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Committee on Trade and Development Twenty-Third Special Session

NOTE ON THE MEETING OF 6 MARCH 2006

Chairman: Ambassador Burhan Gafoor (Singapore)

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A. ADOPTION OF THE AGENDA

1. The draft agenda for the meeting as contained in airgram WTO/AIR/2766 of 24 February 2006 was adopted.

B. CONFIRMATION OF APPOINTMENT OF THE CHAIRPERSON-DESIGNATE

2. The Chairman-designate proposed that, following the consensus in the 8 February General Council on the slate of names of Chairpersons, the Special Session of the Committee on Trade and Development (Special Session) confirm his appointment as Chairperson. Ambassador Burhan Gafoor's Chairmanship was accordingly confirmed.

3. On behalf of all Members and the Secretariat, the Chairman thanked the former Chairman Mr. Faizel Ismail for his tireless efforts and hard work. He said that Mr. Ismail had taken on the Chairmanship at a difficult time and deserved credit for taking the process forward. He wished him well in his new appointment as Chairman of the Committee on Trade and Development. Members which took the floor during the meeting also expressed their gratitude to Mr. Faizel Ismail for his dedication and commitment to the work of the Special Session.

C. AGREEMENT-SPECIFIC PROPOSALS

4. Before moving on to the substance of the agenda, the Chairman requested that his proposed work plan, as suggested and agreed to by Members at the informal meeting held on 24 February 2006, be included in the record of the meeting.

5. At that meeting, the Chairman had briefed Members on what he felt could constitute the work of the Special Session in the upcoming months. He said that he had, over the past two weeks, held consultations both bilaterally and plurilaterally with various Members and had met with the African Group, GRULAC, the ACP Group, developed and other developing country Members. He had also met twice with the LDC Group. Overall, he had been encouraged by those consultations and had

sensed a willingness on the part of all stakeholders to engage constructively to move the process forward. He had shared some of his thoughts on how Members could organize their work over the coming months. The Special Session did not work in isolation and its work was clearly part of a wider negotiating process. Members needed to recognise that the Doha Round was moving towards its concluding phase. The context and dynamics in the post-Hong Kong situation were different and there was pressure on all the negotiating bodies, and consequently also on the Special Session, to complete the pending work by December 2006. Discussions in the Special Session therefore needed to be focussed and text based. That was the message the Chairman of the TNC had also been conveying. Members, had adopted the five LDC proposals at Hong Kong. It had been a difficult process but represented an important small step forward. This had been possible because Members had been focussed and had demonstrated the necessary political will and flexibility needed to reach an agreement. He hoped that Members could demonstrate the same political will and flexibility while addressing the remaining proposals.

6. The Chairman went on to say that the mandate for the Special Session was clearly set out in paragraphs 35-38 of the Hong Kong Ministerial Declaration. Essentially, the Special Session had to focus on three main areas. First, the Special Session had been mandated 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 December 2006. Second, the Special Session had to continue coordinating its efforts with those of the WTO bodies to which the Category II proposals had been referred. Those bodies had also been instructed to make clear recommendations on the Category II proposals for a decision no later than December 2006. Third, the Special Session had also been instructed to resume work on all other outstanding issues, including on the cross-cutting issues and report on a regular basis to the General Council. Additionally, Members would also need to take a decision about the package of 28 Agreement-specific proposals on which Members had reached an in-principle agreement. That was one of the positive results of the work done so far and he saw no reason why Members should let the opportunity of adopting those proposals slip away.

7. The Chairman said that it was clear that the mandate of the Special Session fell broadly into two clusters. One cluster related to the Agreement-specific proposals and the other cluster related to the other outstanding issues. An informal note reflecting the status of the Agreement-specific proposals had been made available to Members. Annex I of that note, showed that of the 88 Agreement-specific proposals that had been tabled in the Special Session, 38 proposals, also known as the Category II proposals, had been referred to other negotiating and WTO bodies. That had left 50 Category I and III proposals under consideration in the Special Session. Before Hong Kong, Members had reached an in-principle agreement on 28 proposals, one of which was from Category II. This left 23 proposals, of which Members had, at Hong Kong, adopted five LDC proposals. This left 18 proposals pending for consideration in the Special Session, of which two related to the Agreement on Textiles and Clothing which had since expired. Of the 16 remaining proposals, eight were Category I proposals and the other eight were Category III proposals. In his view, Members needed to begin by focusing on the eight remaining Category I proposals based on the last language considered.

8. With regard to the outstanding issues, the Chairman said that the mandate to resume work on all outstanding issues was clear. His sense from the informal consultations, was that Members were prepared to resume discussions on the outstanding issues, including on the cross-cutting issues, the Monitoring Mechanism, and the incorporation of S&D into the architecture of WTO rules. It was important that Members remained faithful to what Ministers had decided at Hong Kong. However, what the results of resuming work on the those outstanding issue would be, was for Members to decide. In his view, that work needed to follow a bottom-up approach. As Chairman, he had no preconceived ideas or vision of what the result of that aspect of the work would be and he had no intention of steering Members in any pre-determined direction. In fact, it was up to Members to guide

him. He would provide the environment as well as act as a facilitator of those discussions. However, the responsibility of taking that process forward lay with Members

9. The Chairman said that he had met with the LDCs on two occasions. He recognized the importance that the LDCs attached to the implementation of the decision on duty-free quota-free (DFQF) market access. He recognized that the modalities of implementing that decision remained to be settled. Members would recall that at the closing Plenary Session of the Hong Kong Ministerial Conference, the Chairman had stated that paragraph a(ii) of the DFQF decision was a framework and that developed Members and developing Members declaring themselves in a position to do so, would need to consider the means by which they would implement the decision. He was therefore conscious that there was still work to be done in this regard. However, at the same time, it was important that Members did not re-open or re-interpret any aspect of the decisions taken at Hong Kong. Informal consultations were apparently underway between the LDCs, other stakeholders as well as with the Director-General. He said that he would await further developments in this regard.

10. The Chairman added that, in his view, the Special Session should focus on the eight remaining Category I Agreement-specific proposals and that the discussions should be text based. The aim should be to narrow the differences and reach an agreement on possible recommendations that could be made to the General Council. He also hoped that Members could have a first reading of the remaining eight Category III proposals before the summer break. Members should begin work on the basis of the last language considered, which had been circulated. This would not prejudice any Members' position, and Members would be free to table amendments as part of a text-based discussion. However, he hoped that such amendments would be focussed and specific, and tabled with a view to building on the last language considered. In terms of the timing of the meetings, he said that the Special Session would need to report regularly on progress to the General Council at its meetings scheduled for May, July and October as contained in the Doha Work Programme Timelines for 2006¹ circulated by the Chairman of the TNC. Work in the Special Session would therefore need to be synchronized with the reporting requirements to the General Council, so that the Special Session would be in a position to provide an update on all aspects of the mandate. A formal meeting had been scheduled on 6 March in which Members could take up the eight Category I proposals. A formal meeting had also been scheduled for 7 April at which Members could continue their consideration of the eight Category I proposals, review progress on the Category II proposals, and resume discussions on the outstanding issues. The March and April meetings could actually be considered as two parts of a single meeting, and therefore if Members were unable to complete the discussions on the eight Category I proposals, the discussions could carry over into the April meeting, at which the other outstanding issues would also be taken up. He would then be able to report to the General Council in May that the Special Session had addressed all aspects of the mandate. In that sense, the April meeting was a continuation of the March meeting.

11. The representative of Switzerland said that she was pleased that Members had been able to reach an agreement on the five LDC proposals in Hong Kong, especially on the issue of DFQF market access for them. Work in her capital had already begun on the means of implementing the decision. She agreed that Members needed to do further work on the DFQF framework. Work done in 2005 on the LDC Agreement-specific proposals had showed Members that certain preconditions were necessary in order to reach an agreement. In her delegation's view, the determining factors had been firstly, the LDC's readiness to spell out their objective in a precise and operational manner. This had helped Members to reduce the complexity involved in the proposals and had led to their being a manageable number of proposals on the table. Secondly, the LDC's had engaged in a dynamic dialogue with all other Members. Thirdly, and most importantly, Members had shown a political will to come to a solution on the LDC proposals. Her delegation agreed with the Chairman's suggested work plan, including the fact that further work should be on the basis of the last language considered.

¹ JOB(06)/13.

However, she cautioned that Members were not necessarily close to agreement. In that regard, she acknowledged that there was a high expectation with regard to the possible contribution of those proposals to 'development'. The views on what should be the characteristics of 'development' and the policies needed to promote 'development' had evolved over time. As a consequence, policy responses which reflected the conception as to what constituted development had shifted. Members needed to be aware that there was no consensus on a single set of economic best practices that could lead to development. Negotiating results would therefore always be a compromise that might not fully satisfy the aspirations of the proponents. WTO Members required a set of policy options to pursue developmental objectives with the instruments they believed to be most suitable to their situation. However, countries had become Members of the WTO because of the advantages that a universal system of rights and obligations provided. 'Costs' to other Members or to the system needed to be thoroughly assessed and minimized, before accepting any proposal to deviate from the rules. In her delegation's view, externalities of costs could be minimized by making the deviations from the rules focused and responsive to specific problems. The proponents therefore needed to clarify the specific problems which they were facing. With respect to the organization of work, she believed that working informally in small groups, as had been done in the run up to Hong Kong, was the most efficient way to proceed. Her delegation also felt it would be useful to begin smoothly into discussions on the cross-cutting issues.

12. Speaking on behalf of the LDCs, the representative of Nepal said that the LDCs attached great importance to the work of the Special Session. S&D issues were at the heart of the development dimension of the Doha Round. In their view, S&D provisions, if made precise, effective and operational for LDCs, had the potential to result in meaningful market integration. At the informal meeting, the Chairman had asked the LDCs whether they felt that it would be in their interest to have the implementation issues of the DFQF decision dealt with under one body. Upon reflection, the LDC Group had concluded that its interests would need to be addressed in the different relevant bodies, such as the Negotiating Group on Market Access, the Special Session of the Committee on Agriculture and the Special Session itself. However, the Special Session should be the main body dealing with the Hong Kong Ministerial decisions as that was the negotiating body established to address S&D issues. The LDC Group wished to see the issue of defining the implementation modalities of the DFQF market access for all LDCs for at least 97 per cent product coverage and the development of simplified and transparent rules of origin addressed in the Special Session. The LDC Group also believed that it would be of vital importance to keep the Negotiating Groups on NAMA and Agriculture informed of the further negotiations on DFQF market access and rules of origin held in the Special Session. As the modalities on agriculture and NAMA were to be finalized by April 2006, it was important that the LDC issues relating to DFQF market access were also concluded by April 2006. If that did not happen, then the concerns of the LDCs would not get incorporated into the modalities on Agriculture and NAMA. It was also worth noting that paragraph 24 of Annex B of the Hong Kong Ministerial Declaration referred to the fact that the question of DFQF market access for LDCs was being examined in the Special Session. The LDCs would also be counting on the Chairman to ensure that Members confined themselves to a discussion of what was agreed to by the Ministers at Hong Kong and that the DFQF decision was not opened in any way. At the closing Plenary Session of the Hong Kong Ministerial Conference, the Chairman had made it clear that Annex F of the Ministerial Declaration was a framework and that the modalities for implementing that decision would need to be worked out after Hong Kong. Members had not yet reached the stage of implementation, before which the modalities of implementation would need to be finalized. The LDCs therefore felt that the DFQF market access issue must remain in the Special Session, until modalities for implementation had been agreed. LDCs were seeking precision, effectiveness and an early operationalization of the DFQF decision. In doing that the LDCs were seeking improved market access opportunities as the most vulnerable group of WTO Members.

13. The representative of the United States said that her delegation had a strong interest in implementing the commitments undertaken at Hong Kong. However, in her delegation's view,

Ministers had mandated that the implementation of that decision be carried out in the Regular Session of the CTD. Her delegation was prepared to discuss those issues but did not think that there were issues that still needed to be negotiated. Her delegation considered this to be more of a discussion on how Members would implement what they had already negotiated and agreed at Hong Kong. Her delegation believed that these issues could also be taken up in the Sub-Committee on Least-Developed Countries. However, this was an issue that would need to be discussed at other levels and, at this stage, her delegation could not agree to the proposal put forward by the LDCs that the modalities of implementing the DFQF decision be discussed in the Special Session.

14. The Chairman urged the delegations which had an interest in the DFQF issue to undertake informal consultations among themselves. He said that the Special Session would revert to that issue at the next formal meeting.

15. Moving on, he said that discussions on the remaining Category I Agreement-specific proposals would be based on the last language considered, which he had made available to Members. He suggested that Members address the proposals one by one beginning with proposal nos. 28-30 on Article 3.5 of the Agreement on Import Licensing, followed by proposal 13 on GATT Article XVIII. Subsequently, the three remaining proposals could be taken up. The reason he was suggesting a particular order was because he had been made to understand that Members had made considerable headway on those proposals.

16. The meeting thereafter continued in an informal mode.

17. During the discussions on proposal nos. 28-30 on Article 3.5 of the Agreement on Import Licensing, most Members felt that developing country Members facing difficulties in providing import statistics with respect to products subject to import licensing could be provided some flexibility, as long as the overall objective of transparency was not compromised. While the proponents agreed that it was important not to compromise transparency, they felt that some flexibility should be accorded to countries which faced difficulties in providing statistics. They also felt that there needed to be more precision in giving special consideration to developing countries in the allocation of licenses. Some Members, however, did raise concerns about providing a blanket exemption for Members not to provide statistics and stated that only those countries lacking the administrative and financial capacity to provide such data should be accorded limited flexibility. As for proposal no. 13 on GATT Article XVIII, a number of developed country Members questioned the intent of the proposal and sought clarification as to the specific problems that the proponents had experienced with Article XVIII in the past. In the proponents' view, Article XVIII was a policy tool for industrial development which countries at 'early stages of development' needed to address their development objectives. The intention was to make Article XVIII more precise and operational so that it fulfilled its purpose. A number of Members stated that while they were willing to consider ways of making Article XVIII more precise, they could not agree to language that went beyond the scope of Article XVIII. One Member stated that in its view, the proposal was seeking to rewrite Article XVIII rather than making it more precise, effective and operational. On proposal no.14 on GATT Article XVIII:A, a number of Members stated that giving developing country Members the right to withdraw concessions without due process would render the certainty and predictability that was sought to be achieved in the negotiations useless. A number of Members stated that in addition to involving some sort of due process, the proposal would also need to consider the possible effects on other Members. On proposal no. 22, relating to Article IX and the Understanding in Respect of Waivers of Obligations under the GATT, one Member stated that the concerns it had raised during discussions on a similar proposal tabled by the LDCs had not changed, and that it still remained to be convinced on the need to change the existing language of Article IX for developing countries. On proposal nos. 24-25 on Article 10.3 of the Sanitary and Phytosanitary Agreement, a number of Members highlighted the need to take into account the work that was being carried out in the Sanitary and Phytosanitary Committee in this regard. That would avoid duplication. Thereafter, revised

language on the basis of the discussions, was circulated for proposal nos. 28-30 on Article 3.5 of the Agreement on Import Licensing and proposal no. 13 on GATT Article XVIII. It was agreed that the Special Session would revert to these proposals at its next meeting.

18. While concluding the meeting, the Chairman said that Members had had a good first round of discussions on the Category I Agreement-specific proposals. The atmosphere had been constructive and the tone had been positive. All stakeholders had shown signs of flexibility which was encouraging. While all of the proposals needed more work, it was clear that some of them needed more work than the others. He would continue informal discussions on some of the proposals, and at the April meeting he would continue the consideration of these proposals. He asked Members to be prepared for discussions on all the proposals at the next formal meeting. At the April meeting, he also intended to resume work on all the other outstanding issues as mandated by Ministers in the Hong Kong Declaration. In that regard, and as he had mentioned, he hoped that the different stakeholders would undertake informal consultations among themselves, to consider ways in which they wished the Special Session to proceed on those issues. At the April meeting, he would also brief Members on the status of the Category II proposals. He was in the process of writing to the various Chairpersons of the bodies to which the Category II proposals had been referred and he would be stressing the need for them to expedite work on those proposals. He would also ask them to communicate the dates of the various meetings at which the S&D proposals would be taken up, so as to enable Members to have some advance notice and attend the meetings in which the proposals would be taken up.

19. The representative of China requested that the responses by the various Chairpersons on the status of the Category II proposals be circulated to Members in order to provide them with a better understanding of the situation. It was so agreed.

D. OTHER BUSINESS

20. No issue was raised under "Other Business".
