

MOVING FORWARD ON THE PROPOSALS

Submission by Canada

The following communication dated 21 November 2002 has been received from the above delegation.

1. The informal meetings held on special and differential (S&D) treatment proposals have revealed significant differences of perspective and approach towards the issue.
2. The *Implementation-Related Issues and Concerns Decision of 14 November 2001* on Cross-cutting issues [12.1(i)] instructed the Committee on Trade and Development (CTD) to "identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character," "to identify those provisions that Members consider should be made mandatory" and to "consider the legal and practical implications for developed and developing Members of converting S&D treatment measures into mandatory provisions." Regrettably, the proposals that have been tabled tend to focus on the first two steps and ignore the third, i.e. the implications of making provisions mandatory. The unfortunate result is a polarizing of the discussion into one side that feels its proposals are being summarily dismissed, and another side that feels obliged to oppose many proposals that seek to alter agreements and obligations absent any rigorous impact analysis.
3. Canada feels that despite the unfortunate dynamic that has evolved as a result of this omission of an analytical step, the discussion has revealed considerable goodwill to reach resolution, and considerable common ground. The fact that the effectiveness of S&D treatment is recognized is in itself a positive step. Also, while there is disagreement about the drafting of the proposals, many areas that are genuinely problematic to developing countries have been revealed. These areas will not be solved by arguing over text without in-depth analysis of the provision and the developing country interest that is not being met.
4. Canada and a number of other countries have objected to proposals that call for automatic self-granted extensions, open-ended financial obligations, and text changes where no problem has been clearly demonstrated
5. Nonetheless, where issues of concern have been presented in the proposals, attempts to address them have been made, particularly in the case of issues that fall under the responsibility of a specific committee. Where the responses have been overly negative or muted, it has often been because the experts in these committees have not felt that a problem or issue has been articulated.

6. This leads Canada to call for a streamlining process that focuses on treatment of:

A. PROPOSALS THAT CAN BE ADDRESSED BY FLESHING OUT PLANS OF ACTION, OR ALLOWING RESPECTIVE COMMITTEES THE OPPORTUNITY TO PROPERLY ADDRESS THE CONCERN AND REPORT BACK TO THE CTD.

As an example:

- Canada's Sanitary and Phytosanitary (SPS) Paper Enhancing Transparency of Special and Differential Treatment Within the SPS Agreement that addresses:

SPS, Article 10.1, African Group - TN/CTD/W/3/Rev.1 & TN/CTD/W/3/Rev.2 and the Like Minded Group - TN/CTD/W/2.

SPS, Article 10.2 & Paragraph 3.1 of the Decision on Implementation-Related Issues and Concerns, India - TN/CTD/W/6.

SPS, Article 10.4, & Vide Paragraph 3.5 of the Decision on Implementation-Related Issues and Concerns, India - TN/CTD/W/6.

SPS, Article 10.4, African Group Proposal - TN/CTD/W/3/Rev.1 & TN/CTD/W/3/Rev.2.

Agreement on Agriculture, Article 14, African Group Proposal - TN/CTD/W/3/Rev.1 & TN/CTD/W/3/Rev.2.

- Proposals dealing with Technical Assistance Requests which could be addressed in a comprehensive plan of action.

B. PROPOSALS THAT ADDRESS CROSS-CUTTING ISSUES OF 12.1 SUCH AS (II) "ADDITIONAL WAYS IN WHICH S&D TREATMENT CAN BE MADE MORE EFFECTIVE... INCLUDING IMPROVED INFORMATION FLOWS" AND (III) "HOW S&D TREATMENT MAY BE INCORPORATED INTO THE ARCHITECTURE OF WTO RULES"

Examples could be:

- Establishing an annual Special Session of the General Council on the Participation of the LDCs in the Multilateral Trading System as a regular review mechanism.
- Proposed Monitoring Mechanism.
- Clarification of the Rules Relating to Notification Provisions.

C. OTHER PROPOSALS WHERE THERE IS A CLEAR CONCERN INVOLVED, BUT WHERE THE ISSUE OR PROBLEM HAS NOT BEEN CLEARLY DEMONSTRATED OR ARTICULATED –SHOWING THE NEED FOR FURTHER ANALYSIS. THESE PROPOSALS MAY SUBSEQUENTLY TAKE SHAPE AS A COMMITTEE-DRIVEN S&D TREATMENT PROPOSAL AND COULD RETURN TO THE CTD IN A REVISED FORM.
