

## Council for Trade in Goods

### DRAFT REPORT (2003) OF THE COUNCIL FOR TRADE IN GOODS<sup>1</sup>

In accordance with the "Procedures for an Annual Overview of WTO Activities and for Reporting under the WTO" (WT/L/105), the Council for Trade in Goods is to report each year to the General Council on the activities in the Council as well as in the subsidiary bodies. The reports are to be "factual in nature, containing an indication of actions and decisions taken, with cross references to reports of subordinate bodies and could follow the model of the GATT 1947 Council reports to the CONTRACTING PARTIES".

Since the CTG 2002 annual report (G/L/595) was issued, the Council for Trade in Goods has met five times in formal session on the following dates: 6 December 2002 (minutes contained in document G/C/M/67); 23 January and 26 February 2003 (G/C/M/68); 12 and 13 March 2003 (G/C/M/69); 12 and 13 June 2003 (G/C/M/70); and 26 November 2003 (G/C/M/-- to be issued).

The following subject matters which were raised and/or acted upon in the Council are as follows:

1. Election of Chairperson
2. Appointment of officers
3. Periodic reports of the Market Access Committee
4. Waivers under Article IX of the WTO Agreement
5. TRIMs
6. Regional Trade Agreements
7. Work programme on electronic commerce
8. Trade facilitation
- [9. China Transitional Review]
- [10. Status of notifications]
- [11. Consideration of annual reports of subsidiary bodies]

#### 1. Election of Chairperson for the Council for Trade in Goods (G/C/M/69)

At its meeting of 12-13 March 2003, the Council elected H.E. Ambassador Hovorka (Czech Republic) as its Chairman for 2003.

#### 2. Appointment of Officers for the subsidiary bodies of the Council (G/C/M/69)

At its meeting of 12-13 March, the Council took note of the consensus on the following persons nominated for election as Chairpersons of its subsidiary bodies<sup>2</sup>:

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<sup>1</sup> The text of this draft report is almost entirely based on the update to the 2002 report of the CTG in document G/L/637, dated 14 July 2003.

<sup>2</sup> Committee of Participants on the Expansion of Trade in Information Technology Products (ITA): Mr. Hisashi Yoshikawa (Japan).

Committee on Agriculture	Dr. Magdi Farahat (Egypt)
Committee on Anti-Dumping	Mr. David Evans (New Zealand)
Committee on Customs Valuation	Mr. Ivan Lee (Hong Kong)
Committee on Import Licensing	Ms. Philippa Davies (Jamaica)
Committee on Market Access	Ms. Jo Lomas (United Kingdom)
Committee on Rules of Origin	Mr. Syed Habib Ahmed (Pakistan)
Committee on Safeguards	Mr. Pornchai Danvivathana (Thailand)
Committee on Sanitary and Phytosanitary Measures	Mr. Paul Martin (Canada)
Committee on Subsidies and Countervailing Measures	Ms. Olga Lucia Lozano (Colombia)
Committee on Technical Barriers to Trade	Mr. Juan Antonio Dorantes Sanchez (Mexico)
Committee on Trade-Related Investment Measures	Mr. Sivaramen Palayathan (Mauritius)
Working Party on State Trading Enterprises	Ms. Judith Vankova (Slovak Republic)

At the same meeting, the Council agreed to proceed on the understanding that as concerns Vice-Chairpersons, it would be for the subsidiary bodies to decide if they needed a Vice-Chairperson in cases where the option existed under the respective Agreement and/or rules of procedure, and for the respective Chairperson to hold the necessary consultations.

### 3. Periodic reports of the Market Access Committee (G/C/M/70)

At its meeting on 12 and 13 June 2003, the Council took note of the periodic report (in document G/MA/149) of the Market Access Committee on *inter alia* the requests for waiver extensions and/or waivers made in connection with the transposition or renegotiation of schedules of tariff concessions and/or in connection with the introduction of harmonized system changes into schedules of tariff concessions on 1 January 1996.

### 4. Waivers under Article IX of the WTO Agreement (G/CM/68, G/C/M/70)

- (a) Kimberley Process Certification Scheme for Rough Diamonds – Waiver request from Australia, Brazil, Canada, Israel, Japan, Korea, Philippines, Sierra Leone, Thailand, United Arab Emirates and United States<sup>3</sup>

At its meeting on 23 January and 26 February 2003, the Council considered the request (documents G/C/W/431 + Corr.1 and 2) and recommended that it, together with the draft decision contained in G/C/W/432/Rev.1, be forwarded to the General Council for adoption.

- (b) Introduction of Harmonized System 1996 changes into WTO Schedules of tariff concessions – Requests for a waiver (Argentina - G/L/606, G/C/W/452, El Salvador - G/L/608, G/C/W/454, Israel - G/L/620, G/C/W/462, Malaysia - G/L/615, G/C/W/460, Morocco - G/L/616, G/C/W/461, Pakistan - G/L/612, G/C/W/458, Panama - G/L/607, G/C/W/453, Thailand - G/L/611+Corr.1, G/C/W/457, Venezuela - G/L/609, G/C/W/455)

At its meeting on 12 and 13 June 2003, the Council considered requests from nine Members for waivers in connection with the introduction of HS96 changes to their Schedules of concessions.

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<sup>3</sup> Subsequently, the following Members made notifications to the CTG. Under paragraph 3 of the waiver decision (WT/L/518) they were: European Communities, Switzerland, Czech Republic, Hungary and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, Mauritius, Romania, Slovenia, Croatia and Bulgaria; pursuant to paragraph 4 there have been notifications by Canada, Australia and Brazil.

The Council approved the waiver requests and recommended that the draft decisions contained in the cited G/C/W/- documents be forwarded to the General Council for adoption.

- (c) Extension of waiver for the purpose of establishing a new Schedule (Sri Lanka – G/L//610, G/C/W/456)

At its meeting on 12 and 13 June 2003, the Council considered the request from Sri Lanka for the extension of a waiver for the purpose of establishing a new Schedule. The Council approved the waiver request in G/L/610 and recommended that the draft decision in G/C/W/456 be forwarded to the General Council for adoption.

## **5. TRIMs – Review of the operation of the TRIMs Agreement under Article 9 (G/C/M/69, G/C/M70)**

At its meetings on 12-13 March and 12-13 June 2003, the Council took note of the statements made regarding, *inter alia*, the submission by Brazil and India in document G/C/W/428. It was agreed that the Chairman would undertake informal consultations on how to proceed with the review.

## **6. Regional Trade Agreements (G/C/M/68, G/C/M/69, G/C/M/70)**

At its meetings on 23 January and 26 February, 12-13 March and 12-13 June 2003, the Council adopted the terms of reference under which the CRTA should examine the following Agreements:

- (a) Agreement between Japan and Singapore for a new-age economic partnership - notification from the parties to the Agreement (WT/REG140/N/1, WT/REG140/1);
- (b) European Communities – Jordan Euro-Mediterranean Association Agreement - notification from the parties to the Agreement (WT/REG141/N/1, WT/REG141/1);
- (c) European Communities – Croatia Interim Agreement - notification from the parties to the Agreement (WT/REG142/N/1, WT/REG142/1)
- (d) Free Trade Agreement between Canada and Costa Rica – Notification from the parties to the Agreement (WT/REG147/N/1, WT/REG147/1)
- (e) Free Trade Agreement between the EFTA states and Singapore – Notification from the parties to the Agreement (WT/REG148/N/1, WT/REG148/1)
- (f) Free Trade Agreement between Bulgaria and Estonia – Notification from the parties to the Agreement (WT/REG149/N/1, WT/REG149/1)
- (g) Free Trade Agreement between Bulgaria and Israel – Notification from the parties to the Agreement (WT/REG150/N/1, WT/REG150/1)
- (h) Free Trade Agreement between Bulgaria and Latvia – Notification from the parties to the Agreement (WT/REG151/N/1, WT/REG151/1)
- (i) Free Trade Agreement between Bulgaria and Lithuania – Notification from the parties to the Agreement (WT/REG152/N/1, WT/REG152/1)

## **7. Work programme on electronic commerce (G/C/M/70)**

At its meeting on 12-13 June 2003, the Council considered its report to Ministers as set out in paragraph 34 of the Doha Ministerial Declaration (the report was subsequently circulated as document G/L/635).

## **8. Trade Facilitation (G/C/M/67, G/C/M/69, G/C/M/70)**

Since the CTG's last report to the General Council at 28 November 2002 (G/L/595) the Council continued its work on trade facilitation as mandated in paragraph 27 of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1), in the course of three formal sessions on 6 December 2002, 12-13 March 2003 and 12-13 June 2003.

As set out in the 2002 trade facilitation work programme adopted by Members at the CTG session of 22 March 2002, the meeting of 6 December 2002 served as a forum for an overall discussion of all core agenda items: (i) Articles V, VIII and X of the GATT 1994, (ii) trade facilitation needs and priorities of Members, particularly of developing and least developed countries, and (iii) technical assistance and capacity building. It also provided the opportunity to discuss the organization of future work. Three papers<sup>4</sup> were submitted by Members in preparation for that meeting, in addition to a compilation of Members' proposals regarding GATT Articles V, VIII and X prepared by the WTO Secretariat<sup>5</sup>. Written contributions were also received by the WCO and the OECD.

In their discussions, Members reverted to the previous three sessions (G/C/M/61, 64 and 65), summarizing the debate and highlighting common elements. Several Members presented their conclusions from the exchange of views, and highlighted elements they consider to be of particular importance for their current and future work on the facilitation of trade. Members were in agreement on the importance of trade facilitation, with many delegations highlighting the various benefits of this process. A number of delegations reported on efforts undertaken in their respective countries in this regard. Members also referred to the previous discussions as a reference point for future work, with some of them indicating how they would like to pursue work in 2003.

With respect to Members' proposals on how to review and, if appropriate, clarify and improve GATT Articles V, VIII and X, several Members expressed support for the suggested measures, which they regarded as means to ensure a more consistent approach to trade facilitation by all Members and to enhance the efficiency and transparency of trade transactions. Others raised concerns and expressed reservations, both in terms of the need to clarify and improve the three articles and with respect to questions of feasibility for many developing countries, due to their different levels of development. In this context, Members underlined the importance of technical assistance. They also felt that the principle of special and differential treatment has to be taken fully into account. Members also indicated their readiness to address, in the context of further steps, development-related issues and concerns. Repeated reference was made to the question of whether or not to develop binding rules in this area, with several delegations highlighting the need for and the benefits of such rules. Other Members were not convinced that there should be additional binding rules; some of them proposed that measures be taken autonomously. Others called for non-binding approaches, such as in the form of guidelines or principles. The meeting also saw Members exchange their national experiences with trade facilitation measures, with delegations agreeing on the usefulness of such an exercise. Members were further updated on various technical assistance and capacity building support activities carried out by a number of donors.

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<sup>4</sup> G/C/W/440 by Chinese Taipei, G/C/W/442 by the European Communities and G/C/W/443 by Australia.

<sup>5</sup> G/C/W/434.

With respect to the organization of future work until the Cancun Ministerial, Members decided to hold two additional formal sessions in March and June 2003 with the option of a third meeting at the end of July, should Members consider such an additional session necessary. As for substance, Members agreed to keep the current structure with the three core agenda items of (i) GATT Articles V, VIII and X, (ii) trade facilitation needs and priorities of Members, particularly of developing and least developed countries, and (iii) technical assistance and capacity-building. The Council agreed on the organisation of future work along these lines and took note of the statements that were made.

At its meeting on 12 and 13 March 2003, the Council again discussed the agreed three core agenda items of (i) Articles V, VIII and X of the GATT 1994, (ii) trade facilitation needs and priorities of Members, particularly developing and least developed countries and (iii) technical assistance and capacity building. Four Members submitted written contributions<sup>6</sup>. A paper was also prepared by the OECD.

In their discussions, a number of delegations pointed at the benefits of trade facilitation, and new and strengthened trade facilitation disciplines and commitments, which were presented as an important part of efforts to facilitate trade. Those delegations also made clear that they saw technical assistance and support for capacity building as essential elements of work on trade facilitation. There was also repeated reference to the need for flexibility in the pursued approaches. Some delegations further stressed the importance of flexible commitments in terms of broad objectives that would enable countries at different level of development to move at different speeds, but in the same direction of trade facilitation. These delegations further highlighted the need for comprehensive special and differential treatment, where it was noted that it should not be limited to mere transition periods. Several interventions addressed the WTO's role and function in the area of trade facilitation, and its relationship with other international organizations, which was considered to be a complementary one. There were also several delegations which expressed serious concerns regarding the idea of negotiating binding commitments. These delegations stated that the current state of development of many developing countries and their resource constraints would not allow them to engage in new commitments on an equal level as developed Members. A "one-size-fits-all" approach would not work. While agreeing on the benefits of trade facilitation, they did not concur with the view of the usefulness and necessity of developing binding trade facilitation *rules*. Preference was further expressed by those delegations for continuing efforts to facilitate trade on a national or regional, rather than a multilateral level. Specific concerns were expressed with regard to the applicability of dispute settlement procedures. In this context, a proposal was made by one delegation to find "creative solutions" to that problem. The delegation introduced the idea of an agreement-specific mediation/consultation process. It was stated by many delegations that dispute settlement procedures should not be pursued in cases where a Member did not implement a commitment simply due to its level of development and lack of capacity.

Members further shared their national experiences in implementing certain trade facilitation measures, which was generally considered to be very informative. While some of the presented examples were seen by several delegations as an example of what could be done even within a relatively small administration, others viewed it as an example of the many trade facilitation measures currently undertaken at the national level in the absence of binding rules. As regards technical assistance and capacity-building, Members were in agreement on their importance. Members were updated on latest activities by donors in this area, and informed about lessons drawn in the course of their execution. Some donors also informed about the importance they attach to trade facilitation-related technical assistance in the context of their overall development programme. Reference was made by several developing countries that such assistance would also have to include

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<sup>6</sup> G/C/W/448 by Canada, G/C/W/442.Rev.1 by the European Communities, G/C/W/449 by New Zealand and G/C/W/451 by the United States.

infrastructure, if it was to help them address their specific problems and allow them to fully benefit from trade facilitation. There was also reference to the importance of avoiding duplication of work, of ensuring high level commitment, of assistance to be demand-driven and of having follow-up action to ensure effective implementation of technical assistance projects. The Council took note of the statements made.

At its meeting on 12 and 13 June 2003, the Council addressed the traditional three core agenda items: (i) Articles V, VIII and X of the GATT 1994; (ii) trade facilitation needs and priorities, particularly of developing and least developed countries; and (iii) technical assistance and capacity building. Two Members<sup>7</sup> submitted written contributions, in addition to one paper by the Secretariat<sup>8</sup>. Written contributions were also made by the WCO and the OECD.

In the discussions, many delegations highlighted the benefits of trade facilitation, which were broadly recognized by the Membership. Reference was also made to the need of working together in this area with a view to achieving benefits for all Members, and to better integrate developing and least developed countries into the multilateral trading system. It was held that any evolution of trade facilitation had to reflect the needs and the specific situations of Members, and their ability to implement whatever may be agreed upon in the future, to allow for the full enjoyment of the benefits accruing from trade facilitation. There was also reference to the fact that additional WTO measures, if any, should not seek unrealistic levels of harmonisation.

Many delegations further highlighted the benefits of a rules-based approach in this area, while at the same time expressing understanding for concerns that had been raised in this context and indicating readiness to pursue flexible approaches. With respect to such flexible solutions, some clarifications were sought and given on the precise ideas suggested. Several Members also pointed at the difficulties they see with respect to developing binding rules, and called for alternative approaches, such as the development of non-binding guidelines. One delegation, supported by some others, suggested to work on guidelines which could serve as a target for internal reform endeavours and for the identification of technical assistance needs, and could then be transformed into binding rules once developing countries had sufficiently developed their internal capacities. Reference was further made to the crucial role of technical assistance and capacity-building and all agreed that Members should deliver on their promises in the area of trade facilitation as reflected in paragraph 27 of the Doha Ministerial Declaration. Members also highlighted the importance of and the benefits from close cooperation among all stakeholders.

In line with the agreed Work Programme, Members then addressed the issue of whether to hold an additional meeting at the end of July, and since no Member requested to continue the discussions, decided not to make use of such an option. With respect to the required reporting on trade facilitation work to the General Council, Members agreed to follow the past practice when trade facilitation was one section of the Council's 2002 Annual Report, and on a procedure of *ad referendum* adoption. It was further agreed that a report should be of a factual nature. The Council took note of the statements made and agreed to proceed as described above.

**[9. Transitional Review under paragraph 18 of the Protocol of Accession of the People's Republic of China]**

**[10. Status of notifications under the provisions of the Agreements in Annex 1A of the WTO Agreement]**

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<sup>7</sup> G/C/W/465 by Japan and G/C/W/466 by Australia.

<sup>8</sup> G/C/W/463.

**[11. Consideration of annual reports of subsidiary bodies of the CTG]**

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*[This draft report will be updated in the light of the discussion of the meeting of 26 November 2003 and will be issued as a document in the G/L/ series.]*

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