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**Working Group on the Relationship  
between Trade and Investment**

**DRAFT REPORT TO THE GENERAL COUNCIL**  
(Prepared under the Secretariat's own responsibility)

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## **INTRODUCTION**

The Working Group on the Relationship between Trade and Investment was established by a decision taken at the WTO's First Ministerial Conference in Singapore in 1996. Between 1997 and 2001, work was based on a Checklist of Issues Suggested for Study which the Group took note of at its meeting in June 1997. At the Fourth Ministerial Conference in Doha in 2001, the Working Group's mandate was revised (Annex 1).<sup>1</sup>

## **PROCEDURAL INFORMATION**

### **SOURCES AND MATERIALS USED IN THE GROUP'S WORK**

The work of the Working Group in 2003 has been based on written contributions by the Secretariat and Members, and on statements by Members in the Group's meetings. A list of written contributions provided to the Group in 2002 - 2003 is attached (Annex 2).

### **MEETINGS HELD IN 2002-2003**

This report covers the last three meetings of the Working Group held under the Chairmanship of Ambassador Seixas Corrêa (Brazil): on 3-4 December 2002; 14-15 April 2003; and 10-12 June 2003. A full account of the discussions can be found in the minutes of the meetings, contained in documents WT/WGTI/M/20, 21, and 22. At its June meeting, the Group adopted its report to the General Council.<sup>2</sup>

The Working Group received regular updates on the Secretariat's technical assistance activities carried out under the Doha Ministerial Declaration, and continued to focus on the items set out for clarification in paragraph 22 of the Doha Ministerial Declaration, as well as on additional related subjects. Provision was made at the meetings for Members to continue their discussions on the Checklist of Issues Suggested for Study.

### **COOPERATION WITH OTHER INTERGOVERNMENTAL ORGANIZATIONS**

The Doha Ministerial Declaration encouraged the WTO to work in cooperation with other relevant inter-governmental organizations, particularly in providing enhanced support for technical assistance and capacity building. In this regard, all technical assistance activities carried out in 2003 under paragraph 21 of the Doha mandate have been undertaken jointly by the WTO and UNCTAD Secretariats, in some cases in co-operation also with other agencies. The IMF, World Bank, UNCTAD, OECD and UNIDO were invited to attend the Working Group's meetings in an observer capacity. These organisations have kept Members informed of their relevant activities and have contributed to the debate in the Group's meetings. The Working Group is appreciative of the valuable contributions to its work made by these inter-governmental organizations.

### **WORK OF THE WORKING GROUP IN 2002-2003**

This part of the report provides a summary of the discussions in the Working Group pursuant to paragraphs 20-22 of the Doha Ministerial Declaration.

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<sup>1</sup> WT/MIN(01)DEC, paras. 20-22.

<sup>2</sup> This Report covers the discussion that took place at the Group's final meeting in 2002, and at its two meetings in 2003.

A. TECHNICAL ASSISTANCE ACTIVITIES PURSUANT TO PARAGRAPH 21 OF THE DOHA MINISTERIAL DECLARATION

The WTO and UNCTAD Secretariats continued to brief the Group regularly on their technical assistance activities, most of which were conducted jointly. Based on comments and suggestions from delegations, the WTO and UNCTAD also prepared an overview paper on proposals for future investment-related technical assistance work which was circulated in WT/WGTI/W/161. The proposals addressed several related themes, including improving the division of labour between the WTO and UNCTAD to better reflect their respective areas of expertise; involving other international organizations with expertise in the investment area more directly in support of the Doha mandate; and placing the financing of the coordinated programme of technical assistance activities on a secure long-term basis.

The Working Group expressed general satisfaction with the breadth and depth of the technical assistance programme carried out by the WTO and UNCTAD, which aimed to place governments in a better position to evaluate the implications of closer multilateral cooperation in investment, and to take informed decisions on future investment-related work at Cancún. A number of delegations said that there was still much to be learned about the implications of a possible multilateral investment framework and its impact on investment flows and national policies, and they underlined the need to continue and expand the technical assistance programme beyond Cancún. The point was made that one- or two-day national and regional seminars, while beneficial, did not leave enough time to enable participants to explore and understand the many complex subjects raised. Others urged that regional experts needed to be involved more directly in future technical assistance activities, and that the mandated cooperation between the WTO and UNCTAD should be expanded to include other international and regional bodies with investment expertise. There was also a suggestion that Geneva-based officials should be encouraged to play a more active role in technical assistance activities in the field.

There was support for the suggestion that the division of labour between the WTO and UNCTAD should be more clearly delineated in future activities, in order to avoid duplication or overlap, and to ensure that both organizations accentuated their comparative advantages in the delivery of technical assistance. UNCTAD's critical role in assisting developing and least-developed countries to understand the development dimension of a possible investment framework was reaffirmed, and delegations underlined the need to guarantee that adequate financial resources were found to underwrite UNCTAD's collaboration with the WTO.

CLARIFICATION OF ISSUES PURSUANT TO PARAGRAPH 22 OF THE DOHA MINISTERIAL DECLARATION

It was noted that the Working Group had productively explored many aspects of the issues singled out for clarification in paragraph 22 of the Doha Ministerial Declaration, as well as other related subjects that had been raised in the course of the Group's work. Some suggested that the work done since the Doha Ministerial Conference had facilitated the conceptualisation of a realistic, meaningful, and integrated multilateral framework for investment under the WTO. Others felt that the Working Group's deliberations had revealed the extent to which the substance, implications and rationale of a prospective multilateral investment framework remained unclear, and asserted that further work was needed.

**1. Scope and Definition**

Written contributions were received from Canada (WT/WGTI/W/157) and China (WT/WGTI/W/159).

The Working Group was in agreement that the definition of investment would play a central role in shaping any prospective multilateral investment framework, as it would delineate the scope and reach of its substantive provisions and specific commitments. Discussion continued to focus on the relative merits of a narrow versus a broad definition of investment.

One view was that a narrow definition of investment would allow Members to attract FDI effectively while avoiding financial risks. By limiting the focus to FDI, a narrow definition would most clearly reflect the mandate of the Doha Ministerial Declaration to secure transparent, stable and predictable conditions for long-term, cross-border investment, while making it unnecessary to further delineate an agreement's scope and coverage through operative provisions. It would also allow any framework to be focused on encouraging the economic development and trade promotion of host countries, particularly developing countries, without exposing them to the inherent risks and instabilities of speculative, short-term capital flows. A narrow definition would also facilitate striking a balance between the interests of host and home countries, thus commanding greater support among WTO Members.

One suggestion, made in this context, was that a further distinction needed to be made between different types of FDI, given their differential impacts on – and implications for – the “crowding out” of domestic investment, and the wider development, financial, macro-economic and regulatory policies of governments. It was also suggested that in order to bring out the development policy implications in relation to these parameters further, studies would have to be undertaken on the nature and effects of cross-border capital flows.

Another view was that a broad definition of investment would allow for a more flexible architecture – one that better reflected of business behaviour in the contemporary world economy. Attempts to define FDI in terms of imprecise concepts such as a lasting interest or an ownership threshold would interfere with the development of clear substantive provisions, and would not be intrinsically meaningful. In light of the evolving nature of international financial flows and new forms of foreign investment, any agreement that ignored minority share holdings and/or strategic alliances risked being obsolete. A broad definition would also ensure consistency with most existing international investment agreements (IIAs), particularly bilateral investment treaties, which used asset-based definitions.

It was noted that adopting a broad approach did not imply that all types of assets should necessarily fall within the scope of an investment agreement, or that all assets under its umbrella should be covered with respect to all provisions at all times. It was noted that various options existed for excluding certain categories or sub-categories of assets within a broad definition. The more general point was also made that the eventual scope of an investment framework would depend not only on the definition of investment used but also on the framework's substantive provisions – particularly provisions dealing with non-discrimination, pre-establishment commitments, development, exceptions, and balance-of-payments safeguards – and the structure of its specific commitments.

It was suggested that an article on "Scope" could help to delineate the coverage of a possible framework agreement and help to anchor a WTO investment accord more firmly and clearly within the framework of international trade and investment agreements (including WTO agreements). It was also suggested that the Group would need to examine how the definition used in a prospective investment agreement and the concept of “commercial presence” used in the GATS might be reconciled.

One approach recalled was that different definitions could be used for the different phases of investment – a narrow approach for market access and investment liberalization (pre-establishment), covering FDI only, and a broad approach, covering a wide range of assets, for the protection of investment once it had established locally (post-establishment). Such an approach could maximize

the benefit of multilateral investment rules, while protecting countries from any negative effects of short-term capital flows.

The point was made that the detailed issue of which specific types of investment should be covered by an agreement was more relevant than the more abstract question of whether broad or narrow approaches were preferable. Some suggested that the dividing line between covered and non-covered investments could be made clearer in the context of substantive negotiations should consensus be reached on the main direction of a possible multilateral investment framework. Others, however, argued that clarity on the issue of definitions was an important prerequisite to achieving consensus on future work on a multilateral investment framework.

### **Transparency**

Written contributions were received from Canada (WT/WGTI/W/155) and China (WT/WGTI/W/160).

It was reaffirmed that transparency played an important role in creating a predictable, stable and secure climate for foreign investment. It was also agreed that achieving greater transparency in investment regimes brought benefits to host countries and investors alike. While some saw this as an argument for incorporating transparency obligations in a possible multilateral investment framework, others questioned why binding international obligations were necessary at all, when it was in a country's self-interest to be "transparent".

Discussion in the Working Group continued to focus on the nature and scope of possible transparency obligations. It was suggested that existing transparency provisions in the WTO offered a useful starting-point for examining the kind of obligations that might be incorporated in a multilateral investment framework. There was debate, however, as to what precisely constituted a "transparency" provision in the WTO. While requirements to publish and to notify relevant laws, regulations, and other policies were clearly seen as transparency provisions, views differed as to whether the concept of transparency also extended to obligations governing the way laws and regulations were administered. It was also noted that investment was subject to a far broader range of domestic policies and regulations than trade, thus extending the potential scope of transparency provisions in a possible investment framework in comparison to the trade system – raising concerns about the technical and resource capacities of developing countries to meet new transparency requirements.

Some suggested that transparency obligations in any prospective investment agreement should apply to investors and home countries as well as host countries. Others, however, questioned the need to – and practicality of – developing and enforcing rules on transparency in relation to home countries and especially investors.

A recurring theme was the need to direct technical assistance and capacity building towards host countries' efforts to make their domestic investment regimes more transparent. It was suggested that a multilateral framework should include clear and detailed provisions for linking the implementation of transparency obligations and procedural reform to technical assistance and capacity building. The view was also expressed that technical assistance should not be seen as a substitute for clearly delineating the extent and limit of transparency obligation in any prospective investment agreement.

Views were exchanged on whether a "positive list" approach to scheduling commitments was inherently more or less transparent than a "negative list" approach.

### **Development Provisions**

Written contributions were received from India (WT/WGTI/W/148) and the European Communities (WT/WGTI/W/154).

The Working Group continued its discussion of how to strike a balance between Members' needs both to secure "policy space" for development and other purposes, and to create a transparent, stable and predictable framework for investment.

One view was that national "policy space" for development objectives was inherently incompatible with binding international rules. Multilateral obligations placed limits on developing countries' freedom and flexibility to pursue strategies towards foreign investment, including the ability to screen and channel FDI and to avoid the "crowding out" of domestic investors. Others suggested that there was no contradiction between, on the one hand, a host-country's "policy space" and ability to regulate and, on the other hand, its participation in a framework of transparent and predictable multilateral rules. While views might differ on the appropriate mix, international rules were seen as a way of securing, not overriding, a country's "policy space", and enhancing its ability to attract FDI.

There was discussion of two main areas where "policy space" was seen to be potentially relevant to many developing-country Members: first, in regulating the entry of foreign investment, through general screening, selective restrictions, and conditions on entry; and second in using policies to enhance the contribution that foreign investment made to their economic and social development needs and objectives, through performance requirements (including technology transfer), investment incentives and preferences for domestic investors.

It was further noted that there were two basic approaches to incorporating "policy space" in a possible multilateral investment agreement: (i) ensuring flexibility in the design of an agreement's substantive provisions; and/or (ii) formulating special provisions or exceptions for development purposes.

There was a discussion of whether the GATS provided a useful model for designing sufficient "policy space" in a prospective multilateral investment framework. The view that a GATS-type "positive list" approach to scheduling specific commitments provided more "policy space" than a "negative list" approach to scheduling specific exceptions was advanced by some Members. It was pointed out that the GATS not only allowed countries to phase-in commitments regarding market access and national treatment according to their individual needs and levels of development, but gave them freedom to attach to these commitments other possible conditions related to development objectives (e.g. joint ventures, ownership limits, or performance requirements). Attention was also drawn to GATS provisions recognizing the need to pay due respect to individual Members' national policy objectives and their level of development in any process of liberalization.

Others, however, doubted the usefulness of the GATS model. Some felt that kind of binding market access – or pre-establishment – commitments embodied in mode 3 of the GATS conflicted with developing countries' need for "policy space" to screen and channel the entry of foreign investment. It was also felt that the GATS negotiations had, in practice, generated pressure on countries to assume broader and deeper commitments than they wanted, narrowing down the "policy space" available to them. Also the GATS had presented developing-country negotiators with problems in a range of areas including MFN exemptions, industrial classifications, the scheduling of commitments, and regulatory issues. Some pointed out that the GATS was an incomplete agreement, and that in important areas such as safeguards and subsidies, its potential impact on "policy space" for development remained unclear. One view, expressed in this context, doubted the relevance of the GATS to any discussion of a prospective investment agreement. The GATS was essentially a trade agreement – with limited relevance to the regulation of capital flows – and as such, could not provide the flexibility needed by developing countries in the area of foreign investment.

Another view was that the GATS positive list and progressive liberalization approach would not translate into the kind of open and transparent policy environment that developing countries needed in order to attract FDI.

### **Non-discrimination and Modalities for Pre-establishment Commitments**

Written contributions were received from India, the European Communities, and Canada (WT/WGTI/W/149, W/150, W/154 and W/157, respectively).

The Working Group continued its discussion of the extent to which the principle of non-discrimination – as embodied in national treatment and Most-Favoured-Nation (MFN) treatment – should be incorporated in a prospective multilateral investment agreement. One view was that the standards of non-discrimination as applied to trade could not be applied to investment, as financial flows were distinct from flows of goods and services. Another view was that trade and investment were inherently linked – and complementary – which was why Ministers in Doha had recognized the case for a multilateral investment framework that would contribute to the expansion of trade.

Four broad and related issues were raised. The first was how standards of non-discrimination might be applied at the pre- and post-establishment phases of investment. While some could agree that standards of non-discrimination should apply to the post-establishment stage, subject to certain exceptions, the idea of extending a commitment of non-discrimination to the pre-establishment stage was more controversial. Some felt that pre-establishment commitments should not be part of a multilateral approach to investment at all. Another view was that no distinction should be drawn between the different phases of investment when applying the principle of non-discrimination if the objective was to create a secure and predictable policy framework for investment.

A second issue was the distinction drawn between MFN and national treatment. One view was that MFN treatment should be a general rule of application for both pre- and post-establishment treatment, as a way of guaranteeing equality of treatment for foreign investments, of creating a more transparent and uniform system of investment rules, and of maintaining consistency with other WTO agreements, including the GATS. Differences in view were more marked as regards the application of national treatment. While some felt that national treatment should be extended to all stages of investment – its entry, its operation after establishment, and its liquidation – others felt that host countries, particularly developing countries, needed to be able to differentiate in their treatment of domestic and foreign investment, and in particular to retain the freedom to control, screen and channel foreign investment in line with their national policy objectives.

A third issue was whether standards of non-discrimination should apply differently to different kinds of investment. One view was that host countries should be free to discriminate between FDI and short-term portfolio investment, in order to avoid giving legal coverage to speculative and potentially destabilizing capital flows. Another view was that it was important to extend non-discriminatory treatment to all kinds of investment – portfolio investment as well as FDI – in order to reflect the evolving nature of financial flows, the changing relationship between states and investors, and the specific needs of developing countries.

A fourth issue discussed was the merits of a “positive list” versus a “negative list” approach to scheduling commitments. Some supported a “positive list” approach which allowed for selective liberalization of entry and establishment in specific activities under defined conditions, thus providing host countries with more flexibility to pursue domestic development policies and to harness FDI in ways that contributed to their economic development goals. Another view was that a “negative list” approach – whereby countries lodged exceptions to the rules of general application – was preferable. It was felt that the “positive list” approach considerably weakened the scope for market access and the legal guarantee of non-discrimination, which could deter flows of foreign investment to host countries. One suggestion was that a “positive list” approach could be applied to the pre-establishment phase of investment, while a “negative list” approach could be used for the post-establishment phase.



The point was made that the issue of sub-national governments' obligations under any prospective multilateral investment agreement was an important one, which needed to be examined in greater detail by the Working Group.

### **Balance-of-payments Safeguards**

A written contribution was received from the European Communities (WT/WGTI/W/153).

The Working Group continued its discussion of balance-of-payments safeguards. It was reaffirmed that flexibility for governments to address balance-of-payments concerns needed to be an integral part of any investment framework. At the same time, many emphasised the need to guarantee the free transfer of all current and capital account transactions, and that clear conditions be attached to any safeguard provisions to ensure that they did not involve arbitrary or unjustifiable discrimination, or create disguised restrictions. As in the GATT and the GATS, additional flexibility should be provided to developing countries in meeting those objectives. Many also emphasised the need for compatibility between a possible investment agreement in the WTO and the Articles of Agreement of the IMF.

### **Investors' and Home Governments' Obligations**

A written contribution was received jointly from China, Cuba, India, Kenya, Pakistan and Zimbabwe (WT/WGTI/W/152).

The argument was advanced that more attention should be paid to the subject of investors' and home countries' obligations. The recent rise of FDI had brought into focus the disparity between the economic power and global reach of multinational enterprises and the limited scope for regulation of their conduct by host countries as well as the potential for conflict of interests between the objectives of multinational enterprises and the development policy objectives of host countries. The absence of binding international standards of conduct for multinational enterprises had been highlighted by recent instances of fraudulent corporate practices. In light of the statement in paragraph 22 of the Doha Ministerial Declaration that any multilateral framework on investment should reflect in a balanced manner the interests of home and host countries and take due account of the development policies and objectives of host governments as well as the right of host Members to regulate in the public interest, it was necessary to balance the rights of investors against those of host governments and against the obligations of investors and home countries.

In this connection, suggestions were made with respect to general principles to serve as the basis for drawing up investors' obligations as well as specific obligations of investors in the areas of restrictive business practices, technology transfer, balance-of-payments, ownership and control, consumer and environmental protection, disclosure and accounting. It was argued that the policies of home countries could influence the behaviour of their multinational enterprises and that it was important, therefore, that home-country governments undertook obligations to ensure responsible behaviour of multinational enterprises.

A different point of view on this subject was that, while it was important to ensure responsible corporate behaviour, establishing binding international rules on corporate conduct and home-country obligations was inappropriate. According to this view, the preferable approach was to rely on domestic regulation by host countries complemented by non-legally binding guidelines and other voluntary initiatives. It was argued that the concept of binding rules applicable to enterprises was not meaningful under international law and that the proposal that home countries should enforce obligations with respect to the activities undertaken abroad by their investors posed serious legal difficulties, including with respect to extraterritoriality. The specific suggestions made on issues such as performance requirements, transfer of technology and balance-of-payments were viewed by some as being economically counterproductive. It was also argued that the concept of corporate social

responsibility also encompassed subjects such as bribery and employment and labour standards and that in, addition to governments and firms, shareholders and non-governmental organizations had an important role to play in ensuring the observance of social responsibility standards.

The subject of investors' obligations and home countries' obligations was also viewed by some as not being within the mandate of the Working Group under paragraph 22 of the Doha Ministerial Declaration or, more broadly, as not being within the competence of the WTO. On the other hand, it was argued that consideration of this subject was well within the mandate of the Working Group in light of the requirement contained in paragraph 22 that any framework be balanced between the interests of host and home countries and take into account the development policies and objectives of host-country governments and their right to regulate. WTO rules in areas such as TRIPS, TRIMs, anti-dumping and subsidies and countervailing measures had a direct impact on private business activity, sometimes in an extraterritorial manner. This contradicted the argument that the WTO was not competent to address private conduct and that home countries could not be required to assume obligations in relation to conduct of their investors in other countries.

### **The Relationship Between a Multilateral Framework on Investment and the GATS**

A written contribution was received from Japan (WT/WGTI/W/156).

There was a debate on whether the inclusion of the “commercial presence” mode of supply in the GATS meant that foreign investment was covered by the GATS. One view was that it was inappropriate to draw a parallel between the concept of commercial presence, on the one hand, and investment disciplines, on the other, since commercial presence was covered under the GATS only to the extent that it facilitated the delivery of services – and that, too, was subject to various conditions and limitations. Another view was that the concept of commercial presence, as defined in the GATS, clearly covered forms of foreign investment service sectors, particularly FDI. The point was also made that there was no economic reason to distinguish between the establishment of a commercial presence in a service sector and FDI in non-services sectors and that many international agreements contained investment disciplines that did not distinguish between goods and services.

The relationship between a possible multilateral framework on investment and commitments of Members under the GATS with respect to the commercial presence mode of supply was identified as a matter requiring further consideration. One possible approach that was mentioned was to exclude services from the coverage of such a framework. It was observed that this would require that the framework be harmonized with the GATS so as to avoid unjustifiable differences between investment in services and investment in non-services. A second approach that was mentioned was to include services within the ambit of a multilateral framework on investment, which might require changes to the GATS in order to avoid conflicts and inconsistencies. The point was made that a third approach was possible, whereby a multilateral framework would apply to both goods and services, but its application to services would be limited to rules that went beyond the provisions of the GATS.

In respect of the suggestion that commitments on commercial presence in services be made part of a multilateral framework on investment, it was pointed out that removing these commitments from the overall context of the GATS might require an adjustment in the level of commitments.

Annex 1

**TEXT OF THE DOHA MINISTERIAL DECLARATION<sup>3</sup>**

RELATIONSHIP BETWEEN TRADE AND INVESTMENT

20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

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<sup>3</sup> WT/MIN(01)/DEC/1.

Annex 2

Summary of contributions received in the Working Group  
on the Relationship between Trade and Investment in 2002-2003

<i>Symbol (WT/WGTI/W/-)</i>	<i>Member / Other source</i>	<i>Title or Topic</i>
W/108	Secretariat	Scope and Definitions: "Investment" and "Investor"
W/109	Secretariat	Transparency
W/110	European Community and member States	Concept Paper on Transparency
W/111	Japan	Scope and Definition
W/112	Japan	Transparency
W/113	Canada	Scope and Definition
W/114	Korea	Scope and Definitions of "Investment"
W/115	European Community and member States	Concept Paper on the Definition of Investment
W/116	OECD	OECD Activities in the Field of Investment Capacity Building
W/117	Mexico	Communication regarding APEC Seminar on Bilateral and Regional Investment Rules and Agreements – Mérida, Mexico, 17-18 June 2002
W/118	Secretariat	Non-Discrimination – Most-Favoured-Nation Treatment and National Treatment
W/119	Secretariat	Development Provisions
W/120	Secretariat	Modalities for Pre-Establishment Commitments based on a GATS- Type, Positive List Approach
W/121	European Community and member States	Concept Paper on Modalities of Pre-Establishment
W/122	European Community and member States	Concept Paper on Non-Discrimination
W/123	Korea	Non-Discrimination and GATS-Type Approach for Investment
W/124	Japan	Non-Discrimination
W/125	Japan	Modalities for Pre-Establishment Commitments
W/126	Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Development Provisions
W/127	Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Non-Discrimination and Pre-Establishment Commitment

<i>Symbol (WT/WGTI/W/-)</i>	<i>Member / Other source</i>	<i>Title or Topic</i>
W/128	Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Scope and Definition of "Investment"
W/129	Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Ensuring Transparency
W/130	Canada	Modalities for Pre-Establishment Commitments Based on a GATS-Type, Positive List Approach
W/131	Canada	Development Provisions
W/132	Mexico	Non-Discrimination
W/133	Switzerland	Multilateral Framework for Investment: An Approach to Development Provisions
W/134	Secretariat	Consultation and the Settlement of Disputes between Members
W/135	Secretariat	Technical Assistance Activities Pursuant to Paragraph 21 of the Doha Ministerial Declaration
W/136	Secretariat	Key Issues Concerning Foreign Direct Investment and the Transfer and Diffusion of Technology to Developing Countries
W/137	Secretariat	Exceptions and Balance-of-Payments Safeguards
W/138	Japan	Exceptions and Balance-of-Payments Safeguards
W/139	Japan	Consultation and the Settlement of Disputes between Members
W/140	European Community and member States	Concept Paper on Development Provisions
W/141	European Community and member States	Concept Paper on Consultation and the Settlement of Disputes between Members
W/142	United States	Covering FDI and Portfolio Investment in a WTO Investment Agreement
W/143	Korea	Balance-of-payment Safeguard Provisions in Investment Agreements
W/144	Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Exceptions and Balance-of-Payments Safeguards
W/145	Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	Dispute Settlement Mechanism
W/146	Canada	Exceptions and Balance-of-Payments Safeguards
W/147	Canada	Consultation and Dispute Settlement
W/148	India	Development Provisions
W/149	India	Non-Discrimination

<i>Symbol (WT/WGTI/W/-)</i>	<i>Member / Other source</i>	<i>Title or Topic</i>
W/150	India	Views on Modalities for Pre-establishment Commitments based on a GATS-type, Positive List Approach
W/151	Secretariat	Technical Assistance Activities in 2002 Pursuant to Paragraph 21 of the Doha Ministerial Declaration
W/152	China, Cuba, India, Kenya, Pakistan and Zimbabwe	Investors' and Home Governments' Obligations
W/153	European Community and member States	Concept Paper on Balance-of-Payments Safeguards
W/154	European Community and member States	Concept Paper on Policy Space for Development
W/155	Canada	Transparency
W/156	Japan	The Relationship between the Future Multilateral Investment Rules and the GATS
W/157	Canada	The Interrelationship and Emerging Infrastructure of a Prospective WTO Multilateral Framework for Investment Based on Elements Identified in Paragraph 22 of the Doha Declaration
W/158	Japan	Consideration of the Necessity of Multilateral Investment Rules from Diversified Viewpoints
W/159	China	Scope and Definition
W/160	China	Transparency
W/161	WTO and UNCTAD Secretariats	Future WTO-UNCTAD Secretariat Collaboration in the Area of Investment on Technical Assistance and Capacity-Building for Developing and Least-Developed Countries

Annex 3

*Technical Assistance and Capacity-Building Activities held in 2002-2003*

<b>Topics</b>	<b>Doha TC/CB Mandate</b>	<b>Activity</b>	<b>Cooperation with</b>	<b>Dates</b>	<b>Venue</b>
Intensive Training Course for English-speaking Africa	21, 22	Training Course	UNCTAD	18-29 March 2002	South Africa (Pretoria)
Regional Seminar for Asia	21, 22	Regional Seminar	UNCTAD/Singapore	6-8 May 2002	Singapore
Trade and Investment	21, 22	National Workshop	UNCTAD	13-14 May 2002	China (Beijing)
OECD Technical Workshop	21, 22	Technical Workshop	OECD	15-20 May 2002	Hong Kong, China
Trade and Investment	21, 22	National Seminar	UNCTAD	16 May 2002	Indonesia (Jakarta)
APEC Workshop on Regional and Bilateral Investment Rules/Agreements	21, 22	Technical Workshop	APEC	17-18 May 2002	Mexico (Mérida)
Intensive Training Course for French-speaking Africa	21, 22	Training Course	UNCTAD/Agence de la Francophonie	27 May-6 June 2002	Egypt (Alexandria)
Regional Seminar for French-speaking Africa	21, 22	Regional Seminar	UNCTAD	19-21 June 2002	Gabon (Libreville)
Regional Policy Seminar	21, 22	Regional Seminar	Thailand	27 June 2002	Thailand (Bangkok)
Trade and Investment	21, 22	National Seminar	Thailand	28 June 2002	Thailand (Bangkok)
Training for Geneva Delegations/Officials visiting from capitals, coinciding with WGTI meeting	21, 22	Technical Workshop (English)	UNCTAD	2 July 2002	Switzerland (Geneva)
Regional Seminar for Central America	21, 22	Regional Seminar	UNCTAD / IADB-INTAL	12-13 August 2002	Costa Rica (San José)

<b>Topics</b>	<b>Doha TC/CB Mandate</b>	<b>Activity</b>	<b>Cooperation with</b>	<b>Dates</b>	<b>Venue</b>
Training for Geneva Delegations/Officials visiting from capitals, coinciding with WGTI meeting	21, 22	Technical Workshop (French)	UNCTAD	13 September 2002	Switzerland (Geneva)
Regional seminar for South America and Intensive Training Course for Latin America	21, 22	Regional Seminar and Training Course	UNCTAD / IADB-INTAL	7-8 October 2002 and 9-18 October 2002	Peru (Lima)
Trade and Investment	21, 22	National Seminar	UNCTAD	24-25 October 2002	Venezuela (Caracas)
Trade and Investment	21, 22	National Seminar	UNCTAD	28-29 October 2002	Guatemala (Ciudad de Guatemala)
Trade and Investment	21, 22	National Seminar	UNCTAD	21-22 November 2002	Sri Lanka (Colombo)
Intensive Training Course for Asia and the Pacific	21, 22	Training Course	UNCTAD	23 November – 4 December 2002	India (New Delhi)
Training for Geneva Delegations/Officials visiting from capitals, coinciding with WGTI meeting	21, 22	Technical Workshop (Spanish)	UNCTAD	29 November 2002	Switzerland (Geneva)
Workshop on the Relationship between Trade and Investment for English-speaking African countries	21, 22	Technical Workshop	UNCTAD / JICA	1-2 December 2002	Switzerland (Geneva)
Trade and Investment	21, 22	National Seminar	UNCTAD	19-20 December 2002	Tunisia (Tunis)
Regional Seminar for French-speaking Africa	21, 22	Regional Seminar	UNCTAD	27-28 January 2003	Djibouti
Capacity Building Seminar for African Countries	21, 22, 24	Seminar	EFTCA/JICA	1-5 February 2003	Egypt (Cairo)
Regional Seminar for English-speaking African countries	21, 22	Regional Seminar	UNCTAD	4-5 February 2003	Botswana (Gaborone)
Trade and Investment	21, 22	National Seminar	UNCTAD	19-20 March 2003	Morocco (Rabat)
Intensive Training Course for English-speaking Africa	21, 22	Training Course	UNCTAD	24 March-4 April 2003	South Africa (Pretoria)



<b>Topics</b>	<b>Doha TC/CB Mandate</b>	<b>Activity</b>	<b>Cooperation with</b>	<b>Dates</b>	<b>Venue</b>
Training for Geneva Delegations/Officials visiting from capitals	21, 22	Technical Workshop (English)	UNCTAD	2 April 2003	Switzerland (Geneva)
Trade and Investment	21, 22	National Seminar	UNCTAD	7-8 April 2003	Colombia (Bogota)
WTO 2 <sup>nd</sup> Trade Policy Course	21, 22, 36	Trade Policy Course		7 April-27 June	Kenya (Nairobi)
Trade and Investment	21, 22	National Seminar	UNCTAD	10-11 April 2003	Argentina (Buenos Aires)
Regional Seminar for Caribbean Countries	21, 22	Regional Seminar	IADB-INTAL, UNCTAD	28-29 April 2003	Jamaica (Kingston)
Trade and Investment	21, 22	National Seminar	UNCTAD	4-5 May 2003	Mauritania (Nouakchott)
Intensive Training Course for French-speaking Africa	21, 22	Training Course	UNCTAD	12-23 May 2003	Egypt (Alexandria)
Trade and Investment	21, 22	National Seminar	UNCTAD	20-21 May 2003	Malaysia (Kuala Lumpur)
Expert Meeting for Middle-East and Maghreb Countries	21, 22	Sub-Regional Seminar	FES	24-25 May 2003	Egypt (Cairo)
Workshop on the Relationship between Trade and Investment for French-speaking African countries	21, 22	Technical Workshop	UNCTAD / JICA	13-14 June 2003	Switzerland (Geneva)
Regional Seminar for Central and Western Asia	21, 22	Regional Seminar	UNCTAD	18-19 June 2003	Pakistan (Islamabad)
Regional Seminar for Central and Eastern Europe	21, 22	Regional Seminar	UNCTAD	18-19 June 2003	Czech Republic (Prague)
Advanced Training Course for African Senior Government Officials	12, 22	Training Course	UNCTAD	16-27 June	South Africa (Johannesburg)
Trade and Investment	12, 22	National Seminar	UNCTAD	10-11 July 2003	Cuba (Havana)
Regional Seminar for Latin American Countries	21, 22	Regional Seminar	UNCTAD	14-15 July 2003	Mexico (Mexico City)

<b>Topics</b>	<b>Doha TC/CB Mandate</b>	<b>Activity</b>	<b>Cooperation with</b>	<b>Dates</b>	<b>Venue</b>
Trade and Investment	21, 22	Regional Seminar	UNCTAD	[July/August]	Qatar

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