

**PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE**

EC Approach to Possible Decisions at Seattle

*Communication from the European Communities*

The following communication, dated 5 July 1999, has been received from the Permanent Delegation of the European Commission.

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1. The WTO Seattle Ministerial Conference will not only launch the new round, but may also be used to take a limited number of decisions for immediate or early adoption.
  2. The overriding objective for Seattle should be the successful launch of the millennium round. We must therefore ensure that any negotiation or action on other issues for possible decision supports, and in no way detracts from that objective. The Community will not support any proposal at Seattle meant to benefit solely any one country or group of countries (the least-developed countries excepted), or which fails to reflect the balanced interests of all WTO Members. Some of the issues mentioned to date contain elements that could raise concerns among other – especially developing country – partners whose support will be crucial to the launching of a round. The WTO should therefore continue in the next few months to ensure that any such issues are dealt with in a manner conducive to the successful launch of the round, rather than being detrimental to it.
  3. This note identifies below a limited number of issues, currently under discussion or negotiation, which could be ripe for decision at Seattle, and whose adoption could improve prospects for the launch of a round.
  4. It should be stressed that the list below is not necessarily exclusive or a reflection of EC priorities. As the situation develops we may have to revisit the issues listed, in the light of the preparatory work for Seattle.

**Tariff free treatment for products of least-developed countries**

5. The Community has proposed that Ministers, at Seattle, make a commitment to ensure duty free market access no later than the end of the next round of negotiations for essentially all products originating in the least-developed countries. Such a commitment should be made by industrialized countries, while the more advanced developing countries should also be invited to make a contribution. The EC itself has already made this commitment at the 1997 High-Level Meeting on the Least-Developed Countries, and renewed its invitation to others both at the High-Level Symposium on Development, held in the WTO in March this year, and in its proposal to the General Council Special Session in May.

6. Clearly, such a commitment at Seattle would be a major step in ensuring preferential access for least-developed countries and would constitute a practical demonstration of the WTO's desire to assist these countries' integration into the WTO system. In concrete terms, we envisage such a commitment being implemented through autonomous measures by different WTO Members, and progressively, but within a target date of the end of the round. The commitment would be based on the principle of special and differential treatment embodied in Part IV of the GATT.

### **Transparency issues**

7. A number of – separate – initiatives on transparency may be ripe for decision at Seattle. These are the following:

(a) Derestriction of documents and consultations with civil society

8. The General Council should reach a decision before Seattle on a broader policy for the derestriction of WTO documents. This would include earlier derestriction of submissions by WTO Members, Secretariat background notes and minutes of WTO meetings, as well as the findings and conclusions of panel reports. So far consensus has not been found for such a decision, but the EC very much hopes that agreement could be reached before or at Seattle.

9. Significant progress has also been achieved on enhanced means for dialogue in the WTO with organizations of civil society. This has included the High-Level Symposia on the Environment and Development.

10. At Seattle, it should be possible to: (i) record the progress achieved in improving WTO transparency through a broader policy of document derestriction and informal means for dialogue with civil society, which should continue and intensify after the launching of the round; and (ii) agree to explore the possibility of further measures to enhance transparency of WTO operations. This should include consideration of means of enhancing dialogue with organizations of civil society.

(b) DSU review

11. Within the context of the DSU review, a number of changes in transparency procedures are being discussed. These include: (a) public release of Members' submissions; (b) opening panel and appellate body hearings to the public for attendance; (c) a procedure for the presentation of written submissions by interested Members of the public. There is strong resistance from many Members to the introduction of such changes in the DSU. There is concern that this would imply a change in the government to government nature of WTO dispute settlement, as well as greater access possibilities for NGOs than those which are available to other WTO Members.

12. The EC is favourable towards improved transparency in dispute settlement procedures within the overall context of a balanced package of DSU reforms, including professionalization of panels. Agreement before Seattle on a broad package of DSU reforms is necessary to encourage widespread support for improved transparency. Transparency in the context of the DSU review should be considered as a separate issue from the more general transparency question in (a) above.

(c) Transparency in procurement

13. Transparency also arises as a specific issue in the context of the discussions on government procurement.

14. Transparency is the basic building block of a stable and predictable procurement regime. All participants in the procurement process benefit from the existence of transparency, whether it is the

government as a purchaser, the government as a regulator, potential suppliers, those who must enforce the rules, or investors. That is why the EC attaches so much importance to the decision taken at the WTO's First Ministerial Conference in Singapore to establish a Working Group to discuss this issue.

15. The EC has been advocating new and more ambitious rules on government procurement, including transparency. Other Members pursue more limited objectives and are pressing for the conclusion of a transparency agreement in Seattle. While keen to make progress, the EC believes that it is worth taking the time to get the elements right – in other words, that the substance of a transparency agreement is much more important than its timing, and that difficulties surrounding some of the so-called horizontal issues – in particular questions of enforcement and of scope and coverage – might require time. Consensus may rather emerge on what the basic principles of transparency should be, to serve as one of the bases for future negotiations but not necessarily to be formally adopted at Seattle. In this light, the EC's main objective in view of Seattle is to prepare the ground for a substantive agreement and not seek a "quick fix".

### **Coherence**

16. The EU has recently presented an initiative on coherence. Many Members support the idea of a coherence work programme to be adopted at Seattle. We should seek to secure at Seattle:

- (a) a clear endorsement by the heads of the international organizations of joint efforts in support of capacity building so that developing countries can derive full benefits from a new round of trade liberalization;
- (b) a paragraph in the Seattle Ministerial Declaration, which calls for the development of a work programme on coherence in parallel to the negotiations of the new round.

### **DSU review**

17. The review of the Dispute Settlement Understanding (DSU) is scheduled to be completed by the end of July 1999. There are a number of proposals on the table for discussion, covering the various steps of the dispute settlement procedure (e.g. consultations, panel and Appellate Body proceedings, transparency, developing country issues etc.). However, the issue of implementation has recently come to the forefront. There is a general interest among Members not only to try to settle this issue but also to make it a priority in the context of the DSU review. However, a final settlement of this issue will very likely require reviewing other parts of the DSU (e.g. consultations, panels etc.). The question, therefore, arises whether it will be possible by July to agree on such changes.

18. Discussions on the review have been taking place in Geneva on a regular basis and they are scheduled to continue until July. Discussions have moved quite slowly so far but new proposals on implementation have been put forward. This may give a new impetus to discussions.

19. The EC supports the notion of a balanced package of DSU reforms to be achieved for formal adoption at Seattle, and which would include the issue of implementation.

### **Electronic commerce**

20. The May 1998 Ministerial Conference agreed to maintain the current practice of not imposing customs duties on electronic transmissions, and launched a work programme to examine all relevant trade aspects of e-commerce. The results of the work programme and the declaration on customs duties would each be reviewed at the Seattle conference.

21. The EC's objective has been a positive outcome of the work programme before Seattle, in the form of a list of basic principles to prevent new barriers on e-commerce. The e-commerce industry is increasingly interested in the work programme. Agreement may be possible on a balanced package of trade principles covering *inter alia* issues such as domestic regulation, anti-competitive practices and clarifying the application of GATS rules.

22. The EC will not agree to the prolongation of the standstill unless there is agreement, by Seattle, on a satisfactory outcome of the work programme including a balanced package of trade principles. However a possible outcome could be the adoption of the trade principles including a continued moratorium on tariffs, to become definitive upon the completion of the work programme at some future stage.

### **Conclusions**

23. The above issues constitute a balanced package for possible decision at Seattle. As an ensemble they will:

- (a) foster the integration of developing countries – in particular the least developed – into the multilateral system;
- (b) help strengthen the WTO as an institution, including its rules based approach; and
- (c) will demonstrate the WTO's openness and transparency towards civil society.

24. Should any WTO Member propose additional issues for decision at Seattle, the EC will take a positive view on them only to the extent they are balanced and of interest to the Members as a whole, and to the extent they support, and do not detract from, the objective of launching a round.

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