

Negotiating Group on Trade Facilitation

MINUTES OF THE MEETING

Held in the Centre William Rappard
from 27 April – 1 May 2009

Chairman: H.E. Mr. Eduardo Ernesto Sperisen-Yurt (Guatemala)

1. The Chairman recalled that the proposed agenda for the session had been circulated in WTO/AIR/3349. As indicated in the airgram, the meeting sought to advance work on all elements of the mandate, continuing the cycle of refining the negotiating proposals Members had initiated in February. In addition, the Negotiating Group on Trade Facilitation (NGTF) would take up the standing item of ad hoc attendance by the Annex D organizations.
2. The agenda was adopted.
3. The Chairman shared his views on the organization of the meeting week. The overall structure reflected the objectives of the sessions and the practical requirements for their realization. The scope of activities was particularly broad this time, ranging from the traditional addressing of old/new proposals and the work on implementation matters to a special session on standards, two workshops and a number of consultations in various configurations. There was further the additional constraint of parallel General Council meetings, forcing Members to forgo the NGTF sessions originally scheduled for the same time. As a result, delegations would have to be particularly efficient in their time management and to accept a somewhat shorter slot for the addressing of certain items.
4. The NGTF's mode of operation remained unchanged. Members would continue the tradition of conducting most of the exchanges in open-ended, informal mode. The presentation of new submissions would be considered formal while their detailed discussion remained off the record.
5. Substantive work would commence with the introduction of new proposals. This would then be followed by their detailed discussion – as well as a review of the previously submitted texts - in the context of informal working sessions, which were scheduled to commence right after the end of the opening plenary. GATT Article VIII-related proposals would be addressed first, continuing the textual work from where Members had left it off in February. From there, delegations would move to the other areas, as time permitted.
6. Technical assistance and S&D matters would be the focus of attention Thursday morning with additional time being reserved for this area the following day. Work would be led by the Friend of the Chair who would then report back to the plenary on the outcome of his activities. Friday would also allow Members to learn about the state of the Secretariat's needs assessment programme before concluding the meeting.
7. The plenary session was adjourned and the informal working sessions commenced.

A. NEW AND REVISED PROPOSALS

8. This part of the meeting was conducted in informal mode with the exception of the following presentation of a new submission:

9. The representative of Saint Lucia introduced JOB(09)/11, explaining that it proposed a checklist of indicative actions for the establishment and sustainability of a multi-agency working group on Trade Facilitation. The document was submitted to reflect some ideas on the benefits that could be harnessed from sustaining and making permanent the task forces initially created for the needs assessments. It sought to capture some of the indicative steps that could assist in making those multi-agency working groups (or committees, as referred to by Honduras) permanent.

10. One of the unheralded initiatives of the Trade Facilitation (TF) negotiations was the concrete, yet insufficient, support provided by the Annex D organizations in support of the needs self-assessments and sustaining the ad hoc organizations created in that context. In St. Lucia's view, the need assessments presented an opportunity for Members to preliminary reflect on capacity constraints and systemic deficiencies that impeded the efficient flow of trade.

11. Beyond this, the needs assessments had occasioned an internal discussion amongst key trade facilitation constituencies both from the private and public sectors on issues related to Trade Facilitation, particularly on the question of how administrative bottlenecks could be overcome.

12. In some cases, the apparatus of the national task forces had heated a broader discussion amongst constituencies on some of the challenges grappled with by traders and government agencies alike. The needs assessment had, in some instances, been a catalyst for new and more wide-ranging discussions on trade efficiency. In other words, the creation of the national task forces had, in some instances, given impetus for renewed attention at a national level to some of the very issues negotiated in Geneva.

13. In recognition of that fact, St. Lucia, together with other Members of the Organization of Eastern Caribbean States (OECS), had undertaken work to establish permanent working groups to address some of the issues identified during the needs assessments. It had to be made clear that many of the issues faced by St. Lucia and other OECS Member States required substantial support from the Annex D organizations in order for those bottlenecks to be bridged.

14. The creation of permanent working groups could, *inter alia*, support the negotiations and subsequent implementation, monitor the implementation of obligations arising from the current and other negotiations and show that the concerns of the private sector were taken account of in the development of trade policies as they related to Trade Facilitation.

15. In light of the real benefits that could arise from the systematic approach to the development of policies in Trade Facilitation, JOB(09)11 provided some indicative steps that could be taken to ensure continuity of the work of the task forces by turning them into permanent working groups.

16. St. Lucia hoped that the simple steps outlined in the document would provide the membership with some guidelines on how some of the most desirous aspects of the Trade Facilitation negotiations could be harnessed and how their full long-term benefits could be embedded in national structures.

17. The Negotiating Group took note of the statements made.

18. Upon resumption of the plenary meeting, the discussions continued in informal mode with the exception of the following statements, which were requested to be placed on record:

19. The representative of Bangladesh remarked that the current day was historic May Day. It was a holiday in the Bangladesh mission in Geneva as well as in their domestic constituency and elsewhere in the world. He therefore took the opportunity to pay tribute to those who had made supreme sacrifices to establish workers' rights 118 years ago. He had a feeling of sympathy for those workers who were and would be connected with trade facilitation.

20. Bangladesh thanked Mr. Matthew Wilson for his excellent performance and his report as a true friend of the Chair. The Bangladesh delegation would speak on Special and Differential Treatment (S&DT) and Technical Assistance and Support for Capacity Building (TACB) from the perspective of a least-developed country (LDC).

21. He had listened to the interventions made that morning very carefully. Bangladesh had repeatedly said that the LDCs had willingness and sincerity to take commitments relating to Trade Facilitation, but that they did not have the capacity to take full commitments. That gap could be bridged through TACB. He was not happy with what he had heard from some of his colleagues regarding a linkage of commitment to capacity and a commitment to financial assistance. Those were fundamental issues and could not be lost sight of.

22. Annex D was a modality agreed upon by all Members in 2004 under the July Package. Perhaps this was the only modality after the Doha Declaration in 2001. Annex D was very clear. As he had already mentioned at the last meeting, paragraph 2 stated that "the extent and the timing of entering into the commitments shall be related to implementation capacities of developing and least-developed Members". On top of that, there was a special provision for LDCs in paragraph 3, stating that they "will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities." The word "individual" was important. It implied that the level of commitment would vary from LDC to LDC. It also implied, as Pakistan had mentioned, that LDCs were not required to take 100% of the commitment. That was also Bangladesh's understanding.

23. With respect to TACB, paragraph 5 of Annex D said that TACB was vital for developing countries and LDCs to enable them to fully participate in and benefit from the negotiations. Without TACB, LDCs and developing countries could not fully participate in and benefit from them. Paragraph 4 of Annex D said that Members should also address the concerns of developing countries and LDCs related to cost implications of the proposed measures. "Addressing the concerns of cost implications of the proposed measures" meant nothing but TACB.

24. Regarding categories A, B and C, "A" meant commitments to be agreed to *ab initio* or from the beginning – but not for LDCs. "B" meant commitments to be implemented at a belated stage. "C" meant costly commitments. Developing countries were saying that the list of category A commitments was to be submitted before the TF Agreement's entry into force as opposed to the signature stage. They were very right as measures were still evolving and one did not know their depth and breadth yet. LDCs needed further S&DT. Therefore, they would intimate the list of category A commitments after the TF Agreement's entry into force. The commitments would vary from LDC to LDC.

25. With respect to category B, there were two aspects: shifting and delaying. As already said by Tanzania, before submitting the list of category B commitments, one had to be sure of Members' acceptance of the "early warning mechanism" and the shifting of commitments from A to B or from B to C due to an unforeseen contingency. Technically, it was possible to shift from C to B or from B to A if the situation improved. The commitments would vary from LDC to LDC as well.

26. As far as category C was concerned, all measures, from A to Z, minus category A and minus category B equalled category C. Therefore, when notifying categories A and B, category C would be

obvious. Category C measures were contingent upon the availability and assistance of a donor. As soon as LDCs got a donor, they would commit, with the commitments varying from LDC to LDC. Two issues were common to all three categories: the submission of a list and an implementation schedule. They would vary and unfold gradually as the negotiations evolved.

27. The representative of Cuba said that the Chair's summing up of the negotiating week had listed a number of points that were very important. Cuba had been in contact with other delegations and was of the view that those issues should be the subject of debate. The Cuban delegation wished to thank the WTO Secretariat for having appropriately included Cuba's previous intervention in the minutes of the last meeting.

28. Cuba had expressed concerns with regard to the process. Given the fact that it was not known when work on NAMA, Agriculture and in other negotiating groups was going to pick up again, it was very difficult to come to the NGTF because Cuba was a very small delegation and it was difficult having to reiterate concerns time and again. They did not have a lot of time. Delegations who had done a needs assessment were keen to share their experiences but at the same time, Cuba wished to ask that consultations be convened to discuss that important issue. Everybody, including the Director-General, who had fortunately been re-elected – Cuba wished to take the opportunity to congratulate him on his re-election – said that the WTO was a Member-driven organization. Against that background, and based on the Chair's comments, it was crucial that Members had a good look at the best way to move forward, particularly with regard to small delegations such as Cuba to ensure that they had an opportunity to see the process evolve rather than having to reiterate the same positions.

29. The Chair had rightly remarked that a much of the process ahead was in the hands of the Members. Cuba fully agreed with that assessment. At the same time, Cuba felt that through the Chair's leadership, the Chair should give Members support to move the process forward in the best way possible. It was useful to come and talk about the various proposals. The Chair's report had signalled important issues such as the consolidation of proposals. Perhaps the report could be a basis for future discussions about the best way to move forward in the NGTF. Cuba wished to thank the Chair for his summary and the Secretariat for the support they had provided.

30. The representative of Rwanda, speaking on behalf of the African Group, commended the Chair together with the Friend of the Chair for having guided the work during the current week.

31. The African Group highly appreciated the Friend of the Chair's efforts and dedication in conducting his work. His latest document had just been received and would be closely considered with interest. The African Group sincerely thanked him for providing Members with that summary in a such short time which allowed capital-based officials to go back home with a document summarizing the different positions so that they could return prepared for further engagement.

32. As far as the Chair's concluding remarks were concerned, the African Group agreed with his entire assessment of where the NGTF came from, where it currently stood and how to move forward. The African Group fully supported the Chair's proposal to complete the current round of reviewing the existing texts and of urging Members to effectively modify their proposals. That would allow delegations to move forward in a Member-driven format. The African Group equally fully supported the Chair's suggestion, based on the consultations he had held, to organize a dedicated discussion on one or two topics in a focused meeting led by the Chair. The African Group looked forward to fully engaging in a discussion which it hoped to result in a compromise on a number of topics. The African Group stood behind the Chair and his Friend. It pledged its full support and looked forward to engaging in the next session.

33. The Negotiating Group took note of the statements made.

B. AD HOC ATTENDANCE OF RELEVANT INTERNATIONAL ORGANIZATIONS, INCLUDING THE IMF, OECD, UNCTAD, WCO AND THE WORLD BANK, AT THE NEXT MEETING OF THE NEGOTIATING GROUP

34. The Chairman suggested inviting relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to attend the next formal meeting of the Negotiating Group on an ad hoc basis, as provided for in the Work Plan.

35. It was so agreed.

C. OTHER BUSINESS

36. The Chairman addressed the issue of the Group's next meeting. In line with what Members would have seen in his fax of 14 January, he proposed for that session to be held in the week of 29 June. Details regarding its content and structure would be communicated to Members in due course.

37. It was so agreed.

38. The Negotiating Group took note of the statements made.

39. The meeting was adjourned.
