

**Committee on Trade and Environment
Special Session**

**REPORT BY THE CHAIRPERSON OF THE SPECIAL SESSION OF
THE COMMITTEE ON TRADE AND ENVIRONMENT
TO THE TRADE NEGOTIATIONS COMMITTEE**

1. The eighth meeting of the Committee on Trade and Environment Special Session (CTESS) was held on 19 April 2004.

I. STATUS OF WORK

2. The meeting was marked by constructive discussions on all three components of the trade and environment negotiating mandate. Under paragraphs 31 (i) and (ii), one new submission had been tabled – document TN/TE/W/39 by the European Communities (EC). The EC submission argued that it could be useful for the CTESS to explore the Multilateral Environmental Agreement (MEA)/WTO relationship in the context of global governance principles. These principles included emphasizing the importance and necessity of MEAs; the need to design environmental policy within multilateral environmental fora; the need for close cooperation and increased information flow at the national level, and at the international level between various international bodies for the mutual supportiveness of trade and environmental policies; the fact that MEAs and the WTO were equal bodies of international law; and the need to not interpret WTO rules in "clinical isolation" from other bodies of international law. The EC indicated that its submission did not preclude analytical discussions in the CTESS on the specific trade obligations (STOs) in MEAs.

3. Some support was expressed for the governance principles suggested by the EC, particularly on the need to develop common approaches to address global environmental problems, avoiding unilateral action. One participant argued that what would ultimately be needed would be an interpretative decision on mutual supportiveness and deference in the WTO/MEA relationship. Certain specific questions were put to the EC on the governance principles; for instance, about how they could work in practice to avoid MEA/WTO conflicts, and the type of instrument in which they could be embodied.

4. However, the position was also taken that governance principles fell outside the paragraph 31 (i) mandate, and that it was premature to discuss potential outcomes. Numerous participants insisted on the need for the CTESS to continue to build a firm, factual and analytical foundation to support whatever results were reached on this part of the mandate.

5. Some participants drew attention to the links and potential synergies between paragraphs 31 (i) and (ii) of the mandate, indicating that an outcome on 31 (ii) could also have a positive effect on 31 (i). Under paragraph 31 (ii), numerous participants welcomed the list of potential avenues for increased cooperation and information exchange, on which Ambassador Yolande Biké had reported to the TNC in document TN/TE/7. It was suggested that the Committee could benefit from further discussion of the items on the list, and that an eventual consolidation could be contemplated. The criteria for the granting of observer status were also discussed, with some participants calling for a delinking of this part of the mandate from the broader observer status question in the WTO.

6. A very useful exchange on Paragraph 31 (iii) took place at the meeting, and revolved around a submission by the United States (US) - document TN/TE/W/38. The exchange was particularly welcomed in light of the fact that relatively little time could be allocated to this part of the mandate in previous CTESS meetings. The US paper called for the establishment of a "core" and a "complementary" list of environmental goods. The core list would embody products on which there was a consensus that they constituted environmental goods, and the complementary list would include products on which a definitive consensus could not be reached, but for which there was a "high degree of acknowledgment" that they were significant for environmental protection, pollution prevention or remediation, and sustainability. Modalities for trade liberalization were suggested for the two lists.

7. The flexibility offered in the paper was welcomed by numerous delegations, although the argument was made that it would be important not to preclude any options at this stage, and to consider other avenues for providing flexibility in the negotiations. It was also argued that a list-based approach may not work in isolation, and that there could be a need for the development of criteria or a definition of environmental goods.

8. Questions were posed on various aspects of the US paper, including on: the relationship between the core and the complementary list, the procedures for achieving consensus on the core list, the interpretation of the term "high degree of acknowledgement" for the complementary list, the extent to which the complementary list could lead to a plurilateral process of trade liberalization, and the application of the concepts of less than full reciprocity and special and differential treatment to the lists.

9. Numerous participants were of the view that the product and production method (PPM) criterion should not be used in the negotiations. Several developing country participants indicated that they were net importers of environmental goods, and that the mandate would need to address their objectives as well, including on technology transfer and on their enhanced international competitiveness. One participant enquired about the forum in which agricultural environmental goods would be treated, and another participant indicated that it would be working on a development-oriented list of environmental goods.

II. FUTURE WORK

10. The CTESS will, of course, continue to explore all aspects of its mandate. However, the suggestion was made at the meeting that there was a need for more structured work under paragraph 31 (iii) - perhaps even a work programme under this item.

11. I will be holding informal consultations with delegations with a view to achieving further progress on the mandate of this Committee.
