

# WORLD TRADE ORGANIZATION

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

### NOTE ON THE MEETING OF 19 MARCH 2007

*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/2974 of 6 March 2007 was adopted.

#### B. AGREEMENT-SPECIFIC PROPOSALS

2. The Chairman began by recalling the three elements of the Special Session's mandate, namely to (i) complete the review of all the outstanding Agreement-specific proposals and make clear recommendations for a decision; (ii) coordinate its efforts with other WTO bodies and negotiating groups so as to ensure that the work on the Category II proposals was completed; and (iii) resume its work on all other outstanding issues, including on the cross-cutting issues and report on a regular basis to the General Council. He said that at the informal open-ended meeting held on 15 February 2007, he had mentioned the need for Members to continue discussions on the two submissions tabled by the LDCs on the duty-free quota-free (DFQF) market access decision. That was a discussion that usually took place under the agenda item on the Agreement-specific proposals. At that meeting, he had also informed Members on how he intended to proceed in the following months. He recalled that there were 16 remaining Agreement-specific proposals; eight under Category I and eight under Category III. Members had engaged in detailed text-based discussions on the eight Category I proposals. As a result of work carried out over the past year, Members had been able to come up with revised language on six of the Category I proposals, namely on proposal no. 13 relating to GATT Article XVIII, two proposals nos. 24 and 25 relating to Article 10.3 of the SPS Agreement and three proposals nos. 28, 29 and 30 relating to Article 3.5 of the Agreement on Import Licensing. He said that at the informal open-ended meeting, Members had agreed that the Chairman undertake informal small-group consultations so as to have more focussed discussions on the Agreement-specific proposals, which he had accordingly done.

3. The Chairman went on to inform Members of the developments in the informal consultations he had held on the Agreement-specific proposals. Members had had in-depth, text-based discussions on the six Category I proposals and on one Category III proposal, proposal no. 79 relating to the SPS

Agreement. On proposal no. 13 relating to Article XVIII of GATT, discussions had continued on the basis of the revised language of 6 March 2006. While Members were not able to further revise the language, the discussions had led to several new ideas being put forward. Those ideas had been put together by the Chair in a "catalogue of ideas" which was made available to Members. He said that the language in the brackets represented the ideas that had emerged during the consultations, while the language not contained in brackets represented the revised language of 6 March 2006 which Members had earlier endorsed as the basis for carrying out further work. Members also had before them a room document dated 19 March 2007 which was a compilation of the previously revised language on six of the proposals. That language would enable Members to keep track of the discussions as they evolved. He said that during the consultations, discussions on proposals nos. 24 and 25 relating to the SPS Agreement were based on the revised language of 31 May 2006. That language had not been further revised. On proposals nos. 28, 29 and 30 relating to Article 3.5 of the Agreement on Import Licensing, discussions had continued on the basis of the revised language of 6 March 2006. Again, Members were unable to further revise the language and there were one or two issues which still needed resolving. During the consultations, Members had also considered proposal no. 79 tabled by India on Article 10.2 of the SPS Agreement. He recalled that he had decided to take up that proposal along with proposals nos. 24 and 25 on the SPS Agreement because it had seemed that with a bit more work, Members could reach convergence. During earlier discussions on that proposal, he had proposed that the delegation of India provide Members with some decision-type language, on the basis of which Members could work. During the small group consultations, Members had engaged in discussions on the basis of some language provided orally by India. Unlike the other six proposals, Members had not got into text-based discussion on that proposal. However, he was willing to continue considering that proposal along with the other SPS proposals.

4. The Chairman went on to say that the work of the Special Session over the last year had enabled Members to come up with revised language on six of the remaining Agreement-specific proposals. The revised language on those proposals did not mean that all the issues had been resolved. It provided a basis for an eventual package and represented a first approximation of what was possible. It was his sense that the small group meetings had enabled Members to get a better sense of what was possible and what was not possible. On the nine remaining proposals, eight of which belonged to Category III and one which belonged to Category I, his candid assessment was that it would be difficult to build convergence based on the language currently on the table. If Members were to build convergence on those nine proposals, the stakeholders needed to put forward new language or new ideas. Without that new language or those new ideas, it would not be worthwhile to spend time on those proposals. Members had already had a first reading of these proposals in July 2006 and discussions had also taken place in a small group context. Engaging in another round of general discussions on those proposals would not be useful. This was not meant to be a judgement about the merit of the proposals; it was more from a process point of view in terms of ensuring that Members utilized the time available in the best possible way. He said that his intention at this meeting was to consider the six proposals in an open-ended setting. After that, he would devote some time to proposal no. 79 on the SPS Agreement. As he had mentioned earlier, he did not intend to take up the remaining nine proposals at this meeting; in fact, his intention was to set them aside until Members put forward new ideas or new language.

5. The representative of China recalled that at the small group meeting the Chairman had encouraged Members, especially those which had strong concerns on the proposals, to reach out to each other and consult among one another to find solutions to all the proposals. That was something that the wider Membership needed to keep in mind.

6. The Chairman concurred with the representative of China and said that it was important that delegations talk with one another and find the areas of convergence in order to get a sense of what was doable. He was pleased that some delegations were already consulting amongst themselves on some of the proposals.

7. The meeting continued in an informal mode.

8. During discussions on Article XVIII, which were based on the "catalogue of ideas", most Members signalled their willingness to proceed on the basis of three of the paragraphs. In their view, the paragraph relating to developing and least-developed country Members not being expected to undertake measures that undermined the attainment of the goals of Article XVIII was too open-ended. The paragraph relating to Members undertaking to elaborate a multilateral framework on the provisions of the Article XVIII was also considered unclear. One Member alluded to the fact that there were fundamental differences between the balance of rights and obligations under Article XVIII. Some developed country Members questioned the intent of the proposal. In response, the proponents stated that the proposal specifically attempted to help them achieve their developmental goals, something that was at the heart of the Doha Round of negotiations. Another Member pointed out that Article XVIII was a development-related provision whose procedures needed to be simplified in order for it to serve its purpose. On proposals nos. 28 to 30 on Article 3.5 of the Agreement on Import Licensing, most Members were willing to continue to work on the basis of the language on the table, even though they had some concerns. In particular, reference was made to the need to ensure practicality in the distribution of licenses, especially the allocation of new licenses. On proposals nos. 24 to 25 on Article 10.3 of the SPS Agreement, the proponents stated that they had certain reservations on the Chairman's revised text. On proposal no. 79 on Article 10.2 of the SPS Agreement, it was pointed out that SPS measures were rarely phased and where they were, there was a link between the phase in period and the scientific justification on which the measure was based. This therefore made it difficult to accept longer time-periods for developing countries or to phase in new measures. To the extent that it was possible to allow longer time-frames for compliance, they could be considered on a case-by-case basis. Another way to respond could be through the provision of technical assistance, for example, through the Standards Development Trade Facility (SDTF). In response, the proponents stated that the mere fact that SPS measures were rarely phased in demonstrated the need to look at the operationability of this provision and the resultant practical problems which warranted the need for greater clarity of the provision.

9. The meeting then reverted to a formal mode.

10. On behalf of the LDCs, the representative of Uganda asked whether the DFQF market access issue would be discussed at the next formal meeting and how exactly Members would proceed on the issue. He also asked whether the developed country Members were willing to take further issues related to the DFQF market access decision at the next meeting of the Special Session.

11. The representative of Zambia echoed the questions raised by the representative of Uganda and said that it was important for the LDCs to know when the DFQF market access issue would be discussed so as to enable them to prepare themselves.

12. The Chairman recalled that at the last formal meeting, Members had had before them the two submissions tabled by the LDCs, one on rules of origin and the other on market access. He said that he was prepared to devote time to continuing the discussions on those submissions and would look to the LDCs to provide any updates on consultations undertaken by them with the other stakeholders. He also said that the DFQF market access issue was not one that involved drafting, but rather one that was related to the implementation of a decision adopted by Ministers at Hong Kong. In his view, it was important that the key stakeholders remain in contact with one another to see how to take the question of implementation forward.

13. The representative of the United States announced that there had been a technical error in the e-mail address that had been announced in the US notice requesting comments from the public on the US implementation of the DFQF market access decision. The error had not been realised until 14 March and unfortunately any submissions that had been sent prior to 14 March 2007 had not been

received. The deadline had therefore been extended to 15 April 2007 and her delegation would be publishing an additional Federal Register notice announcing that. Her delegation would also be making another submission to the CTD Regular Session with respect to this particular implementation issue.

14. The representative of Zambia said that the LDCs had responded to the communication issued by the US authorities but unfortunately it had been caught up on the error that the US had just announced.

15. The representative of Switzerland said that her delegation would shortly provide information on the process that the Swiss Government was undertaking to implement the DFQF market access decision. She added that her delegation had always been open to discussing the implementation of the decision in whichever forum the proponents felt most appropriate.

16. The representative of Egypt said that his delegation strongly supported the cause of the LDCs. His understanding of the LDCs concerns was that they wished to know beforehand the format and the manner in which the discussions on the DFQF would be undertaken. Considering the many discussions that had taken place on the issue, there was clearly some concern that the meetings may not result in a fruitful outcome. He suggested that preliminary discussions be held between the stakeholders in order to structure future discussions in a more focused way.

17. The Chairman said that the DFQF market access issue would be taken up at the next meeting of the Special Session scheduled for 26 April 2007. He recalled that when the LDC submissions had been last considered, it was the sense that Members should continue discussions on those submissions. It had also been suggested that questions and clarifications sought on the two submissions should be provided to the LDCs in writing. His sense was that if Members were going to engage in discussions that were different to those that had already taken place, it was important that they provide the comments and clarifications on the two submissions in writing. That would avoid repetitive discussions. As the Chair, he was happy to facilitate consultations among the various stakeholders so as to have a better sense of how to structure the discussions in the April meeting. He suggested that all Members which had a stake in the issue undertake their own small group discussions. How Members progressed on that issue would ultimately depend on whether the stakeholders could build convergence among one another.

18. The Chairman went on to inform Members of the informal discussions he had held during the previous week with a number of Members to discuss ideas on the Monitoring Mechanism. The intention of the discussions had been to get a better idea of where Members were on the Monitoring Mechanism and what they had in mind with respect to its possible structure and functions. To focus the discussions, he had put a number of questions to Members, including, what the structure of the Monitoring Mechanism should be; what exactly the Monitoring Mechanism would do; and what relationship the Monitoring Mechanism would have with other existing monitoring entities. He said that the questions, which had been made available to all the Members, were not meant to prejudge the outcome or Members positions, but were simply aimed at focusing the discussions on the Monitoring Mechanism. He hoped to hear Members' responses to the questions at the upcoming formal meeting of the Special Session scheduled in April. In the meantime, he was available to meet with any delegation that wished to discuss the issue. He said that in the lead up to the April meeting, he planned to hold a series of informal meetings to continue work on the Agreement-specific proposals and on the Monitoring Mechanism.

19. The representative of Uganda said that the African Group submission on the Monitoring Mechanism detailed what could constitute possible elements of a Monitoring Mechanism. His delegation believed that that submission could be a basis for discussions on the Monitoring Mechanism. He urged Members to consider the African Group's submission so that when they next

met, they would have a better idea of what the African Group envisaged on the Monitoring Mechanism.

20. The representative of Hong Kong, China asked whether the Chairman could share any observations from the discussions that had taken place on the Monitoring Mechanism.

21. The Chairman said that the discussions had been very preliminary. Members felt that the questions of structure and scope were interrelated, because the structure would depend on the scope and vice versa. The structure was also related to the relationship with other entities. He said that while the questions had attempted to dissect the issue, it was important to bear in mind that the different elements were interrelated. However, the questions had been thought to be useful and Members had expressed their willingness to continue working on the Monitoring Mechanism.

22. The representative of the Egypt added that the structure and the scope while interrelated, were both related to the achievement that Members would make on the Agreement-specific proposals.

23. The Chairman concluded by making some general remarks. He said that the work of the Special Session was related to the larger process. It was therefore important for the Special Session to continue to work intensively so that once there was movement across the board on other issues and the Doha process entered its concluding phase, the Special Session too would be prepared. This was the reason why he was pushing Members to go as far as they could, because it was important to begin considering the possible package on S&D. He looked forward to the continued and constructive participation of all Members in the upcoming discussions. He said that the next formal meeting was scheduled for 26 April 2007. As for the informal consultations, Members would be informed well in advance.

C. OTHER BUSINESS

24. No issue was raised under Other Business. Before concluding the meeting, the Chairman thanked the outgoing Director of the Development Division, Mr. Alberto Campeas, for his work and dedication, and for providing leadership in the work of the Development Division.

25. The meeting was adjourned.

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