

INFORMATION EXCHANGE AND OBSERVER STATUS

Submission by Switzerland

Paragraph 31(ii)

I. INTRODUCTION

1. The mandate given to the CTE Special Session in paragraph 31(ii) opens the door to a coherent development of MEA regimes on the one hand and the WTO system on the other. Switzerland welcomes the very fruitful discussion that has taken place on this item so far. With this submission, Switzerland would like to present its views and contribute to the discussion with a view to reaching a decision on the two complementary elements that constitute the mandate of paragraph 31(ii) of the Doha Declaration, that is to say :

- (a) "Procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and"
- (b) "the criteria for the granting of observer status".

2. Switzerland welcomes the document submitted by the United States¹ and the European Communities (EC)² on paragraph 31(ii) of the Doha Declaration and both WTO Secretariat documents "Existing forms of cooperation and information exchange between UNEP/MEAs and the WTO"³ and "Observer Status".⁴

3. The need for closer cooperation between UNEP, MEA secretariats and the WTO Secretariat has proved to be essential for a coherent development of the environmental and trading systems. The plan of implementation of the World Summit on Sustainable Development negotiated in Johannesburg calls for efforts to "strengthen cooperation among UNEP and other United Nations bodies and specialized agencies, the Bretton Woods institutions and WTO, within their mandates".⁵ The WTO and UNEP concluded, in 1999, a cooperation arrangement in order to "improve efforts towards the objective of sustainable development", and establish "further effective cooperation between the two Secretariats in areas of mutual interest and to help achieve the aims of the Rio Declaration".⁶ UNEP organized a number of back-to-back meetings with the CTE meetings. Since 1999, the Secretariat of the WTO has started the practice of inviting UNEP, the United Nations Conference on Trade and Development (UNCTAD), and MEAs to participate in the regional seminars

¹ TN/TE/W/5.

² TN/TE/W/15.

³ TN/TE/S/2.

⁴ TN/TE/S/4.

⁵ Paragraph 136 of the WSSD Plan of Implementation. See WT/COMTD/W/106/Rev.1, WT/CTE/W/220/Rev.1, 20 December 2002, "Report of the WSSD on Sustainable Development", Note by the Secretariat, Revision.

⁶ Press Release – Press/154 – 29 November 1999. See TN/TE/S/2, p. 2.

on trade and environment. The CTE invited a number of MEA secretariats to participate in Information Sessions from 1997 to date.⁷ So far, the modes of cooperation were developed on a voluntary and ad hoc basis. However, the calls for a more regular and structured cooperation between MEA secretariats, UNEP, and the WTO Secretariat are more and more recurrent.

II. PROCEDURES FOR INFORMATION EXCHANGE BETWEEN MEAS SECRETARIATS AND THE CTE

4. Switzerland considers that one of the main objectives of information exchange is the promotion of mutual supportiveness of the environmental and trading systems and the promotion of coherence between the said systems.

5. There are numerous benefits in enhancing cooperation between the secretariats of the MEAs and the CTE. They include: (i) international and national coordination; (ii) efficiency in capacity building and technology transfer; and (iii) prevention of conflicts between MEAs and WTO rules. Information exchange at the international level is an essential element to achieve complementarities between trade and environmental institutions. Moreover, it provides Members with the instruments necessary for a better coordination of trade and environment policies at the national level. Enhanced international dialogue, and capacity building which grows out of information exchange will strengthen national policy coordination. Technical cooperation and research initiatives are improved by a better exchange of information. Lastly, enhancing information exchange should improve the understanding of WTO and MEA legal systems and therefore contribute to avoiding potential conflict. Switzerland believes that because of the benefits of cooperation, its instruments – i.e. the information exchange or the granting of observer status – need to be strengthened, and adequate procedures set up and institutionalized.

6. Since September 1997, the CTE has held seven information sessions with the participation of MEA secretariats, which have been successful in informing WTO Members of the recent developments of trade-related issues in the respective MEAs. Switzerland considers that the timing chosen for these events is appropriate since the holding of meetings back-to-back with Special Sessions of the CTE enabled CTE Members to approach the topics of negotiations with a better understanding of MEAs' trade-related issues. The meetings also had the advantage of bringing together trade and environment officials. This will progressively enable an integrated approach towards both topics on a national level and better national coordination between trade and environmental issues.

7. The whole range of MEAs dealing with trade-related aspects⁸, whether they have or have not yet entered into force, should be invited to participate in information sessions, as well as UNEP and other UN agencies involved in trade and environmental issues.

8. Because of the numerous benefits resulting from the information sessions, Switzerland believes that these should be formalized and integrated into a regular and institutionalized structure. We, therefore, support the idea put forward by the EC and other Members, that information sessions become officially institutionalized. In our view, this should mean that:

- The meetings should be held regularly, e.g. twice a year.
- Annotated agendas and background papers should be provided to participants of each session.
- Background papers prepared jointly by UNEP, MEAs and the WTO on specific issues should be provided for the meetings.

⁷ TN/TE/S/2 p. 5.

⁸ See Annex.

- The access to official documents should be facilitated in accordance with the newly approved General Council rules on document derestriction.

9. The information flow should be considered as an instrument of information exchange as much for the WTO as for UNEP and MEAs. The CTE and some MEAs could together sponsor information sessions on specific topics that are defined in the Doha mandate. Each session could be devoted to one or more subjects with the prior consent of both sides. During the last information session held on 11 November 2002 in Geneva, the participants explored the policy areas that could benefit from further information exchange, such as capacity building and technology transfer, and trade-related obligations in MEAs.⁹

10. Other issues upon which information exchange could be very beneficial to both WTO Members and MEAs parties include, *inter alia*, compliance and dispute settlement mechanisms in MEAs and the WTO; subsidies; integrated assessments of trade liberalization; and labelling for environmental purposes.

11. Switzerland also believes that the Internet would be an appropriate instrument to enhance information exchange between the WTO, UNEP, and MEAs. A new website could be created or, better, existing websites could be adapted. In our view, a new website or specific pages on the existing websites of the WTO, UNEP, and the MEAs, should serve the following purposes:

- Information would be posted, for instance on trade measures in MEAs, on environmental measures in WTO, and papers from other analytical sources on this inter-relationship;
- It would provide the dates of CTE meetings and relevant documents from the MEAs and delegations;
- It would list the links to other related websites, such as those of the MEAs, the WTO, UNEP and other UN agencies which deal with environmental and trade issues.

III. OBSERVER STATUS

12. The definition of the criteria for the granting of observer status is the second major element of the mandate of the Doha Declaration with regard to paragraph 31(ii). Granting observer status is a very important means for increasing cooperation between trade and environmental institutions and achieving "mutual supportiveness between trade and environment".

13. Switzerland welcomes the decision taken by the CTE Special Session at its meeting in February to invite, to the meeting of May 2003, six MEAs (the Convention on Biological Diversity (CBD), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Tropical Timber Organization (ITTO), the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol), the United Nations Framework Convention on Climate Change (UNFCCC), and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention)), and UNEP as observers. The granting of this ad hoc observer status to these institutions is a very encouraging first step towards fulfilling our mandate under paragraph 31(ii). By the same token, we recognize the fact that the issue regarding the granting of observer status is an issue which is also discussed on a horizontal level. However, as the CTE has received a specific mandate in paragraph 31(ii), it must work towards the development of criteria for the granting of observer status at its level.

⁹ TN/TE/INF/2 pp.8-10.

14. UNEP as well as four MEAs enjoy observer status in the CTE Regular:¹⁰ the CBD, the CITES, the International Commission for the Conservation of Atlantic Tunas (ICCAT), and the UNFCCC. One MEA request for observer status in the CTE is pending, that of the ITTO. However, there are nine more MEAs that have shown their interest in the CTE's work by participating in the information sessions.¹¹ All in all, thirteen conventions, as well as the Kyoto Protocol (UNFCCC) and the Cartagena Protocol (CBD), the International Plant Protection Convention (IPPC) and the CITES, which are recognized as having an important trade component – as indicated in the "Matrix" elaborated by the WTO Secretariat¹² – should be considered as eligible for the granting of observer status for the CTE.

15. The granting of observer status to MEA secretariats, UNEP, and UN agencies dealing with trade and environmental issues should be destined to both CTE Regular and Special Sessions, because MEA secretariats can actually benefit from topics discussed in both sessions. MEA secretariats would have the opportunity to integrate this information in the discussions with regard to the relevant MEAs, to encourage a coherent development of the different systems and thus to help prevent legal discrepancies.

16. Most MEAs define the criteria of observership of international organizations in their statutes. In general, international organizations are allowed to attend meetings as observers by simply expressing an interest in doing so. In document TN/TE/S/2, several examples in MEAs are mentioned.

17. As regards to the WTO, the guidelines for observer status are set in Annex 3 of the Rules of Procedure for the Sessions of the Ministerial Conference and Meetings of the General Council (WT/L/161). Three issues should in our view be highlighted in this context:

- First, the decision should be made on the basis of a written request and on a case-by-case basis for each request.
- Second, the "direct interest" of the international organization requesting observer status should be specified so as to encompass UNEP and any MEA having a substantial interest in the Doha negotiations related to trade and environment, and in particular in the promotion of mutual supportiveness of the environmental and trading systems. The participation in information sessions should be an important indication of such interest. Annex 3 of the Guidelines may need some clarifications in this respect.
- Third, reciprocal treatment must be provided. The WTO Secretariat does not seem to have faced problems in this respect up to date.

18. These procedures should progressively facilitate the granting of observer status in the CTE Regular and Special Sessions. This will encourage cooperation at the international level and complement and facilitate national level coordination and cooperation between trade and environment officials.

¹⁰ WT/CTE/W/41/Rev.8, 19 September 2001.

¹¹ 1. Basel Convention,
2. Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR),
3. Montreal Protocol,
4. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention),
5. Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention),
6. United Nations Convention on the Law of the Sea (UNCLOS),
7. United Nations Fish Stocks Agreement,
8. United Nations Forum on Forests (UNFF), and
9. UNFCCC.

¹² WT/CTE/W/160/Rev.1.

19. The process of inviting MEA secretariats that have shown an interest in participating in CTE Regular and Special Sessions as ad hoc observers should be maintained and regularized until a definitive decision is taken on the granting of observer status.

IV. CONCLUSION

20. Information exchange and the granting of observer status are two important issues in the framework of the Doha negotiations on trade and environment.

21. The modes of information exchange developed by the WTO, UNEP, and MEAs have proved to be efficient and, therefore, need to be regularized and institutionalized. Information sessions should be developed in a specific framework where meetings would focus on specific topics and where background papers could be prepared jointly by the WTO, UNEP, and the MEAs.

22. The CTE Special Session is given a mandate in the Doha declaration to define the criteria for the granting of observer status (paragraph 31(ii)) at its own level. It is Switzerland's view that the CTE Special Session should develop flexible criteria based essentially on interest and involvement in trade policies. The process would progressively lead to reciprocal observer status between MEA secretariats and the WTO Secretariat, which is a fundamental part of achieving complementarities between trade and environmental institutions.

23. Switzerland favours the idea that the granting of observer status should be applied to both Regular and Special Sessions. Interested MEAs should be invited to attend CTE Regular and Special Sessions as ad hoc observers until a final solution is reached.

24. Information exchange and the granting of observer status are important means to enhance cooperation between trade and environmental institutions. They should, however, not be understood as an end in itself, but should rather lead to enhanced cooperation between UNEP, the MEAs and the WTO and thereby improve mutual supportiveness between trade and environment.

ANNEX: TRADE RELATED MEAS¹³

1. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention)
2. Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)
3. Convention on Biological Diversity (CBD)
4. Cartagena Protocol on Biosafety
5. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
6. International Commission for the Conservation of Atlantic Tunas (ICCAT)
7. International Tropical Timber Organization (ITTO)
8. Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol)
9. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention)
10. Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention)
11. United Nations Convention on the Law of the Sea (UNCLOS)
12. United Nations Fish Stocks Agreement
13. United Nations Forum on Forests (UNFF)
14. United Nations Framework Convention on Climate Change (UNFCCC)
15. Kyoto Protocol
16. International Plant Protection Convention (IPPC)

¹³ WT/CTE/W/160/REV.1, Matrix on Trade Measures Pursuant to Selected MEAs.