

**Committee on Agriculture
Special Session**

**SUMMARY REPORT ON THE FIFTEENTH MEETING
OF THE COMMITTEE ON AGRICULTURE SPECIAL SESSION
HELD ON 22 NOVEMBER 2002**

Note by the Secretariat¹

1. As agreed by the Trade Negotiations Committee (TN/C/M/1) the Special Session of the Committee on Agriculture, which was established by the General Council (WT/GC/M/53), is pursuing negotiations under paragraphs 13, 14 and other relevant provisions of the Doha Ministerial Declaration and held its fifteenth meeting on 22 November 2002. Mr. Stuart Harbinson chaired the meeting.

2. The agenda as contained in WTO/AIR/1963 was adopted.

**ITEM A(i): REPORT BY THE CHAIRPERSON ON THE MAIN FEATURES OF THE DISCUSSIONS CONCERNING
TECHNICAL ELABORATION OF DETAILED POSSIBLE MODALITIES**

3. The Chairman presented his summary report of the main features of the informal discussions on 18-20 November 2002. A copy of the report is attached (Annex 1).

ITEM A(ii): STATEMENTS BY MEMBERS

Statements on the Chairman's Report

4. Regarding the Chairman's report, Switzerland clarified that auctioning must not be excluded as a method of tariff quota administration, but that it should be subject to disciplines to be applied to all administration methods.

5. New Zealand had circulated an informal paper on the disaggregation of the AMS. The representative of New Zealand indicated that this paper did not seem to have been captured by the Chairman's report on the informal session.

6. The representative of Cuba expressed concerns about the limited time available for discussions in the informal Special Session, which had not allowed all issues on the agenda to be addressed. Cuba appealed to the Chairman to find a solution to its concern.

Proposals and General Statements

7. The representative of Argentina recalled the Doha mandate of comprehensive negotiations aimed at substantial reductions in trade-distorting domestic support; substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; including special and differential treatment as an integral part of all elements of the negotiations and taking into

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

account non-trade concerns. The history of trade negotiations had two phases: a long first phase excluding agricultural products, and a second phase, starting with the Uruguay Round, where reduction commitments had been negotiated, but in such a way that they could be circumvented. Thus, domestic support and protection were at the same level or higher as they had been before the Uruguay Round. In this historical context, the current agricultural negotiations were of essential importance, not only because of Argentina's vital interests, but also for systemic reasons, to avoid a phase of growing confrontation and deterioration of the international climate. An important share of Members including Argentina was only prepared to continue negotiating in other areas of the current round of negotiations if those Members responsible for undertaking structural adjustments to end protection and state intervention in agricultural production and trade showed willingness to do so. In moments of international economic vulnerability, the WTO should send a positive signal to international markets. He appealed to those Members on such an important issue. According to Argentina, the Chairman of the agricultural negotiations had a highly sensitive task, since the international economic architecture of the next decade depended on the work of the Special Session of the Committee on Agriculture.

8. Argentina, supported by other members of the Cairns Group, cited a few key elements for the Chairman's overview paper to be circulated on 18 December 2002. First, repeating the Uruguay Round would not deliver an outcome that was consistent with the objectives of the Doha mandate. Second, the Doha mandate did not call for a balance to be found only within the agricultural negotiations. Third, modalities had to be balanced, comprehensive and inter-related, covering the three pillars. Fourth, special and differential treatment had to be an integral part of all three pillars. Fifth, genuinely liberalizing proposals should shape the modalities. Sixth, the overview paper should reflect the principal options, based on concrete liberalizing proposals. Seventh, since there were clear differences in views as to how non-trade concerns should be taken into account, Argentina suggested that in the overview paper there should be no reference to non-trade concerns that either corresponded to other chapters of the Doha mandate besides agriculture, or that had the effect of undermining the effect of reductions in support and protection.

9. The representative of China noted that although a new Member, China had put forward its positions in the agriculture negotiations and contributed to meeting the deadlines set out in the Doha Ministerial Declaration. Faced with a global economic slowdown and rising protectionism, Members had to show flexibility and creativeness to agree on modalities by 31 March 2003, and thus send a positive signal to the world. China hoped that its key concerns would be reflected in the Chairman's overview paper and stressed that the modalities should take into account special and differential treatment for developing Members. While pushing for agricultural reform, one had to recognize the indispensable role of agriculture in food security, social stability, development and employment in developing Members. The negotiations also had to take into consideration the substantial commitments made by newly acceded Members in their accession process and grant special treatment in recognition of these liberalization efforts. The Doha work programme and the Uruguay Round were situated in different contexts. Simply copying the Uruguay Round modalities, while easy, would not accomplish the goal of agricultural trade reform. The Uruguay Round had succeeded in removing non-tariff measures for agricultural products and in capping export subsidies. There were certain unfinished tasks, however, including removal of tariff peaks and escalation, particularly on products of interest to developing Members. Trade-distorting domestic support and export-supporting measures including export subsidies and export credits resulted in highly distorted international agricultural markets.

10. Regarding market access, China was opposed to the Uruguay Round approach of average tariff reductions because such an approach would not help to substantially reduce tariff peaks and lower *de facto* levels of protection. The Swiss formula had its merits in dealing with this specific problem, but had to be adjusted to address concerns related to sensitive products, especially in the case of developing Members. Concerning low tariff quota fill rates, more efforts should be made to improve market-oriented administration of tariff quotas. Regarding state-trading enterprises, China

believed that there was no need to discuss the issue since there were clear rules under GATT. With respect to the special safeguard (SSG), China advocated the removal of the current SSG and the establishment of a new SSG mechanism available only to developing Members. On domestic support, China was of the view that rules for Green Box measures should be reviewed and strengthened. Blue Box measures should be included in the Amber Box for further reduction. Amber Box support provided by developed Members should be substantially reduced using a disaggregated approach. For developed Members, the *de minimis* level should be lowered, and the aggregate level of domestic support should be capped. Regarding export competition, China supported proposals to substantially reduce and finally eliminate export subsidies and called for strengthened rules on export credits.

11. The representative of Japan indicated that in light of challenges such as population growth, food shortages, environmental degradation, poverty and hunger, it was of critical importance to establish trade rules which ensured the coexistence of various types of agriculture through the pursuit of food security and multifunctionality. Japan was of the view that there were significant imbalances in rights and obligations between importing and exporting Members. Whereas all border measures affecting imports had been tariffed and the provision of minimum access opportunities was enforced, disciplines on exports, including those on export subsidies and export credits, were far from sufficient, and virtually no disciplines had been established for export restrictions and taxes. While a limited number of highly competitive Members expanded their agricultural exports, people in net food-importing Members including Japan and many developing Members had serious concerns over the decline in the food self-sufficiency ratio. In Japan's view it was of vital importance to ensure appropriate balance across the three pillars, and to redress the imbalances in rights and obligations between importing and exporting Members. It was also indispensable to properly address non-trade concerns and special and differential treatment, as provided for in the Doha Ministerial Declaration. Japan was pursuing a balanced outcome in the negotiations, including redressing the minimum access scheme in the area of market access, domestic support disciplines that enabled Members to facilitate continuous agricultural policy reforms and more stringent disciplines on export competition, including on export restrictions and taxes. Japan also pointed out that the Uruguay Round agreements contained unfair and inequitable aspects such as exceptional treatment for certain Members based on the Jones Act, which Japan had raised in the General Council. Japan reiterated that all areas of the current round of negotiations, including agriculture, had to be conducted in a comprehensive manner, ensuring balance among all areas of negotiations.

12. The representative of India trusted that the inputs provided to the negotiating process would be reflected in the Chairman's overview paper and in the modalities. He highlighted the importance of SPS measures that hindered access for products from developing countries to developed-country markets. India was conscious of the problems affecting imports from least-developed countries (LDCs). India's imports of items from LDCs represented 2.1 per cent of its total imports, compared to levels of just 0.2 per cent and 0.6 per cent in many advanced countries according to data made available by the IMF, World Bank and the WTO Secretariat. The representative of India questioned the usefulness of tariff reductions when subsidies, credits and SPS measures in developed countries counteracted the market access offered. India could not be satisfied with negotiations on the three pillars unless meaningful market access was made available. He urged that SPS measures on developing country exports into developed countries be taken up as part of the modalities of the negotiations in agriculture.

13. The representative of Bangladesh stressed the heavy reliance of his country's economic growth on the agriculture sector. While the aggregate measurement of support (AMS) in developed countries was continuously rising, LDCs like Bangladesh were unable to provide appropriate support to agriculture because of limited financial resources and because of the framework imposed by multilateral institutions. Article 7.2(b) of the Agreement on Agriculture allowed subsidizing countries to maintain 80 per cent of their base level AMS, while prohibiting low-income countries from going beyond the *de minimis* level of 10 per cent. This made the Agreement on Agriculture discriminatory.

The representative of Bangladesh underlined some of his country's general proposals. On domestic support, least-developed countries should be allowed to provide domestic support, including subsidies, price support and cash incentives to their agricultural sector. The provisions under paragraph 13 of Annex 2 should be revised to allow LDCs to provide greater assistance to low-income and resource-poor farmers in all regions in pursuance of their poverty reduction strategies. A Development Box should be included in the Green Box to provide additional flexibility to LDCs. The provisions contained in Article 6.2 related to investment and input subsidies should be continued. Product-specific support given to low-income and resource-poor farmers should be excluded from AMS calculations. Inflation and currency depreciation in developing countries should be taken into cognizance while calculating the AMS. When in the AMS calculations of LDCs, domestic support prices were found to be lower than the external reference price, showing negative product-specific support, they should be allowed to increase their non-product specific support by an equivalent amount. Since many LDCs had negative product-specific AMS, such countries should be accorded due credit by way of excluding specific food security expenditures from AMS calculations. Developed countries should eliminate all trade-distorting domestic support to their agricultural sector. The current classification of domestic support was complicated and biased. Domestic support disciplines should be simplified into two categories: exempt support, as defined by a criteria-based list of measures that had minimally distorting effects, and non-exempt support that would be subject to reduction commitments. Article 6.4(a) (i) and (ii) should be suspended until such time as the domestic support levels of all Members came down to the *de minimis* level. The support provided by developing countries for non-trade concerns should be excluded from the calculation of the AMS, even if it fell outside the Amber or Green Box.

14. The representative of Bangladesh stressed the importance of special and differential treatment in the agriculture negotiations because of food security and livelihood concerns. For LDCs and developing countries, the disadvantages from weaknesses in the current agreements more than offset the advantages from special and differential treatment. More specific provisions relating to the nature, depth and substance of their commitments needed to be incorporated in future agreements. The Doha Declaration mandated the consideration of the special needs of developing and least-developed countries, including through less than full reciprocity in reduction commitments in accordance with GATT Article XXVIII *bis*. Article XXVIII 4(d) of GATT 1994 recognized the need of less-developed countries for a more flexible use of tariff protection to assist their economic development and for revenue purposes. Special safeguards should be extended to LDCs in respect of all agricultural commodities on which quantitative restrictions had been removed. The export subsidy provisions of the Agreement on Agriculture were asymmetric, as they allowed developed countries to use high levels of subsidies, while small countries like Bangladesh lacked financial resources to use export subsidies as a market development tool. Bangladesh thus sought stricter disciplines on the use of export subsidies by developed countries. Developed countries applied more stringent SPS and TBT measures than necessary, particularly given Bangladesh's LDC status. Since many small exporters from LDCs continued to face trade harassment, developed countries should refrain from applying SPS and TBT measures on exports of LDCs. Given that all 49 LDCs were net-food importers, food security was a cause of concern. Any negotiation on agriculture under the three pillars had to take into account the food security needs of LDCs.

15. The representative of Kenya recalled the objectives of the Doha Development Agenda, including special and differential treatment for developing countries as an integral part of the negotiations. The success of the Doha Development Agenda depended on its ability to increase market access, with special reference to products of interest to developing countries, as well as reducing domestic support and export subsidies with a view to eliminating them. Kenya reaffirmed its position that LDCs and net food-importing developing countries (NFIDCs) should have access to appropriate measures to avoid any negative effects on their economies. Developing countries had extensively participated in the negotiating process. They had made valuable contributions in the form of comprehensive and detailed proposals as well as negotiating modalities. Kenya hoped that the Chairman's overview paper would be balanced, reflecting the concerns and interests of all Members.

16. The representative of Mauritius recalled the contributions made to the negotiations, which had tried to accommodate not only the concerns of Mauritius but also those of others. Most of the papers that submitted either individually or jointly with other countries had been considered in the informal Special Session, except for two: Mauritius had submitted a paper addressing the three main elements of food security, namely food production, the means to procure food, as well as the cost of procurement and the relevance of export subsidies and export credits for the enhancement of food procurement capacity. In addition, the African Group had submitted a paper underscoring the importance of meaningful and binding preferences. Mauritius proposed that a number of concerns be reflected both in the overview paper and in the modalities. The results of the negotiations in agriculture and of the Doha work programme had to be balanced and equitable. Balanced and equitable results necessarily meant that the trade and non-trade concerns of, and any negative impact of the negotiations upon, vulnerable countries had to be meaningfully addressed. The vulnerable countries comprised LDCs, NFIDCs, small island developing states (SIDS), landlocked countries and single commodity exporting countries. Because of their inherent constraints and limited diversification options, these countries depended heavily on the predictability and security of preferences. These constraints also made it impossible for any vulnerable country to compete with large multi-commodity exporters. Vulnerable countries could devote limited budgetary resources to agriculture, consequently, stable export earnings secured through preferences provided funds for the partial fulfilment of key developmental objectives. Food procurement relied heavily on preferential export earnings. The concerns of vulnerable countries should be reflected both in their own schedules and in those of developed countries granting preferences. Mauritius indicated that the means to address its concerns included the application of the Uruguay Round methodology and formula to all three pillars. The Uruguay Round modalities had arisen out of careful negotiation and proved their worth in accommodating the concerns of all. Members should not experiment with something that catered to the interests of very few participants. In addition, appropriate measures were required in respect of NFIDCs and LDCs. Special and differential treatment had to be meaningful and differentiated, with particular reference to the concerns of vulnerable countries. Non-trade concerns also needed to be addressed. Mauritius recognized the need to converge and to find reasonable solutions.

17. The representative of Switzerland expressed the view that there was a need to make progress in the negotiations on the basis of elements allowing convergence. She indicated that concerning export competition, there was general agreement that the new disciplines should cover export credits. The concerns expressed by net food-importing countries had to be taken into consideration, and particularly the potential negative effects of disciplining and substantially reducing export subsidies and export credits. Switzerland was ready to move in that direction, but its non-trade concerns had to be taken into account. Concerning domestic support, in Switzerland's view there was a consensus that the essence of the Green Box had to remain in place, even if a certain degree of modulation might be necessary. Switzerland was prepared to enter into discussions on a Development Box based on the questions it had posed at the beginning of the year. Regarding market access, Switzerland recalled that the Uruguay Round had led to a tariffication which included non-trade concerns, resulting in tariff peaks. Switzerland was ready to address this in the negotiations, but non-trade concerns and special and differential treatment also had to be covered, which was impossible with a Swiss formula applicable to all. The Swiss formula had never been used in sensitive areas. In addition, Members should concentrate on opportunities for exporters in developing and transition countries. This was not possible with the Swiss formula, which would reduce the preference margins currently enjoyed by these exporters. Ministers expected quick results; therefore market access discussions should be based on the well-known Uruguay Round structure. Once the fundamental parameters of the reform process were agreed, Switzerland would be able to propose precise numbers for reduction commitments. These parameters had to take into consideration non-trade concerns including consumer information and labelling, extension of the protection of geographical indications, food safety and the precautionary principle. Progress in these areas had to be accomplished in other WTO bodies to enable Switzerland to continue to engage in the agriculture negotiations.

18. The representative of South Africa indicated that experience with reform had shown the relationship between trade- and production-distorting support and export subsidies on the one side and market access on the other. This view of the linkage between the different pillars was shared by a growing number of countries and should be reflected in the modalities. Developing countries had submitted a number of proposals on special and differential treatment. Although it supported many of these proposals, South Africa cautioned that special and differential treatment would only be effective if it coincided with real structural change in developed countries and the ability of developing countries to develop their agriculture sectors and participate on an equal basis in the global trade arena. Agriculture was the backbone of African economies. South Africa was committed to the revival of Africa as outlined in the New Partnership for Africa's Development, in which agriculture played a major role. In the long run, the impact on poverty would be much larger if developing country producers were allowed to utilise comparative advantages in producing and exporting agricultural commodities at normal and not suppressed international prices.

19. The representative of Norway said that every Member should be given the flexibility, according to mutually agreed rules, to foster domestic agricultural production necessary to address domestic non-trade concerns, based on its production conditions and policy objectives. Consequently, provisions to secure the coexistence of various types of agriculture across countries and regions, including in areas with disadvantaged production conditions, had to be an integral part of the outcome. This was also to be the basis for Norway's proposals on modalities. Negotiations on market access had to take into account all legitimate interests, including the special needs of developing countries. Norway's specific drafting proposal was therefore based on the Uruguay Round approach and contained provisions on special and differential treatment for developing countries. Provided that Norway's needs were duly reflected in the areas of market access and domestic support, Norway was prepared to show greater flexibility in the area of export competition. A successful outcome could only be reached if it was acknowledged that all Members had legitimate interests that needed to be taken into account in the negotiations.

20. The representative of Honduras recalled contributions that several developing countries had tabled at the informal meeting, and that had been introduced by Pakistan, the Dominican Republic and Sri Lanka.

21. The representative of the Dominican Republic, also on behalf of Honduras and Nicaragua, introduced an informal proposal on comprehensive reform in the areas of market access, domestic support and export competition, with special and differential treatment for developing countries.² In the view of the proponents, the three pillars were linked, and concessions in the area of market access would depend on substantial reductions in trade-distorting domestic support and the elimination of export subsidies. The proponents had shown flexibility in tabling this proposal, taking into account informal consultations with other Members in the spirit of reaching a common understanding. They hoped that other Members too would show flexibility and take into account the concerns and interests of developing countries. The main element of special and differential treatment proposed with respect to market access was the establishment of a negative list of products to be excluded from reduction commitments. These products would be notified by developing countries based on their food security, rural development, employment and poverty reduction needs. Regarding the tariff reduction method, the countries submitting the proposal supported the Uruguay Round approach. These countries had already modified their proposal from a positive list of products to be included in commitments to a negative list, and thus needed a certain flexibility for tariff reductions on products not included on this negative list. To address tariff peaks, during the first three years of the implementation period, developed countries should reduce all their tariffs to 50 per cent *ad valorem*. Afterwards, the Uruguay Round approach could be applied, with an average cut of 50 per cent and a minimum cut of 20 per cent per tariff line. Developing countries would apply an average reduction of

² This contribution was submitted at the informal Special Session by the Dominican Republic, Honduras, Nicaragua, Nigeria, Pakistan, Sri Lanka and Venezuela.

25 per cent and a minimum reduction of 10 per cent per tariff line. All non-*ad valorem* tariffs should be expressed in *ad valorem* equivalents, with a calculation mechanism to be established. The implementation period should be of six years for developed countries, with equal annual reductions beginning in 2005. For developing countries it would be of ten years starting in 2008; the year during which the harmonization exercise for developed countries would be concluded.

22. With respect to domestic support, the group of developing countries proposed eliminating the Blue Box and reducing the Amber Box to zero over a period of six years starting in 2005. Commitments should be on a product-specific basis. In order to substantially reform the Green Box, paragraphs 5, 6, 7 and 11 of Annex 2 of the Agreement on Agriculture should be eliminated, and payments under paragraphs 9 and 10 should be granted for a limited time only. Finally, Green Box support should be limited of 10 per cent of the value of total agricultural production. Regarding export competition, the group of countries proposed the total elimination of export subsidies over a six-year period starting in 2005, in equal annual instalments. Developing countries should have the same flexibility as under the Agreement on Subsidies and Countervailing Measures for a period of 10 years, or while developed countries continued granting export subsidies, whichever was longer.

23. The representative of Pakistan reiterated the commitment of his country to Article 20 and to paragraphs 13 and 14 of the Doha Declaration to undertake a programme of fundamental reform and to address distortions in agricultural markets. The Doha Declaration also committed Members to include special and differential treatment as an integral part of the negotiations, to be embodied in the schedules of concessions and in commitments. The proposal tabled by a group of developing countries was a result of deep deliberations and consideration of other Members' submissions and reactions in the course of the negotiations so far.³ Pakistan stressed the detrimental effects of agricultural policies of developed countries on competitiveness of developing countries in agricultural markets. Because of the strong linkage between the three pillars, the proposal insisted that trade liberalization in the area of market access should only proceed if substantial reforms in the areas of domestic support and export competition had been attained. While building on the contribution made by developing countries in the negotiating process, including on proposals for the establishment of a Development Box, the present modalities proposal provided for effective special and differential treatment to address the problems emerging out of the current Agreement on Agriculture for developing countries. On market access, although the group of developing countries went along with the trend for a full product coverage, they insisted on securing flexibility to exempt from reduction commitments certain agricultural products because of food security, rural development, poverty alleviation and rural employment considerations. In developed countries, no tariff line should exceed 50 per cent *ad valorem* at the end of a three-year implementation period. Pakistan hoped that the Chairman would include elements of this proposal in the overview paper to be prepared by 18 December 2002.

24. The representative of Sri Lanka introduced a proposal for a special safeguard mechanism for developing countries (SSM).⁴ The proponents were not in favour of continuing the existing special safeguard under Article 5 of the Agreement on Agriculture. Instead, this group of countries was proposing a relatively simple procedure that did not entail a lengthy and costly administrative process. The main objective of this SSM was to provide developing country Members with an instrument to protect their poor farmers from the damaging effects of temporary fluctuations in the price and quantities of imported staple crops and other crops which were sensitive from a food security and

³ The proposal on comprehensive reform in the areas of market access, domestic support and export competition, with special and differential treatment for developing countries was submitted at the informal Special Session by the Dominican Republic, Honduras, Nicaragua, Nigeria, Pakistan, Sri Lanka and Venezuela. This proposal was also introduced by the Dominican Republic.

⁴ The informal proposal for a special safeguard mechanism for developing countries was submitted to participants at the informal Special Session by Cuba, the Dominican Republic, Grenada, Honduras, Nicaragua, Nigeria, Pakistan, Sri Lanka and Venezuela.

rural development perspective. Under current WTO disciplines, tariffs were the only border measure that most developing countries could use; only few developing countries were able to use the current SSG. Although the WTO agreements provided a variety of other trade defense mechanisms under the Agreements on Safeguards, Anti-Dumping and Subsidies and Countervailing Measures, few developing countries possessed the legal and institutional capacity required to invoke them. In the absence of an effective and simple defensive mechanism, developing countries had shown reluctance to reduce their bound tariff rates as they saw the 'water' that currently existed between bound and applied rates as providing necessary flexibility to adjust border measures in line with fluctuations in world markets. If developing countries had a well designed agricultural safeguard instrument, they would be encouraged to undertake commitments in market access during the ongoing trade negotiations.

25. Sri Lanka explained that the proposed mechanism could be invoked under exceptional market conditions, without requirements of proof of serious injury or threat thereof caused by a surge of imports. Measures taken were temporary in nature, and the administrative mechanism was relatively simple. The proposed mechanism would be made available to all developing countries, without requirements for changes in the national legislation. The measure should be applied on a non-discriminatory basis to all imports from all sources, excepting products originating in a developing country Member, as long as its share of imports of the product concerned in the importing Member did not exceed 3 per cent and that all developing country Members with a share below 3 per cent collectively accounted for not more than 9 per cent of total imports of the product concerned (Art. 9.1. of the Safeguard Agreement). Regarding trigger mechanisms, Sri Lanka explained that they would be similar to the current SSG, including both a volume and a price trigger. The volume trigger should be invoked when increases in the import level over one year represented a certain percentage of the average import level of the three preceding years. The price trigger would be imposed on a shipment-by-shipment basis when the c.i.f. import price fell below the trigger price, which would be equal to the average c.i.f. unit value of the product concerned over three preceding years or the average domestic price of the three preceding years adjusted in terms of inflation for the product concerned. In order to overcome any difficulty faced by developing countries and LDCs, technical assistance should be provided to define the triggers in their schedules.

26. The proposal introduced by Sri Lanka outlined two types of safeguard measures, either in the form of an *ad valorem* duty or a quantitative restriction. The methodology proposed for the calculation of the volume of quantitative restrictions was based on the average import level of the last three preceding years. Following the same method as in the Agreement on Safeguards, the volume of imports of the product concerned under quantitative restrictions should not fall below the average import level of the last three preceding years. The additional duty to be levied would be determined by the difference between the import price and the trigger price. The additional duty to be levied should in no circumstances exceed a level to be determined during the negotiations. Experience demonstrated that the maximum additional duty that could be levied under existing special safeguard was 165 per cent of the applied tariff level. The group proposed that the same level be taken as the maximum threshold in the proposed mechanism. This additional duty should, however, be a percentage of the bound rate rather than the applied rate for the product concerned. Any additional duty or quantitative restriction to be imposed under the proposed mechanism should be maintained for a period of one year, from the date the measure was imposed. At the end of this period, a new SSM could be invoked, if the conditions that led to the imposition continued to exist.

27. Regarding compensation and retaliation, Sri Lanka noted that under the current Safeguard Agreement, developing countries that imposed safeguard measures were not required to pay compensation for the trade losses incurred by the exporting Member. Further, right of suspension of concessions, referred to in paragraph 3 of Article 8 of the Safeguard Agreement, should not be exercised for the first three years, provided that the safeguard measure had been taken as a result of an absolute increase in imports. The group of proponents suggested retaining this flexibility for developing countries in the proposed mechanism. Concerning the informal proposal on special and

differential countervailing measures presented by Argentina and others, Sri Lanka indicated that it tried to level against imports from developed countries that provided trade-distorting support. The proponents of this other proposal argued that a more broadly used safeguard would penalise non-subsidising exporters and that the purpose of such a mechanism should be to offset distortions caused by cheap, subsidised exports. Although the objectives of both proposals could overlap, the impact of uncharacteristically cheap imports for poor farmers could be same, whether or not the imports came from a country that subsidized production and exports. There was therefore a clear justification for a safeguard measure whose application was broader than would be the case for the countervailing measure proposed by Argentina and others. Sri Lanka requested that the Chairman arrange technical meetings to further discuss this proposal.

28. The representative of Australia noted that the Chairman had a daunting task ahead of him in trying to establish modalities. It was imperative to meet the March 2003 deadline, otherwise it would undermine the possibility of concluding negotiations by the end of 2005 as agreed by Ministers. It was not helpful that delegations had made broad, general statements at this last meeting of the year. The Chairman's overview paper should go well beyond summarizing these discussions. The Cairns Group, representing a microcosm of WTO Membership, had tabled specific proposals that met the ambitions of the Doha mandate. In the absence of proposals by others, the overview paper should reflect the specific proposals put forward by delegations which met the mandate agreed by Ministers. A repetition of Uruguay Round modalities would not be consistent with that mandate.

29. The representative of Brazil regretted that although the overview paper was to be presented in one month, specific proposals with figures were in short supply. The Cairns Group had provided its clear, comprehensive, specific contribution, with a level of ambition commensurate with the Doha Declaration. Brazil understood the fact that this proposal was not unanimously supported, but cautioned that it should not be rejected in the absence of a comparably articulated formulation on how far other trading partners were willing to go. The refusal to engage should not be taken lightly. In Brazil's view, the overview paper should stress the contributions that were in line with the ambitious Doha mandate. Brazil had noted with concern the lack of specificity in Members' statements at the November Special Session, and that some aspects of certain proposals were in contradiction of the mandate given by Ministers. In the area of market access, some delegations were clinging to the Uruguay Round formula as the best approach, without indicating the figures they were considering. The discussion on reduction formulas became very unsubstantial without a yardstick to compare the impact of different proposals on tariff structures. Brazil noted that many countries had called for flexibility. In Brazil's view, flexibility was to be expected from those who had benefited the most from the lopsided playing field in agriculture. Existing imbalances could only be combated effectively by avoiding the Uruguay Round formula that would allow for a continuation of high tariffs and tariff escalation. Brazil indicated that requests for flexibility coming from developed countries differed greatly from those coming from developing countries. Developed countries counted with a range of instruments to protect their farmers, and with a social safety net that was yet to be woven in the developing countries. Therefore, special and differential treatment provisions were an integral part of the negotiations. Something entirely different was to request that reduction formulas allow for flexibilities for so-called "sensitive" products. Brazil did not think that some few areas should be allowed to delay the overall progress of the agricultural reform process. Precisely those sectors that had been spared and accommodated so far should make substantial contributions. The notion that certain sensitive products, subject to wide price fluctuations, should receive additional layers of protection was erroneous, since the products that suffered the widest variations in prices were precisely those that were protected by high tariffs and other restrictions. Specific situations should be addressed with targeted instruments to avoid that they contaminate the discussion of the overall disciplines. Regarding export competition, the Cairns Group had tabled an ambitious proposal. Along with Argentina, Bolivia, Paraguay and Uruguay, Brazil had circulated a technical contribution on export credits referring to interest rates, and expected this contribution to be taken on board. Brazil welcomed the many contributions on export credits and was confident that a convergence of views on

how to address the issue was not far. Brazil expressed hope that progress in this area could be rapidly propagated to the other pillars.

30. The representative of Poland said that a future agreement should provide a solid legal framework for the continuation of the reform process and safeguard the existence of various types of agriculture, both in developed and in developing countries. In Poland's view, the best way to achieve this outcome was to adopt the Uruguay Round formula for future commitments. Members opening their markets should have the opportunity to address their concerns, including non-trade concerns. Poland hoped that the Chairman's overview paper would be as accurate and neutral as his reports of the informal meetings, reflecting not only the positions of the biggest players.

31. In the view of the European Communities, the overview paper should reflect all positions. Much technical work remained to be done, and technical consultations would be useful, for example on export credits, food aid, state trading enterprises, tariff rate quotas, the special safeguard and non-trade concerns such as the precautionary principle in relation to food safety, consumer information, labelling and geographical indications. According to the European Communities, the Uruguay Round formulae had worked well and provided a good framework for continuing the reform process.

32. The representative of Chile noted that Mauritius had emphasized the need for balanced results. According to Chile, balance could be found in the negotiating mandate. A repetition of the Uruguay Round approach would not be balanced, and would be insufficient to achieve equity. In answer to those who emphasized the importance of maintaining tariff preferences, Chile noted that many countries benefitted from preferences on different products. If all preferences were maintained, nothing would be negotiated. The negotiations needed to remain faithful to the mandate, giving priority to proposals to remove distortions, and discouraging proposals that maintained distortions or permitted new restrictions. The negotiations also needed to include better special and differential treatment; thus developed countries had to provide much greater market access than was currently the case. Developed countries should play by the rules that they had imposed on all other economic activities. The Doha mandate did not include negotiation of non-trade concerns. Chile's non-trade concern was to eliminate extreme poverty. Chile was willing to look at alternative proposals within the mandate; if they were not forthcoming someone else would have to bear responsibility for the failure of the round.

33. The representative of the United States recalled the US proposals made on every issue in the negotiations. The United States looked forward to engaging with other Members who had identified a specific interest in reform. Some other countries had not submitted specific proposals, or had come merely as demandeurs without proposing meaningful reform of their own agricultural trade measures. Consequently, the work of the United States would focus on dealing with specific positions that contributed to achieving the objectives identified at Doha.

34. The representative of Uruguay supported statements made by other Cairns Group Members, and especially the statement of Argentina which reflected the position taken by Cairns Group Ministers at a meeting in Bolivia. According to Uruguay, the overview paper must reflect positions that prepared the ground for modalities related to the Doha mandate. Other positions reflecting special interests should be disqualified. Uruguay requested the Chairman to keep in mind when preparing the overview paper and the modalities that in order to make progress in the round Members had to seek balanced results in the context of the overall negotiation, not just in agriculture alone. Some delegations had attempted to disqualify the Swiss formula, referring to its impact on sensitive products. Uruguay stressed that in the past, the Swiss formula had been applied to products which were sensitive for developing countries.

35. The representative of Hungary shared concerns about the gap between Members' positions, especially in view of the looming deadlines. The basic prerequisite for a successful negotiation was to put all Members' policies on the table, instead of just requesting others to pay. Those Members that

were blaming others for their lack of engagement and specificity were also the ones continuing to refuse to move from their positions on issues such as geographical indications, state trading enterprises and export taxes. Hungary urged these Members to reconsider their positions and to show willingness to contribute to the continuation of the agricultural reform process.

36. The representative of Iceland expressed a preference for continuing the reform process within the same framework; a framework that was conducive to preserving the flexibility required to ensure the coexistence of various different types of agriculture. Iceland's concerns required realistic responses, and some proposals, while detailed, did not fulfil the fundamental requirements of balance, equity and continuity. Regarding criticisms related to lack of specificity, Iceland indicated that there was no merit in starting the numbers game before the fundamental parameters of the reform process had been agreed.

37. The representative of New Zealand endorsed statements made by other Cairns Group members and emphasized the importance of the 31 March 2003 deadline. While agreeing that further technical work was required, New Zealand did not agree with the list of subjects put forward by other Members. Some non-trade concerns were relevant to the Agreement on Agriculture, but others were not. The Doha mandate and the Agreement on Agriculture set out clearly what the negotiations were to address.

38. The representative of Turkey stressed the importance of eliminating export subsidies and trade-distorting domestic support in developed countries and of making progress on market access. Special and differential treatment was at the core of the negotiations and should cover all developing countries, without sub-categories.

39. The representative of Malaysia said that when developed Members talked about balance in the agricultural negotiations, it reflected the lack of a commitment to move forward. Malaysia urged those Members to refocus on the Doha mandate rather than looking at what was not included in this mandate. Malaysia disagreed with those Members who called for balance in the overall negotiations; balance had to be found in the agricultural negotiations themselves. In response to those who emphasized the needs of vulnerable countries, Malaysia noted that all developing countries were vulnerable in one way or another.

40. The representative of Mauritius clarified that he was making the case for tariff preferences in favour of vulnerable countries, defined very clearly. While it was true that every country was vulnerable, some countries were more vulnerable than others, as Bolivia had pointed out during the informal session.

41. The representative of Argentina clarified that Bolivia had emphasized that despite their vulnerability, some countries had made progress in the liberalization process and now expected others to do the same. In Argentina's view, liberalization led to reduced vulnerability.

42. The representative of St. Lucia drew attention to a recalled a proposal tabled by members of the Organization of Eastern Caribbean States (OECS), and to the difficulties non-resident delegations faced in participating in the negotiation process.⁵ The paper added specificity to previous proposals, and asked for additional flexibility for perpetual single-commodity exporting countries. These small countries had virtually no opportunities in the general progressive liberalization process and were heavily dependent on preferential access. The Doha mandate was clear that effective special and differential treatment was to be embodied in the schedules of commitments, to enable developing

⁵ The members of the OECS co-sponsoring the informal proposal are Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines.

countries to take account of their development needs. Real special and differential treatment required a certain level of differentiation in the area of agriculture.

43. Regarding administration of tariff rate quotas, the OECS contribution proposed that any form of predictable and transparent administration method should ensure that in the event of a tariff rate quota being established for a commodity on which vulnerable developing small country suppliers were dependent and had traditionally enjoyed duty free preferences, they would be assigned duty-free tariff rate quota shares according to their historical share of the market. In order that small vulnerable agricultural exporters were not precluded from actually filling their shares of the tariff rate quota or deprived of quota rents, the quotas and any required import licences or permits could be assigned to the exporters in question. Due account should be taken of the inherent constraints of small supplying states in respect of, *inter-alia*, shipment loads, remoteness and the need for adequate predictability. Regarding preferences, the co-sponsors indicated that given their inherent lack of competitiveness and limited supply capacity, they were not realistically in a position to gain from new trading possibilities from the global improvement in market access conditions and further, their ability to continue agricultural exports was in many instances dependent on non-reciprocal market access provided by developed countries. They proposed "grandfathering" of existing non-reciprocal preferential trading arrangements between developed and developing countries, and the extension to SIDS agricultural exporters of the facility currently available to LDCs that enabled special WTO-compatible market access arrangements with developed countries on terms that did not require extension of reciprocal preferences. The co-sponsors recalled that they were insignificant in terms of percentage share of world trade and lacked the capacity to distort world markets. As such, the special and differential treatment measures proposed would not hinder or adversely influence world trade and would have little discernible impact on the trade of other Members.

ITEM B: OTHER BUSINESS

44. The representative of Costa Rica raised three issues under this agenda item. First, Costa Rica felt that it was necessary to undertake technical work on Annex 1 of the Agreement on Agriculture, which defined agricultural products. The footnote in this Annex stated that the product descriptions included in round brackets were not necessarily exhaustive; the tariff codes seemed to prevail. These codes had been expressed in the 1992 version of the Harmonized System. Since the end of the Uruguay Round, the Harmonized System had undergone two amendments; in 1996 and 2002, resulting in changed codes. For example, code 3823.60 (sorbitol) no longer existed in the amended versions; and had been replaced by code 3824.60, which classified the same product. Likewise, codes 41.01 and 41.03 had undergone changes through the third amendment of the Harmonized System. Since the 2002 version of the Harmonized System was probably going to be used as the nomenclature of the for the new agricultural agreement, in Costa Rica's view it was important to clarify the product coverage of the new agreement under the new nomenclature. The Special Session could delegate this clarification work to another competent body or committee, if appropriate.

45. Second, Costa Rica indicated that Members had to decide which nomenclature should be used in the new schedules. This issue had to be decided in close coordination with the Negotiating Group on Market Access. Third, Costa Rica raised the need to obtain from Members specific information on agricultural tariffs. For the Negotiating Group on Market Access, the Secretariat had prepared an outstanding information document on this issue (TN/MA/S/4/Rev.1). This document contained tariff profiles for all Members, including both bound and applied rates. Costa Rica felt that this information would be very useful for the agricultural negotiations, and requested that the Secretariat prepare specific information of a similar sort on agricultural tariffs.

Date of the next Special Session

46. The Chairman noted that the next informal Special Session, which is to be held on 22-24 January 2003, will be devoted to a comprehensive and substantive review of possible modalities, including rules-related elements. This review will take place on the basis of an overview paper to be prepared by the Chairman and to be circulated by 18 December 2002.

ITEM C: CHAIRMAN'S REPORT TO THE TRADE NEGOTIATIONS COMMITTEE

47. The Chairman outlined his report to the Trade Negotiations Committee (TN/AG/5). A copy of the report is attached (Annex 2).

Annex 1

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Report by the Chairman of the Special Session, Committee on Agriculture 22 November 2002

Under the programme adopted by the Special Session of the Committee on Agriculture on 24 March, the Chairman is required to report to the formal Special Sessions on the work undertaken in the informal Special Sessions (TN/AG/1 refers).

For a number of reasons, my summary of the discussions at the informal Special Session held on 18 to 20 November will be much shorter than my reports on previous occasions. For one, this week we have received 27 specific inputs from a total of almost 100 participants. Clearly, this level of activity cannot be summarised in a few pages to the satisfaction of all. Indeed, if I were to outline our discussions on any group of issues it could be interpreted that I was emphasising these at the expense of others. Also, this week's informal Special Session included a number of broad agenda items under which specific inputs were presented by many participants and after which we had a very broad discussion which cannot be summarized in just a few words.

However, I would like to stress that I have taken good note of all the specific inputs put forward, both in terms of the submissions themselves and the points raised during our discussions. They are valuable inputs to the negotiations, including in the context of the overview paper to be circulated to participants by 18 December.

Additional specific inputs

Under the first item of the agenda, "Additional specific inputs" there was a considerable number of submissions. These included:

- Six comprehensive inputs covering all or several areas relating to the agriculture negotiations, including special and differential treatment and, in some cases, non-trade concerns.
- Three inputs specifically addressed issues and put forward suggestions related to special and differential treatment for developing countries.
- One input each on market access and domestic support was presented that highlighted the situation of some newly-acceded Members and submitted specific proposals for modalities covering their concerns.
- One input was made on market access and domestic support with suggestions on how the concerns of certain categories of small vulnerable economies could be addressed.
- Some specific aspects of market access were raised in a drafting input on the type of tariff reduction formula and in another drafting input on tariff quota volumes regarding products for which tariffication was, or has been, delayed. And,
- A number of other inputs addressed matters such as a food security mechanism for developing countries, preventing circumvention of domestic support commitments through AMS calculations, and interlinkages between the three pillars of domestic support, export competition and market access.

Instead of summarizing the wide-ranging debate that followed the presentation of these inputs, I wish to simply make some very general and brief observations.

Many of the inputs presented, and the points made in the discussion, were valuable additions to the earlier Special Sessions and consultations we had in June and September. We now have a more detailed picture of the various positions. However, the day and a half spent on this agenda item highlighted the differences that still exist between participants. Many of the points that were raised are already well known to participants. With some notable exceptions, there was little sign of any narrowing of differences and of willingness to shift away from entrenched positions, and at this late stage this should be of concern to all of us.

Special and differential treatment in the context of domestic support measures

The next item on the agenda was "Special and differential treatment in the context of domestic support measures". Some of the general or comprehensive inputs already discussed under the first agenda item covering all aspects of special and differential treatment, including domestic support, were again referred to. In addition, there was one further specific input on expanding the scope of Article 6.2.

There was a useful discussion on specific modalities relating to the measures that might be available to developing countries. The special problems of some developing country groupings also came up and there was once again a debate regarding the countries that should be eligible for various forms of special treatment. In their interventions, several delegations added further ideas concerning special and differential treatment in the context of domestic support.

Special safeguard measures by developing countries for food security purposes

In the discussions on "Special safeguard measures by developing countries for food security purposes" two presentations of specific inputs were made. One concerned a special and differential countervailing measure developing countries could apply to imports of subsidised agricultural products. The other specific input proposed modalities for a special safeguard mechanism developing countries could use to address surges in import quantities above, or falls in import prices below, certain trigger levels.

In the discussion that followed a number of additional suggestions were made concerning specific modalities in this area and some participants referred to the specific inputs they had already made on previous occasions. These earlier inputs included a mechanism to estimate tariff equivalents based on the level of subsidies in the exporting country. One participant put forward new ideas for a possible new special safeguard mechanism. Many participants supported a specific safeguard provision for developing countries in some form or another; some suggested retaining the status quo; and others favoured elimination of the existing special safeguard mechanism without replacing it by a new one. The suggestion was made to include this topic in the ongoing technical work.

Export credits

Export credits were addressed next in our informal work. Four specific inputs were made under this heading. One focussed on export credits in the context of paragraph 4 of the Marrakesh Decision on Least-Developed and Net Food-Importing Developing Countries. The other inputs put forward rule-based disciplines on export credits and export insurance and guarantee programmes aimed at ensuring that these measures could not be used to circumvent export subsidy commitments.

The new inputs constitute real progress in this difficult area of the negotiations. The ensuing discussion showed a considerable amount of common ground with regard to key details of the

envisaged disciplines, although a number of critical questions were also raised which remain to be addressed. Some participants suggested that, in addition to a rules-based approach, the subsidy element of export credits should be determined, bound and reduced in line with the reduction of export subsidies.

Tariff quota administration

One input was presented on tariff quota administration making the case for modalities which would explicitly allow auctioning as a method of tariff quota administration. There was criticism of the scope and content of the background paper prepared by the Secretariat on auctioning (TN/AG/S/9 refers) to which the Secretariat responded. The views on auctioning remained split, but the proposal to continue the general technical work on tariff quota administration was widely shared.

In addition to the discussion on auctioning there was also some discussion on other specific aspects of tariff quota administration. The issues raised included the establishment of general principles, establishing an indicative list of approved licence allocation methods, the need to maintain flexibility so different products in different markets could use different administration methods, and the issue of transparency.

Once again, the work at previous technical consultations as well as this week revealed considerable common ground concerning a range of the general issues relating to tariff quota administration although there remain many significant differences regarding the details as well.

Conclusion

The meeting had to adjourn at this point with a number of items that remain to be discussed. These include completing our discussion on tariff quota administration, food aid and state trading enterprises in the context of export competition, and "other" specific issues or concerns, with a number of additional inputs by participants having been submitted.

Overall, the work over the first three days of this week yielded a number of positive results. A large number of new specific ideas were brought to the table on a wide range of matters. The discussions produced much food for further thought. And in one or two areas it was encouraging to see some common ground between participants emerging on which it should be possible to build.

At the same time, there is no point in hiding that in most areas of the negotiations the gaps in positions among participants remain wide. We have a daunting task ahead of us, a long way to go and very little time to reach our shared goal to meet the end of March deadline. I can once again only urge participants to intensify negotiations among themselves. On my part, I shall carefully consider how to facilitate movement and progress in the negotiations. However, any initiative to this effect on my part will be in vain unless there is the political will on all sides to compromise and reach a deal within the timeframe mandated by our Ministers.

Annex 2

TN/AG/5

FIFTEENTH SPECIAL SESSION OF THE COMMITTEE ON AGRICULTURE

Report by the Chairman, Stuart Harbinson, to the Trade Negotiations Committee

I. STATUS OF WORK

1. The Special Session of the Committee on Agriculture, which was established by the General Council (WT/GC/M/53) and which is pursuing negotiations under paragraphs 13, 14 and other relevant provisions of the Doha Ministerial Declaration as agreed by the Trade Negotiations Committee (TN/C/M/1), held its fifteenth meeting on 22 November 2002. The agenda as set out in WTO/AIR/1963 was adopted.

2. The Chairman presented a report on his own responsibility concerning the main features of the discussions at the 18-20 November informal Special Session on matters requiring follow-up with regard to possible modalities in the areas of export competition, market access and domestic support, including, as an integral element of this work, special and differential treatment. During the informal Special Session, a total of 27 specific written inputs were received from nearly 100 participants. There was also, *inter alia*, considerable discussion of special and differential treatment in the context of domestic support measures, and special safeguard measures by developing countries for food security purposes.

3. The Chairman's report will be included in the Secretariat summary report on the fifteenth formal Special Session (to be issued shortly as TN/AG/R/5). A number of statements were made by participants in the formal meeting regarding the work undertaken thus far on possible modalities, including rules-related elements. Participants' statements and contributions in this regard will also be reflected in the Secretariat summary report on the formal Special Session.

4. So far as the status of the work of the Special Session negotiations on agriculture is concerned, it is my view that worthwhile progress has been made, in line with the programme adopted at the March Special Session meeting (TN/AG/1 refers), in the technical elaboration of possible modalities based on specific drafting and other inputs tabled by a wide range of participants. In addition, since late September, more focused informal technical work has been initiated on possible disciplines with respect to tariff quota administration and export credits. It is my hope to extend the scope of this type of work to other rules-related areas. I will continue to consult as appropriate and to pursue informal technical work in open-ended formats, including with respect to those issues and inputs which it was not possible to address fully in the time available for the recent informal Special Session. Having said this, the process is in need of further, more specific, inputs in certain key areas and I would urge those participants which have yet to do so to be forthcoming sooner rather than later.

II. OUTSTANDING ISSUES

5. There are, as Members of the TNC will be aware, many outstanding issues in the negotiations on agriculture, not only with respect to methods to be employed in the negotiation of further commitments and levels of ambition concerning reduction objectives, but also with respect to rules and disciplines in a number of areas and certain collateral issues. These are matters which will have to be further addressed progressively in forthcoming Special Sessions.

III. FUTURE WORK

6. As mentioned in paragraph 4 above, further focused technical work on a number of the outstanding issues confronting participants will continue to be essential. In addition, the stage is now rapidly approaching where a broad and purposeful review of the possible modalities to meet the Doha objectives has to be undertaken. In accordance with the Special Session's agreed programme, a comprehensive and substantive review of possible modalities, including rule-related elements, is to be undertaken at the next Special Session to be held on 22-24 January 2003. This review will take place on the basis of an overview paper to be prepared by myself as Chairman and circulated by 18 December 2002.
