

# WORLD TRADE ORGANIZATION

TN/TE/W/55  
5 July 2005

(05-2931)

---

Committee on Trade and Environment  
Special Session

Original: Spanish

## COMMUNICATION FROM THE REPUBLIC OF CUBA

### Environmental Goods

#### Paragraph 31(iii)

#### I. INTRODUCTION

1. Cuba is presenting this paper as a contribution to the discussions on environmental goods in the Committee on Trade and Environment in Special Session (CTESS).<sup>1</sup>
2. The CTE negotiations on environmental goods and services can have a positive impact for the international community generally and the developing countries in particular as long as their outcomes effectively further sustainable development goals and the Johannesburg Summit objectives.
3. The report by the Chairperson of the CTES (TN/TE/11) to the TNC conveyed the perception that "Paragraph 31(iii) emerged as the most likely candidate [part of the mandate] for tangible progress by the Hong Kong Ministerial Conference" and "as a potential outcome for the Conference, delegations could prepare a list of environmental goods". To Cuba's mind, the discussions as to the way in which to fulfil this mandate have failed to produce the requisite consensus of all the Members and have been marked by uncertainty among the developing countries as to the actual benefits that may derive from these negotiations. It would therefore be premature to prejudge the outcome of these discussions at the conference.
4. The fact that most of these goods have a dual end-use, which makes it impossible to ascertain a priori whether the use to which they are put is indeed environmental, and the difficulties associated with determining the codes that would be assigned to such goods in the Harmonized System for statistical differentiation purposes, are among the factors impeding progress in these negotiations.
5. The following positions and considerations are being advanced in the conviction that a successful outcome and hence benefit in terms of mutual supportiveness of trade and sustainable development – the pillars of the Doha mandate in this area – will depend on how genuinely useful these negotiations prove to be for the developing countries and on the transparency with which they are conducted.

---

<sup>1</sup>This paper is without prejudice to Cuba's final position as these negotiations proceed.

## II. OUTSTANDING NEGOTIATING ISSUES

6. Many of the questions under discussion remain to be answered before a consensus solution can be reached in the negotiations. The following, *inter alia*, should be addressed:

- The problem of the definition of environmental goods, or of the reference criteria for validating the inclusion of such goods in a potential list;
- the inadequacy of the proposed APEC and OECD lists as a basis for generating a list;
- the lack of clarity as to how such goods will be negotiated in the NAMA Group and the various other possible forums;
- the failure of some proposals<sup>2</sup> to provide sufficient incentive for the developing countries, in that no provision is made for effective special and differential treatment or any alternative capable of moving the negotiations forward;
- the insufficient linkage between the environmental goods and the environmental services negotiations.

7. The fact that there is no multilaterally agreed definition of environmental goods is giving rise to reservations associated with the lack of assurance that the end-use of the goods really is environmental protection and sustainable development, and yet no objective evaluation of the impact of this kind of negotiations on our economies can be carried out.

8. Likewise, the proposal to use both the APEC and the OECD lists as references for preparing a potential multilateral list has demonstrated that both fail to serve the interests of the developing countries in that they basically benefit developed country export products and services.

9. Furthermore, the lack of clarity as to how such goods will be negotiated in the NAMA Group, and in particular how to apply the S&D principle, is a disincentive to progress in this Committee's work.

10. Another issue that yet remains to be resolved is how to address the problem of non-tariff barriers on such goods, particularly goods requiring certification and eco-labelling which fundamentally affect market access for the developing countries.

11. A number of developed countries have tabled alternative proposals based on the negotiation of lists providing for distinct treatment of goods on which tariffs could be reduced and brought down to zero, or variants of "living lists" that incorporate goods as gradually agreed or as they emerge as a result of developments in the environment industry. Neither option is really viable for the developing countries – the first because it fails to accommodate S&D and the national policy interests of our countries, and the second because these economies do not possess the technological adjustment capacities that would allow them eventually to benefit from a list of this kind.

12. The provision of environmental services is closely linked to trade in related goods. However, this has not been taken into account by the various negotiating forums, whereas proper consideration

---

<sup>2</sup> The proposals tabled by the United States (TN/TE/W/38), the EU (TN/TE/W/47), Canada (JOB (04)/98 and TN/TE/W/50) and New Zealand (TN/TE/W/46 and 49) are not clear as to how to deliver on the objectives laid down in paragraphs 6 and 51 of the Doha Ministerial Declaration, relating to the achievement of sustainable development goals.

of the issue might well stimulate the developing countries to participate in both types of negotiation, which ultimately fall within one and the same mandate.

### **III. NATIONAL EFFORTS IN THE CONTEXT OF THE NEGOTIATIONS**

13. The questions underlying the discussions notwithstanding, Cuba is in the process of considering which products it might suggest for inclusion in the negotiations. To that end, national institutions, working with support from UNCTAD, have carried out assessments of environmental goods and services and have met with producers and exporters to discuss their interests.

14. Despite these positive endeavours, a group of products of national interest are still under assessment for potential inclusion in the negotiations. Among them are some products relating to renewable energy or energy efficiency technology and natural products, such as bio products.

15. In any event, we can say a priori that we are net importers of most environmental goods and services presented in the discussions, and the national interest in these negotiations is directly associated with the building-up and development of domestic production capacity and the provision of such goods and services as may further the country's sustainable development.

16. However, the uncertainties and unresolved problems that continue to plague the discussions have made it impossible to move ahead with more concrete proposals.

### **IV. INITIATIVES THAT ACCOMMODATE DEVELOPING COUNTRY CONCERNS AND INTERESTS IN THE NEGOTIATIONS**

17. The possibility of negotiating proposals making headway in the CTESS is directly related to the extent to which such proposals accommodate the interests of the majority of developing country Members. For this to occur, it will be necessary to ensure that the outcomes of these negotiations fulfil the specific mandate of "enhancing the mutual supportiveness of trade and environment", as set forth in paragraph 31.

18. Under the "list approach" on which we have been working to date, China's proposal of developing a core list and another list requiring lesser reduction commitments for products of interest to the developing countries is the only proposal so far to emphasize the need to make specific provision for special and differential treatment in these negotiations. The complementary list would allow the developing countries to undertake less onerous commitments, their status as net importers of such goods giving them greater flexibility to face reduced tariff revenue from such goods and enabling them to make adjustments to their domestic economies on the basis of the reductions.

19. Another proposal that seeks to address the mandate while looking at the specificities and needs of the developing countries is that outlined by India in its recent paper (TN/TE/51) putting forward an alternative approach based on an environmental project rather than a list. This new approach resolves many of the existing problems and considers elements that have not been taken into account so far. This includes responding to the dual-use issue, establishing the linkage between environmental goods and environmental services, making specific provision for S&D in the negotiations, and accommodating the national conditions and needs of developing countries.

### **V. POINTS TO BE ADDRESSED IN ORDER TO MOVE THE NEGOTIATIONS FORWARD**

20. The linkage between the definitions and lists of environmental goods, on the one hand, and the negotiating modalities, on the other, should be considered under a systemic and parallel approach, for this is what will determine the outcome, positive or otherwise, of the negotiations.

21. Yet the uncertainty stemming from the lack of negotiating modalities is a disincentive to developing a list, which, moreover, according to the reference criteria or definitions examined to date, will fail to deliver genuine benefits for the developing countries.

22. There is a set of goods, such as organic products, which in many cases are part of a developing country's traditional agricultural exports but which pose difficulties when it comes to considering process and production methods (PPMs). How will the TBT Committee address the issue? How should the joint evaluation of both negotiating forums be considered? Is now possibly not the time to work on the non-tariff barriers on these products affecting market access for the developing countries? What would be the appropriate forum to do so?

23. Developing country participation in the environmental goods negotiations might increase if the linkage with services were taken into account and if the developing countries were offered concrete S&D options. The search for formulas of interest to our countries because of the assurance of sustainable development they provide should be based on actions that ensure the transfer of technology and know-how under differentiated terms and conditions, so as to comply with the principle of responsibilities that are common but differentiated according to each country's level of development.

---