
Committee on Trade and Environment

REPORT OF THE MEETING HELD ON 28 OCTOBER 2003

Note by the Secretariat

1. The Committee on Trade and Environment (CTE Regular) met on 28 October 2003 under the Chairmanship of Ambassador Peter Brño (Slovak Republic). The following agenda proposed in WTO/AIR/2184, dated 6 October 2003, was adopted:

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I. PARAGRAPH 32

A. PARAGRAPH 32(i) (MARKET ACCESS)

The effect of environmental measures on market access, especially in relation to developing countries, in particular the least developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development.

2. The Chairman recalled that paragraph 32(i)¹ had two aspects: the "market access aspect", i.e. the effect of environmental measures on market access, and the "win-win-win" aspect which had to do with the situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development. According to past practice, this second aspect was reviewed sector by sector ("sector analysis").

¹ Unless stated otherwise, paragraph numbers refer to those of the Doha Ministerial Declaration.

1. Market Access

3. The representative of UNCTAD informed the CTE about its recent activities on the effects of environmental measures on market access. He noted that UNCTAD's activities on this topic had focused on three clusters: (i) a series of sector-specific country case studies; (ii) exploratory activities on a Consultative Taskforce on Environmental Requirements and International Trade as project-oriented activity; and (iii) the work of the UNCTAD / Food and Agriculture Organization (FAO) / International Federation of Organic Agricultural Movements (IFOAM) International Taskforce on Harmonisation and Equivalence in Organic Agriculture.²

2. Sector analysis ("win-win-win")

(a) Forestry

4. The representative of Japan introduced its submission on "Bilateral Cooperation Between Japan and Indonesia in Combating Illegal Logging" (WT/CTE/W/233). He recalled that, at the last meeting of the CTE in July 2003, his delegation had introduced the framework of the Japan/Indonesia cooperation aimed at combating illegal logging (WT/CTE/M/34, paragraphs 32-36). At that time the "Joint Announcement" on the cooperation to combat illegal logging, and the "Action Plan" attached to it, had just been signed. He informed the Committee that within the above-mentioned framework, the different phases of forest trade – from harvesting, marketing, processing and export – would be monitored by the setting up of a mechanism for the identification of both legally and illegally harvested timber and related products. Trade measures against illegally harvested timber and its products would be taken in a manner compatible with WTO provisions. Civil society (non-governmental organizations) would participate in this process in cooperation with the authorities in charge. In order for the Joint Announcement and the Action Plan to be effective, the adoption of trade measures against illegally harvested timber by the government of Indonesia, in cooperation with Japan, was essential. This was in conformity with WTO Agreements. The agreement between Japan and Indonesia showed the way for other Members regarding how best to combat the global environmental problem of illegal logging in a manner which was compatible with WTO provisions. Japan hoped to contribute to sustainable forestry management at the global level by promoting such agreements in other areas of the world. At a later stage, Japan would make a submission on the developments in the Japan/Indonesia cooperation. This would enrich discussions in the CTE on trade measures taken against illegally harvested timber which were effective and in conformity with WTO Agreements.

5. The representative of Korea recalled that, as it had been confirmed in international fora, sustainable forest management was one of the key ingredients to sustainable development and that illegal logging was a major obstacle to sustainable forest management. The international community had to find effective ways to combat illegal logging and Korea believed that the Joint Announcement and Action Plan signed by Japan and Indonesia offered a useful model. In fact, Korea had also signed a joint statement with Indonesia concerning the international combat of trade of illegally harvested forest products on 29 June 2003. This joint statement recognised that the battle against illegal logging and ensuring the sustainability of forest resources was not merely the responsibility of producer countries but also of consumer countries. Furthermore, it called for improving forest law enforcement aimed at controlling illegal logging and associated illegal trade and stressed that it was important to improve economic opportunities for the local community in order to reduce associated illegal trade. The joint statement also recognized that only legally sourced timber and other forest products could be traded internationally. Finally, it acknowledged the call for international collaborative actions to reduce and to eventually eliminate the volume of illegal material transported and traded. Whilst the joint statement between Korea and Indonesia did not include a plan of action, the two governments intended to follow up by developing a mechanism for bilateral cooperation to combat illegal logging

² The full text of the UNCTAD statement has been circulated as WT/CTE/GEN/14, 30 October 2003.

and its associated trade. The challenge for WTO Members was to identify the role of the WTO in the fight against illegal logging. The issue here was how the WTO could help the cause of sustainable forest management. Korea wondered whether the Action Plan attached to the Joint Announcement by Japan and Indonesia included further study on the feasibility of taking trade measures against illegally harvested and processed timber consistent with WTO rules. Korea also noted Japan's intention in paragraph 12 of its submission to make a further contribution to the CTE regarding the possible trade measures against illegally harvested timber.

6. The representative of the European Communities agreed on the importance of most of the issues raised by Japan in its submission. In respect of the mechanism used to ensure that logging had been harvested legally, the European Communities drew the attention of the Japanese delegation to a report financed by the European Communities and developed by consultants on feasibility and best options for a system of identification, control, certification and follow-up of timber traded into the European Communities. It was stressed that this report had been drafted by independent experts and did therefore not reflect the official position of the European Communities.³

7. The European Communities concurred with Japan on the importance of transparency and, particularly, the involvement of civil society. As an example, he recalled a program co-funded by the European Communities in Cameroon where an independent observer, Global Witness (an NGO), had directly reported back to the Cameroon minister in charge of forestry on the monitoring of the programs which fostered legal logging. Another possibility, which had as yet not been implemented but needed to be looked in to, was to use a private company such as the Société Générale de Surveillance (SGS).

8. The European Communities also felt that the issue of the compatibility with WTO rules was important. Currently, it was developing bilateral agreements of the type illustrated by Japan, as well as studying the possibility of bilateral partnerships with producing countries, or with regional organizations. The European Communities considered that the battle against illegal logging was not only a trade issue but also a governance issue which was broader in nature and involved issues such as property rights and the participation of the private sector and indigenous peoples. Moreover, agreements at the multilateral level were also very important because of the complex nature of timber flows, particularly in Asia. The European Union was actively taking part in different international processes such as the United Nations Forum on Forest (UNFF), the expanded programme of work on forest biological diversity of the Convention on Biological Diversity (CBD), the International Tropical Timber Organization (ITTO) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Moreover, the European Communities considered that it was also important to strengthen national approaches, and to help developing countries strengthen their capacities through technical assistance. In this context, the European Communities noted that, in 2004, part of its activities on sustainability impact assessments (SIAs) would be linked to forests.

9. The representative of Indonesia indicated that his country would have liked to be more involved in the drafting of the Japanese contribution. However, the paper illustrated Japan's commitment toward tackling the problem of illegal logging as well as the need for international cooperation in order to curtail illegal logging and trade in illegally harvested logs. The issue of illegal logging was high on Indonesia's agenda. Indonesia recognized that the problem of illegal logging had many complex causes which were not just economic but also cultural, social and political. In combating illegal logging at the national level, Indonesia had strived to implement policies and taken actions to deal with its root causes. These included the development of an improved forest protection system, public awareness campaigns and the strengthening of institutional and human resource capacity in forest management. Whilst the immediate problem of illegal logging was within national boundaries, forest degradation caused by illegal logging had serious global environment consequences, such as reduced biodiversity and global warming. It needed also to be kept in mind

³ This report is available at <http://europa.eu.int/comm/environment/nature/forest-regulations.htm#fstudy>.

that the high demand for timber from consumer countries combined with limited supply of legally harvested timber had created a market anomaly which had aggravated the situation. It was thus difficult for Indonesia to address the problem of illegal logging alone without the full cooperation of countries in the region as well as other consumer countries.

10. At the international level, Indonesia had actively addressed the issue of illegal logging in organizations such as UNFF and ITTO. It had also pursued efforts at the bilateral level to improve law enforcement and governance aimed at combating illegal logging and international trade in illegally harvested wood. Examples were agreements with Japan and the United Kingdom; similar bilateral agreements had been embarked on with Norway, Finland, China and Korea. In this context, Indonesia shared Japan's encouragement for similar initiatives to be taken in other regions. Indonesia believed that WTO rules provided adequate flexibilities for Members to help address the problem of illegal logging and trade in illegally harvested timber as part of a concerted effort to protect the global environment. However, trade practices by some Members such as tariff peaks and tariff escalation on wood products had, on the contrary, contributed to the problem. Indonesia discouraged Members from resorting to such trade practices due to their environmental repercussions. Indonesia also stressed the need for wood and wood products to be discussed within the purview of the non-agricultural market access negotiations (NAMA).

11. The representative of the United States shared Japan's desire to address illegal logging as a component of broader efforts to promote sustainable forest management. She supported the idea of further studies to understand illegal logging and the extent to which trade measures, consistent with WTO rules, could be effective in addressing it. The United States had joined with Japan and others in raising international awareness of the problem of illegal logging and identifying actions to address it. In addition to the G-8 initiatives mentioned by Japan, the United States drew Members' attention to the East Asia Ministerial Conference on Forest Law Enforcement and Governance (2001) and the recently-concluded Africa Ministerial Conference on Forest Law Enforcement and Governance. In July 2003, the United States launched a Presidential Initiative Against Illegal Logging, the objective of which was to assist developing countries to combat illegal logging, the sale of illegally harvested timber products, and corruption in the forest sector. In this initiative, the United States was working in partnership with other governments, international organizations and non-government stakeholders on a variety of concrete actions to build capacity in developing countries.

12. The representative of Brazil considered the Japan/Indonesia agreement an interesting model of bilateral cooperation aimed at tackling the issue of illegal harvesting of forest resources. However, it was important to highlight that illegal logging, although an important and pressing international and regional issue, was also a very complex one. As Korea and Indonesia had pointed out, there were a variety of causes behind the problem. These included the lack of capacity to implement forest law, prevailing cultural and social practices in producing countries, the international demand for wood (which was reflected in the illegal international trade associated with illegal harvesting), and practices such as tariff peaks and tariff escalation which increased the problem. Moreover, Brazil recalled that forests needed to be looked at in a holistic manner and that this had been recognized in the Forest Principles adopted at the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992. As pointed out by the European Communities, the issue was not only related to trade, it involved several other dimensions. Brazil believed that the current international regime on forests was already dealing with this issue and discussing it seriously. In fact, many delegations had already mentioned the work done by the UNFF and by members of the Collaborative Partnership on Forests which included the FAO, ITTO, CBD and several other organizations. Therefore, while Brazil welcomed the sharing of information by countries on bilateral or regional cooperation in the CTE, Brazil did not think that the CTE should engage in a discussion on the measures that needed to be developed to tackle this issue.

13. The representative of Chile was of the view that cooperation agreements were important, whether bilateral, regional or multilateral in scope. He recalled the objective of the ITTO which

included the protection of natural resources while encouraging the legal trading of these resources and noted that this focus on conservation was also valid in other areas, such as the control and eradication of illegal, unreported and unregulated fishing. In this area, regional fisheries agreements and the UN Convention on the Law of the Sea (UNCLOS) were the appropriate fora for such cooperation. These programmes strengthened national efforts; examples of this included efforts with respect to Patagonian Toothfish or Chilean sea bass. On paragraph 11 of Japan's submission concerning trade measures for the control of illegal logging and their compatibility with the provisions of the WTO, Chile would appreciate that in the future Japan would provide information on the implementation of such measures. It would, for example, be interesting to find out the rationale behind the choice of certain measures. Chile believed that it would also be interesting to discuss the issue of how certain market access obstacles for timber, or subsidies given in some countries to this sector, could be an incentive to illegal harvesting. Finally, Chile considered that this type of work was extremely useful in the framework of the negotiations underway in the CTE Special Session, in particular with respect to paragraph 31(i) of the Doha mandate.

14. The representative of Switzerland fully shared the concerns expressed by Japan on illegally harvested timber and sustainable management of forests. She welcomed the efforts made by Japan in cooperation with other countries to fight all practices which hampered the sustainable management of forests. There was a need to keep in mind that different specialized agencies and organizations dealt with these matters, such as the ITTO and the UNFF. However, Switzerland agreed that aspects relating to trade could be discussed within the CTE.

15. The representative of Norway welcomed the Japan/Indonesia initiative to combat illegal logging and associated illegal trade. Other countries, including Norway, were engaged in similar cooperation, also with Indonesia. Bilateral cooperation was important, in particular because it might pave the way for a wider regional or, ultimately, multilateral cooperation to address this issue. The scale and complexity of the international timber trade and the difficulties in arriving at a common definition of what constituted "illegal timber" emphasized the importance of coordinated international action. The UNFF, ITTO and FAO were examples of international fora which could play an important role in promoting multilateral cooperation in this field. Japan, in its paper, pointed out that trade measures against illegally harvested timber were indispensable in order to ensure the effectiveness of the Action Plan. Norway agreed that trade measures might be important instruments in order to tackle the problem. However, when such measures were considered to be the most effective option, they had to be designed and utilized in a manner consistent with WTO rules. It was the responsibility of the Member applying such measures to ensure that this was the case.

16. The representative of Malaysia supported the point that the WTO was not the competent body to deal with illegal logging and reiterated that the issue was being appropriately dealt with elsewhere. He therefore questioned the usefulness of debating it in the WTO and noted that national solutions would always be the most effective ones. He agreed with Indonesia, Chile and Brazil on the need to look at the root of the problem and stressed that trade practices such as tariff peaks and tariff escalation contributed to the problem of illegal logging.

17. The representative of Venezuela considered, like others, that the Japan/Indonesia agreement was a good example of bilateral or multilateral cooperation. Venezuela supported the statements to the effect that the problem of illegal timber was not only a producers' problem but needed also to be dealt with by consumers. Referring to paragraph 9 of Japan's submission, he emphasized the importance of technical assistance and capacity building. As had been pointed out by Brazil, the problem of illegal logging and illegal trade in timber went beyond the mere implementation of trade measures, it was related to poverty – a major cause for these practices. In this respect he pointed out that it would be useful for the Committee to consider this through the mandate contained in paragraph 51.

18. The representative of Ecuador joined Venezuela, Brazil and Malaysia in expressing the view that forestry was a holistic issue that went beyond trade because it had different causes and effects. Therefore, this issue should not be considered in a sectoral manner in the WTO. It had been discussed for many years by other bodies, such as the UNFF.

19. The representative of Japan was of the view that combating illegal logging also included trade measures of the sort suggested in the Joint Announcement and that this needed to be discussed in the CTE. He stressed that trade measures were only aimed at illegally harvested timber identified by a tracking mechanism which would be established in the exporting countries. Japan reaffirmed that such trade measures needed to be compatible with WTO provisions. He recalled that when Japan had submitted a document on "Issues on Forestry Products Trade and Environment" at the CTE meeting of June 2002 (WT/CTE/W/211), some Members had asked Japan to clarify its intentions and outlook regarding forestry. In this respect, the Japan/Indonesia Action Plan included a mechanism for the identification of legally and illegally harvested timber (see paragraph 4, above). He stressed that in the framework of the Japan/Indonesia cooperation, Japan intended to develop the necessary capacity building means to implement the related commitment. Moreover, Japan had no objections to other international fora discussing this matter. Japan believed that it would be important to go into greater detail in the discussion of the different elements that would enable Members to establish trade measures against illegal logging which would be effective and in conformity with WTO provisions. In light of the comments made by Members, Japan was prepared to contribute further details on issue.

(b) Other sectors

20. No statements were made under this sub-item.

B. PARAGRAPH 32(II) (TRIPS)

The relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

21. No statements were made under this sub-item.

C. PARAGRAPH 32(III) (LABELLING)

Labelling for Environmental Purposes

22. The representative of the European Communities drew Members' attention to the workshop on labelling ("Learning Event") that took place on 21-22 October 2003 under the auspices of the Committee on Technical Barriers to Trade (TBT). This workshop had demonstrated an interest in this type of awareness raising events. There were interesting presentations and questions by numerous WTO Members such as Brazil, Colombia, Chinese Taipei and others. The European Communities asked the Secretariat to circulate the report of this workshop in the CTE.

23. The Secretariat indicated that the presentations on the case studies would be made available on the WTO website under TBT-related activities.

24. The representative of Venezuela considered that the TBT Committee was the appropriate body to discuss these issues and to hold such workshops. The learning event had been important and Venezuela considered that this type of activity needed to be continued in the TBT Committee, and perhaps Members would be in a position to share information with the CTE at a later stage.

25. The Chairman recalled that Members had already held lengthy debates on the relevant forum for discussing labelling (TBT or CTE). This was reflected in the CTE's Report to the 5th Session of the WTO Ministerial Conference in Cancún ("Cancún Report", WT/CTE/8, paragraphs 30-42).

26. The representative of the European Communities noted that the fact that the TBT workshop on labelling had been a success should not prevent Members from thinking of more focused events on eco-labelling in the CTE.

27. The representative of Brazil supported Venezuela's view. The TBT learning event actually showed that Members were in the phase of getting to know each other's experience on labelling in general. Members were not ready to engage in any specific discussions on this issue. Moreover, labelling requirements as technical regulations were also of the TBT work programme.

D. OTHER ITEMS ON THE CTE WORK PROGRAMME

28. No statements were made under this sub-item.

II. PARAGRAPH 33

We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.

29. The representative of the European Communities introduced a submission on "Trade-Related Technical Assistance (TRTA) and Capacity Building in the Field of Trade and Environment"⁴ which was intended to demonstrate the EC's full commitment to paragraph 33 of the Doha Development Agenda (DDA). He noted that the June 2003 update of the Doha Development Agenda Trade Capacity Building Database had revealed that the European Communities was by far the largest contributor of trade related assistance, with more than 2 billion Euros committed over the period 2001-2002. More specifically on trade and environment, the European Communities fully acknowledged the need for trade and environment technical assistance as critical for developing countries to meet the challenge of sustainable development. The purpose of the list included in the submission was not to present a total budget for its TRTA activities in the field of trade and environment (many of the programs in this list included a trade and environment component which was only a part of a wider technical assistance programme). Rather, since the aim of this list was to stimulate discussion on the basis of concrete TRTA activities, even limited trade and environment components of wider TRTA programmes could be relevant for a specific country or a specific activity. It was noted that collecting data on trade related technical assistance was a complex exercise and that the list was therefore not exhaustive – it could be updated and/or complemented in the future. He stressed that the selection of programmes had been the result of a decision process involving trade, environment and development services, and in close cooperation with colleagues in developing countries. As the same kind of coordination was necessary when it came to prioritizing domestic needs, the European Communities would welcome this list being forwarded to capitals to further stimulate discussions between trade, environment and development experts of donors and beneficiary countries. This discussion would help further improve the design of EC development assistance programme.

30. The Secretariat recalled that the CTE's Cancún Report contained an Annex which set out, in detail, planned and executed technical assistance events on trade and environment (this covered the period between the Doha Ministerial Conference and the end of 2003). Since the last meeting of the Committee, a regional workshop for French speaking African countries was organized in Djibouti, from 7-8 October 2003. In November 2003, the Secretariat and the INTAL/IDB (Institute for the Integration of Latin America and the Caribbean of the Inter-American Development Bank (IDB))

⁴ WT/CTE/W/231, 5 September 2003, "Trade-Related Technical Assistance (TRTA) and Capacity Building in the Field of Trade and Environment", Submission by the European Communities under Paragraph 33.

would hold a regional workshop for the English-speaking Caribbean countries in Kingston (Jamaica) in cooperation with the CARICOM Secretariat, and the Jamaican government. The UNEP/UNCTAD Capacity Building Task Force on Trade, Environment and Sustainable Development (CBTF) would hold a back-to-back workshop with this event. Also, in December 2003, the Secretariat would hold a regional workshop for Eastern European Countries in Budapest and a national workshop on trade and environment in Tanzania. With respect to the activities planned for 2004, the WTO-wide technical assistance plan, including the trade and environment events, was still in the making.⁵ It had been discussed in the Committee on Trade and Development (CTD) on 16 October 2003 and a further revision of the plan would be discussed again at the end of November.

III. PARAGRAPH 51

The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

31. The Chairman recalled the usefulness of the approach taken by the CTE since February 2003 when it began a series of briefings from the Secretariat on the environmental aspects of the on-going negotiations (on agriculture, non-agricultural market access, rules and services). He suggested that the CTE, pending the current situation with respect to the negotiations, revert to the question of how to continue to deal with paragraph 51 at the next meeting of the CTE. So as to facilitate this, he suggested that an informal meeting be held on paragraph 51 ahead of the next formal meeting.

32. It was so agreed.

IV. OTHER BUSINESS

A. MEETING DATES FOR 2004

33. The Chairman recalled that last year, guided by paragraph 32 of the Doha Ministerial Declaration, the CTE had dedicated a meeting to each of the sub-items in paragraph 32, i.e. market access, TRIPS and labelling. The CTE then went on to discuss paragraphs 33 and 51. Most of this was summarized in the Cancún Report. The Chairman acknowledged that it might be early for many delegations to decide on its work programme in 2004, considering the current situation. However, he invited Members to indicate any preliminary views they might have on how to conduct the work of the CTE in 2004.

34. The representative of Canada suggested that, in order to spawn a more vigorous debate within the CTE, each meeting focus on one particular aspect of the agenda, while not excluding others. This would enable Members to better prepare for upcoming meetings. In this regard, it would be helpful if the Secretariat provided Members with a summary of where issues might be on that particular item or, perhaps, a series of questions to try and encourage discussion in that particular area. For example, the representative of Canada had appreciated the intervention by UNCTAD on paragraph 32(i), which he found useful. If an advanced copy of that submission had been circulated, Canada might have had an opportunity to consider specific questions.

35. The Chairman invited Canada to submit its idea in writing so that it could be discussed informally ahead of the next formal meeting. He also encouraged other Members to prepare substantive inputs in writing on issues of interest to them in order for the Committee to have a more effective debate.

⁵ Page 33 of document WT/COMTD/W/119 (Committee on Trade and Development, "Technical Assistance and Training Plan 2004"), sets out the plan for 2004 in the area of Trade and Environment.

36. With respect to meeting dates for 2004, the Chairman noted that as requested earlier by some delegations, the Secretariat had checked to ensure that these dates did not clash with other major international trade and environment related meetings. The following dates for the CTE Regular were proposed: 16-17 March, 6-7 July, and 12-13 October 2004.

37. The representative of Switzerland recalled that in 2003 there had been four meetings of the CTE and asked why only three meetings had been scheduled for 2004.

38. The Chairman indicated that the standard was three meetings. In 2003, the fourth meeting was justified by the need to discuss and adopt the Cancún Report. He suggested to discuss the issue of a possible fourth meeting at the first meeting of next year.

39. The representative of the European Communities agreed with the Chairman's statement.

40. The representative of Egypt suggested that since many delegations covering the CTE also covered TBT and SPS, the Secretariat should avoid clashes with the SPS Committee (there were no clashes on the TBT side).

41. The Chairman recalled that the next meeting of the CTE Regular would be held on 16-17 March 2004.

V. ADOPTION OF THE 2003 ANNUAL REPORT

42. The CTE adopted the Annual Report of the Committee for 2003 as contained in WT/CTE/10.
