

January 27, 2006

**“WTO Hong Kong Ministerial Declaration Sustains Doha Round,
Greater Risk and Opportunity Ahead in 2006”**

After a long and difficult week of negotiations in Hong Kong, World Trade Organization (“WTO”) Members on December 18, 2005 adopted at their Sixth Ministerial Conference a Declaration that provides further guidance on negotiations of the Doha Development Agenda (“Doha Round” or “Round”). The Declaration represents incremental progress in areas including agriculture, industrial goods, services and development initiatives – and delays critical decisions until April 2006.

The Declaration’s key elements are as follows:

- ***End date for agriculture export subsidies*** – Sets a deadline of 2013 for the full elimination of agriculture export subsidies (the most distorting type).
- ***New target dates for agriculture and NAMA*** – Shifted the deadline to April 30, 2006, for concluding modalities (reduction targets and formulas) for trade in agriculture and non-agricultural (“NAMA”) goods. Also, sets a deadline of July 31, 2006 for the submission of draft market-access schedules in both sectors. The text also calls for a commensurate level of ambition between the two sectors.
- ***Expedite services talks*** – Sets a target date of July 31, 2006 for a second round of revised market-access offers, and October 31, 2006, as the deadline for final draft market-access schedules. Also, the text calls for the submission of plurilateral requests by February 28, 2006.
- ***Developing country initiatives*** – Agreement to liberalize most (97%) trade with least-developed countries (“LDCs”), with some exceptions. Also, agreement to expedite reduction of barriers on cotton trade including the end of export subsidies by 2006.

This weekend, from January 27-28, 2006, on the sidelines of the World Economic Forum in Davos, Switzerland, about two dozen key trade ministers will gather in their first meeting since Hong Kong in an effort to revive discussions on the Round. This “mini-Ministerial” might also lead to another smaller-scale Ministerial in Geneva in late April given the deadlines for agriculture and NAMA modalities. If the WTO is to realize the increasingly difficult task of concluding the Doha Round this year – Members must ensure the highest levels of political engagement throughout the “final” stages of negotiations.

I. Critical Deal Reached in Hong Kong in the Final Hours: Sustaining the Doha Round For At Least Another Four Months

WTO Members and WTO Director-General Pascal Lamy on December 2, 2005, forwarded the Draft Ministerial Text to their trade ministers, which was the basis for the Ministerial Declaration concluded in Hong Kong on December 18, 2005.¹ Members revised the text twice during the Ministerial on December 17 and 18, after several all-night negotiating sessions.

Hong Kong's Secretary for Commerce, Industry and Technology John Tsang as Chair of the Ministerial coordinated negotiations along with Lamy and six trade ministers who served as facilitators: (i) Humayun Khan of Pakistan for NAMA; (ii) Mukhisa Kituyi of Kenya for Agriculture; (iii) Clement Rohee of Guyana for Development; and three "facilitators at large" (iv) Hyun Chong Kim of Korea; (v) Jonas Store of Norway; and (vi) Ignacio Walker of Chile.

The six facilitators held daily meetings open to all 150 WTO Members to ensure transparency, and reported their findings to the membership and key trade ministers. Throughout the week (usually starting at 10pm), about thirty key trade ministers held "green room" meetings, or informal talks aimed at reaching convergence on the major issues in the Declaration. The meetings early in the week were reported to be acrimonious, given the resistance by some Members like the European Communities ("EC") to agree on an end date for agriculture export subsidies. Moreover developing country groups including those in Africa, Southeast Asia and Latin America objected to various aspects of the text including services and other issues.

Nevertheless, after several consecutive all-night green room sessions, Members were able to agree on most aspects of the Declaration on the evening of the final day, December 18. The final Declaration preserves much of the work leading up to Hong Kong, and provides further guidance on key areas including agriculture, NAMA and services. It also includes important decisions on cotton trade and offers virtually duty-free and quota-free access for LDC exports. Notably, the Declaration delays the critical decisions on agriculture and NAMA modalities until April 30, 2006 – thus sustaining the Doha Round for at least another four months.

Lamy described the efforts in Hong Kong as moving the negotiations from "55 percent to 60 percent." EC Commissioner Peter Mandelson commented that "it was certainly the costliest 5 percent I could ever imagine... but enough to avoid failure and prevent the DDA [Doha Development Agenda] train from derailing. So it was worth it."

¹ WT/MIN(05)/W/3/Rev.2, Doha Work Programme: Draft Ministerial Declaration, 18 December 2005 (first released as Job(05)298 on November 26, 2005, and revised on December 1, December 17, and December 18).

II. The Hong Kong Ministerial Declaration: Several Significant Modifications From Previous Texts, Incremental Progress Achieved

The Declaration comprises an 11-page summary and action on issues under negotiation and six annexes: the reports submitted by the chairs of the negotiating groups on agriculture (in Annex A); non-agricultural market access (“NAMA” in Annex B); services (in Annex C); rules-related reform (in Annex D); trade facilitation (in Annex E); and special and differential treatment for developing countries (in Annex F). The respective chairs submitted these annexes on their own responsibility, except for Annex E on trade facilitation – the only report where Members reached agreement on the findings. The main Declaration text underwent significant changes in areas like agriculture and NAMA; among the annexes, only Annex C on services was modified to some extent.

We summarize below the Declaration’s approach to the main areas of negotiations.

A. Agriculture: Subsidies and Cotton Consume Much Attention

Agriculture was an issue of considerable contention in Hong Kong, and especially regarding export competition and cotton. Attention to these two issues in Hong Kong resulted in progress including an end date for agricultural export subsidies, and an “early harvest” on cotton.

Paragraphs 3-12 reaffirm Members’ commitment to expedite reform in the “three pillars” of agriculture: (i) market access; (ii) domestic support; and (iii) export competition, as well as to address barriers to cotton trade. Members added Paragraphs 5-9 in Hong Kong to provide more specific guidance on the three pillars. In addition, paragraph 10 sets new deadlines to establish modalities no later than April 30, 2006, and for the submission of comprehensive draft market-access schedules by July 31, 2006.

The Chair of the Negotiating Group on Agriculture, Ambassador Crawford Falconer of New Zealand, submitted in Annex A his thoughts for moving the process forward, which did not change from the previous version.

1. Domestic Support: Ensuring Reductions in Overall Support

Paragraph 5 notes general support for reducing subsidies in three bands with higher cuts by the Members in the higher bands (*e.g.*, EC reductions of 70-80 percent overall in highest band). It also recognizes convergence towards the Final Bound Total aggregate measure of support (“AMS”) levels, as well as for an overall reduction in both product-specific and non product-specific *de minimis* limits.

- *Members added the paragraph in Hong Kong, which was modified slightly from December 17 to 18. The final text insists that overall reductions in domestic support “will still need to be made even if the sum of the reductions in Final Bound Total AMS, de minimis and Blue Box payments would otherwise be less than that overall reduction.” Developing countries like the G-20 want to ensure that the EC, U.S. and others do not continue to distort trade by shifting payments from one “box” (category of subsidy) to another.*

2. Export Competition: End Date Set for 2013

Paragraph 6 includes a decision to “ensure parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect” by 2013. Moreover, the final text added that a “substantial part” of the reductions should be realized by the end of the first half of the implementation period (presumably by 2010). Members also agreed to conclude stronger disciplines on export credits, food aid and state trading enterprises by April 30, 2006 (the same date as the modalities for agriculture and NAMA).

- *Members added Paragraph 6 in Hong Kong, which underwent significant modification from the previous text of December 17. Notably, the text includes the end date of 2013 for export subsidies. The EC in particular (with support from Switzerland) had resisted setting an end date (most Members proposed 2010), but towards the end of the week, both sides compromised. The EC also demanded greater disciplines on food aid and export credits (commonly used by the US) and state-trading enterprises (operating in Australia, Canada and others). Members in Hong Kong suggested that the EC’s focus on these other issues was a diversionary tactic, given that the EC will have to eliminate the most distorting type of export subsidies.*

3. Market Access: Attention to Formulas and Sensitive Products

Paragraph 7 notes progress achieved last year on ad valorem equivalents (“AVEs”) of specific duties to percentage-based tariffs, which will allow work to proceed on defining thresholds for tariff reductions based on four bands. It also noted progress in allowing developing countries to designate sensitive Special Products (“SPs”), and have recourse to a Special Safeguard Mechanism (“SSM”).

- *Members added paragraph 7 in Hong Kong, and modified it slightly from the December 17 text. In particular, Members acknowledged they should agree on some level of flexibility for the treatment of sensitive products. The key disagreement centers upon how many sensitive product exemptions would be allowed (e.g., U.S., G-20 and supporters seek 1-2% of tariff lines vs. EU and supporters at up to 8% of tariff lines). Notably, this is one of the most critical issues under negotiation in agriculture and the Round overall.*

4. Tropical Products, Preference Erosion, and Other Issues: Dealing with Trade Displacement

Paragraph 10 recognizes challenges arising from agriculture liberalization including on trade in tropical products, efforts to discourage illicit narcotic crops, and preference erosion concerns.

- *Members added paragraph 10 in Hong Kong, which arises from proposals from Latin American, African and other countries concerned that competition and trade displacement from agriculture liberalization would affect their development objectives (e.g., Colombian farmers would turn to coca production if markets are lost for legitimate crops.)*

5. Cotton: An Early, But Problematic Harvest

Paragraphs 11-12 call for expediting efforts including in the Sub-Committee on Cotton to “ambitiously, expeditiously and specifically” address concerns of West African and other countries in the sector as part of agriculture negotiations and development assistance. The text reaffirmed a commitment to “having an explicit decision on cotton” including the reduction of domestic subsidies “more ambitiously” than the general formula for other agriculture subsidies.

Notably, the text calls for the elimination of all forms of export subsidies for cotton by developed countries in 2006. Moreover, the text calls for duty-free and quota-free access for cotton exports from least-developed countries, South-South cooperation and technology transfer, and the establishment of a multilateral mechanism to deal with income declines in the cotton sector. Overall, the text articulates to a great extent the demands of West African countries for an “early harvest” of progress in cotton trade.

- *The final text underwent significant modifications from the original version, at the insistence of the “C-4” West African cotton producing countries Benin, Burkina Faso, Chad and Mali (plus Senegal). The U.S. in particular is the target for these disciplines including the phase out of export subsidies by the end of 2006, which is a daunting task given that it falls outside of the normal budget appropriations cycle for the U.S. Farm Bill (up for renewal in 2007). Nevertheless, the U.S. intends to eliminate the more distorting “Step 2” subsidy programs as a result of a WTO dispute with Brazil. The U.S. also argued that export subsidies account for only a small aspect of the problem in global cotton trade, and that greater attention needs to be focused on enhancing the capacity of African production including their distribution and marketing networks.*

B. NAMA: Greater Clarity in Objectives, But Lacking Reduction Targets

NAMA negotiations in Hong Kong resulted in several significant changes to the text, including the explicit adoption of the “Swiss Formula” for reduction of tariffs and specific mention of sectoral initiatives, among other negotiating objectives.

Paragraphs 13-23, most of which were added in Hong Kong, reaffirm Members’ commitment to advance negotiations. Notably, paragraph 23 recognizes that “much remains to be done” and calls for intensifying work in order to finalize modalities by April 30, 2006 and the submission of draft comprehensive market-access schedules by July 30, 2006 (same as the deadlines for agriculture negotiations).

The Chair of the Negotiating Group Ambassador Stefan Johannesson of Iceland submitted in Annex B his views, which did not change from the previous version.

1. Swiss Formula: Agreed Approach, But Lacking Numbers

Paragraph 14 indicates agreement on adopting a non-linear “Swiss Formula with coefficients” approach to tariff cuts, where higher tariffs would be subject to deeper cuts (vs. the Uruguay Round’s less ambitious approach of linear cuts). In particular, Members will strive to eliminate tariff peaks, high tariffs and tariff escalation.

- *Members added paragraph 14 in Hong Kong to ensure explicit agreement on using the more ambitious Swiss formula. They did not, however, provide further guidance on reduction targets – the coefficients. Moreover, advanced developing countries like India and Brazil have insisted on their right to reduce tariffs at “less than full reciprocity” and other flexibility in defining the coefficients. The EC, U.S. and Japan have insisted on ambitious reductions since developing countries currently maintain the highest average applied and bound tariffs.*

2. Developing Country Flexibility: Maximum Flexibility, But at the Risk of Minimal Results

Paragraph 15 affirms the need for developing country flexibility including as articulated in Paragraph 8 of the July 2004 framework agreements. Paragraphs 20 and 21 also highlight developing country concerns on erosion of preference programs and the problems faced by small, vulnerable economies.

- *Members added paragraph 15 in Hong Kong as proposed by developing countries in the December 17 text. Some including the U.S. and EC have challenged whether meaningful market access can be achieved if developing countries like India, Brazil and South Africa insist on “Paragraph 8” in addition to other flexibilities.*

3. Sectoral Initiatives: Recognition of Sectoral Agreements

Paragraph 16 recognizes the usefulness of sectoral liberalization initiatives (e.g., hi-tech products, chemicals, jewelry, etc.) and mandates the Negotiating Group to identify those sectors which could garner a critical mass of support.

- *Members added paragraph 16 in Hong Kong in the December 18 text at the insistence of the U.S. and other proponents. Sectoral initiatives are favored as they could expedite negotiations for certain product categories, and at a much faster pace than formula reductions.*

4. Technical Issues: Defining Base Rates, Ad Valorem Equivalents and Product Coverage

Paragraphs 17-19 elaborate on several technical aspects of the negotiations. Members agreed to adopt a non-linear mark-up approach to establish base rates. They also recognized recent progress on converting specific duties to their ad valorem equivalents (“AVEs”) and the “common understanding” on product coverage.

- *Members added these three paragraphs in Hong Kong, including paragraph 17 in the December 18 text. Agreement on the approach to base rates is useful, but it remains uncertain whether these rates will result in ambitious reductions.*

5. Non-Tariff Barriers: Advancing Work on Growing Barriers

Paragraph 22 notes progress in “identification, categorization and examination” of notified non-tariff barriers (“NTBs”) – and cites various approaches to addressing them (e.g., bilateral, vertical and horizontal). The text also calls for more specific negotiating proposals.

- *Members added paragraph 22 in Hong Kong, which was not changed from the December 17 text. Addressing NTBs is important given that these barriers are increasingly common, and used to counterbalance the reduction in tariffs.*

C. Ensuring Balance Between Agriculture and NAMA Negotiations

Paragraph 24 indicates that Members will “ensure that there is a comparably high level of ambition” in the market access negotiations for agriculture and NAMA.

- *Members added paragraph 24 in Hong Kong, which was slightly changed from the December 17 text. The previous text called for a level of ambition that is “commensurately high.” Some developing countries insisted on setting quantitative*

targets to ensure balance between agriculture and NAMA negotiations. The EC, U.S. and others are somewhat skeptical of this objective, arguing that it would be difficult to quantify progress and might result in weaker offers by developing countries.

D. Services: Overcoming Anxieties on Negotiating Objectives and Plurilateral Approaches

Services negotiations were not expected to generate much controversy in Hong Kong, but ended up being a major source of contention due to some developing countries' reluctance to support certain negotiating objectives, plurilateral negotiations, among other issues. Nevertheless, Members were able to overcome these objections after making several minor modifications to the text and Annex C.

Paragraphs 25-27 reaffirm Members' commitment to expand market access and improve disciplines under the General Agreement on Trade in Services ("GATS"). Members recognized developing country objectives and concerns, and reaffirmed that these countries should have appropriate flexibility under Article XIX of the GATS, and other negotiating guidelines.

The Chair of the Negotiating Group, Ambassador Fernando de Mateo of Mexico provided in Annex C an assessment of the negotiations and recommendations on moving forward, which raised problems with certain developing country groups like the G-90. In particular, Members disagreed over whether to endorse the use of plurilateral requests targeting priority sectors in key markets. Notably, Annex C reached agreement on new deadlines for the submission of plurilateral requests by February 28, 2006; a second round of revised market-access offers by July 31, 2006, and final draft market-access schedules by October 31, 2006.

1. Developing Country Flexibilities; Recently-Acceded Countries

Paragraphs 25-27 emphasize flexibilities for developing countries, and acknowledge that least-developed countries are not expected to take on new commitments.

- *The text underwent few modifications from the original version. In one minor change, Members deleted reference to the "special situation" of recently-acceded Members like China who have undertaken extensive market access commitments.*

2. Reference to Annex C: Controversy Overcome

Paragraph 27 suggests intensifying negotiations based on the "Objectives, Approaches and Timelines" set out in Annex C.

- *Paragraph 27 was the subject of controversy as this particular phrase ("Objectives, Approaches and Timelines") was in the original text, then bracketed in the December*

17 text, and later restored in the December 18 text. Some Members including the G-90 and African Group, and certain Southeast Asian and Latin countries, objected to the approaches laid out in Annex C. The G-90 tabled an alternative text removing the specific negotiating guidelines in Annex C, though few of their recommendations were incorporated into the final text.

3. Annex C: Substantive, But Not Substantial Changes

Annex C provides specific guidance for Members to improve their commitments including in each of the four Modes of Supply. The Annex also sets out new deadlines (as discussed above) and proposes expediting negotiations in rules-related reform including emergency safeguards, and government procurement of services. Notably, Annex C is the only one among six annexes that was modified in Hong Kong, due to the controversy surrounding its proposed actions – including guidance on the four specific modes of supply and on plurilateral negotiations.

- *Certain developing countries insisted on weakening the final text to state, in paragraph 1 of Annex C, that Members “should be guided, to the maximum extent possible” by guidelines for the four Modes of Supply rather than “should strive to ensure that their new and improved commitments adhere to the following objectives” as in the original text. These countries asserted that the text is too specific in its identification of possible barriers under each of the Modes of Supply.*
- *Certain developing countries also wanted more balance in the rules-related negotiations including between an emergency safeguard mechanism (which they favor) and government procurement in services (which the EC supports). As a result, Members modified the text in paragraph 4(b) of Annex C for government procurement to remove reference to “proposals for a possible framework for government procurement” and instead stated, “in accordance with Article XIII of the GATS.” In addition, some countries including the Africa Group objected to inclusion of footnote 2 of Annex C, which refers to the Report of the Chairman of the Working Party on Domestic Regulation and the recommendations contained within. In the final text, the footnote remained intact.*
- *Members also modified the text in paragraph 7(b) of Annex C regarding plurilateral negotiations to state that Members who receive such requests “shall consider such requests” in accordance with GATS guidelines rather than Members “shall enter into plurilateral negotiations to consider such requests.” Certain developing country groups including the G-90 sought to weaken the language from “shall enter” to “shall consider” due to their anxiety that the language required them to engage in plurilateral negotiations, which could strain their resources.*

E. Rules: Antidumping, Fish Subsidies and Other Negotiations to Advance

Paragraph 28 reaffirms Members' commitment to achieving progress in negotiations on reforming WTO disciplines under the Agreement on Anti-dumping ("AD"), the Agreement on Subsidies and Countervailing Measures ("SCM"), and for regional trade agreements ("RTAs") and fishery subsidies.

The Chair of the Negotiating Group on Rules Ambassador Guillermo Valles Galmes of Uruguay asserted in Annex D the need to intensify negotiations in all areas. In particular, Annex D, paragraph 11 gives the Chair the mandate to prepare consolidated texts based on proposals seeking reform of the AD and SCM Agreements in order to ensure a "timely outcome."

- *Paragraph 28 is unchanged from previous versions. The U.S. in particular is rather anxious that this decision will result in text-based negotiations of the AD Agreement. Members in Hong Kong also declared there is growing convergence in addressing fishery subsidies (an objective supported by global environmental groups).*

F. TRIPS Geographical Indications: Limited to Wine and Spirits

Paragraph 29 recognizes progress in negotiations on establishing a multilateral system for the notification and registration of geographical indications ("GIs") for wine and spirits.

- *Paragraph 29 is unchanged from previous versions. Notably, the text does not extend the GI negotiations to other products, as advocated by the EC and some other Members. Most Members including the U.S. and developing countries oppose extending GI negotiations to additional agriculture and other products.*

G. Environment Negotiations: Advancing Work on Trade and Environment

Paragraphs 30-32 call for intensifying the work of the Committee on Trade and Environment on the "mutual supportiveness of trade and environment," and recognize work on clarifying the relationship between WTO rules and multilateral environmental agreements ("MEAs"), and improving market access for environmental goods and services.

- *Members shortened paragraph 32 from previous versions. In particular, there is no longer a specific reference to eliminating tariff and non-tariff barriers to environmental goods and services by a proposed date. Rather, there is only a general reference to this objective in paragraph 31(iii) of the Doha Ministerial Declaration.*

H. Trade Facilitation: Clear of Obstacles, Ready for Text Negotiations

Paragraph 33 recognizes progress to date, and endorses recommendations contained in paragraphs 3-7 of Annex E. In particular, Annex E, paragraph 5 recommends the need to “move into focused drafting mode early enough [after Hong Kong]” – which is a slight backtracking from some Members’ efforts to specify agreement on launching text-based negotiations in 2006.

- *Paragraph 33 is unchanged from previous versions. Over 100 delegations have participated in the productive talks with 60 proposals aimed at improving disciplines under GATT Articles V, VIII and X. In fact, Annex E reflects the only adopted report by any of the Negotiating Groups prior to the Ministerial. The next steps are text-based negotiations and providing technical assistance to ensure implementation.*

I. Dispute Settlement Reform: Heading Towards Conclusion

Paragraph 34 recognizes progress in negotiations on reforming the Dispute Settlement Understanding (DSU), and calls for a “rapid conclusion” of negotiations.

- *Paragraph 34 is unchanged from previous versions. Progress in DSU reform has been slow, and differences remain on procedural and other substantive issues (e.g., transparency and public proceedings).*

J. Development: Granting LDCs Duty and Quota Free Access; Other Special and Differential Treatment and Implementation Issues Persist

Development concerns were among the most high-profile issues in Hong Kong, including a decision to grant least-developed countries (“LDCs”) mostly duty-free and quota-free access.

Paragraphs 35-39 focus on special and differential (“S&D”) treatment concerns and developing countries’ difficulties with implementation issues. In Hong Kong, Members agreed after some struggle to adopt the proposals contained in Annex F, which would remove barriers to LDCs for virtually “everything but arms” by developed countries and those developing countries in a position to do so. Members also agreed to act on recommendations concerning other S&D provisions no later than December 2006, and to expedite review and take appropriate action on implementation-related concerns arising from the Uruguay Round, no later than July 31, 2006.

Annex F provides five specific proposals to advance LDC interests, including Proposal 36 – which seeks to liberalize trade for up to 97 percent of LDC exports.

- *Members changed these paragraphs in several areas including to accept the five proposals in favor of LDCs in Annex F. In particular, proposal 36 mandates duty-free and quota-free access for LDC exports by 2008 or the start of the implementation*

period, for at least 97 percent of LDC exports. Members also agreed on two new deadlines including December 2006 for a decision on outstanding S&D issues, and July 31, 2006, for review and action on implementation concerns. The U.S. supported most of these initiatives but did not favor full duty-free and quota-free access for competitive LDC textile exporters including Bangladesh and Cambodia. Japan and the EC were also key proponents of the LDC proposal, but face similar difficulties on sensitive products such as rice, sugar and textiles.

K. TRIPS Modifications: Public Health Amendment Concluded, Flexibility to LDCs and on “Non-Violation” Complaints

Paragraph 40 welcomes the progress Members achieved in concluding on December 6, 2005, a Decision to amend the TRIPS Agreement to provide developing countries more flexibility to respond to public health crises. The recent agreement makes operational the tentative waiver reached on August 30, 2003, prior to the Cancun Ministerial. Members have until December 1, 2007, to ratify the changes.

In paragraph 47, Members extended the TRIPS implementation period for LDCs to July 2013 for trademarks, copyrights and other protection, and to January 2016 for pharmaceutical patents. In addition, in paragraph 45, Members agreed to continue the moratorium on “non-violation” complaints under the TRIPS Agreement (*i.e.*, GATT Articles XXIII:1(b) and 1(c)).

- *Members added paragraph 22 to the December 17 text to reflect agreement on the TRIPS amendment; the paragraph was not changed in the final text. Other paragraphs were unchanged from previous versions.*

L. E-Commerce: Moratorium on Duties Extended; Work on Software

Paragraph 46 proposes an extension of the moratorium on duties on electronic transmissions, in place since the Geneva Ministerial in 1998. Members also agreed to “reinvigorating” work under the Work Programme on E-commerce, including on electronic software and development-related issues.

- *Members in Hong Kong in the December 17 and final text removed the brackets in the original version of paragraph 46 regarding proposed work on electronic software and the extension of the moratorium on duties on electronic transmissions. These issues were not controversial in Hong Kong.*

M. Other Development Initiatives: Technical Cooperation, Aid for Trade

Paragraphs 47-57 focus on the concerns of LDCs and other developing countries including implementation of duty-free/quota-free access (paragraph 47), enhanced technical

cooperation (paragraphs 52-54), attention to commodity dependence (paragraph 55), improving coherence in development policymaking between the WTO, World Bank and International Monetary Fund (IMF) (paragraph 56), and discussions among these international institutions to expand aid for trade (paragraph 57). The text also calls for effective implementation of the enhanced Integrated Framework which coordinates technical assistance among donors.

- *Members made several modifications to previous versions, including in paragraph 47 to emphasize efforts to provide duty-free/quota free access by developed countries and by developing countries “declaring themselves in a position to do so” and agreement to extend the transition period for LDCs under the TRIPS Agreement Article 66.1. They also noted with “appreciation” (rather than “satisfaction”) the technical assistance efforts provided thus far. Members also added language in paragraph 53 which makes reference to the efforts of the International Trade Center and other bodies in providing technical assistance. In addition, developing Members insisted on removing language in paragraph 36 urging their participation in the Round in order to improve coherence among multilateral institutions. They also insisted on modifying the language in paragraph 57 to specify that aid for trade could include “grants” as well as loans.*

N. Recent and New Members, and 29 More Candidates

Paragraph 58 notes the “special situation” of recently-acceded Members who had to undertake extensive market-access commitments. Members agreed to “take into account” their situation.

- *Members added paragraph 58 in the December 17 text, which was not changed in the final text. China, among other recent Members, are keen to gain some negotiating leverage given their extensive commitments during the accession process. New Members often are required to undertake more extensive commitments than existing Members.*

Paragraph 59 welcomes new Members since the previous Ministerial in Cancun: Nepal, Cambodia, Saudi Arabia – as well as completion of Tonga’s accession talks. It also notes 29 ongoing accessions remain (e.g., Russia, Vietnam and other countries).

- *Paragraph 59 is only slightly modified from previous versions to account for the completion of Tonga’s accession. Russia and Vietnam, among the 29 candidates, are keen to expedite talks next year and attended the Ministerial as observers. The ministers from these candidates including Russia also engaged in bilateral meetings in Hong Kong in efforts to expedite their accession negotiations.*

III. Reactions from WTO Members, Industry Associations and NGOs

WTO Members, industry associations, non-government organizations (“NGOs”) and others have had mixed reactions to the results of the Hong Kong Ministerial. Many welcomed the results, though modest, as averting another collapse similar to the last Ministerial in Cancun in 2003, and Seattle in 1999. Some have criticized certain elements of the Declaration as not feasible, or lacking in ambition. Nevertheless, most recognize that given the postponement of key decisions until April 2006, it has become even more difficult to conclude the Round in 2006.

A. WTO Members Cautiously Optimistic, Call for Greater Political Will

1. EC: Insists on a Balanced, Single Undertaking

In Hong Kong, Members including the U.S. and G-20 often accused the EC of using diversionary tactics and refusing to address critical issues like agriculture market access and export subsidies. The French Trade Minister Christine Lagarde, for example, asserted early on that there would be no further movement in Hong Kong on the EC position in agriculture.

EC Trade Commissioner Mandelson has repeatedly insisted, however, that the EC has already put forth competitive offers on agriculture, services and other areas, and would be hard pressed to improve its offers until it sees more movement from other Members. In particular, the EC called on countries like India and Brazil, to improve their commitments in areas like NAMA and services. The EC has also asserted that the Declaration places disproportionate emphasis on agriculture, and less so on other issues. Nevertheless, the EC is pleased that its development initiatives including “everything but arms” was endorsed to a great extent in Hong Kong.

Mandelson in a speech to the EC Parliament this month, stated that the EC remains committed to a successful Round. In particular, Mandelson would seek to prevent the perceived “frontloading of negotiations on agriculture and NAMA, and back loading of negotiations on services, rules and GIs.” He was adamant that the “single undertaking” nature of the Round must be respected, with balanced results for developed and developing countries.

2. US: WTO is the Top Priority, But Not the Only Priority

The U.S. still considers the Doha Round a top priority and demonstrated leadership in Hong Kong, including on difficult issues like agriculture, services and development initiatives. USTR Rob Portman in Hong Kong made considerable effort to establish U.S. negotiating credibility, and insisted that he would not commit in areas where he could not deliver results (given the role of the U.S. Congress in subsidy appropriations and other measures). Thus, the Declaration’s language on issues like duty-free/quota-free was modified to some extent, though the cotton mandate appears problematic for the U.S.

Besides the Round, the U.S. is keen to pursue other trade initiatives this year including the possible launch of bilateral free trade agreement (“FTA”) negotiations with four leading candidates: South Korea, Malaysia, Egypt and Switzerland – in addition to ongoing FTA talks with Thailand, and Andean, South African and Middle Eastern countries. Given the pressing deadline of the expiration of U.S. trade promotion authority (“TPA”) on June 30, 2007, the U.S. has an ambitious trade agenda ahead – and with little time left to conclude these FTAs or the Doha Round.

3. G-20: Brazil Calls for Intervention by Head of States

The “G-20” group including the “New Quad” members India and Brazil (along with the EC and the U.S.) were among the most engaged players in Hong Kong (contrary to their positions in preparations for the Cancun Ministerial in 2003). In fact, the G-20 did much to keep developed, as well as other developing countries focused on achieving results in Hong Kong. Nevertheless, the G-20 members have been criticized for not making ambitious offers in areas like NAMA and services. These countries insist they will do so once they see progress in agriculture, among other priority areas.

In recent weeks, Brazil’s President Luiz Inacio Lula da Silva and the Minister of Foreign Relations Celso Amorim proposed a gathering of heads of states to kick-off the Doha Round negotiations in 2006. Originally, Brazil’s idea was to schedule the meeting during the Davos meeting in Switzerland this week – but this will not take place as proposed.

4. G-90, ACP and African Group: Not Convinced of the Round’s Benefits, But Still Engaged

The “G-90” group including the African Caribbean Pacific (“ACP”) countries and African Group were among the most active players in Hong Kong, and were vocal on their priorities issues like cotton, services and duty-free/quota-free access for LDCs. There was some anxiety in Hong Kong that like in Cancun, the ACP would reject the Declaration entirely unless their demands on cotton and duty-free/quota-free were satisfied. In the end, the ACP gained important decisions on cotton, development assistance and duty-free/quota-free access – though remain skeptical of the Round’s implications on preference erosion, and other concerns.

5. Other Members Remained Committed; Some More Skeptical

In addition to these key groupings of countries, other Members in Hong Kong were critical to keeping the Ministerial intact – or were reluctant to accept the Declaration regardless of the compromises. Some including “G-10” countries like Japan and Switzerland were constructive players despite the difficulties posed by the decisions on agriculture. Others including Latin American countries Honduras, Cuba and Venezuela questioned the benefits of

the WTO due to their economic (for Honduras, ongoing problems with the EC banana regime) or political motivations (growing skepticism among the more leftist regimes in Latin America). In fact, Cuba and Venezuela refused to accept several aspects of the final Declaration, but decided not to block consensus.

B. Industry Associations: Realizing a Global Economy, But Losing Patience with the WTO's Slow Progress

Leading industry associations and private sector representatives were present in Hong Kong, and still consider the Round and the WTO among their highest trade priorities. For the private sector, WTO liberalization would achieve important results in key markets abroad – especially since preferential trade agreements (or FTAs) are not likely between developed countries like the U.S., EU and Japan (which depend on the WTO's most favoured nation "MFN" principle). Moreover, some trade distortions like agriculture subsidies could not be addressed outside the WTO.

In Hong Kong, industry associations urged Members to remain focused and take into account the fast-changing realities of the global marketplace. Some groups noted that delays in agriculture negotiations, which accounts for a smaller percentage of the global economy, is holding back other areas. The U.S. Coalition of Service Industries on December 18, 2005, stated it was encouraged by the Declaration, but its Chairman noted that "the bald truth is that services, which account for 68% of the world economy, are hostage to agriculture, representing 4%."

Moreover, the private sector has asserted that further WTO liberalization is critical and compatible to achieving development objectives. Nevertheless, some industry groups appear to be losing patience with the slow pace of the Doha Round, and are skeptical the Round will conclude on schedule this year – or possibly not for several more years.

C. NGOs: Opposition, Criticism and Contradiction

Non-government organizations ("NGOs") including activist, labor and environment groups sometimes oppose the Round and WTO outright, or have strongly criticized its lack of results. In Hong Kong, some of the more vocal groups including Korean farmers protested daily and sought to disrupt the proceedings (and almost succeeded during the final weekend, in violent protests on the evening of December 17).

Some NGOs including Oxfam International acknowledge that the WTO as an institution could achieve meaningful results in favor of developing countries, but lamented that Hong Kong "was a lost opportunity to make trade fairer for poor people around the world." Other NGOs seem to have contradictory positions which favor development objectives, but at the same time favor imposing more stringent social conditions in developing countries that could hamper their economic growth.

THE ROUND AFTER HONG KONG: Generous Risks, or Uncharitable Loss in 2006?

The Hong Kong Ministerial appears to have been a qualified success, and was an important effort to preserve the results on the table – and persevere until the time comes to take the more difficult decisions necessary to conclude the Doha Round. Despite the modest agenda in Hong Kong, the meeting was still marked by distrust and shifting blame, and at times appeared to be on the verge of another collapse. In Hong Kong, negotiators throughout the week strived to avert another South-South struggle (which undermined Cancun in 2003), as well as temper U.S.-EC squabbling (which undermined Seattle in 1999).

The emergence of India and Brazil, along with the G-20 and G-90 in the WTO, has done much to persuade developing countries that they have an influential role in the Round. Moreover, given the WTO's increasingly unwieldy, consensus-driven decision making process – developing Members have been empowered to a much greater extent than in the Uruguay Round, for better or worse. In fact, Members in Hong Kong devoted significant attention to developing country priorities including duty-free/quota-free access, cotton, and other initiatives.

U.S.-EC acrimony is problematic as no Round has been concluded successfully without leadership and cooperation among the WTO's two key players. The U.S. has been frustrated with the EC for some time, given the EC's timid reaction to the U.S.'s far-reaching agriculture proposal tabled in October 2005. In Hong Kong, U.S.-EC relations were strained as the EC shifted scrutiny to U.S. sensitivities on food aid, cotton and duty-free/quota-free. Moreover, some observers have noted a lack of chemistry between Mandelson and Portman as compared with the previous strong relationship between Lamy and Zoellick, which was critical to launching the Round in 2001, and reach key decisions in the July 2004 framework agreements.

The Hong Kong Declaration itself has provided additional guidance to negotiators in Geneva and capitals to move forward on the technical level. Work will intensify in all areas of the Round as negotiators attempt to agree on new formulas and concessions in agriculture, services, NAMA, development initiatives, rules-related reform and other issues. But, in the near future – as often in the recent past – negotiators will likely encounter persistent deadlocks, and thus unable to move the process forward without the support of their authorities and constituents.

On the eve of the first gathering of trade ministers since Hong Kong, the meeting this weekend in Davos and other high-level gatherings, will be critical reaching the important decisions between now and April 2006 on agriculture and NAMA modalities. No doubt, political will among trade ministers and heads of state is instrumental to concluding the round on schedule this year. These decisions seem painfully within reach (and slipping out of reach), and will require commensurate political risks. If Members are not willing to take these risks, the Round and the WTO could suffer immeasurably for many years to come.

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For further information, please contact: mark.nguyen@bryancave.com. Thank you.