

Negotiating Group on Rules

SUMMARY REPORT OF THE MEETING HELD ON 13 DECEMBER 2004

Note by the Secretariat

1. The Negotiating Group on Rules ("the Group") held a formal meeting on 13 December 2004.
 - A. ADOPTION OF THE AGENDA
2. The Group adopted the following agenda:
 - A. Adoption of the Agenda
 - B. Regional Trade Agreements (RTAs)
 - C. Other Business
- B. REGIONAL TRADE AGREEMENTS
3. The Chairman recalled that at its last meeting, the Group had finalized the first round of discussions on RTAs' systemic issues on the basis of the Chairman's *Roadmap for Discussions on RTAs' "Systemic" Issues – Rev.1*, dated 22 June 2004, which covered a wide array of issues. It was his understanding that the Group intended, at that stage, to embark upon a more detailed analysis by focusing discussions on only a few of these issues, on the basis of proposals on specific points made by interested Participants. Given that no new proposal had been received in respect of systemic issues, he proposed that the Group have a preliminary exchange of views on a recent submission on transparency of RTAs.
4. The proponent of the submission contained in document TN/RL/W/167 observed that her delegation had already presented highlights of this submission at the last informal meeting. The submission addressed some general trends of RTAs' negotiations, and proposed (a) a fast-track examination procedure which would be available to "volunteering countries" and (b) faster examination for RTAs concluded by least-developed and developing countries notified under the Enabling Clause. She would not provide more details as the submission was self-explanatory.
5. Participants noted that the submission supported the voluntary and experimental process of the Secretariat undertaking formal presentations of RTAs conducted in the context of the Committee on Regional Trade Agreements (CRTA), and it also identified possible avenues for special and differential (S & D) treatment. Given the late arrival of the submission, comments were of a preliminary nature. Clarification was sought on whether the proposal was to be applied temporarily – i.e. to RTA Members which had opted for a factual presentation made by the Secretariat – or if it was intended to be a permanent result of the negotiations. Depending on the reply to that question, two other questions might be relevant, namely whether the proposal would apply only to RTAs covering trade in goods, and why a "bonus" should only be provided to countries which had opted for a

Secretariat's factual presentation. One Participant noted that, although her delegation was willing to discuss the proposal further, it would prove difficult to provide substantive comments before some concrete experience had been gained from the trial process; she thus suggested to first focus on concrete examples within the CRTA process and afterwards consider how to fine tune it. In response, the proponent noted that the submission only complemented the existing, new volunteer process, and did not go beyond it.

6. The Group also held an informal debate, on the basis of an informal note by the Chairman entitled *Elements for an RTAs' Transparency Process*, dated 2 December 2004 (Job(04)/184). At the end of the informal discussions, the Group reverted back to formal mode.

C. OTHER BUSINESS

7. Regarding the dates of meetings for 2005, the Chairman stressed that the calendar sent by fax in early December was of an indicative nature, and informed the Group of a change of meeting dates in May (17 and 18, instead of 17 and 19 as included in the calendar). He recalled that the only objective of this calendar was to make Participants aware of dates for which the Secretariat had been able to book rooms and obtain interpreters; it might however also be useful for Participants to plan their active participation in the Group's discussion.

8. Regarding the Group's work programme for 2005, the Chairman noted that a solid basis for continuing detailed work on "RTAs' Transparency" existed. Recalling that work on systemic issues was also an important element of RTAs' negotiations, he reiterated his call for Participants to put forward their proposals on specific systemic issues at least ten days before the meeting in which these were to be considered.

9. One Participant requested the Secretariat to coordinate internally and with Participants so that discussions on the Secretariat's "mock" presentation of the services aspects of the Canada-Chile Free Trade Agreement could benefit from input from services experts.

10. Referring to the informal debate held during that meeting on "RTAs' Transparency", one Participant highlighted the positive experience of having a paper to guide a structured brainstorming, noting that the exercise had fleshed out a number of points in which Participants had some or substantial convergence. In that context, he recalled that at various instances concerns had been raised regarding the need for special requirements for developing countries. Thanking the proponent of TN/RL/W/167 for incorporating S & D treatment in its proposal, he called upon developing countries to make further submissions on S & D treatment that they were seeking in the area of RTAs' transparency so that the Group could also have constructive discussions on those elements. The experience gained in the transparency debate also led him to make a suggestion in the area of systemic issues. Recalling the useful discussions held on the *Roadmap for Discussions on RTAs' "Systemic" Issues*, he noted that further work was needed if the negotiations were to lead to any result on systemic issues. In his delegation's view, it might thus be helpful to ask the Chairman and the Secretariat to prepare a short list of key systemic issues to be further explored, on the basis of those discussions. Such a short list could include issues which were subject to large divergence of views (e.g., the top five most contentious issues discussed) and those on which a number of interesting ideas had been put forward. That would help towards clarifying possible outcomes of the negotiations.

11. Another Participant thanked the proponent for having brought systemic issues back to the table, in particular given that work was not as advanced as with transparency issues. Though supporting the idea, she favoured a less ambitious approach under which a specific issue (e.g., "substantially all trade") would be singled out and a summary of discussions held be provided. That could be in parallel to any submission that Participants would like to make.

12. Another Participant rejected the suggestion, stressing that negotiations on systemic issues should be a Member-driven process, and that the *Roadmap* itself had already been Chairman-driven. She noted that the situation had been different with respect to "RTAs' Transparency" issues: the starting point had been Participants' convergence of views triggered by a formal proposal made by one Participant at an early stage of the negotiations; only then did the Chairman of the Group put forward his first informal paper. She was not of the view that convergence of views had already emerged on any systemic issue, nor that Participants had presented a critical mass of proposals that would allow the Chairman and the Secretariat to elaborate a short list of top five issues. It was now time for interested Participants to consult with other delegations to find possible areas of convergence and to present proposals. Her delegation did not think that the suggested approach was pragmatic and could not support it. Rather, she would favour Participants tabling proposals, including in the form of their own lists of what they perceived as the most contentious systemic issues they would like the Group to address.

13. The Chairman noted that the Group was determined to actively pursue the consideration of systemic issues. Systemic issues were at the heart of the negotiations' mandate, and it might not be sustainable not to have results in this area. It was his understanding that the Group still needed to reflect upon the work done in the past and on how to take it one step forward. Because progress on systemic issues would require a pragmatic approach in light of the orientation provided by Participants, he reiterated his call for Participants to come forward with specific proposals on systemic issues as soon as possible. Whenever agreed upon by the Group, the Chairman and the Secretariat would be able to provide inputs, in light of the debate held and past experience, to assist delegations in their work.
