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**Committee on Trade and Development
Eighteenth Special Session**

NOTE ON THE MEETING OF 7 DECEMBER 2004

Chairman: Mr. Faizel Ismail (South Africa)

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A. ADOPTION OF THE DRAFT AGENDA

1. The Chairman indicated that the draft agenda was contained in Airgram WTO/AIR/2453 dated 23 November 2004. The agenda contained two items; one relating to the discussion of the Agreement-specific proposals and the other relating to the cross-cutting issues. He said that he intended, as indicated in his fax of 3 December, to first share and discuss with Members some of his suggestions on the elements that could help take the work on special and differential treatment (S&D) forward. Then, time permitting, he would proceed to deal with the substantive items on the agenda.

2. The agenda was adopted.

3. The Chairman recalled that the formal meeting of the Special Session held on 28 October, had been a positive and productive meeting. At that meeting Members had made a number of useful suggestions on the best way to proceed. While some Members had raised concerns that work on the cross-cutting issues should in no way take focus away from the work on the Agreement-specific proposals which had to be completed by end July 2005, others were of the view that addressing some of the cross-cutting issues would enable progress to be made on the remaining Agreement-specific proposals. Members had suggested that one way of looking at both these areas simultaneously would be to identify the underlying issues that the proposals were seeking to address and to then have a focused discussion on those issues in thematic clusters. Members had also indicated that further work on the remaining Agreement-specific proposals as well as on the cross-cutting issues should be carried out in informal consultations. He said that he had reflected on those suggestions and had held some informal consultations to identify possible elements that could guide future work on S&D. Based on those consultations, he had attempted to put together an informal conceptual approach on the way forward.

4. The Chairman said that in the fax sent to Members on 3 December he had signaled his intention to discuss his informal suggestions. He hoped that Members had had time to consider the elements of his suggested approach, which were in line with the Doha Mandate and the July Decision. In fact, reference had been made to both paragraph 44 of the Doha Ministerial Declaration and paragraph 12 of the Decision on Implementation-Related Issues and Concerns in the approach. He also emphasized that the elements of the approach were not intended to, in any way, dilute the flexibilities that were already available to developing countries under the existing S&D provisions. In attempting to identify possible elements that could guide Members' work, he had come up with a

non-exhaustive and indicative list of elements that could be useful in addressing the remaining S&D proposals. These elements included:

- (a) that effective market access for products of export interest to developing countries into world markets remained a critical objective of developing countries in the Doha negotiations and an important means of enhancing their economic development;
- (b) that enhanced flexibility in WTO rules, with appropriate transitional arrangements, should enable the development of developing countries. These additional flexibilities should be made available to those Members that were in need of them to address particular development challenges whilst ensuring that there was no a priori exclusion of any developing country from such a situational flexibility. There should be multilateral monitoring of the use of those flexibilities;
- (c) that these flexibilities in the rules would need to be consistent with a multilateral rules-based system that could effectively manage the trading relationships between all WTO Members. The disciplines of a strengthened multilateral rules-based system also remained important for supporting developing countries' efforts to build their competitiveness and integration into the world economy; and
- (d) that enhanced capacity-building programmes would need to be developed to assist countries to implement WTO rules and address supply-side constraints.

5. He hoped that those elements could assist Members in addressing the remaining Agreement-specific proposals and that Members should re-examine each of the remaining Agreement-specific proposals with two possible non-exclusive options in mind. The proposal being addressed could either be redrafted or merged with other similar proposals in accordance with the approach. At the same time, the underlying development issues raised by the proposal could be addressed in the context of some of the cross-cutting issues that had been raised. He said that in that context he had reflected on the list of cross-cutting issues that had been raised in the previous meetings. Many of the cross-cutting issues seemed to be effectively included in the broad approach which Members had discussed earlier, and which he had attempted to conceptualize. As for the remaining cross-cutting issues, they could be clustered into four thematic groups. Those four broad groups had been indicated in the fax of 3 December. He said that based on Members' response to these initial suggestions, he intended to begin a more detailed discussion of the remaining Agreement-specific proposals and the cross-cutting issues on the basis of the four thematic clusters. Members could consider combining the first two groups to create one thematic cluster and the last two groups to create another thematic cluster; discussions on which could be held sequentially to enable the participation of all delegations. He said that if Members were to agree on the suggested approach, he would then hold open-ended meetings in which he would combine discussions on the Agreement-specific proposals and on the thematic clusters, so as to enable a dynamic interaction between the two threads of the approach. He was however open to any suggestions that could contribute to taking the work forward.

6. Thereafter, the meeting continued in an informal mode.

7. While during the informal consultations, Members were cautiously positive and appreciated the Chairman's efforts in attempting to come up with an approach to take the work on S&D forward, they stressed that it should remain an informal approach. They raised a number of concerns and posed questions on how some of the suggested elements in the approach could be operationalised. A number of Members felt that the approach was aimed more towards a review of the basic concept of S&D rather than towards making the Agreement-specific proposals more precise, effective and operational as mandated by paragraph 44 of the Doha Ministerial Declaration. In that context, they

stated that any approach on further work must be consistent with paragraph 44 of the Doha Ministerial Declaration and paragraph 12.1 of the Decision on Implementation-Related Issues and Concerns.

8. A number of Members questioned how the concept of situational flexibility could be put into actual practice, considering the difficulty in predetermining all possible situations. Concerns were also raised about the possibility of the situational flexibility approach leading to an implicit differentiation among developing countries and possibly leading to discussions on graduation. Members alluded to the fact that situational flexibility was still a new notion that was being discussed in other institutions. Some Members felt that such an approach would imply a complete change in the existing concept of S&D and consequently in the balance of rights and obligations of Members. One least-developed country (LDC) Member stated that LDCs would need to be automatically granted all such additional flexibilities as they already faced all the situations that were likely to be considered. With respect to the notion of multilateral monitoring mentioned in the conceptual approach, a number of Members asked whether this mechanism was the same as the Monitoring Mechanism that had been earlier proposed by the African Group which, among other things, was to monitor the implementation of WTO agreements.

9. Although most Members acknowledged the importance of increased market access for products of export interest to developing countries and the fact that it remained a critical objective of developing countries in the Doha negotiations and an important means of enhancing their economic development, some of them were of the view that the Special Session was not the forum in which to negotiate market access issues and felt that there should not be such an explicit reference made to it in the approach. Other Members however appreciated its inclusion which they believed followed an offensive approach to S&D.

10. Some Members felt that the approach seemed to give undue emphasis on development being the end purpose of S&D, instead of helping developing countries integrate into the multilateral trading system, which they felt should be the main objective of S&D. One Member said that it did not believe that applying current WTO rules necessarily impeded the governments of developing countries from pursuing appropriate pro-development policies. It was rather adherence to the rules of the WTO that was principally in itself supportive of development. Allowing enhanced flexibility in an automatic manner could potentially be counter-development as it might actually impede taking necessary reforms. That however did not exclude the possibility that in certain situations there might not be sufficient flexibility in the existing rules for developing countries to address particular developmental constraints that they might face at any given time. This Member believed that flexibility should only be sought and applied in situations where there was a clear link with development and where it could be shown that the existing WTO framework represented an impediment to the achievement of developmental goals.

11. The Chairman said that answers to many of the questions that had been posed would only become clear through further consultations. He said that Members would need to discuss, among other issues, the criteria that could be used for determining situational flexibilities, and how such flexibilities could be monitored. In view of the fact that Members generally wanted more time to reflect and consult among themselves on the approach, no discussions were held on the agenda items relating to the Discussion of Agreement-Specific Proposals and Cross-Cutting Issues. Accordingly, the Chairman said that he would hold further consultations early in 2005 to continue discussions on the approach.

12. The Chairman also reported on his meeting of 29 November with the Chairpersons of the bodies to which the Category II proposals have been referred. He said that the Chairpersons had provided him with a status report on the proposals that their respective bodies were addressing, and although very little progress had been made on the proposals, the Chairpersons had shown a renewed commitment to ensure that the proposals were addressed expeditiously with a view to fulfilling the

mandate contained in the July Decision. It seemed that in some cases the discussions had not been substantive either because the proponents had not been able to be present or because Members had just not engaged fully. He said that he had highlighted the importance of coordinating the dates of the meetings of the different bodies so as to prevent an overlap. He would remain in close contact with the various Chairpersons so as to ensure that the Special Session maintained a supervisory role and that work in the various bodies was pursued expeditiously.

B. OTHER BUSINESS

13. Since no issue was raised under other business, the Chairman closed the meeting by thanking Members for their positive engagement and indicated that the next formal meeting of the Special Session would be held early in February 2005.
