

# WORLD TRADE ORGANIZATION

RESTRICTED  
WT/WGTCP/M/7  
23 December 1998

(98-5164)

---

## Working Group on the Interaction between Trade and Competition Policy

### REPORT ON THE MEETING OF 17-19 NOVEMBER AND 4 DECEMBER 1998

#### Note by the Secretariat

1. The seventh meeting of the Working Group on the Interaction between Trade and Competition Policy took place on 17-19 November and 4 December, under the Chairmanship of Professor Frédéric Jenny.

#### **I. FURTHER CONSIDERATION OF THE ELEMENTS OF THE GROUP'S WORK PROGRAMME, AS INCORPORATED IN THE CHECKLIST OF ISSUES SUGGESTED FOR STUDY**

2. The representative of the Dominican Republic raised a concern regarding the impact on trade and competition of provisions incorporated in concession or licensing agreements that limited firms to manufacture or distribute products in a particular country or countries. Such provisions impacted directly on the possibility of free trade outside the countries referred to in the concession. Examples of sectors where concerns had arisen regarding this practice included tobacco and alcoholic beverages. He was informed that similar concerns had arisen in other countries in relation to the automobile sector, in which concession agreements for companies operating in the Andean Pact had apparently affected their ability to export into Mercosur countries. While in some cases, the practice also touched on questions involving trade and investment and intellectual property rights, it clearly raised concerns relating to the impact of anti-competitive practices of enterprises on international trade. The practice generated protectionist attitudes on the part of companies that were otherwise competitive. It merited consideration in future meetings of the Group and/or by successor bodies.

#### **II. THE WORKING GROUP'S REPORT TO THE GENERAL COUNCIL, INCLUDING CONSIDERATION OF ANY RECOMMENDATIONS REGARDING AREAS THAT MERIT FURTHER CONSIDERATION IN THE WTO FRAMEWORK**

3. The Group divided its consideration of this item into two elements: (a) the descriptive part of the report; and (b) a recommendation to the General Council to be incorporated in the report.

##### **A. THE DESCRIPTIVE PART OF THE REPORT**

4. The Group had before it a draft of the descriptive part of the report (Job No. 6050, dated 10 November 1998), which had been prepared by the Secretariat as requested at the Group's previous meeting (WT/WGTCP/M/6, paragraph 89). The Chairman recalled the nature of this part of the report and the guidelines given to the Secretariat for its drafting. It was to describe the substance of the work which had been done so far in the Group. It was to be based on the records of the meetings. It was further understood that this part of the report should be factual, descriptive and balanced, it should reflect the views that had been expressed by Members and should not attempt to highlight

areas of agreement or disagreement. It would also be without prejudice to the possibility of any issues being reverted to in the future work of the Group.

5. The Working Group adopted the descriptive section of the report, on the understanding that minor corrections and additions which were agreed to by Members would be made by the Secretariat before the report was circulated to the General Council.

B. THE GROUP'S RECOMMENDATION TO THE GENERAL COUNCIL

6. Following informal consultations, the Group adopted the following recommendation to be included in its report:

"Paragraph 20 of the Singapore Ministerial Declaration provides, *inter alia*, that the General Council will keep under review the work of the Working Group on the Interaction between Trade and Competition Policy established under that provision and will determine, after two years, how the work of the Working Group should proceed.

The Working Group recommends that the General Council decide as follows:

The Working Group shall continue the educative work that it has been undertaking pursuant to paragraph 20 of the Singapore Ministerial Declaration. In the light of the limited number of meetings that the Group will be able to hold in 1999, the Working Group, while continuing at each meeting to base its work on the study of issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, would benefit from a focused discussion on: (i) the relevance of fundamental WTO principles of national treatment, transparency, and most-favoured-nation treatment to competition policy and vice versa; (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; and (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade. The Working Group will continue to ensure that the development dimension and the relationship with investment are fully taken into account. It is understood that this decision is without prejudice to any future decision that might be taken by the General Council, including in the context of its existing work programme."

7. The representative of Mexico asked for the floor before the adoption of the recommendation of the Working Group in order to inform Members that Mexico had the intention of submitting a draft recommendation on the subject of the interaction between trade and competition policy in the context of paragraphs 9, 10 and 11 of the WTO's Ministerial Declaration of last May. He said that recommendations or decisions by subsidiary bodies such as the Working Group on the Interaction between Trade and Competition Policy could not change or supersede the terms of a mandate set out in a Ministerial Declaration. In particular, they could not change the non-exclusive nature of the mandate given to the Group in paragraph 20 of the Singapore Ministerial Declaration. His delegation's joining of the consensus on the Group's recommendation reflected this understanding.

8. The representative of India said that, as Members knew, his delegation had had certain concerns regarding the non-exclusivity of the future work to be undertaken by the Group. It had expressed these concerns at the informal meeting, in which it had stated that Members must have the freedom to raise issues that may be of interest to them as mandated under paragraph 20 of the Singapore Ministerial Declaration and that an enumeration of issues, however broad, as a focus to the

future work, would therefore not in any way limit this non-exclusivity. His delegation was happy that it had since been able to join the consensus, on the understanding that the draft recommendation to the General Council explicitly incorporated these concerns and that, as had been the tradition in the WTO, Members would continue to have the freedom and the flexibility to raise issues of interest to them in future meetings of the Working Group.

9. The representative of Singapore, speaking on behalf of ASEAN WTO Members, said that ASEAN supported the text of the Recommendation. The Recommendation struck a very careful balance. Two aspects of the Recommendation were of great importance to ASEAN: firstly, that it reaffirmed paragraph 20 of the Singapore Ministerial Declaration as the working parameters of the Group in 1999, and secondly, that it upheld the principle of non-exclusivity.

10. The representative of Pakistan said that his delegation was happy that the Working Group would continue its useful educative work on the basis of paragraph 20 of the Singapore Ministerial Declaration. It looked forward to raising issues of concern to Pakistan in the forthcoming meetings of the Working Group and to having these addressed by the Members of the Group.

11. The complete report of the Working Group was submitted to the General Council as document WT/WGTCP/2.

### **III. REQUESTS FOR OBSERVER STATUS FROM INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS**

12. The Working Group agreed to revert to requests made by SELA, the Organization of the Islamic Conference and the South Centre at its next meeting, should the General Council agree that it should continue its work, having regard to the ongoing consultations on related matters in the framework of the General Council.

---