

# WORLD TRADE ORGANIZATION

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## Committee on Trade and Development Twenty-First Special Session

### NOTE ON THE MEETING OF 19 AND 27 JULY 2005

*Chairman: Mr. Faizel Ismail (South Africa)*

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#### A. ADOPTION OF THE AGENDA

1. The draft agenda for the meeting as contained in Airgram WTO/AIR/2622 of 8 July 2005 was adopted.

2. Before moving on to the substance of the agenda, the Chairman informed Members on how he intended to proceed at the meeting. He said that the two items on the agenda related to the Agreement-specific proposals and the Chairman's report to the General Council. He said that under the first item, he would inform Members on the work that had been carried out over the past few weeks on the remaining LDC proposals, a copy of the last language on which was available for Members' consideration. Under the item on the Chairman's report to the General Council, he intended to inform Members on the structure of the report and seek guidance on some of the elements relating to future work in the Special Session.

#### B. AGREEMENT-SPECIFIC PROPOSALS

3. The Chairman recalled that at the last informal consultations held in June 2005, Members had taken up the five remaining LDC proposals and had a first reading of the remaining Agreement-specific proposals tabled by the African Group. During discussions on the LDC proposals, a number of concerns and suggestions had been made which he believed had provided a useful basis for the LDCs to revise their proposals. Since those consultations, a number of plurilateral consultations had been held in an attempt to reach convergence on the LDC proposals. Based on those consultations the LDCs, with the assistance of other Members, had redrafted their proposals. Further intensive consultations had been held with a group of Members in an attempt to come up with language that would be acceptable to Members and provide a basis for making recommendations on the LDC proposals. Based on these consultations he had, on his own responsibility, put forward language that in his view could create a basis for possible consensus. While he recognised that there might still be some discrepancies with the language that he had put forward, he did believe that considerable progress had been made and that the language provided a useful basis on which Members could work towards reaching convergence. He urged that when considering the language, Members should keep in mind the basic objective of supporting the needs and concerns of LDCs. He said that a large number of political commitments had already been made in this respect, including at the last

G8 summit, and Members should now concretise some of those commitments made in favour of the LDCs.

4. Thereafter, the meeting continued in an informal mode during which the Chairman introduced the changes made to the last language considered on the five remaining LDC proposals. As Members seemed close to an agreement on two of the proposals, discussions focused on the remaining proposals relating to the Understanding in Respect of Waivers of Obligations under the GATT 1994; the Agreement on Trade-Related Investment Measures; and that relating to the Decision on Measures in Favour of Least-Developed Countries.

5. During the discussions, Members again expressed their commitment towards addressing the problems faced by the LDCs. However, a number of them expressed concern about the open-ended exemptions being sought in some of the proposals. They felt that seeking such exemptions from the WTO Agreements would not necessarily lead to development. During discussions on the proposal on waivers, a number of Members reiterated the need to ensure that the granting of waivers would not be detrimental to the interests of other developing country Members. The LDCs stated that even though their intention was not to seek waivers that would negatively affect the interests of other Members, in actual practice it may be difficult to seek a waiver that did not have some effect, however minimal, on other Members. They therefore felt, that specifying this as a conditionality in the recommendation would render the proposal ineffective. The LDCs also felt that the language under consideration already provided Members with the opportunity to consider the waiver request and decide on whether or not to agree to grant it. On the proposal seeking 'bound' duty-free and quota-free market access, a number of Members stated their willingness to accept language that would ensure predictable, secure and sustainable market access for LDCs, but said that they could not agree to the binding of this preferential access. However, one Member felt that providing predictable, secure and sustainable market access could be interpreted as an obligation to preserve preferences which would be difficult to accept. Another Member stated that binding market access would be legally difficult since this would entail binding schedules which were currently provided on an MFN-basis. Although, [the proposal relating to the TRIMs Agreement,] Members appreciated the changes that had been made to the original language on a number of them remained concerned about the self granted exemption being sought from the TRIMs Agreement. Some Members felt that new TRIMs should be best considered through a waiver process and that existing TRIMs be provided a new period of notification. These Members believed that it was important for any proposal to maintain existing TRIMs or to introduce new TRIMs to be a result of due process rather than on the basis of the kind of automaticity that was implied in the proposed language.

6. Although Members engaged constructively in the process and seemed close to agreement on some of the proposals, they were unable to come to an agreement on recommendations on any of the LDC proposals.

7. The meeting was suspended and thereafter reconvened on 27 July 2005.

8. The Chairman conveyed his appreciation to Members for their active participation in the consultations on the LDC proposals that he had carried out over the past few months. Members had engaged constructively in what had at times proved to be a difficult debate. The exercise had been constructive and intellectually stimulating, and it was encouraging that Members had approached the work on the LDC proposals with seriousness and had made a conscious effort to bridge their differences on some conceptually difficult and technical issues. He believed that the negotiations on S&D over the past few months had been a period of learning. Members had become made aware of the needs and interests of the LDCs and had an opportunity to consider what was needed to be done in order to assist the LDCs. He was certain that the LDCs had in turn learnt a lot from the discussions, which would come in use when continuing work on their proposals after the summer break. He said that Members needed to realise that they would need to make some sacrifices and maintain a spirit of

solidarity for an agreement to be reached on the LDC proposals. In this context, it was heartening to note that the LDCs had shown that they were also willing to be flexible to take into account the interests of other Members. It was important for Members to build on that spirit of "give and take" as the negotiations progressed.

9. The Chairman went on to say that it was clear from the discussions over the past few months that it would not be appropriate to backload the work in the last few weeks before the Hong Kong Ministerial Conference. A lot of work would need to be carried out very quickly after the summer break because the issues were not only politically difficult but also technically complicated. It was also clear that Members would need time to reflect on the proposals as new language emerged. Undoubtedly, the work on S&D could not be rushed and Members would need to be ready to very quickly resume work in September 2005.

C. CHAIRMAN'S REPORT TO THE GENERAL COUNCIL

10. The Chairman indicated that his report to the General Council would comprise three sections. The first section would be an introduction which would make reference to the different mandates, on S&D. The second section would relate to the progress and status of work since the July Decision and would be largely factual. This section would also attempt to capture the concerns raised and comments made during the different meetings. It would highlight the fact that all Members had engaged constructively in the negotiations and that discernable progress had been made in bridging some of the gaps, and as a result convergences had definitely emerged. Though Members had shown a great deal of flexibility, there were still several issues that remained unresolved and the Special Session would therefore not be in a position to make any recommendations for a decision on any of the remaining Agreement-specific proposals. The last section relating to future work, would detail how the Special Session should structure its work after the summer break. The Special Session would no doubt have to take up the remaining Agreement-specific proposals in order to be able to report with clear recommendations to the General Council and the Hong Kong Ministerial Conference. That work would be carried out within the parameters of the mandates contained in paragraph 44 of the Doha Ministerial Declaration, paragraph 12 of the Decision on Implementation-Related Issues and Concerns and the July Decision. Secondly, the Special Session would have to continue to monitor and coordinate its efforts with the work of other WTO bodies to which the Category II proposals had been referred. Finally, in this section he would reiterate, as mentioned in the July Decision, the need for the Special Session to continue to address all other outstanding work including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D into the architecture of WTO rules and report as appropriate to the General Council.

11. In response to the representative of India, the Chairman clarified that once work in the Special Session resumed, Members would begin by completing work on the remaining LDC Agreement-specific proposals and then move onto addressing the other remaining Agreement-specific proposals.

D. OTHER BUSINESS

12. Since no issue had been proposed for discussion under "Other Business" the meeting was adjourned.

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