

WORLD TRADE ORGANIZATION

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Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 29-31 March 2004

Chairman: Ambassador S. H. Jóhannesson (Iceland)

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The Negotiating Group adopted the agenda for the meeting circulated in document WTO/AIR/2275, with the inclusion of the "date of the next meeting" under "other business".

1. Election of Chairperson

1.1 On the basis of the understanding reached by the General Council at its meeting of 11 February 2004, the Negotiating Group elected Ambassador Stefán H. Jóhannesson (Iceland) as Chairman by acclamation.

2. Organization of work

2.1 The Chairman thanked Members for the confidence shown in him. He expressed the Group's gratitude to the outgoing Chairman, Ambassador Pierre-Louis Girard. The Group had come a long way since the Doha Ministerial Meeting and Ambassador Girard shared no small part in moving the process ahead.

2.2 On the organization of work, first he wished to report on the consultations he had been holding. These consultations had served to familiarise himself with the issues at hand and he now had a better sense of the positions of delegations and their concerns. One clear message he had received from these consultations was that delegation were eager to resume work. The political climate was now more conducive to an effective resumption of the Group's work. Other points that were raised in these discussions included the fact that the work done during the past two years should not go to waste; that the Group should build on it and avoid backtracking. Attention was also drawn to linkages with other areas of the negotiations. Members perceived these linkages in different ways, but obviously there had to be a balance in the package created as a result of these negotiations. On future work, the concept of "window of opportunity" was often mentioned. There appeared to be broad agreement that there was a window of opportunity from now until the summer break and the Group had to make full use of it. In this regard, Members appeared to be in agreement that the Group should try to reach a framework on modalities before July. It was his understanding that the

Committee on Agriculture in Special Session was working towards a similar objective. While he had no answers on how such an objective may be achieved, the answer in fact lay with delegations, he had a few pointers. First, all texts, proposals and papers submitted to the Group were on the table. He noted that the Group had received sixty-seven papers from Members. The Girard papers, the Derbez text, the work done by the former Chairman of the General Council, Ambassador Carlos Perez del Castillo, during the post-Cancún process, including his comments to the General Council on 15 December 2003 were all inputs that could be used. The conclusion was that much work had already been done and should be used as the basis of the Group's future work.

2.3 Secondly, in the communication he had sent on 9 March, he had identified a list of elements on modalities on which further discussion by delegations could take place during the forthcoming three days. This was an indicative list, but hopefully at least a starting point. As mentioned earlier, it was for delegations to decide what they would wish to discuss keeping in mind the objective of a framework on modalities.

2.4 On the practical side, he had also given his suggestion as to how the Group could organize the work for these three days. In this regard, following discussion under this agenda item, he planned to move the meeting into informal mode and give delegations an opportunity to introduce any new elements on modalities or proposals if any. Then he intended to suspend the meeting and reconvene the meeting on 31 March in the afternoon in informal mode. The informal meeting on Wednesday would give an opportunity for those delegations that had participated in informal consultations to orient the wider membership on these discussions. It would be an exercise in stocktaking and transparency.

2.5 These proposed practical arrangements were directed towards giving delegations a substantive amount of time to engage among themselves. This was a departure from the way previous meetings were organized and had apparently been the cause of some concern. He understood that some delegations were of the view that such a process was premature and/or might not be transparent or all inclusive. On the first point, his perception from the discussions that he had been holding was that the Group had arrived at a stage where work needed to be done between delegations to reach a more common understanding on the various elements of the NAMA modalities. If he had held a meeting along more conventional lines, there might have been a risk of statements or positions being repeated. While there was nothing wrong with such an exercise and in fact was a necessary phase in all negotiations, he was hoping for more direct interaction between Members which he thought would be more conducive to a greater meeting of minds. Concerning transparency and inclusiveness of the process, he was fully aware of the importance of this principle especially in light of the fact his delegation was one of the smallest in Geneva. As a result, he would ensure that transparency would be an inherent part of the process. Comments had also been made that unlike agriculture, NAMA did not have defined groupings and as a result such a method of work might not be effective. However, he did not see why Members holding divergent viewpoints on various elements of the NAMA modalities could not meet in order to have frank exchange of views regarding their positions and flexibilities. In fact, discussions of such nature were essential if the Group was to make progress. At the same time, he was in the Group's hands, and if it was deemed by the Group that this method of work was not useful or that progress was not being made, he was willing to review the situation for the next meeting.

2.6 The Negotiating Group took note of the Chairman's statement.

2.7 The meeting turned into informal mode to give delegations an opportunity to introduce any new elements on modalities or proposals. Then it was suspended.

2.8 The meeting resumed on 31 March 2004, first in informal mode to give delegations an opportunity to report on any consultations held, and then it turned into formal mode to take up remaining matters.

2.9 The representative of Trinidad and Tobago, on behalf of the ACP Group introduced a paper that sought to outline the main concerns of ACP countries with respect to the ongoing negotiations in the area of Non-Agricultural Market Access (NAMA). This text attempted to bring to the table new ideas for possible incorporation in the modalities framework, while clarifying and reintroducing other elements, which in their opinion, had not been adequately taken into account in the deliberations thus far. Essentially therefore, the proposal addressed the issues of tariffs, non-tariffs barriers, tariff bindings and coverage; the principles of less than full reciprocity and S&D; their concerns in respect of preference erosion and government revenue depletion; and the special situation of LDCs.

2.10 Consistent with the notion that there should be an inherent balance between flexibility and ambition in the Framework, ACP countries shared the view that the current NAMA negotiations should aim to foster the development and industrialisation processes in the Group. Fundamental in this regard was *inter alia* (i) the provision of additional and/or the maintenance of existing market opportunities (ii) flexibility in the pace and scope of future import liberalization; and (iii) building of supply side capacity in ACP States.

2.11 To the ACP, a reform agenda that was too ambitious in respect of industrial tariff cutting could entail unacceptable adjustment costs. Accordingly, the tariff reduction formula utilised should provide adequate flexibility to ACP States. This would also allow ACP States to preserve effective levels of preferences needed to maintain their export competitiveness. A possible approach in this regard, could be the identification, for exclusion, of specific tariff lines of products exported under preferences and according such products different treatment such that the margin of preference was less drastically affected as MFN tariffs were reduced.

2.12 The maintenance of the use of tariffs for development purposes, as envisaged by GATT Article XXVIII, was also germane. Equally important, was meaningfully addressing the full spectrum of non-transparent and discretionary NTBs that had been erected against ACP exports. As emphasised in the ACP Group's proposal, the incorporation of special and differential treatment and the principle of less than full reciprocity into the Framework, was critical. It was proposed that the variables, which should be given consideration in the formulation of modalities included the percentages of tariff reductions; special treatment for sensitive products and sectors; exemption from tariff cuts; and implementation time periods. Indeed in most African and Caribbean countries on average, in excess of 40% of government income was derived from tariff revenue. Further, in many instances classical fiscal reform was too costly to implement and was not a feasible option in the short-term.

2.13 For the ACP, bound tariffs represented the only legal basis for WTO negotiations. Binding coverage for some ACP countries was as low as 3%. As such, if developing countries were to increase the share of their trade covered by binding commitments and also reduce applied tariffs, this would undoubtedly constitute a disproportionate level of commitment. Moreover, if ACP States were to reduce MFN bound rates below their existing applied rates, this would effectively eliminate their flexibility to use tariffs for development purposes.

2.14 In general, ACP countries could not and did not employ anti-dumping and other contingency measures. Thus, if countries within the ACP Group were to cut mfn bound rates, leaving applied rates alone or partly reduced, this in itself would still afford security of access to their markets. The ACP Group also supported the proposal to exempt LDCs from making further reduction commitments.

2.15 The Negotiating Group took note of the statement.

2.16 The Chairman recalled that at the July 2003 meeting of the NGMA it was agreed that participants should submit new notifications on NTBs in order to improve or supplement the information that had already been submitted in the previous notification exercise. Moreover, in order to improve the responses and analysis it was agreed that the Secretariat would send out the format for such notification including a new inventory categorisation. Pursuant to this, a fax was sent to all delegations on 8 September 2003 which included the format and inventory categories for the notifications as well as a reminder to submit the information by 31 October 2003. The notifications received thus far were circulated in TN/MA/W/46 and Add.1 which were available for this meeting. A notification from Jordan had also recently come in. In this connection, he urged Members to make the maximum effort possible to make this notification and in particular to fill in column 7 where participants were requested to indicate how they would like to address the barrier in the context of the negotiations. He requested delegations to do the necessary groundwork, i.e. go through the notifications in order to see what measures had been notified and think about where and how they could be addressed.

2.17 The Negotiating Group took note of the Chairman's statement.

3. Date of the next meeting

3.1 The Chairman informed the Group that its next meeting would take place from 10 to 12 May. Another meeting of the Group was scheduled for 9-11 June, and a third meeting would be organized for July.

3.2 The Negotiating Group took note of the information.
