

**Committee on Trade and Development
Special Session**

**SPECIAL SESSION OF THE COMMITTEE ON
TRADE AND DEVELOPMENT**

Report by the Chairman, Mr. Faizel Ismail (South Africa),
to the Trade Negotiations Committee

I. INTRODUCTION

The section on S&D in the August 2004 Decision of the General Council mandated the Special Session of the Committee on Trade and Development (Special Session) to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision by July 2005. The Special Session was also instructed to address all other outstanding work, including on the cross-cutting issues. The proposals that had been referred to other WTO bodies were also to be addressed with clear recommendations for a decision no later than July 2005.

In its report to the General Council in July 2005,¹ the Special Session reported that although progress had been made on the LDC Agreement-specific proposals, the Special Session was not in a position to make specific recommendations on any of the Agreement-specific proposals. Similarly, the WTO bodies to which the Category II proposals had been referred were also not in a position to make any recommendations. It was therefore proposed that the Special Session continue its work on the LDC and other remaining Agreement-specific proposals and report on them with "clear recommendations for a decision" to the General Council by the Hong Kong Ministerial Conference. It was also proposed that the Special Session continue to monitor and coordinate its efforts with that of the negotiating groups and other WTO bodies to which the Category II proposals had been referred. Furthermore, it was proposed that the Special Session continue to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, and report, as appropriate, to the General Council.

II. AGREEMENT-SPECIFIC PROPOSALS

As agreed by Members, work in the Special Session over the past few months, has focused on the five remaining LDC Agreement-specific proposals which include proposals on the Understanding in Respect of Waivers of Obligations under the GATT 1994, the Decision on Measures in Favour of Least-Developed Countries and the Agreement on Trade-Related Investment Measures.

Initial discussions were based on the Chairman's 25 July text. Based on the various discussions and in an attempt to address concerns raised, some Members, including the proponents, tabled alternate texts to take the work forward. However while some progress was made, there were some areas on which Members were unable to bridge their differences.

¹ TN/CTD/13

At the formal meeting reconvened on 27 October, Members were informed that while discussions had helped move the work on the LDC proposals forward, it had not been possible to reach an agreement on any of the proposals. While consultations continued, it soon became clear that differences on at least some key aspects, would be difficult to bridge by drafting alone. As a result, I tried to explore language with Members which had certain words and phrases in brackets, reflecting the areas where differences existed. However, it was difficult for me to include all the suggestions made by Members, especially those suggestions which I felt had very little chance of being accepted. At this meeting, a number of Members also said that in their view as much work as possible had been accomplished at the technical level and the remaining decisions could only be made at the Ministerial level. They also felt that it would be important that any language being forwarded to Ministers be simple in order to facilitate the Ministers' consideration of the issues and reflect where the differences existed.

Subsequently, the proponents suggested that the language to be forwarded to Ministers, should reflect their preferred language on all the five proposals as a separate option, followed by another option or options, reflecting the views of other Members. While a number of Members opposed this approach because they felt it would only make the consideration of these issues by the Ministers more complicated, other Members felt that the proponents had the right to have their language reflected as a separate option if they so wished. At the formal meeting of the Special Session held on 18 November and 21 November, Members agreed that the text that is transmitted for inclusion as an Annex to the draft Ministerial Declaration, should contain the different options.

As far as the Category II proposals, which had been referred to other WTO bodies and negotiating groups are concerned, a number of developing country Members had continued to raise concern about the lack of progress on them. Accordingly I had convened a meeting on 24 October with the Chairpersons of the bodies to which these proposals have been referred. The purpose of the meeting was to obtain feedback from the various Chairpersons on the current status of the work on the proposals; how that work could be expedited and whether it would be possible to make any recommendations on those proposals by the Hong Kong Ministerial Conference. At that meeting, the Chairpersons were informed of the importance that Members attach to these proposals and the need to take the discussion on the proposals forward. However, many of the Chairpersons expressed the need for the proponents to become more active in these bodies. The proponents felt that this justified their earlier concerns that their capacity constraints prevented them from following discussions on the proposals in these other bodies. At the formal meeting held on 27 October, Members were informed of the reports received from the various Chairpersons.²

III. FUTURE WORK

During discussions on the possible language for the draft Ministerial text, many Members felt that while some work had been done on the Agreement-specific proposals, especially the remaining five LDC proposals, substantial work still remained to be done. In this context, a number of Members stressed the need for Ministers to recommit themselves to the task they set themselves at Doha of, among others, making the existing S&D provisions more precise, effective and operational. A number of developed country Members stressed the need to resume work on the outstanding issues. They also spoke of the need for 'periodic reports' of the progress made in this area to the General Council. A number of developing country Members, while not opposed to the value of discussing some of the cross-cutting issues, stated the need to maintain the priority on the Agreement-specific proposals.

² The feedback was later circulated on 28 October as part of my opening remarks at that meeting.

During the consultations on the text, the African Group put forward draft language for the Ministerial text,³ which inter alia sought to revert the consideration of the Category II proposals, currently being addressed in other bodies, to the Special Session. However, a number of Members expressed the view that the issues raised in these proposals were too technical to be addressed in the Special Session, and were related to the ongoing negotiations and that they could not be addressed in isolation of the work in these negotiating groups.

Based on the comments made, the draft text for the Ministerial Declaration was revised and discussed at the reconvened formal meeting held on 21 November 2005. Members did not express any fundamental concern with the language that had been tabled. As a result, and based on the additional comments made at that meeting, the draft paragraph was revised and forwarded to the General Council Chairman for inclusion in the draft Ministerial Declaration.

The general feeling that seems to exist amongst Members is that Ministers will need to provide political direction to the future work, including on the importance of addressing the developmental concerns of developing countries, especially the LDCs. A decision may also need to be taken on the possible adoption of the proposals that have been agreed to in principle or which may be agreed to at Hong Kong, and on the deadlines for completing work on the remaining Agreement-specific proposals, including those that have been referred to other WTO bodies.

³ Job(05)/305