

WORLD TRADE ORGANIZATION

RESTRICTED

TN/CTD/M/15

1 April 2003

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Committee on Trade and Development Fifteenth Special Session

NOTE ON THE MEETING OF 6 AND 10 FEBRUARY 2003

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/2019 of 31 January 2003.
2. The agenda was adopted.

B. CONSIDERATION OF THE REPORT TO THE GENERAL COUNCIL

3. The Chairman indicated that a draft report to the General Council had been distributed to Members, as document TN/CTD/W/25/Rev.1. That report drew largely on the earlier draft that Members were familiar with, which had been circulated as document TN/CTD/W/25 before the General Council meeting in December 2002. The draft which was now before Members covered developments since that meeting and included, in Annex III, the Agreement-specific proposals on which it appeared at that point that Members were very close to agreement. Beyond the factual information the report also contained, in Section VII, paragraph 20, some options regarding the "Way Forward". He drew Members' attention to that part of the report in particular. The first option was for the Special Session to continue its work until 31 July 2003. The second option was to suspend the discussion on the Agreement-specific proposals. The third option contemplated a referral of proposals to other WTO bodies, including Negotiating Groups. Section VII also addressed other elements of the work of the Special Session, namely: the mandate to consider how to incorporate S&D treatment into the architecture of WTO rules, set out in paragraph 12.1(iii) of the Decision on Implementation-Related Issues and Concerns, the Monitoring Mechanism, and a modality for feedback in respect of the work on S&D treatment that was taking place in other bodies. He acknowledged that Members had just received the report, and would therefore need time to examine it, provide feedback and eventually give their support to an option on the "Way Forward", and to agree on the other elements of the report. He proposed that Members continue working on Annex III, firstly to adopt the proposals on which there was an agreement, and secondly to add to that list. He also proposed that work on the Agreement-specific proposals be continued in an open-ended informal session that afternoon and that Members meet in an informal mode to consider the draft report the following morning, by when Members would have had time to examine the report, and would be in a position to react to it, and possibly adopt it. The Special Session had to report to the General Council on 10 February 2003. He therefore impressed upon Members the importance of finalizing the report, as well as of trying to ensure, as far as possible, progress on the Agreement-specific proposals which were listed in Annex III and those which Members had been considering over the previous few weeks. Since Members had just received the draft report he was not proposing that they discuss it at that time, but that they reconvene the following morning to continue discussing agenda item B. Since no Member had any comment at that point, he suggested that Members meet informally in open-ended

session that afternoon to continue consideration of the Agreement-specific proposals, with a view to agreeing to as many as they possibly could before the following morning.

4. Later, when the meeting was reconvened in a formal mode on 10 February 2003, the Chairman indicated that a third revision of the draft report had been prepared. That draft report was the result of intense discussions which had been held, and sought to present to the General Council the status of the work of the Special Session as well as recommendations for consideration by the Council. That meeting of the Special Session had been convened with a view to adopting the report, as had been mandated to the Special Session in December 2002. The draft report contained in document TN/CTD/W/25/Rev.1, which was before Members, had a few changes from the text which Members had discussed informally in the afternoon of 7 February 2003. He drew Members' attention to the changes in the new draft and then opened the floor for Members to express their views.

5. The representative of Kenya said that the new draft was an improvement on the one Members had considered earlier. He sought clarification from the Chairman as to what was meant by "and the means to give effect to the mandate" in the last but one sentence of paragraph 22, which read: "The Special Session further recommends that the General Council provide clarification, as it considers appropriate, regarding paragraph 44 of the Doha Ministerial Declaration and paragraph 12 of the Decision on Implementation-Related Issues and Concerns, and the means to give effect to the mandate".

6. The Chairman indicated that that language had been proposed by the delegation of Canada, and said that his understanding of that request, which was subject to any correction that the delegation of Canada might wish to give, was that it was asking the General Council to provide guidance on the manner or the approaches that the Special Session might take to fulfil the mandates contained in paragraphs 44 of the Doha Ministerial Declaration and 12 of Decision on Implementation-Related Issues and Concerns. The Chair could not prejudge the kind of guidance that the General Council might give in that respect, presumably by consensus.

7. The representative of Australia said his delegation wished to get to an agreement on the report during the meeting, since that would help the discussion in the General Council later that day. His delegation regarded the new draft report as a balanced document, on which he hoped that an agreement could be reached. He felt that the points put forward by Members had been taken into account in the new draft. He therefore hoped that Members could agree on the new draft, and said that his delegation was prepared to accept it.

8. The representative of the United States said that paragraphs 18 and 20 of the draft report captured the totality of the issues that the Special Session was struggling with. Her delegation did not believe that paragraph 22 could result in a formal re-interpretation of the mandate by the General Council. It was for the General Council to determine what to do, and her delegation did not think it was appropriate for the Special Session to ask for a clarification of the mandate. That was the way in which her delegation read the text.

9. The representative of Kenya said that after having received the clarification from the Chairman as to what was meant by the phrase "and the means to give effect to the mandate", he believed that the intended meaning would become clearer if Members added the word "legal".

10. The Chairman inquired whether Members could agree to the proposal by the representative of Kenya that the phrase be modified so that it should read "and the legal means to give effect to the mandate", and whether the report could be adopted with this change.

11. The representative of the United States proposed that since there were not only legal issues, but also related practical issues about how the Special Session should proceed, the phrase should be further modified to read "the legal and practical means to give effect to the mandate".
 12. The Chairman proposed that the report, with the two additions suggested by the representative of Kenya and of the United States, respectively, be adopted.
 13. It was agreed.
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