

**Committee on Agriculture
Special Session**

NEGOTIATING GROUP ON AGRICULTURE

Report by the Chairman, H.E. Mr. David Walker,
to the Trade Negotiations Committee for the Purpose of the TNC stocktaking exercise

22 March 2010

1. This report is presented entirely on my own responsibility.
2. In the period since I assumed the role of Chair in April 2009, the Committee on Agriculture in Special Session (hereinafter referred to as the Negotiating Group) has undertaken two broad streams of work:
 - (a) I have undertaken consultations on the issues that are bracketed or otherwise annotated in the documentation before the Negotiating Group – TN/AG/W/4/Rev.4 together with TN/AG/W/5, TN/AG/W/6 and TN/AG/W/7; and
 - (b) The Negotiating Group has worked on the technical development of "Templates" for the presentation of data, both that required for the establishment of Modalities and that required for the eventual scheduling of commitments, based on draft modalities as contained in TN/AG/W/4/Rev.4.
3. This work was intensified from September 2009 consistent with the programme of work for DDA negotiations overall then drawn up with the participation of Senior Officials.
4. The Negotiating Group has also separately undertaken some substantive discussion of data requirements associated with TN/AG/W/4/Rev.4.
5. This report covers each of these activities in turn.
6. I have also advised Members that I am available to hear from them individually or collectively regarding any technical ambiguity they consider exists, or technical clarification they consider is needed, in the text of TN/AG/W/4/Rev.4.

I. CHAIR'S CONSULTATIONS ON ISSUES BRACKETED OR OTHERWISE ANNOTATED IN DOCUMENTATION BEFORE THE NEGOTIATING GROUP

7. I undertook consultations on ten categories of issues that are bracketed or otherwise annotated in the documentation as identified in (i) above. These are presented below in the order they appear in TN/AG/W/4/Rev.4, which is also the order in which I undertook initial consultations.
8. The objective of this work was to help Members build consensus towards concluding Modalities in Agriculture.

9. It was recognised at the outset that the issues identified potentially differed in nature and in the state of their preparation in the documentation before the Negotiating Group. It was nevertheless considered useful to, where necessary and as far as possible, advance technical understanding and framing of issues in preparation for when decisions could be taken.

10. In my assessment this judgement has been borne out in practice albeit, to this point, Members have not been in a position to substantively resolve matters.

A. BLUE BOX – PRODUCT-SPECIFIC LIMITS (PARAGRAPH 42, TN/AG/W/4/REV.4)

11. Consultations indicate that no further technical preparation is required for the eventual decision to be taken with respect to the bracketed numbers in this paragraph.

B. COTTON (PARAGRAPHS 54/55 AND CHAIR'S INTRODUCTION, TN/AG/W/4/REV.4)

12. Consultations confirm that not all Members are in a position to agree to the text as drafted but no new contributions, technical or substantive, have been forthcoming in consultations to date.

13. All Members involved, however, have emphasised that they remain committed to finding a solution that addresses the issue of cotton "ambitiously, expeditiously and specifically" consistent with the commitments made at the Hong Kong Ministerial Conference in December 2005.

14. It has also been suggested that Ministerial-level contacts that have taken place between particular Members in recent months have been useful in enhancing understanding of respective perspectives.

C. SENSITIVE PRODUCTS – DESIGNATION (PARAGRAPH 71, TN/AG/W/4/REV.4 AND TN/AG/W/5)

15. The annotation to paragraph 71 reads "Japan and Canada have declared themselves not to be in a position to agree to this [the right of developed country Members to designate up to 4 percent of tariff lines as "Sensitive Products"] limitation".

16. Consultations confirm that Japan and Canada are still seeking flexibility to designate additional tariff lines under the "Sensitive Products" category.

17. It remains to be seen whether Members are prepared to agree any further flexibility in designation of "Sensitive Products" beyond that already provided in paragraph 71 and, if so, what payment would be required for such designation.

18. I understand consultations will continue amongst interested Members on a "without prejudice" basis, including on how any differential tariff quota expansion requirements might be allocated across different tariff lines.

D. TARIFF CAP (PARAGRAPH 76, TN/AG/W/4/REV.4 AND TN/AG/W/5)

19. Views remain sharply divided on whether there should be an exception allowing the maintenance of tariffs in excess of 100 percent ad valorem on products outside a Member's overall "Sensitive Product" entitlement.

20. Differing views have also been expressed on the appropriateness of the payment options in the bracketed text in paragraph 76, were any such exception to be granted.

E. TARIFF QUOTA CREATION (PARAGRAPH 83, TN/AG/W/4/REV.4 AND TN/AG/W/6)

21. While views remain divided on whether such flexibility should be afforded, consultations indicate a general willingness to continue technical discussion, on a "without prejudice" basis, based on TN/AG/W/6.

22. There is a sense that the operability of criteria contained in TN/AG/W/6 is difficult to conceive in the abstract and that discussion may benefit from further factual clarification – for example in respect of which products amongst those for which consumption data has been submitted pursuant to Annex C of TN/AG/W/4/Rev.4 are not currently subject to tariff quotas.

23. Transparency more generally remains a key element in Members' consideration of this issue.

F. TARIFF SIMPLIFICATION (PARAGRAPH 104, TN/AG/W/4/REV.4)

24. Consultations have involved an initial technical discussion on how the "or" option in paragraph 104 of TN/AG/W/4/Rev.4 would be operationalised through the other provisions of paragraphs 103 – 108 of TN/AG/W/4/Rev.4 together with the associated Annex N.

25. Questions were raised, in this context, concerning some apparent differences in terminology between the text of paragraphs 104 – 108 and Annex N and about the interrelationship of envisaged procedures between the text and the Annex. These issues will need to be further clarified.

26. Members were also interested in how proposed simplification would work in practice. The European Union provided an overview presentation, in an open-ended setting, on its proposed simplifications to the Meursing table.

27. More broadly, Members expressed interest to continue discussions amongst themselves to better understand how proposed simplifications would work in concrete terms.

G. SPECIAL PRODUCTS (PARAGRAPH 129, TN/AG/W/4/REV.4)

28. The annotation to paragraph 129 reads "A number of developing country Members have expressed reservations concerning the numbers specified in this paragraph, noting also that this may be affected by what is decided in other areas of the text".

29. Consultations indicate that this annotation remains factually correct.

30. Some Members expressed concerns about the potential export impacts of the treatment provided in paragraph 129. Other Members considered that the paragraph should be regarded as "stabilised".

H. SPECIAL SAFEGUARD MECHANISM – SSM (PARAGRAPHS 144/145, TN/AG/W/4/REV.4 AND TN/AG/W/7)

31. Consultations to date have benefitted from analytical contributions on various elements of a possible SSM architecture from a range of Members, including a number of contributions that have been circulated to all Members as JOB documents.

32. These contributions have covered issues such as price and volume cross-check, seasonality, price-based SSM, flexibilities for Small, Vulnerable Economies (SVEs), and pro-rating.

33. Initial technical exchanges have been undertaken on the issues of seasonality, price and volume cross-check, and price-based SSM. A number of questions were raised on the existing analytical papers and there are indications that there may be further analytical contributions to come from others on these issues.

34. Papers recently circulated on flexibilities for SVEs and pro-rating were introduced but Members indicated they would need some time to study the papers before being in a position to enter into technical discussion on these issues.

35. The SSM is clearly one of the more politically charged issues under discussion. Consultations suggest it is arguably also the most complex.

36. The importance of further focussed analysis and discussion has been highlighted to contribute to the development of shared understanding to underpin the compromises necessary for the establishment of a "fit for purpose" mechanism.

I. TROPICAL AND DIVERSIFICATION PRODUCTS (PARAGRAPH 148 AND ANNEX G, TN/AG/W/4/REV.4); LONG-STANDING PREFERENCES AND PREFERENCE EROSION (PARAGRAPH 149 AND ANNEX H, TN/AG/W/4/REV.4)

37. There have been significant developments in these areas.

38. In December, WTO Director General Pascal Lamy and I received the following communications:

- (a) A letter, dated 15 December 2009, from the European Union, the ACP countries, Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, and Venezuela conveying the text of a proposed DDA modality applicable to tariff reductions by the EU on bananas; and
- (b) A letter, dated 15 December 2009, from the European Union, the ACP countries, Bolivia, Colombia, Costa Rica, Ecuador, Guatemala, Nicaragua, Panama, and Peru conveying the text of a proposed DDA modality for the treatment of Tropical Products and for Preference Erosion.

39. I conveyed these communications to the Members of the Negotiating Group on 18 December 2009 and subsequently held further consultations on these two issues identified in TN/AG/W/4/Rev.4.

40. Consultations afforded an opportunity for initial discussion of the proposed modalities contained in the communications. Clarification was provided in the course of consultations that the treatment contained in sub-paragraph (ii) of the proposed replacement for paragraph 149 of TN/AG/W/4/Rev.4 is intended to relate only to the tariff lines for sugar contained in the attached Annex H.

41. Some Members who are not party to the above referenced communications have expressed concern to understand how the proposals may affect their interests. I understand consultations continue amongst relevant Members in this regard.

II. TEMPLATE DEVELOPMENT

42. The work the Negotiating Group has been undertaking on development of templates is understood by all Members to be of an exclusively technical nature. It has been a very deliberate and deliberative process undertaken in the open-ended format.

43. Work has proceeded across each of the three "pillars" (Domestic Support, Market Access and Export Competition) in two "steps" as follows:

Step 1 concerns the identification and development of templates (including possible supporting tables) for the presentation of base data; and

Step 2 concerns the identification and development of templates (including possible supporting tables) for the presentation of DDA commitments.

44. It is recognised by all Members that this work is not a substitute for work towards the conclusion of Modalities. Indeed, given that work on draft formats of scheduling templates and supporting tables is based on draft modalities provisions in TN/AG/W/4/Rev.4, it is not possible to complete all work on templates until Modalities have been agreed.

45. It should also be noted that the template development work is just that – the development of templates for the formatting of the presentation of necessary information, to be used when such presentation is required or otherwise agreed.

46. Issues involving the timing of the actual provision of information have been and will continue to be dealt with in a distinct process. Activity of this nature is covered in the "Data" section of this report.

47. It has also been recognised that work on templates may raise questions on substantive interpretation of draft modalities provisions. Where such situations have arisen, such as the case of some of the issues covered below in the "Data" section of this report, these questions too have been and will continue to be dealt with in a distinct process.

48. Significant effort has been devoted to work on Step 1 across each of the three pillars and work is well advanced. A considerable number of documents have been produced to contribute to this work with many having been amended or superseded through the course of discussion in the Negotiating Group. Those documents that remain under discussion will need to be finalised and consolidated as part of the conclusion of base data template work.

49. Work on Step 2 has commenced with some initial contributions to aid discussion having been made. A number of Members have indicated they are working on developing some "summary table" overview documentation to help guide more detailed work on development of scheduling templates and supporting tables for specific elements in respective pillars.

III. DATA-RELATED ACTIVITIES

50. The way commitments resulting from Modalities can be readily understood and verified is a data-intensive exercise. The Negotiating Group has therefore continued to engage separately on a number of data-related activities.

51. These activities have been focussed, as a priority, around those areas where the draft modalities provisions in TN/AG/W/4/Rev.4 require data to be available and capable of having been

verified by Members in advance of the establishment of Modalities – including that data which is required by those provisions to be annexed to the Modalities themselves.

52. An opportunity was provided, until 4 December 2009, for additional Members who wished to submit Domestic Consumption data for the purposes of Sensitive Product declaration consistent with Annex C of TN/AG/W/4/Rev.4 and for Members to make technical amendments to data previously submitted. The data which has been submitted by 10 Members (counting the EU as one) is subject to an ongoing process of verification.

53. Data provision and verification activity has also continued in respect of Value of Production (VoP) data to be annexed to the Modalities (in terms of Members and base years) as required by paragraph 12 of TN/AG/W/4/Rev.4. As part of this process it has been clarified that the operating definition of Value of Production remains that which flows from the Agreement on Agriculture.

54. It is understood that VoP data which has been submitted for years and by Members beyond that required by paragraph 12 of TN/AG/W/4/Rev.4 currently serves for transparency purposes only.

55. Data has also been sought for the product-specific AMS and product-specific Blue Box to be annexed to the Modalities as required by paragraphs 22 and 40 of TN/AG/W/4/Rev.4. It has been clarified that this data needs to be provided by developed country Members only.

56. With it being understood that commitments will be expressed in HS 2002 nomenclature, work is also underway to confirm AVE (ad-valorem equivalent) transposition for the purpose of the AVEs to be annexed to the Modalities as required by paragraph 60 of TN/AG/W/4/Rev.4.

57. A number of other questions that have been raised relating to the provision of data remain to be addressed.

IV. FUTURE WORK

58. It is my intention to consult with Members on the organisation of future work in the Negotiating Group following, and consistent with, the outcome of this Stocktaking process.
