

WORLD TRADE ORGANIZATION

RESTRICTED

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**Committee on Trade and Environment
Special Session**

SUMMARY REPORT ON THE TWENTIETH MEETING OF THE COMMITTEE ON TRADE AND ENVIRONMENT IN SPECIAL SESSION

18 JULY 2007

Note by the Secretariat

1. The Chairman-designate opened the meeting in the absence of the outgoing Chairman and proposed that an item be added to the agenda for the meeting set out in the convening airgram, WTO/AIR/3045 regarding his appointment as Chairman of the Committee on Trade and Environment in Special Session (CTESS). The CTESS adopted the agenda with the proposed amendment.

2. The Chairman-designate recalled that the following international organizations had been invited to participate at the meeting as *ad hoc* invitees: the United Nations Environment Programme; the United Nations Conference on Trade and Development; the World Customs Organization; the Organisation for Economic Co-operation and Development; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; the Convention on International Trade in Endangered Species of Wild Fauna and Flora; the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade; and the Stockholm Convention on Persistent Organic Pollutants; the Convention on Biological Diversity; the Montreal Protocol on Substances that Deplete the Ozone Layer; and the United Nations Framework Convention on Climate Change.

I. APPOINTMENT OF CHAIRMAN

3. The Chairman-designate recalled that in a fax dated 21 June, the Chairman of the General Council, Ambassador Muhamad Noor (Malaysia) had announced consensus regarding his appointment as Chairman of the CTESS, to succeed to Ambassador Toufiq Ali (Bangladesh). According to this fax, the CTESS was to confirm the appointment of the Chairman at its next formal meeting.

4. The CTESS agreed to the appointment of Ambassador Mario Matus (Chile) as the new Chairman of the Committee.

5. The Chairman thanked delegations for their trust. He also thanked the outgoing Chairman for his hard work and leadership in advancing the mandate of the CTESS. He noted that there was still much work ahead in order for the Committee to fulfil its mandate and hoped that Members would continue to engage to achieve this objective.

6. The delegations of Argentina, Australia, Brazil, Canada, Chile, China, Chinese Taipei, Colombia, Cuba, Ecuador, Egypt, El Salvador, European Communities, India, Japan, Korea, Malaysia, Mexico, New Zealand, Nicaragua, Norway, Philippines, Switzerland, United States, South Africa, Turkey and Zambia congratulated the Chairman on his appointment.

II. PARAGRAPH 31(I): WTO RULES AND SPECIFIC TRADE OBLIGATIONS IN MULTILATERAL ENVIRONMENTAL AGREEMENTS

7. The Chairman noted that no new submissions had been presented under this agenda item.
8. The representative of Norway said that Members had discussed this agenda item for several years. Norway agreed with those who felt that time had come to conclude discussions under this agenda item. Preferably, the outcome should be in the form of a Ministerial declaration setting out the conclusions that had emerged from the debate. Norway had always been of the opinion that any outcome under Paragraph 31(i) should be based faithfully on the Doha mandate. Important points in this regard were that the mandate was limited to the applicability of WTO rules to specific trade obligations as among parties to an MEA. Furthermore, the negotiations were without prejudice to WTO rights of non-parties to the MEA in question.
9. These elements of the mandate imposed some limitations as to what could be achieved under the present negotiations. There were also other aspects of the WTO-MEA relationship that could be explored. Some of these aspects had been discussed in the CTE before the Doha mandate. However, at the present stage, Members had to focus on fulfilling the task according to the negotiating mandate. Norway believed that the outcome should reaffirm basic principles, for instance, that there was no hierarchy between WTO rules and MEAs; that WTO agreements and MEAs were equal bodies of international law, responsible and competent for issues falling within their respective and primary areas of competence; and that they had to be mutually supportive and contribute to agreed goals set by the international community, including the objective of sustainable development, as also stated in the Preamble to the Marrakech Agreement Establishing the WTO.
10. A Ministerial declaration could also confirm that the relationship between these agreements seemed to be working well. To ensure that this continued to be the case, and in order to enhance the mutually supportive relationship between them and achieve sustainable development, a declaration could emphasise the importance of dialogue at all levels between trade and environment officials and institutions, and in particular at the national level.
11. Finally, the Ministerial declaration could reaffirm that disputes between MEA parties over specific trade obligations were unlikely to occur in the WTO and that while WTO Members had the right to bring such disputes to the WTO, they should try to resolve them through the dispute settlement mechanisms available under the MEA in question.
12. Finally, Norway stressed the importance of having a satisfactory outcome in the discussions under Paragraph 31(i). His delegation was willing to work with other interested delegations with a view to achieving this result.
13. The representative of the European Communities (EC) said that his delegation was continuing to elaborate internally its position, which had been set out in July 2006.¹ The EC looked forward to addressing the issue again when there would be more clarity on the overall direction of the Round. He noted that between his delegation's proposal and the proposal presented by Australia and Argentina, there ought to be scope for finding agreement. At the same time, his delegation was expecting further elaboration on the part of Members that had expressed some concerns regarding the EC proposal, in particular with respect to its legal implications.
14. The Chairman recalled that there were two main proposals for an outcome on the table, one from the EC and the other one from Australia and Argentina. Delegations had commented substantively on both proposals in previous CTESS discussions. He noted that a number of

¹ TN/TE/W/68.

delegations that had expressed support for the submission by Australia and Argentina had also indicated that they would like to see more than a factual report focussing on national coordination as an outcome of the negotiations. At the CTESS meeting in June, some further ideas had been mentioned in this regard. It seemed that in order to make progress, Members needed to have a clear picture of the elements that could potentially form part of an outcome under Paragraph 31(i). He therefore encouraged delegations to continue exploring the various options for an outcome under the mandate.

III. PARAGRAPH 31(II): INFORMATION EXCHANGE AND CRITERIA FOR GRANTING OBSERVER STATUS

15. The Chairman reported to the Committee that further consultations had been undertaken on the basis of a document entitled "Elements of a Draft Text under Paragraph 31(ii)". He noted that there seemed to be broad support for the elements set out in this document to provide a basis for an outcome under Paragraph 31(ii). There were also some other proposals on the table, for instance with respect to observer status, on which delegations would need to continue working in future.

IV. PARAGRAPH 31(III): ENVIRONMENTAL GOODS AND SERVICES

16. The Chairman reported that based on the consultations held with delegations prior to the meeting, there seemed to remain important divergences on solutions to respond to the mandate in Paragraph 31(iii). Much useful work had been carried out so far but efforts would have to continue to deliver on the mandate entrusted to the Committee. In this regard, he appealed to delegations to show some flexibility.

17. With respect to the way forward, some delegations had suggested that environmental categories or activities mentioned in various Members' submissions could serve as a starting point for further discussions, and could also provide a framework for discussing how S&D treatment and other issues of interest to developing countries could be addressed in the negotiations. The Chairman encouraged delegations to further reflect on this idea, as well as on any other ideas as to how the Committee could make some headway on the mandate.

18. The delegation of Cuba sought clarification with respect to the suggestion made by some delegations that the Secretariat could draw up a list of environmental categories and activities mentioned in Members' submissions. In response, the Chairman noted that the Secretariat intended to update document TN/TE/W/63, which compiled all Members' submissions under Paragraph 31(iii). He noted that this document could reflect the environmental activities and categories mentioned in Members' submissions.

V. OTHER BUSINESS

19. The Chairman noted that he would submit a report to the July TNC Meeting on his own responsibility on the state of play of the negotiations under the various items of the mandate.²

20. The CTESS agreed to the renewal of the ad hoc invitations issued for that meeting and extended to international organization at the next meeting of the CTESS.

² The Chairman's report was subsequently circulated in document TN/TE/17.