WORLD TRADE ORGANIZATION

RESTRICTED

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Negotiating Group on Rules

SUMMARY REPORT OF THE MEETING HELD ON 8 & 10 JULY 2002

Note by the Secretariat

1. The Negotiating Group on Rules held a formal meeting on 8 and 10 July 2002.

A. ADOPTION OF THE AGENDA

2. The Group adopted the following agenda:

A. Adoption of the Agenda.

B. Anti-Dumping

C. Subsidies and Countervailing Measures, including Fisheries Subsidies

D. Regional Trade Agreements

E. Other Business

- Timing for the submission of papers for consideration at the next formal meeting of the Group

B. ANTI-DUMPING

3. The Group had before it two submissions relating to this agenda item.

4. The first submission, entitled "Second Contribution to Discussion of the Negotiating Group on Rules on Anti-Dumping Measures" (TN/RL/W/10), was sponsored by thirteen participants. One of the sponsors introduced the technical issues in the submission, while most of the other sponsors made statements in support of the submission. It was explained that the submission, which is a follow-up to TN/RL/W/6 previously sponsored by most of the proponents, identifies additional issues related to provisions that could benefit from clarification and improvement. Examples were provided to illustrate problems related to 11 issues: definition of product under investigation; definition of domestic industry; standing rules; initiation standards; determination of normal value -- affiliated parties and their transactions; injury determinations; price undertakings; reviews; constructed export price and the methodology for construction; all others rate; and the authorities' discretion on the use of cost data. The proponents clarified that the paper does not identify all the issues that could be subject to negotiations either collectively or individually, but provides examples of problems to be analysed.

5. Various delegations welcomed the submission, noting their concern regarding the increased used of anti-dumping. However, one delegation considered the submission to be unbalanced and

based upon unsupported assumptions, as the increased use of the anti-dumping reflected increased trade volumes and a realization among Members, particularly developing countries, of the problem of dumping. Certain delegations emphasized the need to reduce the amount of discretion allowed to investigating authorities, as that discretion could result in arbitrariness. The need to reduce grey areas in the rules and to promote convergence in Members' practices was also identified. Another delegation noted that the current rules, if properly applied, were not arbitrary. It was further observed that rigid rules had disadvantages, including for respondents, as factual circumstances could differ from case to case, and that the current rules were already complex. It was also noted that the submission revisited issues that had been considered in the Uruguay Round or had been the subject of dispute settlement.

6. Participants exchanged views on a number of the specific issues identified in the submission. On product under investigation, it was queried whether a definition focusing on customers rather than product criteria might be difficult to enforce and lead to circumvention. On lesser duty and public interest, it was observed that no clear methodologies exist. On standing, the impact on fragmented industries in developing countries of raising the standing requirement to more than 50 per cent was discussed. On the issue of "all others" rates, the question of the treatment of rates based on best information was identified. With regard to various of the issues, it was questioned whether proponents were seeking just a codification of dispute settlement findings or intended to go a step further.

7. In the context of the discussion of this submission, it was recalled that the Ministerial Declaration refers to the interests of developing Members, and support was expressed for previously submitted implementation proposals regarding anti-dumping. One delegation however cautioned that it might ultimately not be possible to achieve consensus on implementation-related issues. Another delegation noted that there was no longer a developing/developing Member fault line on anti-dumping issues: the summary record of the last meeting showed that developing Members were increasingly users of anti-dumping, that new users brought new challenges in terms of transparency, and that the clarification and improvement of anti-dumping rules would benefit both developed and developing Members.

8. The second submission was entitled "Submission from the European Communities concerning the Agreement on Implementation of Article VI of GATT 1994 (Anti-Dumping Agreement)" (TN/RL/W/13). The sponsor noted that every Member is now both a potential user and a potential target of anti-dumping action. Negotiations could strengthen the current disciplines, preserve the effectiveness of the anti-dumping instrument, simplify and clarify certain provisions, and take into account the needs of developing Members. Disciplines could be strengthened by enhancing disclosure and access to non-confidential documents, mandatory application of the lesser-duty rule and public interest test, establishing a swift dispute settlement mechanism to examine the initiation of investigations, and reducing the costs of investigations. With respect to effectiveness of the instrument, circumvention was Uruguay Round unfinished business that could benefit from meaningful discussion. Improvement of the rules through clarification and simplification of certain provisions in light of dispute settlement findings was possible, but Participants should identify their objectives soon. Regarding the interests of developing Members, a two step-approach was suggested, under which the general rules would first be developed and special and differential treatment would later be elaborated from that basis.

9. There was a general discussion on the submission. Various delegations supported elements of the submission, including the focus on reducing investigation costs. One delegation observed that there was no need for anti-circumvention rules, while another observed that circumvention could be a normal business practice. On the suggested two-stage approach to special and differential treatment, certain delegations opposed such an approach, noting certain deadlines for work in respect of implementation issues, including work on Article 15 in the Committee on Anti-Dumping Practices.

One Participant identified a variety of issues that should be addressed by the Group, including higher *de minimis* levels and enhanced negligible import levels for developing countries, clarification of the time-period for injury determinations, clarification of cumulation criteria, enhanced non-confidential summaries, sampling, new shipper reviews, improvements to Article 15, sunset reviews and the public interest test.

C. SUBSIDIES AND COUNTERVAILING MEASURES, INCLUDING FISHERIES SUBSIDIES

10. The Group had before it three submissions relating to this agenda item.

11. The first submission introduced was entitled "Proposal from the People's Republic of China on Fisheries Subsidies" (TN/RL/W/9). The proponent noted that almost all Members provided subsidies to their fisheries industries in various forms and to different activities, and that different subsidies have different effects on trade, environment and sustainable development. Therefore, in the first stage of its work, the Group should identify the subsidies to be covered in the negotiations, analyze their effects and then decide the disciplines to be applied with respect to them. The principle of S&D treatment for developing Members in the fisheries subsidies area was emphasised. The paper noted that certain subsidies have positive effects on trade, environment and sustainable development and should be treated as non-actionable. The list in the submission was not complete, and other such subsidies of interest to others should also be taken into consideration.

12. The second submission presented was entitled "Japan's Basic Position on the Fisheries Subsidies Issue" (TN/RL/W/11). The proponent considered that the Agreement on Subsidies and Countervailing Measures (SCM Agreement") adequately addresses trade distortions in the fisheries sector, that sector-specific rules would fragment the disciplines, and that any clarifications or improvements should apply to all sectors covered by the SCM Agreement. In its view, proponents of fisheries subsidies disciplines have not demonstrated that subsidies limit access to shared fisheries stocks, and fisheries subsidies neither pose adverse effects on resources nor distort trade. The proponent considered that the results of studies being conducted by international bodies with fisheries expertise such as FAO and OECD should be reflected in the WTO discussions. Finally, it was observed that due consideration should be given to subsidies for fisheries development of developing Members, as long as those subsidies do not harm sustainable use of fisheries resources.

13. The third submission presented was entitled "Fisheries Subsidies: Limitations of Existing Subsidy Disciplines" (TN/RL/W/12). This submission responds to the requests for clarification regarding references to the heterogeneity of fisheries products and structure of the fishery industry raised in a previous submission (TN/RL/W/3). The proponent explained that it would be difficult to quantify price effects in a serious prejudice case involving fisheries subsidies because the heterogeneity of fisheries products means that unsubsidised reference prices generally are not available. Further, countervailing measures were not highly relevant as the main fisheries subsidizers are not major exporters. The proponent thus affirmed the need for specific improvements in fisheries subsidy disciplines, as there are problems unique to the fisheries sector in applying current subsidy disciplines to that sector.

14. A general discussion was conducted on the suite of submissions relating to fisheries subsidies, with divergent views expressed on the papers submitted. Some delegations asserted that any difficulties in the application of the SCM Agreement are generic rather than fisheries-specific, while other delegations believed that there are particular problems in the fisheries sector. In this regard, it was suggested that the Group define types of trade-distorting subsidies, and examine how existing and lapsed disciplines worked. It was observed that the scope of the mandate was established at Doha and relates to all fisheries subsidies, and that while the negotiations might show that some subsidies were worse than others, none should be excluded from negotiations at the outset. While the importance of fisheries management issues and of the work underway in various IGOs was acknowledged by

various delegations, some delegations considered that this did not justify delaying work on fisheries subsidies in the WTO. The importance of transparency to the negotiations was noted. A number of delegations stressed the importance of special and differential treatment in this area, and in some cases supported the idea of a non-actionable subsidy category for certain fisheries subsidies of developing Members. Other delegations however had reservations about considering non-actionability at his stage of the negotiations. One delegation suggested that the Secretariat compile a list of all the papers related to the issue of fisheries subsidies submitted previously to the CTE and circulate it to the Group for information purposes.

15. The Chairman noted that the parameters of the debate on fisheries subsidies were now beginning to appear. With respect to countervailing measures, he observed that there might be many common issues between countervailing measures and anti-dumping, and suggested that Participants not overlook this. He further observed that at some point the participation of capital-based officials in the Group's meetings would be important for its work.

D. REGIONAL TRADE AGREEMENTS

16. The Group had before it three submissions relating to this agenda item. Also, the Group had requested a background note from the Secretariat, to assist delegations in the preparation of submissions and proposals in the context of paragraph 29 of the Doha Ministerial Declaration. To facilitate the process, the English version of the note, *Compendium of Issues Related to Regional Trade Agreements* (TN/RL/W/8), had been circulated promptly, on 21 May, two weeks before the French and Spanish versions were available.

17. The Chairman recalled the General Council's Decision (WT/L/452) according to which each WTO body had to decide whether Secretariat notes were to be issued as restricted or unrestricted documents. In view of the nature of the Secretariat's *Compendium*, he was of the view that the document could be derestricted as from that day, without waiting for the 60 day period envisaged in that Decision. He invited delegations' comments in this respect. Delegations expressed appreciation for the information contained in document TN/RL/W/8, which was considered as balanced and comprehensive, and agreed to its derestriction as from that day. One delegation requested that a note be added to the document indicating that the document presented a very short summary of a long debate held in the Committee on Regional Trade Agreements (CRTA).[1]

18. In introducing the first submission (TN/RL/W/14), the proponent stressed the need for further clarifications and improvements in the understanding and operation of WTO rules and procedures relating to regional trade agreements (RTAs). The present uncertainty as to the application of key aspects of the rules and the blockage of the examinations of individual agreements in the CRTA, benefitted no one. The Group's task was to be based on the recognition of both the wide diversity of RTAs and the fact that they were here to stay and that a large and increasing number of WTO Members were parties to such agreements. It was true that WTO Members could be more ambitious in a regional context than was possible within the consensus-based framework of the WTO. The positive impact of regional initiatives on the multilateral system was particularly strong where RTAs provided for not only the liberalization of import and export duties but also the elimination of non-tariff barriers to trade and regulatory harmonization and convergence (i.e. "deep integration" or "WTO-plus" approaches). The Group should consider how the WTO framework could encourage and channel such more far-reaching initiatives at the regional level. However, a purely regional approach to trade liberalization and rule making could not be expected to substitute for the multilateral process in all respects. RTAs could act as "pathfinders" in the development of future multilateral obligations, but it was important that the multilateral process moved forward as well, and that the mutually supportive relationship between RTAs and multilateral liberalization and rule making, which was not

[1] The document, amended accordingly, has been distributed as TN/RL/W/8/Rev.1.

necessarily automatic, be ensured. With respect of the development dimension of the debate, the proponent indicated that the flexibilities already provided for in the WTO (e.g., in relation to transitional periods, asymmetric trade liberalization or trade coverage) should be clarified. Discrepancies in levels of development between RTA parties, and the relationship and inter-action between GATT Article XXIV, GATS Article V and the Enabling Clause, were also subjects to be considered in this area. There was a potentially positive synergy between "deep" regional integration and developing countries' ability to better exercise their rights and fulfil their obligations under existing or prospective WTO rules. To illustrate that point, the sponsor cited two areas in which at least some of developing countries' capacity problems could be eased through a regional approach: their participation in international standard bodies, as referred in the TBT Agreement, as well as competition law and policy matters. Noting that the submission proposed a non-exhaustive list of issues that merited early discussion and analysis, the proponent invited the Group to undertake a process of establishing its own "route-map" and its priorities for work.

19. The second submission (TN/RL/W/15) addressed the "substantially all the trade" (SAT) issue. It was presented by the proponent as a further contribution of his delegation (see the previous submission, TN/RL/W/2) to a definition of the universe of issues which could be covered during the negotiations. SAT was a key concept in GATT Article XXI. However, its interpretation had been for the past forty years, and remained, contentious, and this was one of the main reasons why the CRTA had not been able to arrive at clear-cut decisions on the WTO conformity of RTAs. The submission elaborated on possible solutions to the problem of interpreting the meaning of SAT. The Secretariat's note had identified two alternative approaches to the SAT concept: a quantitative approach favoured the definition of a statistical benchmark (e.g., a certain percentage of the trade between the parties), while a qualitative interpretation would read that no sector, or at least no major sector, was to be excluded from liberalization. In assessing the extent to which the SAT criterion had been met, the use of actual trade statistics and trade flows would ignore potential trade. Thus, it was proposed that SAT be defined in terms of coverage by an RTA of a defined percentage of all the six-digit tariff lines listed in the Harmonised System (HS). The submission deliberately refrained from nominating a figure; agreement could first be reached on the proposed concept, and the figure be determined later. Nevertheless, it was crucial that the benchmark be set at a sufficiently high level to remove the temptation to exclude major sectors like agriculture or textiles. As pointed out in the Secretariat's background survey on coverage (WT/REG/W/46), the exclusion of certain sectors, especially agriculture, from RTAs had the potential to cause significant trade diversion.

20. The third submission (TN/RL/W/16) concentrated on three themes. First, it advocated the need to clarify the provision on when to notify an RTA. Second, regarding where to notify, it proposed to simplify the process to the effect that notifications be made to the CRTA instead of the relevant Council. Third, regarding what to notify, the proponent pointed to the difficulties that the majority of Members had to study lengthy and complex information associated with each of the notified RTAs, in order to adequately assess them. The paper thus proposed that either outside experts or the Secretariat should conduct a factual analysis of RTAs which would assist individual Members in making their own judgement on whether RTAs complied with WTO requirements.

21. Given the late distribution of the documents, comments by delegations on the three submissions were preliminary, but a general discussion was engaged. The fact that the impasse in the CRTA benefited no one was repeatedly stressed. The need for clearer and objective WTO criteria applicable to RTAs was also generally recognized, to allow parties and non-parties to undoubtedly judge RTAs' compliance with WTO requirements. This would ensure that RTAs did not undermine the WTO system while supporting their role in assisting developing countries in their economic development. One delegation cautioned against any new negotiated rules overburdening administrations of small and vulnerable developing countries in the name of transparency; it also underlined that such new provisions should be appropriate for those RTAs which associated countries with large economic disparities.

22. Various delegations noted that the issues identified in TN/RL/W/14 merited further discussion and analysis. One delegation wondered whether the proponent of that submission was acknowledging the weaknesses in the disciplines in this area, which had existed for the past 40 years, only because of the threat of being adversely affected by tariff discrimination in third markets. Various delegations noted that the submission identified a number of concerns but did not specify clearly the objectives pursued nor the disciplines aimed at. Some delegations highlighted that the proposal did not address the question of "grandfathering" existing RTAs, and clarification was sought in this respect. One delegation noted the importance of addressing the question of time frames for transition periods. A few delegations asked how any disciplines on regulatory harmonization would operate *vis-à-vis* Members parties to more than one RTA; and whether the objectives sought were of a rather modest nature (e.g., regional participation in international standard bodies or in competition organizations) or of a larger scope. One delegation cautioned Members on any idea to use the WTO framework to multilateralize such regulatory harmonization, including through the negotiations; regulatory aspects of deep integration were to be based on multilateral norms, thus including the concept of equivalence. Another delegation requested the sponsor to further elaborate on, and provide empirical evidence of, a number of points: RTAs' positive contribution to the development of trade generally; the benefits of deep integration to non-parties; the trade and investment opportunities RTAs generated for developing countries; and the economic logic that should guide the relationship between reciprocity in RTAs, deep integration and multilateral liberalization. On the latter point, one delegation remarked that the economic logic preached by the proponent did not apply in sectors such as agriculture and textiles, and that regulatory convergence was not always positive for parties to RTAs.

23. Various delegations welcomed the emphasis placed by the submission in TN/RL/W/14 on the development dimension of RTAs, a key element in the Group's mandate. One delegation specified that development needs were to be taken into account in RTA rules and that appropriate levels of flexibility were to be provided to developing countries. Various delegations requested further clarification regarding "the flexibilities already provided for developing countries within the existing framework of WTO rules" (page 3 of TN/RL/W/14). While recognizing the need to address development concerns, one delegation noted that the objective of the negotiations amounted precisely to remove some of the existing flexibilities in interpreting Article XXIV. Clarification was also requested as to the context in which the Committee on Trade and Development (CTD) could contribute to the work being done by the Group.

24. Regarding regulatory harmonization, the proponent explained that, beyond the simple examples given, it would be more appropriate to refer to regulatory convergence for bilateral relations and regulatory harmonization at the multilateral level, with the concept of equivalence being also part of the process. The proponent's experience with RTAs was based on agreements which not only embodied a set of rights and obligations, but also established a cooperative framework ensuring that partners' interests were taken into account when preparing domestic regulations. The end result being more trade friendly than otherwise, such process could only impact positively on third parties, which anyway were usually not discriminated by the regulations. The proponent explained that the creation of regional competition authorities within RTAs could assist developing countries in fulfilling any possible future WTO obligation relating to the establishment of a competition policy and related enforcement mechanisms. The Cotonou Agreement and the foreseen Economic Partnership Agreements were clearly guided by the notion that regional integration supported development. A successful conclusion of the Doha Development Agenda would not only keep an adequate parallelism between reciprocity, deep integration and multilateral liberalization, but also a balance between regionalism and multilateralism. Finally, the proponent expressed the view that, while negotiations were to be dealt with in the Rules Group, the CTD's role would be to draw the Group's attention to any overlooked developmental aspects.

25. The submission contained in TN/RL/W/15 prompted a substantive debate on the concept of SAT, which was generally recognized as needing clarification. Various delegations indicated that the

proposal was relatively simple and transparent and merited a detailed and critical scrutiny. Areas requiring further exploration included the desirability/adequacy of a formula approach; the possible exclusion of sectors; and the rationale for setting a specific threshold. One delegation indicated the need to analyze whether or not an RTA excluded any major sector of trade, such qualitative aspect allowing the assessment of the RTA's contribution to the expansion of world trade. Some delegations supported the concept of a numeric threshold having both a quantitative and a qualitative component, since the qualitative and quantitative assessments were not necessarily mutually exclusive. An assessment based on tariff-line numeric threshold alone might be problematic when trade was concentrated in a few items. This could lead to an RTA excluding a significant percentage of actual trade even though covering a large percentage of tariff lines. It was however noted that, to some extent, the proposal acknowledged that danger and addressed the qualitative aspect by taking into consideration potential trade under the RTA. Regarding the threshold figure itself, one delegation supported a high percentage criterion and recalled that the figure of 95 per cent had been mentioned previously in the context of the CRTA. One delegation concurred with paragraph 10 of TN/RL/W/15 on the need for coverage to be understood to mean the complete elimination of tariffs and non-tariff measures on a particular product. Clarification was sought as to at which point in time would coverage be measured, whether at the entry into force of the RTA, at the end of its transition period, or both. A shortcoming identified in the methodology proposed referred to the HS level used to perform the evaluation was to be done (at 6-digit level). Since many Members had 8- or 10-digit tariff levels, problems would appear when only part of the 8- or 10-digit lines would be liberalized to RTA partners. More generally, noting that the drafters of GATT Article XXIV certainly had good reasons for introducing the SAT language, one delegation expressed interest in understanding the drafting background in order to formulate a definition that could promote the use and advantages derived from RTAs. It was also emphasized that if the SAT issue was adequately addressed, as suggested, improvement would result in areas such as RTA reporting obligations and data provision (in particular, the provision of detailed statistics on percentage of trade and tariff lines covered).

26. The proponent noted that the question of trade concentration had been raised in paragraph 9 of TN/RL/W/15 and in paragraphs 9 and 10 of a 1998 document submitted to the CRTA, WT/REG/W/22/Add.1. Both advocated for a mixture of quantitative and qualitative approaches in such specific cases. The latter document, in its paragraphs 11 and 12, also discussed in detail the question of when should the assessment of the coverage be made. The proponent’s view was that, if tariff lines were used, the measurement could be done at the outset.

27. With respect to the submission in TN/RL/W/16, some delegations expressed support to an early notification, while noting that a common standard might be difficult to establish, given the various legal and constitutional aspects of Members. A few delegations spoke in favour of the proposal that all notifications be directly considered within the CRTA, instead of the sectoral councils. Given that not all Members might agree on amending existing notification rules, a procedural solution should be found, in relation to the CRTA examination mandate. Some delegations rejected a suggestion that the new notification rules also apply to RTAs presently notified to the CTD. The suggestion that examinations be carried out on the basis of a prior factual analysis of individual RTAs, received a preliminary positive reaction, as a means to improving the transparency and effectiveness of CRTA reviews. One delegation requested the sponsor to further develop the proposal of a factual review of RTAs by experts, in particular on how the analysis would be used and on whether it would involve a Trade Policies Review-type process. The idea that the Secretariat might be in charge of preparing such factual analysis gathered some support, though a few delegations expressed concern on the risk of the Secretariat commenting on RTA consistency.

28. In response to the comments made, the proponent clarified that the proposal was that all RTAs, including those justified under the Enabling Clause, be notified directly to the CRTA, even if the standards were distinct. A parallel notification of RTAs under the Enabling Clause could also be made to the CTD. This would be in the interest of all Members and would promote transparency and

experience. As to the question of what to notify, the proposal foresaw a factual analysis of individual RTAs being made by experts or by the Secretariat, who could glean the facts, such as coverage, transition periods, rules of origin, exceptions, and services provisions. Members would then be in better position to analyse and draw conclusions on the RTAs.

29. In the ensuing discussion, participants identified a number of other specific issues for negotiation. Comments reflected an emerging consensus on the need to address RTA procedural issues, namely WTO basic transparency requirements (notification, scope of information to be submitted and periodical reporting) and the multilateral surveillance mechanism (the examination process). A number of delegations indicated that the question of preferential rules of origin, also included in TN/RL/W/2, should be addressed. One delegation noted that a link existed between SAT measurement and preferential rules of origin, as the latter limited, by definition, the coverage of products under an RTA. Further, origin rules could be shaped such as unreasonably limiting product coverage, and thus undermine the SAT requirement. Existing rules on the application of trade remedy measures between partners of RTAs were also pointed out as requiring clarification, so as to reduce recourse to dispute settlement and litigation in this area. More specifically, the relationship between Article XIX and the wording of GATT Article XXIV:8(a)(i) and (b) was raised as an issue for negotiation. The definition and scope of "other regulations of commerce" was also cited as an issue for negotiation. One delegation pointed out that, given the increasingly diverse regulatory scope of RTAs, this concept should benefit from a wide interpretation to allow a correct assessment of the impact of RTAs on third parties. Two other specific issues were mentioned as in need of clarification. First, within the GATS concept of "substantial sectoral coverage", it was proposed that economic integration agreements should include the most important privately-provided service sectors. Second, it was suggested that the provisions of the Uruguay Round Understanding on customs unions be extended to the assessment of the effects of free-trade areas on third parties under Article XXIV:5(b).

30. Some time was devoted to the issue of future application of any new RTA rules resulting from the negotiations to existing RTAs (“grandfathering”). Most participants expressed disagreement in dealing with this question in the abstract, before any such new rules would have been outlined. Consensus seemed to emerge in favour of considering “grandfathering” possibilities at a later stage. A number of delegations pointed out that no “grandfathering” would probably be needed *vis-à-vis* some of the new rules and that, for others, the question of retroactive application could possibly be solved through the granting of an adjustment period.

31. Various delegations expressed concern about a suggestion to consider whether RTAs under the Enabling Clause should be subject to the provisions of GATT Article XXIV, and objected the explanation offered that the former had long served to address the special needs of developing country Members. On the contrary, they viewed developing countries’ special requirements as a notion on which any new rules emerging from the negotiations should be grounded. One delegation noted that the Enabling Clause was a Decision and not “flexibility”: it provided special and differential treatment for both developing and least-developed countries.

32. A few delegations noted that, in light of the proliferation of RTAs, a way had to be found to guarantee the proper functioning and continued good health of the open, rule-based multilateral trading system and securing market access interests in Members not parties to RTAs. The current picture was that of a frightful matrix of preferential agreements, discriminatory preferences and complicated rules of origin, in which the MFN principle was becoming the exception rather than the norm. Independently developed RTA regulatory frameworks were deemed to strain the multilateral trading system. Other participants stressed that RTAs represented a useful tool for complementing Members’ participation in the multilateral trading system, by not only promoting trade but also replying to geographical and economic realities. RTAs could function as escape valves for the multilateral trading system. Further mutual trade liberalization moves and common regulatory initiatives taken by RTA parties could be gradually incorporated in the WTO system, while disputes

were settled without overcharging the WTO. Some delegations stressed that their participation in RTAs had not impeded substantive growth in trade with third parties and had not generated trade diversion; one delegation noted that trade diversion had to be defined in terms of the percentage share of world trade involved. Also, not only the lowering of tariffs at the regional level had facilitated the reduction/elimination of MFN duries, but, to a large extent, the liberalization of non-tariff barriers negotiated in RTAs had been applied on an MFN basis.

33. Finally, several participants expressed views on how to structure the Group's work with a view to commanding as wide a basis as possible for the negotiations. Delegations agreed that, after an early stage of identification of the issues, a core group of issues should be selected for early progress. Some expressed the view that relatively less controversial questions, such as procedural issues, should be dealt with first; in this context, reference was made to the questions raised in Parts I and II of the Secretariat's Compendium. That approach, on which a consensus seemed to be emerging, would provide opportunity for a better understanding of the issues involved before addressing the interpretation of specific WTO provisions. Whether non-priority issues would be tackled in parallel or subsequently to negotiations on priority issues remained to be discussed. It was also suggested that part of the Group's future RTA discussions be done in an informal mode.

34. In concluding the debate, the Chairman noted that the proliferation of RTAs appeared to have worked towards the shifting of position of some Members, and that all Members had a number of common interests in seeing this issue moving ahead. First, every Member had an interest on the impact of RTAs on third parties. Second, there was an urgent need to remove the blockage faced by the CRTA. Third, there was the need for asserting the primacy of negotiators over the judiciary. Fourth, but more controversially, there was a need to ensure the primacy of the multilateral trading system and the building block approach, which appeared to be the emerging reality. Noting that some of the solutions might lay outside the Group's mandate (e.g., on trade creation/diversion, much depended on results achieved in market access negotiations), he was of the view that the Group should give great attention to regulations of commerce. It appeared that the Group should be able to move soon to setting priorities in addressing specific issues, if possible after the summer break and in an informal mode. The Group could start by addressing procedural aspects, without excluding the possibility of addressing systemic issues. It was his opinion that some of the issues involved were outside the wider political problems facing the negotiations as a whole, thus allowing for faster progress. In light of that, he indicated that he would like to advance faster in RTA-related issues so as to leave enough time for the most contentious issues facing the Group. Regarding representation, he was of the view that the presence of capital-based negotiators was less needed on issues in the RTA agenda than in the detailed and technical issues such as anti-dumping and countervailing duties.

E. OTHER BUSINESS

35. The Chairman recalled that the next formal meeting of the Group would take place on 16-18 October 2002. Proposals and any other documentation for consideration at that meeting should be submitted to the Secretariat by 25 September, in order to insure that they could be circulated and translated in a timely manner.