

**Committee on Trade and Environment
Special Session**

**REPORT BY THE CHAIRMAN OF THE SPECIAL SESSION OF
THE COMMITTEE ON TRADE AND ENVIRONMENT
TO THE TRADE NEGOTIATIONS COMMITTEE¹**

1. Since my last report to the TNC in April 2006, the Committee on Trade and Environment in Special Session (CTESS) has held a formal meeting on 6-7 July and two informal technical discussions under Paragraph 31(iii) on 10-12 May and 12-13 June. This report provides an update of the discussions in the Committee under each item of the mandate in Paragraph 31 of the Doha Declaration.

I. STATUS OF WORK

A. PARAGRAPH 31(I)

2. At the 6-7 July meeting, the CTESS considered a proposal by a Member which suggested an outcome under Paragraph 31(i) in the form of a ministerial decision on trade and environment. This submission proposed, *inter alia*, to establish core principles to govern the relationship between MEAs and WTO rules, and also set out procedures to guide WTO bodies and dispute settlement panels in their consideration of environmental issues.

3. Since the early stages of the negotiations, Members have held different views on the scope of Paragraph 31(i) and on the most appropriate way of addressing this mandate. Some delegations consider that the mandate provides an opportunity to further clarify and improve the relationship between WTO and MEA rules with a view to preventing conflicts from arising. Other delegations are of the view that the WTO-MEA relationship has been working well. These delegations consider that the sharing of national experiences in the negotiation and implementation of specific trade obligations in MEAs undertaken by some Members could provide a basis for taking the discussions forward under Paragraph 31(i). The proposal introduced at the last meeting gave rise to a restatement of Members' positions on these issues.

4. A number of delegations raised questions as to whether the proposal was within the scope of the mandate, which they noted was circumscribed to the relationship between existing WTO rules and specific trade obligations set out in MEAs. Other questions were raised regarding various aspects of the draft decision, and several delegations noted that they wished to study in more detail the legal implications of such a proposal in light of rules and procedures under existing WTO agreements.

5. This recent submission has contributed to revitalize discussions after a relatively long period of inactivity in the Committee on this part of the mandate. Members must continue working towards a result that will fulfil the mandate and enhance mutual supportiveness of trade and the environment, as called for in Paragraph 31. In this regard, I would encourage delegations to be more forthcoming and specific on what they think may constitute an acceptable outcome in these negotiations.

¹ This report is submitted on the Chairman's own responsibility.

B. PARAGRAPH 31(II)

6. Members discussed at the 6-7 July meeting a new submission under Paragraph 31(ii), which proposed to make information exchange between WTO and MEA secretariats a formal, institutionalized feature of WTO work, and which also set out general conditions to facilitate the granting of observer status to MEAs in the CTE, as well as in other WTO committees.

7. With regard to information exchange between WTO and MEA secretariats, a number of concrete elements have been put forward since the beginning of the negotiations to improve or complement existing practices and cooperation mechanisms. Members should study these elements in further detail with a view to finding common ground on this aspect of the mandate. As some delegations have pointed out in the past, this seems to be a relatively straightforward area of the work where Members could make tangible progress.

8. Suggestions have also been put forward regarding the granting of observer status to MEA secretariats in relevant WTO committees. References have been made in previous discussions to the overall situation on observer status in the General Council. At the same time, some delegations have suggested indicative questions or criteria that could guide WTO committees in their consideration of requests for observer status from MEAs. It was suggested that these could supplement existing criteria for the granting of observer status to international intergovernmental organizations.² These are some of the issues that will need to be further discussed in order for the Committee to make headway with this part of the mandate.

C. PARAGRAPH 31(III)

9. Since my last report to the TNC, the Committee completed the technical discussions under Paragraph 31(iii) that were held from April to June, and also considered a number of new submissions at its meeting of 6-7 July.

10. In the context of the technical discussions, Members have engaged in an examination of the wide range of products put forward as environmental goods. This process has allowed for a more focused debate on the potential environmental and developmental benefits of these products. While delegations are still divided on the most appropriate way of fulfilling the mandate under Paragraph 31(iii), these discussions have nonetheless highlighted the practical issues related to product coverage that will require further attention by Members. For instance, the discussions have revealed that a majority of the products proposed have dual or multiple uses. In this connection, several questions were raised with regard to classification under the Harmonized System and the use of ex outs to identify goods that may qualify as environmental for the purpose of the negotiations.

11. A number of developing country Members continued to emphasize the need to also consider alternative approaches to address the mandate. Some further explanation was provided at the July meeting on the environmental project approach, based on a further submission on the subject. Other proposals, such as the integrated approach, remain on the table. New ideas were also put forward by developing country Members on criteria that could guide discussions on product coverage for environmental goods. In the coming months, delegations will have to address the various issues raised with respect to these different approaches and proposals.

12. Following the technical discussions, two of the proponents have tabled revised lists of environmental goods. Other proponents have also stated that they were currently in the process of revising their lists in light of the comments they had received during the technical discussions. While the proponents' efforts were welcomed by several delegations, many reiterated their concerns regarding the designation of multiple use products as environmental goods. Delegations must

² WT/L/161.

continue to engage constructively in the examination of the products put forward. At the same time, Members need to discuss further the technical issues raised with respect to the products, including those related to classification.

13. It should be noted that a group of Members has tabled a proposal setting out modalities for environmental goods liberalization. Another Member has submitted a proposal focusing on how special and differential treatment can be implemented in the context of Paragraph 31(iii) negotiations. Some Members have expressed the view that they considered the issue of modalities to be contingent upon a determination of product coverage. In this context, some delegations have drawn linkages with the work of other negotiating groups. The CTESS must strive to advance in concert on all issues that are brought before it by Members, especially given the time constraints that the Committee faces to complete its work.

14. Some Members have also referred in the course of Paragraph 31(iii) discussions to the issues of non-tariff barriers, transfer of technology and the linkage of environmental goods to services. Members will need to revert to these issues in due course on the basis of concrete proposals.

15. Despite the gaps between Members' positions, I am encouraged by the fact that all delegations seem determined to reach a balanced outcome that is faithful to the mandate in Paragraph 31(iii) and that can deliver triple-win opportunities for trade, the environment and development. However, at this stage of the negotiations, there is still a great deal of work to be done to reach convergence on how to achieve that result. To this end, delegations will have to pursue the dialogue in a constructive and pragmatic manner in an effort to narrow down existing differences.

II. CONCLUDING REMARKS

16. Overall, I would say that the negotiations in the CTESS have become more concrete and substantive since the Hong Kong Ministerial Conference. A number of new proposals have been tabled that have greatly enriched our discussions under all three items of Paragraph 31. However, delegations would need to work further on each of the items when the negotiations resume so as to achieve a positive outcome to the mandate.
