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Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 14-18 March 2005

Chairman: Ambassador Jóhannesson (Iceland)

The Negotiating Group adopted the agenda for the meeting as contained in WTO/AIR/2525 and Add.1. The meeting took place in informal mode. At the request of some delegations, their statements have been reproduced in these minutes.

Non-reciprocal preferences

1. The representative of Kenya, speaking on behalf of the African Group, introduced the African Group proposal on the treatment of non-reciprocal preferences in the current NAMA negotiations (TN/MA/W/49). He wished to start by saying that although the underlying presumption in the WTO was that freer and non-discriminatory trade was always better, this might not be true as a general proposition. For most African economies, liberalisation and structural adjustment programmes since the 1980s had led to the worsening of already weak economic and industrial structures. For such Members, the WTO Doha negotiations had to exemplify appropriate and necessary sequencing to allow for trade to contribute to economic growth, development, employment and industrialization in Africa. For this reason, some African countries would need to continue to utilize non-reciprocal preferences in order to secure a share in the growth of world trade. These preferences had played a key role in strengthening some of the African countries' weak and vulnerable industrial base by increasing export earnings, promoting diversification, attracting investment, facilitating the transfer of technology, all of which had accelerated economic growth and development. Additionally these preferences had helped some African Countries to penetrate global markets with a measure of success. Historically, it had been proven that the strict application of the MFN principle did not allow for development. In fact, the very first article drafted in the history of this institution, Article 1 of GATT 1947 embodied both non-discriminatory and discriminatory treatment, very much like the zebra, which one never described as black or white but rather both. Likewise preferential trade and MFN trade in this institution, operated in tandem, symbiotic, parallelism which was why MFN tariff liberalisation would pose severe developmental challenges for some weak African economies dependent on preferences. This notwithstanding, African countries could consider allowing MFN tariff liberalisation to proceed instead of maintaining their earlier position of a "carve-out" which was legitimate within this rule based multilateral trading system, given the way a number of preferences had been incorporated under Article I of GATT 1947, bound and still in force. Therefore, the Group expected that unequal situations would not be treated equally and that the economic development of this group of countries would not be considered, only after all other modalities.

2. The task ahead of the Negotiating Group on Market Access (NGMA) was to look at how to treat preferences in the negotiations, not to prove whether they had been beneficial or not. This was quite clear in the Decision on the Doha Work Programme adopted by the General Council on 1 August 2004. Indeed, under paragraphs 1 and 16 of Annex B, Members had agreed to consider the issue of preferences in the NAMA negotiations, recognising the challenges faced by non-reciprocal

preference beneficiary Members. In addition paragraph 1(d) under other development issues gave specific reference to preferences as a development tool.

3. The African Group paper pointed to the rationale for non-reciprocal preferences and proposed positive ideas of how these preferences, as a credible instrument of development, should be treated in the negotiations. The paper recognised that reductions in MFN tariff rates such as those proposed by some Members would substantially reduce or erode completely the preferential margins presently enjoyed by a number of African countries. The loss of preference margins would result in increased competition in their traditional export markets leading to a contraction in domestic manufacturing with its attendant consequences. As history had shown, it was unlikely that African countries could develop their manufacturing structures through uncontrolled competitive global environment.

4. The heart of the paper was in section VI where the African Group had made preliminary proposals on the treatment of non-reciprocal preferences. Due to their critical importance as a tool of development, African countries would need to continue benefiting from preferences at least in the medium term. The paper had therefore proposed the use of a correction coefficient to improve on the preference margins for products benefiting from preferential market access, after the application of an approach to be agreed upon. Longer implementation periods would be required to prepare African economies to adjust their manufacturing structures and face global competition gradually. For products which were not zero-rated, the paper proposed that the preference-giving Members would have to maintain, if not improve, the margin of preferences by adjusting the levels of preference rates accordingly.

5. The paper had also recommended that in order to take full advantage of the non-reciprocal preference schemes availed to Africa, the preference-giving Members should improve the conditions attached to such schemes, by making them less stringent while at the same time eliminating market entry barriers. This would be in line with the 2005 Commission for Africa Report released late the previous week which was addressed in part to the G8 members and the international community. The report recommended, among others, an improvement of preferential trade coverage for sub-Saharan Africa and relaxation of the rules of origin. It also recommended that developed countries should immediately extend quota and duty-free access to all exports from Sub-Saharan countries.

6. In conclusion, the African Group looked forward to a constructive discussion and positive progress in the treatment of non-reciprocal preferences in these negotiations. Accordingly, the African Group appealed to Members to refrain from dwelling on the value or basis of preferences as Members were long past that phase. Members had to instead engage meaningfully and agree on development-centred solutions to this important issue.

7. The representative of Mauritius introduced the paper submitted by Benin on behalf of the ACP Group of States (TN/MA/W/53). The paper proposed a methodology to identify products in the ACP countries concerned by erosion of preferences. He stated that he was introducing the paper on behalf of the ACP which comprised of 78 countries, out of which 54 were WTO Members. The ACP also constituted the vast majority of LDCs as well as small, weak and vulnerable countries as could be evidenced by their low level of economic development and their tiny fraction of world trade. Indeed, the share of the ACP countries in world trade stood at less than 2.0 per cent and that too was concentrated on a very limited range of products. This was a clear indication that helping these countries maintain at least their current market share would in no way impact on global trade, which was expected to increase with the removal of trade barriers as a result of the current round of trade negotiations.

8. The philosophy underlying the present submission was, first, to reiterate the agreement reached in August, both in the decision as well as in Annex B, that the issue of preference erosion needed to be addressed in the negotiations as part of the NAMA package as well as the DDA. The

decision reached in August on other development issues called for the particular concerns of developing countries, including preferences, to be taken into consideration in the course of the agriculture and NAMA negotiations. Annex B on NAMA stipulated in paragraph 1 that additional negotiations would be required, amongst others, on the specifics of preferences. Paragraph 16 in its part instructed the NGMA to take into consideration, in the course of its work the challenges faced by non-reciprocal preference beneficiary countries.

9. The submission also laid down a set of objective criteria that could be used to identify the narrow range of products that were concerned with preferences. It was pertinent to note that, by virtue of its narrow scope, preferences could not undermine the broader multilateral trading system. In fact, this issue had been on the GATT agenda since its inception in 1947. Article 1 of the GATT which laid down the basic principle of non discrimination stipulated that the MFN principle shall not require the elimination of preferences in respect of import duties or charges, under conditions obviously. This was testimony that preferences had been part and parcel of the system right from the very beginning. This had, however, not prevented the liberalisation of trade at the multilateral level. Indeed, tariffs on industrial goods, which were to the tune of 40 per cent on average in 1947, had dropped to between 4-5 per cent at present. This was an indication, if need be, that trade preferences had never undermined the Multilateral Trading System, nor had they prevented tariff reductions on an MFN basis.

10. But one thing that needed to be recognised was that trade preferences had been instrumental in lifting millions from poverty and the shackles of marginalisation. Without preferential access, neither the LDCs, nor the small, weak and vulnerable economies would have been able to secure a share in world trade. Contrary to what the opponents said, preferences had not been inconsequential. His own country was a case in point. From a monocrop economy in the 1970s, Mauritius had been able to successfully diversify its economic base and develop an export-led strategy thanks to preferences obtained under the Lome Conventions and now the Cotonou Agreement. On average, 95 per cent of ACP exports to date to the EU took place under preferential access, without which these exports would not have been possible and obviously, with the ensuing socioeconomic impact.

11. The African Growth and Opportunities Act (AGOA) preferences granted to sub-Saharan African countries, which were amongst the poorest in the world, were contributing significantly to the development of these countries and by extension to combating poverty, famine etc. A report prepared by USTR on AGOA in May 2004 confirmed that AGOA had a significant impact on growth and economic development. AGOA related trade and investment had created 190,000 African jobs and over $340 million in investments. In 2003, AGOA generated exports of over $14 billion and had helped diversify US-Africa trade which was concentrated on fuel before. Countries such as Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Zambia and others had been able to attract investment in the industrial sector which otherwise would have been impossible. It would be most unfair if these countries were denied further development as a result of a significant erosion of their preferential margins. Already they had been affected by the phasing out of textile quotas which had been providing them with a guaranteed market. Tens of thousands of jobs had already been lost as a result of the closure of factories, including in Mauritius. The compounded effect of the quota phase-out and erosion of the preferential margins as a result of tariff reductions on the export market would have a devastating impact on their economies as a whole. This would be counter to the very objectives of the Marrakech Agreement which were, and he quoted, *"to raise standards of living, ensuring full employment and a larger and steadily volume of real income and effective demand and expanding the production of and trade in goods and services….."*.

12. It was with the express view of ensuring that the poorest and most vulnerable countries were not unduly penalised as a result of the current negotiations, and at the same time of not jeopardising the liberalisation of trade in the broader sense that the ACP Group was making this submission. The ACP Group was proposing a methodology based on an objective set of criteria to identify precisely

those products that would be affected by preference erosion. The methodology proposed was as followed:

13. For a country to be vulnerable to preference erosion, it had to have some characteristics. First, it had to already enjoy significant preferences (for the "erosion of preferences" to take place). Secondly, a country was considered vulnerable when it depended on few export products and export markets, and it was a small exporter, relative to the world.

14. In concrete terms, this could be calculated using three relationships: the share of the particular product of the importing country on the total exports of the exporting country; the share of the particular product of the exporting country in the importing country; the world market share of the exporting country, for the particular product. These three factors could be condensed in an "index of vulnerability". In other words, the product and market concentration was fundamental: the country would be more vulnerable the less diversified its export markets and export products were, and the smaller its world share was.

15. The list of product obtained by using this methodology would, in all likelihood, be common for exports under different preferential schemes. Moreover, the number of tariff lines concerned would be limited and concentrated in certain sectors only for which an appropriate modality would have to be developed so that preference erosion was minimal and sequenced over a longer period of time. The correction coefficient proposed by the Africa Group was certainly a viable option.

16. This submission did not propose any modality for addressing preference erosion. This was premature at this stage since the core modality for tariff reductions had yet to be defined and agreed upon. Moreover, a decision had also yet to be reached on the sectoral component which would have a direct bearing on preferences. The ACP Group as well as individual ACP Members reserved the right to come up with written/oral submissions on these and other elements in the light of discussions in the NGMA.

17. The representative of Zambia, speaking on behalf of the LDCs, wished to support the papers and statements by the Africa Group and the ACP group of countries. The proposal for the treatment of non-reciprocal preferences for Africa and ACP was important to LDCs on a number of points. It rightly stressed that non-reciprocal preferences were an important trade instrument which had greatly contributed to the diversification of production, employment and development in a number of developing countries.

18. Given the reliance of many developing countries on these schemes, the erosion of preferential margins of market access would represent a challenge that needed adequate consideration in the NGMA. The African Group communication supported by the ACP communication proposed to apply a correction coefficient to improve preference margins and to strengthen the margin for products which were not at zero per cent. The communication also proposed to improve market access conditions for African developing countries through the reduction or elimination of NTBs that hindered the full utilisation of preferences (e.g. SPS, TBT, and rules of origin).

19. LDCs were among the countries that benefited from the largest number of non-reciprocal preferential arrangements and that relied the most on such schemes for their trade. In fact, LDCs would be directly affected by the erosion of margins as a result of NAMA tariff reductions. It was for these reasons that the LDCs very much welcomed the communication by the African Group and the ACP group of countries. The LDCs wished to remind the NGMA that preference erosion would affect many other developing countries as well as many other low income developing countries.

Unbound tariff lines

20. The representative of Zambia, speaking on behalf of the LDCs, stated that as all Members were aware, LDCs were exempted from reducing tariffs whether by the formula or the sectoral approach. However, paragraph 9 of the Framework specified that LDCs were expected to substantially increase their level of tariff binding commitments.

21. The LDCs wished to restate that discretion be given for each LDC to determine the rate of tariff binding and the number of additional users to be bound based on each individual country's national development needs and the level of industrial sector development.

22. Members were also aware that the industrial sector in most of the LDCs required special attention and therefore adequate leverage to protect their industries through tariffs was critical. This fact could not be over emphasized.

23. The LDCs' emphasis for special treatment with respect to binding of tariffs was consistent with the commitment that Members made in the preambular paragraph of the Framework on "Other Development Issues".