

WORLD TRADE ORGANIZATION

RESTRICTED

TN/CTD/M/14

1 April 2003

(03-1825)

Committee on Trade and Development Fourteenth Special Session

NOTE ON THE MEETING OF 3 AND 20 DECEMBER 2002

Chairman: H.E. Mr Ransford Smith (Jamaica)

A. ADOPTION OF THE DRAFT AGENDA

1. The Chairman indicated that the draft agenda for the meeting was contained in airgram WTO/AIR/1983 of 26 November 2002. He said that since the last formal meeting, the Egyptian delegation had submitted a paper on sanitary and phytosanitary measures (SPS), which would be issued as TN/CTD/W/24. In the 25 November 2002 meeting he had drawn attention to the responses received from the Chairs of twenty-three other WTO bodies to the request to be kept informed of any issues related to special and differential (S&D) treatment within their respective bodies. Subsequent to that meeting, responses had been received from the Committee on Regional Trade Agreements, the Committee on Trade and Environment, the Committee on Trade in Financial Services and the Negotiating Group on Rules. A follow-up response had also been received from the Committee on Subsidies and Countervailing Measures and the Working Party on Subsidy Notifications.

2. The agenda was adopted.

B. CONSIDERATION OF THE REPORT TO THE GENERAL COUNCIL

3. The Chairman proposed that the meeting go into informal mode for an initial discussion on the report to the General Council.

4. It was so agreed.

5. The 14th Special Session of the Committee on Trade and Development (CTD) was suspended on 3 December 2002 and reconvened on 20 December 2002.

6. The Chairman then recalled that a draft report to the General Council had been made available to Members (TN/CTD/W/25) on 3 December 2002, and that a discussion had taken place thereon. From that discussion it had emerged that while many aspects of the report had appeared to be acceptable to Members, with a few suggestions made for changes, there were two main outstanding issues. The first such issue pertained to the proposed Annex III, which, as envisaged by the Chair, would contain those Agreement-specific proposals on which Members had agreed to make recommendations for a decision, in accordance with the mandate of the Special Session. The second main outstanding issue was the "Way Forward", for which three options had been presented in the draft report. Since the convening of the Special Session on 3 December 2002, intensive consultations had been held in those two areas. Beginning with the Agreement-specific proposals and the consultations thereon, he recalled that he had, on his own responsibility, and on the basis of the discussions that had taken place in the Special Session, identified twenty-two proposals on which it appeared that agreement might be possible. Those proposals had been subject to intensive discussions and agreement had been reached on four of them: two on the GATS, one on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and one on the Enabling Clause. Members were not far from agreement on several other proposals, but had not been able to cover the last few yards that could have yielded agreement in those cases. The proposed Annex III would

therefore comprise the four agreed recommendations, with work yet to be completed on several others. Additionally, the African Group had tabled three new proposals which they wished to be considered immediately in the consultations, and the delegation of India had drawn attention to a number of the proposals it had tabled earlier in the Special Session, asking that they be also subject to immediate consultations with a view to taking possible decisions. He had set out three options in the draft report to the General Council (TN/CTD/W/25) with regard to the Way Forward. However, it had not been possible to reach an agreement on any of those three options. The two main areas of difference were the question of referral of some of the Agreement-specific proposals to other bodies, and the question of timelines for completing the remaining work of the Special Session. Those two issues remained outstanding. He was therefore not in a position to recommend an agreed view of Members on the Way Forward. Members were invited to comment on how, and what, the Special Session should report to the General Council later that day.

7. The representative of Australia said that in his view there were two options. The first was to abort the efforts made over the previous forty-eight hours to try and adopt a report to the General Council, and leave it for the Chairman to report the lack of consensus in the Special Session in that regard. The second option was to make another attempt at coming to an agreement on the report by seeing if it was possible to agree on the two major outstanding issues that the Chairman had mentioned, i.e. referrals to other bodies and timelines for completion of the work. Members would not be making a good use of time if they abandoned their efforts to come to a conclusion on the report to the General Council, and based their discussion on the assumption that there would be no report.

8. The Chairman noted that the representative of Australia was suggesting two options: either that the Chairman simply report to the General Council that agreement had not been possible, or that Members resume work with respect to the draft Section on the Way Forward, which had already been discussed at least twice. Comments made in the first round of discussions had been taken into account in a second draft of the "Way Forward", which included certain new timelines based upon the Chairman's judgement of the discussions. The discussions held the previous night on that second draft had not led to an agreement amongst Members. The representative of Australia had expressed a preference for the second alternative.

9. The representative of the European Communities, reacting to the proposal by the representative of Australia, said that his delegation was willing to go into informal mode and use the time available to try to achieve an agreement on the Chairman's revised text on the Way Forward. His delegation was not overly optimistic about the possibility of an agreement, but was nonetheless willing to make another attempt. He did not support the idea of the Chairman merely reporting the lack of agreement to the General Council and then leaving it to the Council, because that would undo the tremendous effort which the Chair had made in taking the work of the Special Session forward. He thought that some progress had been made, and agreed with the Chairman that agreement on quite a few of the "do-ables" had been within reach the previous two days, and that Members should have gone the extra mile necessary to reach an agreement on them. For that reason he felt that rather than making a non-report to the General Council, the Chairman should make an interim report, which could take the form of the earlier draft report, along with the new Section VII and an Annex III containing the four proposals which Members had agreed upon. In his oral report the Chairman could then inform the General Council that more time was needed to deal with the outstanding issues mentioned in Section VII of the report and with the remaining "do-able" Agreement-specific proposals.

10. The Chairman noted that the representative of the European Communities had put forward another alternative on a possible approach to the report to the General Council. He enquired whether Members had any objection to the course of action suggested by the European Communities. As he understood it, it consisted in presenting an interim report to the General Council, which would comprise the draft report contained in TN/CTD/W/25, but with the new Section on the Way Forward that had been under discussion until the previous night, an Annex with the four "do-ables" that had

been agreed upon, and an indication that more time was needed to complete the work of the Special Session.

11. The representative of Zambia, speaking on behalf of the LDCs, noted that they had shown a high level of flexibility and that was the reason why there was an agreement on four proposals, all of which had come from their group. In response to the European Communities' proposal, he said that they maintained the position that they had stated previously. There was no indication from his constituency to take a different course. He had exercised a high level of flexibility which had made it possible for them to speak about the four proposals. That was as far as they could go. They reiterated however the position expressed the previous night, i.e. that they could not accept those four proposals being used in the report. Their position on the other points also remained unchanged.

12. The representative of the European Communities said he was aware of the position the LDCs and others had on Section VII, and that was why he had explicitly talked about a "draft report". He was in fact proposing that the Chairman make a factual report of Members' work within the Special Session. That factual report would cover the draft report under consideration except for Section VII and Annex III, on which there had been no agreement so far. As far as Section VII was concerned, he suggested that the Chairman inform the General Council that he had put forward a proposal on his own responsibility, and that since there was no agreement on that proposal, the Special Session needed to continue discussions. As far as Annex III was concerned, he suggested that the Chairman inform the General Council that they had been working on the "do-ables", and at that stage had only reached agreement on four "do-ables", which was certainly insufficient for most delegations, including his.

13. The representative of the United States said that perhaps what the representative of the European Communities was suggesting was close to the best Members could do, but felt that it would be better if they could also get a sense of how the work would be organized the following year. He indicated that in the last informal consultations there had been a discussion with two hypothesis on the table, one of which he called the "sprint" option, and the other the "marathon" option. He said that the "sprint" idea, which had been proposed by India and supported by some other Member, was that Members make every effort to do what they could to finish the work by February 2003. The other alternative was to continue the process with a more elaborate organizational structure, and some Members thought that if they were to proceed that way they would need more time to complete the work. He noted that some other delegations had expressed intermediate views, some of them tentative. His delegation was therefore ready to engage in a continuing discussion and to see whether Members could reach closure on the process, so that when they returned in January they would be ready to get down to work immediately.

14. The Chairman reiterated that the proposal by the European Communities was that an interim report be made to the General Council indicating that more time was needed to complete the work of the Special Session. He also noted that the United States had suggested that it would be necessary to also have a discussion on how the Special Session would then carry out its work.

15. The Representative of Australia asked whether the representative of India could explain what he had in mind when making the proposal that had been referred to by the delegate of the United States.

16. The representative of India clarified that the proposal he had made in the previous consultations had been made in his individual capacity, something he had made clear that day. He noted that an Australian delegate had been present in those consultations, and that he would be in a position to explain what he had said.

17. The Chairman reiterated his understanding of the proposal by the European Communities, to which he had heard no objection, i.e. that he make an interim report to the General Council including

the draft report (TN/CTD/W/25), which contained a reference to Annex III and had three options for the Way Forward. There had been discussions on both Annex III and the Way Forward since the draft report had been made available to Members on 3 December. Those developments could be presented in an oral update to the General Council, in which he could indicate to the General Council that the Special Session required more time to finalize its report.

18. The representative of Japan said his delegation supported doing as much work as possible, but noted that Members had come to a point where a decision had to be made on the Way Forward. He supported the basic thrust of the proposal made by the representative of the European Communities, though his interpretation of the proposal was that the Chair be asked to submit to the General Council a report saying that there was a draft report, with a proposal for the Way Forward and a recommendation on four proposals for a possible decision. He could support the suggested course of action to that extent.

19. The representative of the European Communities said that Members should agree to enable the Chairman to make a factual report of what the Special Session had been doing, especially since some progress had been made. The Chairman should include in that report the draft on which there was agreement among Members, and inform the General Council that there was no agreement on Section VII, which he had drafted on his own responsibility, and that as a result Members needed to continue discussions on it. He said that the Chairman should also inform the General Council that, as far as the Agreement-specific proposals were concerned, Members had come to an agreement on four of them, but needed to arrive at a more substantive package.

20. The representative of the United States said that, if the Special Session was in a position to support the proposal by the representative of the European Communities, his delegation would not come in the way of a consensus, although they would have preferred to have reached an agreement on the report, including on the Way Forward.

21. The representative of Kenya said that the African Group would not object to the Chairman making an interim report to the General Council, but would not be in a position to agree to include Annex III in the report, since it had not been agreed to. The Chairman's interim report could mention that the Special Session had discussed the "Way Forward" but had not been able to reach an agreement, without necessarily forwarding to the General Council the draft that had been discussed. He agreed with the European Communities that the report should be a factual one, and that Members could then move on and see what they could accomplish early the following year in the Special Session.

22. The representative of Pakistan noted that the main differences in the previous consultations had been with respect to two paragraphs, namely paragraph 2 and the dates in paragraph 6. His impression was that developed country Members were of the view that there should be an Annex III containing the four proposals, which could be in the form of an early harvest, but the *demandeurs* were of the opinion that this constituted only about five percent of the total number of proposals that had been made, and therefore did not want to include such an Annex. The only solution therefore seemed to be to indicate both positions in paragraph 2, and thus have the factual report that had been suggested by the European Communities.

23. In conclusion the Chairman said that he would proceed on the basis of the proposal made by the European Communities, and make a factual report to the General Council, on his own responsibility.

24. It was so agreed.
