

Negotiating Group on Rules

NEGOTIATING GROUP ON RULES

Report by the Chairman to the
Trade Negotiations Committee

I. INTRODUCTION

1. This report updates my November 2005 report to the Trade Negotiations Committee. Since this is my first written report to the Committee since the Sixth Ministerial Conference in Hong Kong, I will provide an overview of the steps that we have undertaken since that meeting to implement the directives of Ministers and of the negotiating process that we have before us from now to the summer break and to scheduled conclusion of the negotiations at the end of this year.

II. ANTI-DUMPING & SUBSIDIES & COUNTERVAILING MEASURES, INCLUDING FISHERIES SUBSIDIES

2. As you are aware, Ministers in Hong Kong gave the Group clear guidance as to how to proceed in this area in 2006. Ministers called upon the Group to intensify and accelerate the negotiating process, and to complete the process of analysing proposals on the AD and SCM Agreements as soon as possible. Ministers further mandated me to prepare, early enough to ensure a timely outcome within the context of the 2006 end date for the Doha Development Agenda and taking account of progress in other areas of the negotiations, consolidated texts of the AD and SCM Agreements that shall be the basis for the final stage of the negotiations.

3. Since Hong Kong, further guidelines have been developed that give the Group a framework on how to proceed. First, taking into consideration the 2006 end date for the DDA, I have set summer break as a *target* date for the circulation of my consolidated texts. It is clear that we will have to complete our analysis of proposals by June if I am to be in a position to meet that target. Although I have not imposed any formal deadlines or cut-off dates on the Group, I informed Participants that, as a practical matter, any remaining proposals will have to be submitted preferably by March, or by April at the latest, in the form of draft legal texts, in order for me to consider them if I were to prepare consolidated Chairman's texts by July.

4. In the areas of anti-dumping and subsidies and countervailing measures, the Group has been working hard in an effort to achieve this programme, with Participants submitting numerous textual proposals to the Group. It is my sense that Participants have now put before the Group most of their proposals and that remaining proposals will be forthcoming in April. That said, I note that the overwhelming share of the proposals received have focused on anti-dumping, and that there remain a number of anticipated proposals in the area of subsidies. I urge Participants to redouble their efforts to submit any additional proposals on subsidies by 20 April, the deadline for the submission of proposals for consideration at the Group's next meeting.

5. The Group has been working intensively to analyse the proposals before it. Already this year, the Group has held two intensive multi-week clusters, in February and March. Further clusters are scheduled in May, June and July. While the Group continues to meet in informal plenary meetings to

analyse the proposals placed before it, I have continued and intensified a process of plurilateral consultations to probe in greater depth certain proposals in respect of which I need further clarifications from Participants. My consultations in 2006 have related to such issues as product under consideration, calculation of normal value, the identification of parties, public access to non-confidential information, mandatory preliminary determinations, the lesser duty rule, new shipper reviews, sunset, and circumvention. These consultations are not negotiating sessions *per se*, but they allow me to obtain clarifications regarding delegations' positions. Such clarifications are essential if I am to be in a position to submit consolidated texts by the summer break. I am taking all possible steps to ensure transparency with respect to these consultations.

6. In the area of fisheries subsidies, both the number and specificity of the proposals by Participants, and the engagement of Participants, have increased since my last report. The Group is currently considering textual proposals covering the structure and specific content of possible new disciplines, including the nature and scope of a possible prohibition, the treatment of non-prohibited subsidies, special and differential treatment provisions, and other elements. Certain participants have indicated that they intend to submit further textual proposals in the near future. This increased specificity is absolutely essential for the Group to progress in its work on this topic, and is thus an encouraging sign.

7. That said, the Group's substantive work toward elaborating new disciplines on fisheries subsidies remains relatively underdeveloped. It is clear that there are profound differences of view among delegations in respect of fundamental aspects of this negotiation, and the time to resolve the very complex outstanding issues is short. Further, many of the specific issues have been addressed only in a general manner in the texts submitted to date. I therefore call on the Participants to renew their commitment to and engagement on this issue, so that an acceptable compromise can be found which will contribute positively to the final outcome of the Round.

III. REGIONAL TRADE AGREEMENTS

8. The Ministers in Hong Kong acknowledged the importance that RTAs have come to play in the trade policies of virtually all Members; they recognized that both RTA transparency and WTO disciplines on RTAs are of systemic interest to Members and reiterated their commitment to these negotiations as mandated under Paragraph 29 of the Doha Ministerial Declaration. Annex D – Section II of the Ministerial Declaration instructs the Group to intensify its efforts in these negotiations with a view to a provisional decision on RTA transparency by 30 April 2006 and appropriate outcomes on RTA systemic questions by end 2006. Since the resumption of negotiations in early 2006 progress has been made on RTA transparency; however, there remain differences on some of its pending elements. RTA systemic questions have also been further explored, though additional input by Members is now needed to achieve substantive progress.

9. With respect to RTAs transparency, the Group shares a systemic interest in enhancing the transparency of RTAs. Text-based negotiations on the "Elements for an RTAs' Transparency Mechanism" were resumed on the basis of a 2005 informal note of the Chair.¹ Areas where a few refinements are still needed include the procedures for subsequent notification and reporting and how to deal with unfinished examination work in the Committee on Regional Trade Agreements (CRTA). Discussions on the application of the transparency mechanism to RTAs notified under the Enabling Clause are ongoing; a recent informal note by the Chair² aims at finding some common ground by retaining a single transparency mechanism common to all RTAs under WTO provisions while addressing concerns expressed by some of the developing countries Members.

¹ JOB(06)2

² JOB(06)59

10. Negotiations on RTA systemic questions were resumed on the basis of a revised informal roadmap by the Chair, which attracted considerable interest. However, due to the lack of further input by Participants in the form of text proposals, the Group has been unable to advance negotiations beyond the technical consideration of the various issues tabled (the "substantially all the trade" concept, the length of transition periods, and the inclusion of special and differential treatment provisions in Article XXIV of the GATT 1994). As a result, since late January 2006, no further meetings of the Group have been held on these questions and none is planned until guidance is received from Participants as to the direction that this area of negotiations should take.
