and Mr. Guy Legras, Former General Manager of Agriculture in the European Commission.

In a hard hitting address before a distinguished international audience, Shri Kamal Nath said **“Governments have more recently resolved at Geneva to uphold the legitimate food and livelihood security and rural development needs of developing countries in the agriculture negotiations. What we are confronting is a real life situation facing real persons desperate for recognition of the condition in which they live and the pressures on them from the subsidy-laden policies of other countries. Mercantilist compulsions of corporatised agriculture cannot drive these negotiations... We do not deny the developed world agricultural market access on a whim,**

or because we do not want to engage in trade. We have been forced to turn protectionist because we have no alternative; there is no level playing field. Agriculture sustains the daily lives of the majority of our people. Subsidised products flooding in from abroad would play havoc with the social fabric. Eliminate subsidies completely and fully, in all its guises, and we would not be hesitant to liberalise substantially. But we must be clear that this is not a chicken-and-egg situation. There is no doubt as to what needs to be done first – it is the removal of subsidies. It is logical that market access can only succeed this, not precede it.”

Effective reduction in subsidies and non-tariff barriers in trade in agriculture by developed countries would increase world incomes and expand world trade far more than similar progress in any other area and there had to be a social consensus on this, Shri Kamal Nath said, adding that “it is no use making tariff reduction commitments on the one hand and erecting insurmountable non-tariff barriers on the other”.

Reminding the participants of the Marrakesh Agreement of the Uruguay Round which said that multilateral rules were to be designed to ensure that “developing countries and especially the least developed among them, secure a share in the growth of international trade commensurate with the needs of their economic development”, Shri Kamal Nath said that **“central to our efforts must remain the prospect of a wider distribution of benefits for all peoples. Developed countries**

must effectively transfer technology, offer fair competition and generally support an enabling environment for developing societies to move ahead, to consolidate, and to move on again. It is important that the pursuit of liberalisation in global agricultural policy must create and nurture essential conditions for stimulating economic growth in developing countries, alleviating poverty, and promoting their integration into the global comity, not just as equal members, but as partners in progress and equals in prosperity”.

The Minister emphasised that international policy on agriculture should not ignore the ground realities obtaining in three-fourths of the world. No doubt, there were difficulties and problems in all countries, including the developed countries. “But it is essential that the stark difference in the nature of the concerns in developed countries and those in developing countries be clearly understood and appreciated. This is a difference not merely of scale and magnitude, but a qualitative difference. Standard of living may be a valid concern for farmers in developed countries – in developing ones it is the very access to the next meal”, the Minister said. “Developing countries need sufficient policy space and flexibilities in instruments to lift the large proportion of their populations employed in agriculture from their present level of backwardness. It is inconceivable for the developed countries to seek, and for the developing countries to offer, identity in treatments and commitments until all distortions in agriculture are removed”, he added.

WORLD TRADE STATISTICS

2004 TRADE GROWTH TO EXCEED 2003 DESPITE HIGHER OIL PRICES

Despite the sharp rise in oil prices the volume of world trade is likely to grow by 8.5% in real terms by the end of 2004, a significant improvement over 2003, according to World Trade Organization statistics.

While the price increases for oil and other commodities may dampen growth in trade and overall output in 2005, these effects are being outweighed in 2004 by vigorous trade expansion in many countries and stronger than expected recovery in several others. The vigorous trade expansion observed in the first half of 2004 is expected to provide enough momentum to raise global trade volume by 8.5%, according to the report.

"Growth in world trade in 2004 will not be adversely affected by higher oil prices to any great extent because we are seeing good growth in trade and output in China, Latin America and Africa. We have also seen stronger than expected economic recovery in Japan. Strong demand is behind rising prices for oil and other commodities and markets appear to be handling this well," said Director-General Supachai Panitchpakdi.

The figures are in the WTO's latest annual report on International Trade Statistics, parts of which are available on the WTO website from today (25 October 2004). The entire report, with comprehensive data on international trade flows in the recent period up to 2003, will be available in

November on the website and in printed form.

The statistics show that world merchandise trade increased in nominal terms by 16% to \$7.3 trillion in 2003. In real terms, merchandise trade grew by 4.5% in 2003, compared with 3% in 2002 and a decline in 2001. Trade in commercial services grew by 13% to \$1.8 trillion in nominal terms.

HIGHLIGHTS:

Key features of trade performance in 2003 include the following:

- The further recovery of world trade in 2003 was sustained by stronger economic activity in manufacturing and mining, and a continued strong expansion in agriculture. Merchandise trade again expanded faster than output.
- Commodity price developments and exchange rate adjustments left their mark on international trade flows measured in dollar terms. The direction of exchange rate movements has generally been considered helpful for correcting prevailing imbalances. However, the depreciation of the US dollar has not been sufficient to stop the rise in the US current account deficit. And although the continued rise in the United States trade deficit helped to sustain output in other regions, it is worrying because any sudden reduction through lower imports could have strong repercussions worldwide (all six regions outside North America recorded a

surplus in their goods and services balances in 2003).

- The European Union's enlargement again provided a stimulus for trade flows between Western Europe and the transition economies. For the first time, Western Europe's merchandise imports from the latter exceeded those originating from North America. More than one half of Western Europe's merchandise trade deficit with Asia comes from its trade with China.
- Asia's merchandise exports and imports expanded faster than world trade. With its rapidly expanding economy, China has become a major trader. Its surging import demand for oil, copper, soybeans, and many other primary commodities contributed significantly to higher prices. China's increased purchases of investment goods, semi-manufactured goods and machinery parts has sustained output and exports in many East Asian economies. In 2003, as in the second half of the 1990s, China's merchandise export growth was twice as high as that of world trade. Although China's imports grew faster than exports in 2003, the country still recorded a significant trade surplus.
- Higher commodity prices, in particular for fuels, contributed greatly to the rebound of merchandise exports of oil-exporting countries in the Middle East, Africa and the transition economies.
- After twelve years of successive deficits, Latin America registered a surplus in its merchandise trade. China has become an important destination for Latin American exports.
- Trade in office and telecommunications equipment lags well behind the growth of world merchandise trade, after being the most dynamic product category traded throughout the 1990s. In 2003, office and telecommunications equipment is the only product group that did not regain or exceed the previous export peak in 2000.

Trade growth in chemicals started to accelerate after 2000 due to a surge in pharmaceutical products. In 2003, world exports of chemicals rose by 19% to \$794 billion. Trade in chemicals accounted for nearly 15% of global trade in manufactured goods, amounting to three times more than trade in clothing. It exceeded the value of world exports of automotive products by 10%.

TRADE POLICY REVIEW: EUROPEAN COMMUNITIES

A generally open trade regime, but further agriculture liberalization would promote world trade

The European Communities (EC) has a generally liberal regime for non-agricultural products and has granted market access to developing countries under its Generalized System of Preferences (GSP) scheme or the Cotonu Agreement, and to LDCs under the "everything but arms" (EBA) initiative, according to a report on the trade policies and practices of the EC released by the WTO Secretariat.

However, further liberalization of the EC's agriculture, notably through simplification of its tariff structure and reduction of duty rates, as well as the downsizing of the levels of support, would substantially contribute to the promotion of world trade.

The report notes that despite the continued decoupling of payments from production, the reform of the Common Agricultural Policy (CAP) falls short of liberalizing EC's agriculture. Moreover, the report identifies certain areas where further harmonization within the EC may be needed; these include internal tax rates, some services, and customs procedures.

The WTO report, along with a policy statement by the Government, would be the basis for the Trade Policy Review (TPR) by the Trade Policy Review Body of the WTO.

Note:

Trade Policy Reviews are an exercise, mandated in the WTO agreements, in which member countries' trade and related policies are examined and evaluated at regular intervals. Significant developments that may have an impact on the global trading system are also monitored. For each review, two documents are prepared: a policy statement by the government of the member under review, and a detailed report written independently by the WTO Secretariat. These two documents are then discussed by the WTO's full membership in the Trade Policy Review Body (TPRB). These documents and the proceedings of the TPRB's meetings are published shortly afterwards.

Print copies of previous TPR publications are available for sale from the WTO Secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Genève 21 and through the on-line bookshop at http://secure.vtx.ch/shop/boutiques/wto_boutique.html or follow this path: www.wto.org > resources > publication > trade policy reviews.

ACCESSIONS

Cambodia raises WTO membership to 148

Cambodia became the WTO's 148th member on 13 October 2004, almost 10 years after it first applied and just over a year after its membership package was approved at the Cancún Ministerial Conference.

After Nepal joined on 23 April 2004, Cambodia is now the second least-developed country to join the WTO through the full working party negotiation process. It brings the current number of least-developed countries in the WTO to 32.

Although the membership agreement was approved in Cancún on 11 September 2003, Cambodia told the General Council on 11 February 2004 that its ratification was held up because of delays in setting up a new government. The Cambodian Parliament finally ratified the deal in September 2004, and following standard practice Cambodia became a member one month after it informed the WTO.

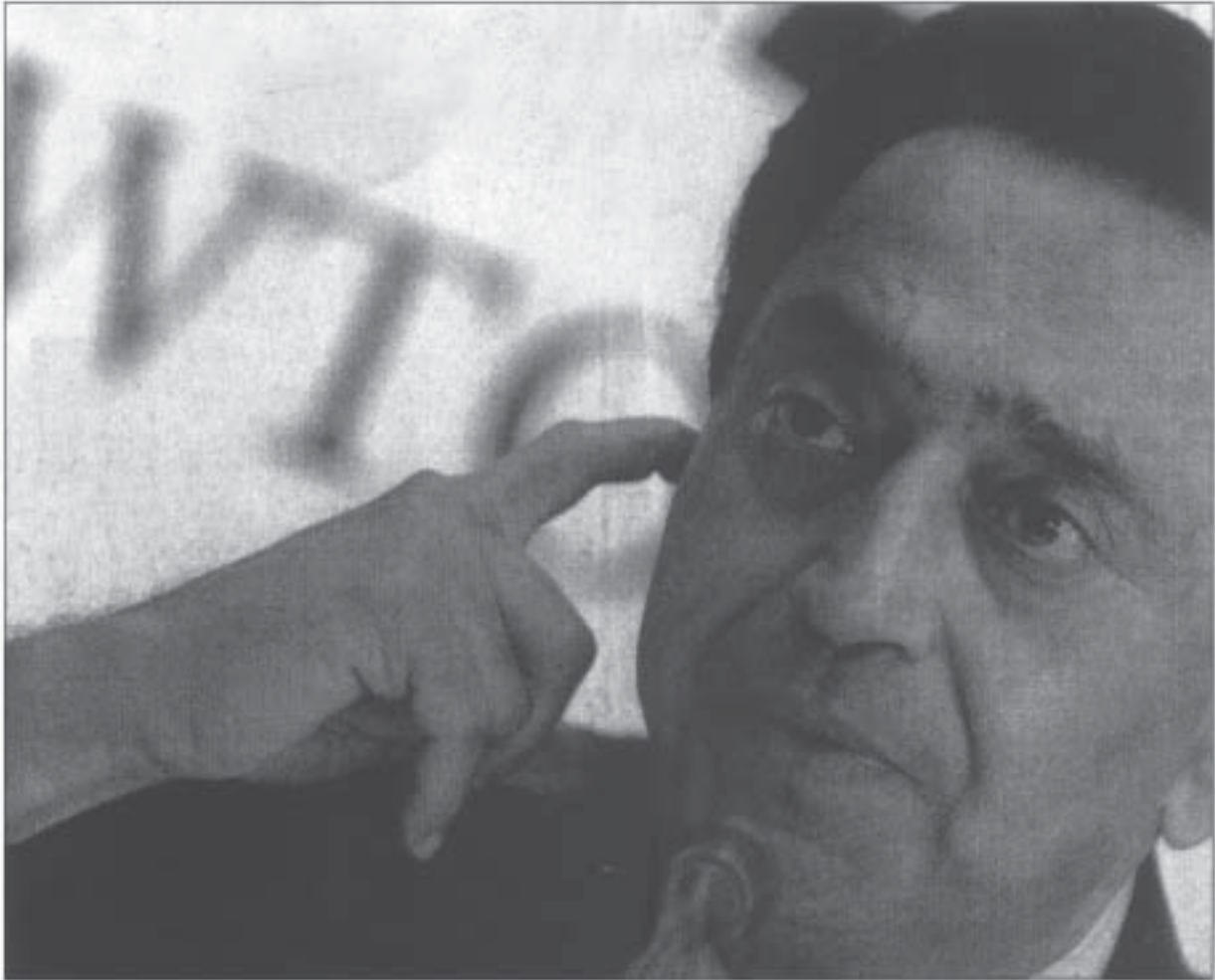
Cambodia applied to join the WTO in December 1994.

Another 24 countries are negotiating membership (listed from oldest to most recent application): Algeria, Russian Federation, Saudi Arabia, Belarus, Ukraine, Sudan, Uzbekistan, Vietnam, Seychelles, Tonga, Kazakhstan, Azerbaijan, Andorra, Laos, Samoa, Lebanese Republic, Bosnia Herzegovina, Bhutan, Cape Verde, Yemen, Serbia and Montenegro, Bahamas, Tajikistan, Ethiopia, and Libya.

Eight are least-developed: Bhutan, Cape Verde, Ethiopia, Laos, Samoa, Sudan, Vanuatu and Yemen.

Vanuatu has completed the negotiations but no further action has been taken since the working party's last meeting on 29 October 2001.

Clippings



Kamal Nath: 'I see the instrument of non-tariff barriers being used by developed countries... to block market access where developing countries would have an edge'

AP

KAMAL NATH

Immigration curbs under fire from India

By Alan Beattie in London

Rich countries' moves to limit immigration and offshoring are "retrograde steps" contrary to the spirit of free trade, the Indian commerce minister has warned.

Kamal Nath, who was appointed to the newly-elected Congress-led government of prime minister Manmohan Singh in May, said that subtle and insidious restrictions on trade and migration were becoming an increasingly important feature of the global economy.

Speaking to the FT in London, Mr Nath cited the proposal by Nicolas Sarkozy,

the French finance minister, for call centre workers outside France to be compelled to identify the country from which they were speaking.

Mr Nath said: "On the one hand, developing countries are being urged to step up momentum while on the other developed countries are taking steps of this kind which are retrograde." He said the responsibility for maintaining impetus in the Doha round of trade liberalisation talks rested largely with the rich countries, which had to cut their agricultural subsidies to prevent artificially low prices damaging farmers in poor nations.

Immigration and offshoring have emerged as important issues in the US presidential race. John Kerry, the Democratic candidate, while stressing the importance of what he called "guest-worker programmes", attacked President George W. Bush on Wednesday for failing to secure America's borders against illegal immigration. He has also criticised American companies for moving jobs abroad.

Mr Nath said he did not take protectionist election rhetoric entirely seriously, but said that back-door protection was on the rise. "I see the issue of the next

decade not being tariffs and quotas," he said. "I see the instrument of non-tariff barriers being used by developed countries by invoking health, consumer protection and other legal issues to block market access where developing countries would have an edge."

The US Congress has allowed the number of temporary "H-1B" visas for highly-skilled workers to lapse to 65,000 a year from a peak of 195,000 during the 1990s technology boom. The entire allocation of H-1Bs for this year was exhausted as soon as they were made available.

Indian workers have taken many of the H-1B allocations, and Mr Nath said restricting them was self-defeating.

"It is retrograde to the spirit of the WTO, and besides it makes no commercial sense in the US," he said. He said worries over the security implications of immigration had gone too far.

"National security concerns are completely valid," he said. "But when national security concerns are used to disable trade, then the whole basis [of policy] is wrong."

Editorial Comment, Page 14

(Financial Times 15.10.2004)

SCHEDULE OF MEETINGS AT THE WTO/GENEVA*

OCTOBER - 2004

7-8	Committee on Regional Trade Agreements
11	Trade Policy Review Body - Norway
11-13	Textiles Monitoring Body
11-12	Working Party on the accession of Sudan
12-13	Committee on Trade and Environment - Special Session
13	Trade Policy Review Body - Norway
14-15	Committee on Trade and Environment
15	Committee on Rules of Origin
18	Dispute Settlement Body
19	Committee of Participants on the Expansion of Trade in Information Technology Products
20-21	General Council
22	Committee on Rules of Origin
25	Trade Policy Review Body - European Union
25-26	Committee on Safeguards
26	Committee on Trade-Related Investment Measures
26	Committee on Anti-Dumping Practices - Informal Group on Anti-Circumvention
27	Committee on Anti-Dumping Practices - Working Group on Implementation
27-28	Committee on Sanitary and Phytosanitary Measures
27	Trade Policy Review Body - European Union
28-29	Committee on Anti-Dumping Practices

NOVEMBER - 2004

1-3	Negotiating Group on Rules
2	Workshop on Technical Barriers to Trade
4-5	Committee on Subsidies and Countervailing Measures
4	Committee on Technical Barriers to Trade
8	Trade Policy Review Body -Jamaica
9	Working Party on State Trading Enterprises
10	Trade Policy Review Body -Jamaica
12	Eid-ul-Fitr (WTO non-working day)
15-17	Textiles Monitoring Body
16-19	Committee on Government Procurement
16	Committee on Trade and Development
18	Committee on Agriculture
22-25	Services Meeting
24	Dispute Settlement Body
25	Council for Trade in Goods
26	Council for Trade in Services
29	Trade Policy Review Body- Brazil
29	Council for Trade in Service- Special Session
30	Council for Trade- Related Aspects of Intellectual Property Rights

(Source : WTO/Geneva as on September - October 2004)

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