
Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 13-15 August 2003

Chairman: Ambassador P-L. Girard (Switzerland)

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The Chairman stated that the agenda for the meeting had been circulated in document WTO/AIR/2151 on 4 August 2003 and a corrigendum of 12 August 2003. The annotated agenda for the meeting was circulated in JOB(03)/154. In addition, participants were sent a fax on 11 August 2003 containing JOB(03)/155 which concerned possible options to TN/MA/W/35. He pointed out that since the issuance of the Airgram, two additional papers had been circulated; submissions from Turkey (TN/MA/W/41), and South Africa (TN/MA/W/42). A joint paper from Canada, the European Communities and the United States had been circulated informally by those Members to all participants. In addition, Malaysia had circulated a paper in the room, entitled "Malaysia's Proposal on Chairman's Tariff Reduction Formula". If those Members so desired, they would be given the opportunity to introduce those papers. As the submissions were received late, they were available in original language only. There were no items for discussion under Other Business.

The Negotiating Group adopted the agenda as circulated in WTO/AIR/2151 and its corrigendum.

I. CONSIDERATION OF POSSIBLE MODALITIES FOR NEGOTIATIONS ON MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

A. CONTINUATION OF THE DISCUSSIONS OF POSSIBLE MODALITIES FOR NEGOTIATIONS ON NON-AGRICULTURAL PRODUCTS (TN/MA/W/35 + CORR.1¹)

1.1 The Chairman recalled his stated intention at the close of the last meeting to focus on this aspect of the agenda in the hope of making further progress on modalities, especially in the lead-up to the Cancun Ministerial meeting. He also recalled his stated intention to submit to the NGMA for this meeting a list of possible options to consider. This paper "TN/MA/W/35: Possible Options" had been circulated in JOB(03)/155 on 11 August 2003. Together with the papers from South Africa, Turkey and Canada/European Union/United States and most recently, Malaysia, there had been a number of options put to the Group for its consideration. He intended to invite those participants who had made the submissions to introduce their papers, on either a formal or informal basis, and following that, he would speak on JOB(03)/155.

1.2 The representative of India sought clarification on whether it was being proposed that participants who had submitted papers that day would be asked to present them before the Chairman discussed JOB(03)/155.

1.3 The Chairman stated that that was his intention.

1.4 The representative of India stated that they would prefer the Chairman to keep to the agenda as listed in JOB(03)/154, which meant discussing the Chairman's options paper as the first item. They had no problem in discussing the new papers later in the meeting but in view of the fact that some of the papers had only been circulated that morning they had not had the time to consider them. In addition, they had come to the meeting prepared to discuss the Chairman's paper.

1.5 The Chairman stated that he had made an adjustment to the agenda without informing the Group and he apologised for that. He had made the suggestion that the new papers from Malaysia, Canada/European Union/United States, as well as the papers from Turkey and South Africa would be introduced first so that the Group would be informed of all the suggestions and elements presented by participants before considering the options paper. He believed this would make for a much more efficient discussion.

1.6 The representative of the Philippines stated that his delegation shared India's position but he would not refer to the issue since the Chairman had ruled. He sought clarification on whether the Chairman intended to circulate other options papers during the run-up to the end of the negotiating process. He also sought clarification from the Chairman on his reasons for selecting the particular elements discussed in the options paper and whether there were other elements that he might consider in the future.

1.7 The Chairman stated that the options paper had been circulated officially as JOB(03)/155, thereby indicating that it was a working paper. He would explain the drafting of the paper and the reasons for selecting the options outlined therein when he introduced it. He reiterated his suggestion to have introduced all the new ideas that had been put on the table, including, primarily, the options paper, and then to structure the discussion according to the various elements i.e., by dealing with the formula, followed by sectorial elimination, special and differential treatment, newly acceded Members and supplementary approaches. He considered that this would be a much more coherent way of progressing, rather than having an initial discussion on all the elements followed by a discussion on the new submissions which would entail referring once again to all the elements. However, it was up to the Group to decide.

¹ French and Spanish only.

1.8 The representative of India stated that his delegation had no difficulty in discussing the new submissions in the NGMA but the proper place for discussing them was under Agenda item A3, as had been listed in the agenda. It was his delegation's view that once the Chairman had tabled his "Draft Elements" paper (TN(MA/W/35 and Rev. 1) all further discussions should revolve around that paper. The Chairman had come up with an options paper which in part revised his earlier elements paper and they were looking forward to a substantive discussion on that, without combining it with other papers. He had seen only three of the four newly submitted papers and it was his impression that while some of them addressed issues contained in the "Draft Elements" paper and tried to suggest options or alternatives, others went in the diametrically opposite direction. Combining the discussion on the options paper with the four new submissions would not do full justice to the Chairman's paper and they would prefer to discuss it separately.

1.9 The Chairman stated that the Group could take a very formal approach to the agenda but it would result in having the discussion on the various elements of the modalities twice or even three times because following the discussion on the options paper exactly the same discussion would be held on the basis of the new proposals submitted and at the end of the discussion everything could need to be revisited.

1.10 The representative of Brazil stated that the Group needed to get clear the process to be followed. His delegation understood that the Group had had an initial phase in which delegations submitted their views on possible modalities and the Chairman had undertaken to consolidate those submissions and present his views of a workable modalities paper on the basis of all contributions received. There had been a sense from the last NGMA meeting and from the HOD meeting the previous day that the overwhelming majority of delegations were prepared to work on the basis of the Chairman's text as a basis for preparing the modalities. His delegation was concerned that if the Chairman's text was put on a par with new submissions its status as the basis for future negotiations would be diluted in some way. They would like it to be very clear that they considered the Chairman's text to be the basis for negotiations and would not like it to be mixed up with new ideas and new concepts.

1.11 The delegate of New Zealand stated that his delegation had not moved from their position of treating the TN/MA/W/35 framework as the basis for future development for modalities. He did not see the sequence proposed by the Chairman as in any way threatening that understanding. As for India's specific proposal, there were a number of ideas from a cross-section of delegations which had been put forward which covered some of the very same issues as the options paper. Therefore, his delegation would be most uncomfortable at having a debate at opposite ends of the meeting covering much of the same ground. They would strongly prefer the procedure proposed by the Chairman.

1.12 The representative of Cuba stated that his delegation shared much of what had been said by India and that they would prefer to proceed according to India's proposal.

1.13 The representative of Egypt stated that the Group should keep to the agenda as circulated, in accordance with the rules of procedures. His delegation had no problem with some points being repeated during the discussion as this was the case with every submission where the Group had to go through the elements contained therein. More importantly, they had come prepared to discuss a specific paper and they were not yet in a position to engage in a serious discussion on other papers that had been circulated recently, including that morning.

1.14 The representative of Kenya stated that his delegation supported the interventions of Egypt, Cuba and India. If the Group adhered to its work programme it would be able to cover everything within the three days of the meeting.

1.15 The Chairman stated that the Group would go by the book, which meant dealing first with the options paper. The submissions by Turkey and South Africa would be dealt with under Item 3 of the

Agenda, i.e. at the end of the meeting because they were the papers which had been formally circulated. The United States and Malaysia would have to introduce the various elements of their papers under the relevant headings during the meeting, or if they so wished, they could introduce them at the very end of the meeting. For example, Malaysia's submission dealt in particular with the formula therefore Malaysia would introduce and speak on their paper when the Group dealt with the formula aspects of the Options Paper. Similarly, the United States, European Community and Canada would intervene under the various issues in the modalities covered in their paper.

1.16 Turning to the paper "TN/MA/W/35: Some Options", the Chairman stated that it contained four sections which proposed amendments to the respective parts of the "Draft Elements", as contained in document TN/MA/W/35. It was his intention, with all the proposals, to bring forth some of the issues that had come up in previous meetings of the NGMA and on which there appeared to be concrete ways of making progress. He gave some of the background together with further explanations of the elements contained in the document, starting with the formula.

1.17 Dealing with item 1. The Formula, he stated that the basic formula remained unchanged. However, there had been much discussion and suggestions made on certain elements of the formula, and in particular the " t_a " or tariff average. What was suggested in the options paper came from ideas and suggestions floated from the floor. One point on which there had been a number of suggestions and ideas put forward was the " t_a ". Thus the first two proposals were with respect to modifying the calculation of " t_a ", while the last proposal of the section concerned a special provision for certain participants with low binding coverage.

1.18 The first proposal suggested the possibility of capping, or applying a ceiling level to " t_a ". This proposal would lower the " t_a " to this level, which would need to be determined by the participants, if the calculation of " t_a " in the normal way resulted in a " t_a " above the level of the cap. The second element involved a different way of calculating " t_a ". Instead of using the base rates " t_o ", as set out in the "Draft Elements" to calculate " t_a ", the new proposal would involve using a 50/50 weighting of bound and applied rates to calculate " t_a ". The main difference was the incorporation of applied rates in the calculation, but with only a limited weighting, in order to better approximate the level of market access as it currently existed. This would again result in a unique " t_a ", for each participant. It was noted, however, that the basis for reductions, the base rates as defined as " t_o " in the formula, would not be amended. The amendments were limited and were an improvement based on suggestions and proposals made by participants.

1.19 Finally, the third option proposed that special consideration would be given to a certain number of participants who currently had a low binding coverage. After running many simulations the Secretariat noted that for some participants the application of the formula, regardless of the parameters and " t_a " used, might not give satisfactory results. Those participants formed a rather coherent and easily defined group of 11 countries and were identified by using a strict WTO parameter, the level of binding, in this case below an average level of 35 per cent. The group comprised eight African countries, one Asian country and two Latin American countries. In order to overcome the particular problem an alternative was proposed which was that those 11 participants would be exempted from making reductions in the formula but they would be expected to bind their tariffs at the overall average level of binding of all developing countries, which was 27.5 per cent, and this figure was indicated in square brackets in the paper.

1.20 Turning to item 2. Additional Provisions for Developing and Least-Developed Participants, the Chairman stated that the changes proposed were solely with respect to paragraph 8(a), and thus the rest of this section in the "Draft Elements", especially as it related to LDCs, remained unchanged. The revised proposal was an attempt to bring an additional element of flexibility to developing countries by giving them the option of a) keeping tariff lines unbound, or b) not applying formula cuts to up to five per cent of tariff lines provided that they did not exceed five per cent of the total value of the Member's imports. A further limit was imposed in order to ensure that Members would not use all

of the five per cent of tariff lines to exclude an entire HS chapter from tariff reductions, therefore a maximum of one per cent of tariff lines could be exempted from any HS chapter. The exemptions could be used in several ways. For example, a participant with 100 per cent of its tariff lines bound could decide to exempt five per cent of its tariff lines from reductions. In another situation, a participant could make reductions on all tariffs but would keep five per cent of its tariff lines unbound. A third example would be a participant exempting two per cent of its tariff lines from reduction and exempting three per cent from binding. Each participant had a choice, depending on their starting-point.

1.21 With regard to item 3. Newly Acceded Members, the Chairman stated that since the introduction of TN/MA/W/35 discussions had indicated that an overwhelming number of participants disagreed with having a different coefficient B for newly acceded Members and proposed that their particular situation could be treated either by a longer implementation period or a grace period. Accordingly, he had introduced a longer implementation period or a possible grace period as supplementary alternatives and presented them as other options to be considered by the Group.

1.22 Turning to item 4. Non-Tariff Barriers, the text reflected many of the concerns raised by developing countries at the last NGMA meeting—adding special and differential elements to the NTB section of the modalities in order to give special provisions to developing and least-developed participants. This point had been noted but as the issue of the modalities of NTBs had not yet reached a mature stage, it was not possible to provide concrete language or proposals at this time. The types of NTBs to be addressed and the modalities to do so still needed to be determined. However, it was useful and justified to indicate at this stage that the recognition of such special and differential treatment could be included as part of paragraph 13 of the "Draft Elements", thereby highlighting a point on which the Group would have to continue its work once there was clarity on the modalities for NTBs.

1.23 The representative of Bangladesh sought clarification on whether paragraph 3 of the options paper was applicable to the LDCs.

1.24 The Chairman stated that this paragraph was not applicable to the LDCs because the "Draft Elements" paper indicated that the LDCs would be exempted from tariff reduction commitments but were strongly encouraged to increase the level of their binding. JOB(03)/155 did not replace TN/MA/W/35, rather it provided some additional options to what was contained in the "Draft Elements" paper.

1.25 The representative of Nigeria sought clarification on paragraphs 1 and 2 which referred to the "t_a". These paragraphs outlined two different options and his delegation wanted to clarify if the two options were exclusive of each other.

1.26 The Chairman stated that the options were not exclusive of each other. Participants could consider both changing the calculation of the "t_a" and capping it, it was their decision.

1.27 The representative of the Philippines also sought clarification on paragraphs 1 and 2. He stated that each of the two paragraphs had different conditionalities associated with them so in choosing one it would be necessary to comply with the relevant conditions, especially in paragraph 2 which referred to both bound and applied tariffs.

1.28 The Chairman stated it was possible to apply the option in paragraph 2, disassociating the calculation of "t_a" from the calculation of the base rates, while also applying the cap or option 2 could be applied without using the cap. He informed the Group that a technical discussion might take place during the lunch hour in order to clarify these and any other questions participants might have.

1.29 The Negotiating Group took note of the statements made.

1.30 The Negotiating Group continued its discussion on "Possible Modalities for negotiations on Non-agricultural Products (TN/MA/W/35 + Corr.1)" in an informal mode.

B. NON-TARIFF BARRIERS (NTBS)

1.31 The Negotiating Group went into informal mode to discuss Non-tariff barrier notifications – Addendum (TN/MA/W/25/Add.2) and Non-tariff barrier notifications: Secretariat compilation of the various barriers notified by the participants (JOB (03)/128)

C. CONSIDERATION OF DOCUMENTS SUBMITTED BY PARTICIPANTS AT OR SINCE THE GROUP'S LAST MEETING

1.32 The Negotiating Group remained in informal mode to discuss documents submitted by participants at or since the Group's last meeting.

D. OTHER MATTERS

1.33 There was no discussion under this item

II. OTHER BUSINESS

2.1 There was no discussion under this item
