

Negotiating Group on Rules

**SUMMARY REPORT OF THE MEETING
HELD ON 24 JANUARY 2005**

Note by the Secretariat

1. The Negotiating Group on Rules ("the Group") held a formal meeting on 24 January 2005.
 - A. ADOPTION OF THE AGENDA
2. The Group adopted the following agenda:
 - A. Adoption of the Agenda
 - B. Regional Trade Agreements (RTAs)
 - C. Other Business
- B. REGIONAL TRADE AGREEMENTS
3. The Chairman recalled that at the last meeting Participants had been able to express preliminary views on a submission by Turkey, found in document TN/RL/W/167 dated 8 December 2004, which had been formally incorporated in the airgram of that day meeting, and which contributed to the transparency debate. In that context, he observed that the report entitled *The Future of the WTO*, drafted by the Director-General's Consultative Board, gave great importance to improving transparency of RTAs and an understanding of their effects. The "Group of Eminent Persons" had confirmed the systemic significance given by the Negotiating Group to this part of the negotiating mandate, and that was an incentive to pursue the Group's excellent work in this area.
4. Participants thanked the proponent for having made the proposal, which encouraged the use of the factual presentation format. Referring to the introductory section of the proposal, in particular when it stated that one parameter agreed for the Committee on Regional Trade Agreements (CRTA) trial exercise was the "limitation of factual presentations to RTAs covering trade in goods", one Participant reiterated his delegation's position that ultimately factual presentations would also be extended to cover RTAs on trade in services.
5. Referring to item 2 of the proposal ("Giving the Volunteering countries the right for a faster examination"), one Participant noted that while the idea of providing an incentive for countries to volunteer appeared positive, his delegation had a number of questions on how it could be implemented. He noted that the CRTA had a limited number of meetings per year and that any such faster examination would also require delegations to work faster. In concrete terms, that would require an efficient review, through the submission of precise and timely data, thus avoiding questions due to insufficient data, and restraint regarding repetition of questions. Those elements should be considered when discussing what incentives could be given to volunteering Members.

6. Referring to item 3 of the proposal ("A complementary initiative for overcoming the possible difficulties facing the developing Members"), one Participant asked the proponent to clarify the meaning of "should be subject to faster examination without having bound with the requirement of submitting additional data"; in particular, whether it meant that in order to ensure a faster examination for developing countries, Members would compromise on some information or give a *carte blanche* to the RTA's parties. Such clarification was needed in advance of any discussion on the appropriateness of applying such procedure to developing countries.

7. In response, the proponent reiterated that the submission aimed at contributing to transparency and improving the functioning of the CRTA, and that the proposal could be fine-tuned in the future. He agreed that the data provided should be comprehensive so as to move the process quickly. His delegation had not yet defined which incentives could be provided to volunteering countries, but one option could be the right to finish the examination of their RTAs within, for example, one year, while the completion of the examination for other RTAs would be open-ended. As for RTAs concluded by developing countries or under the Enabling Clause, it was proposed that they be given the right to have a faster examination, without having to choose for the factual presentation. He also noted that for the time being that proposal only applied for RTAs on trade in goods, and not for RTAs on trade in services.

8. A number of Participants reacted against the fact that the proposal referred to "examination" of RTAs notified under the Enabling Clause, noting that WTO rules did not provide for the examination of such agreements. The point was made that the factual presentation was aimed at transparency purposes, and it was requested that any proposal made it clear that factual presentations did not entail the examination of RTAs notified under the Enabling Clause.

9. Another Participant noted that it appeared to be some confusion about the meaning of the word "examination". It was her understanding that while the proposal dealt with the interim period, it had been made in the context of the transparency process being negotiated for the future, in which the examination of an RTA would not provide for a consistency exercise, in line with what was formally proposed by her delegation. Agreeing that currently different procedures applied to RTAs under the Enabling Clause and those under Article XXIV of the GATT 1994 and GATS Article V, some Participants noted however that it should not be prejudged that the transparency process resulting from the negotiations would apply to all RTAs alike, as ways and means could be established for differentiating RTAs notified under the Enabling Clause. They noted however that it was important to improve the transparency of RTAs notified under the Enabling Clause and to take the trial exercise a step forward; they encouraged the submission of proposals along those lines.

10. Reacting to the comments made, the proponent noted that transparency would increase if RTAs notified under the Enabling Clause made use of the factual presentation; it would not if they were not subject to examination in the CRTA. The faster examination proposal was aimed at providing an incentive to developing countries to notify their agreements so as to reduce the number of non-notified RTAs and thus improve transparency. He noted that in light of all the comments made, it was his initial perception that many Participants did not favour subjecting RTAs notified under the Enabling Clause to the factual presentation.

11. The Chairman thanked the proponent for having made a formal submission and those Participants that had commented on it. He then recalled that at the last meeting the Group had discussed on how to advance the work on systemic issues, and once more invited Participants to come forward with specific proposals as soon as possible, as no new proposal had been received in the recent past. He also announced that within the next weeks he would organize bilateral consultations with interested delegations to define, if possible, some parameters for the Group's future work in this area. He hoped to be able to inform the Group on these bilateral consultations at the next meeting.

12. The Group held an informal debate on the basis of an informal note by the Chairman entitled *Elements for an RTAs' Transparency Process*, dated 13 January 2005 (Job(05)/1). At the end of the informal discussions, the Group reverted back to formal mode.

C. OTHER BUSINESS

13. The Chairman informed that the next meeting of the Group would take place on 7 March 2005. He also said that at that meeting the Group would be able to discuss, in informal mode, the services "mock" presentation of the Canada-Chile Free Trade Agreement. The Secretariat would coordinate internally regarding its own services experts, and he invited Participants to make sure that these discussions could also benefit from input from their services experts.
