



18 October 2021

(21-7880)

Page: 1/7

**Committee on Agriculture
Special Session**

**REPORT BY AMBASSADOR GLORIA ABRAHAM PERALTA TO THE
COMMITTEE ON AGRICULTURE IN SPECIAL SESSION
AND DEDICATED SESSIONS ON PSH AND SSM**

14-15 OCTOBER 2021

Introduction

1. I have organized meetings with Members in different configurations and formats always bearing in mind the representativeness of the groups. In particular, I also organized a first round of "Room D"-type meetings, in order to have a focused, text-based discussion on what might be a possible outcome at MC12 on different topics. I invited Members to come prepared to make specific and constructive suggestions to amend the draft text I circulated (JOB/AG/215 and Corr.1), in order to identify possible landing zones.
2. I would like to stress again that these meetings are not intended to make decisions, but rather to provide a space and time for in-depth discussions on a without prejudice basis.
3. The discussions were insightful and at times very lively. While the discussions broadly reflected the well-known positions, many useful suggestions were made.

Domestic Support

4. The discussions on Domestic Support focused on the potential changes to the draft text contained in JOB/AG/215, on a without prejudice basis. The discussions were very animated, and many useful suggestions were made. However, we did not have enough time to hear all the suggestions and comments and these discussions will therefore have to continue, notably on the substantive parts of the draft Decision.
5. Regarding substance, the fundamental positions remained the same. I will therefore not repeat them here in detail but rather summarize the discussions with a focus on specific suggestions.
6. The key differences focus on the level of ambition and on the sequencing of different steps.
7. Several Members considered that agreeing on a numerical target was not realistic and other alternatives should be considered. Suggestions included to agree on "substantial reductions" of trade-distorting domestic support instead.
8. The sequencing of the reform steps was also discussed. Members views remained apart, some calling for addressing all categories of Article 6 support, while maintaining that not all categories would be treated the same. Other Members continued to call for addressing AMS above *de minimis* as a first step. Discussions also focused on whether AMS above *de minimis* should be eliminated or prioritized in the negotiations.
9. In this respect, a proposal was made to include a stand-still provision for AMS above *de minimis* in the draft Decision on Domestic Support while negotiations continue post-MC12. It was suggested to place the standstill provision at the beginning of the text distinguishing it from the modalities to be agreed. Several clarifications were sought, notably regarding the support to be excluded from the standstill provision, such as COVID-19 related payments and the support under PSH programmes.

10. References in the Preamble to non-trade concerns and sustainability were also discussed, with the suggestion made, among others, to use the language in the Agreement on Agriculture (AoA) which refers to "sustainable development".

11. Special and differential treatment was also discussed, including how to address it in an overarching manner to avoid repetition in the various parts of the draft text.

12. Regarding transparency, it was suggested to include some specific suggestions from JOB/AG/213.

13. It was also suggested to structure the draft Decision in three parts, with the first part focusing on Key Principles, the second part on Specific Elements and third part on Transparency. This suggestion would not involve any substantive change, but only a reorganization of the order of the paragraphs.

14. As already mentioned, not all comments and suggestions could be made as a lot of time was dedicated to discussing textual suggestions to the Preamble. Therefore, more discussions will be needed to hear all views.

Market Access

15. The draft text contains two elements in the Market Access section. There is a proposed Decision on transparency of changes in applied tariffs and secondly the text contains elements of a work programme for the continuation of the Market Access negotiations post-MC12. Both these elements were subject to extensive discussions during the Room D process.

16. On the issue of applied tariff transparency, the proponents emphasized that the draft Decision seeks to enhance transparency and predictability in the application of changes to applied tariffs and the proposed approach to achieve this objective was flexible enough to accommodate the varying national practices that Members currently have in effecting changes to applied tariffs.

17. The proponents expressed openness to adopt the Decision on a best-endeavour basis in order to allay concerns of the non-proponents regarding possible legislative changes that may have to be made as a result of the obligations in the draft Decision. The proponents also recently decided to explicitly clarify the scope of the draft Decision that it only covers changes in ordinary applied tariffs and not to measures like trade remedies or changes arising from tariff classification. The revised proposal in JOB/AG/212/Rev.1 was already presented to you earlier this morning.

18. Those Members, who continue to have concerns on the proposed Decision, raised the following main issues in the Room D process:

- (a) CoA SS may not be the appropriate forum to deal with the topic, considering that the proposed product scope extends beyond the product definition in the AoA;
- (b) The proposed Decision entails logistical challenges: especially that it may necessitate legislative changes and proposes burdensome transparency or notification obligations;
- (c) Advance notification of tariff changes might trigger excessive speculation or unintended consequences like import surges.

19. The proponents expressed their willingness to engage with Members having concerns on the draft to further explain and clarify the content and to possibly accommodate their concerns.

20. On the proposed Market Access work programme, I noted a general willingness among Members to work out an agreeable language based on suitable modifications to the draft text in JOB/AG/215.

21. Broadly, I heard a preference for comprehensive negotiations in the Market Access pillar leaving the treatment of individual elements, including of tariff reduction, subject to the modalities to be agreed.

22. In this spirit, several concrete drafting suggestions were discussed during the Room D consultations focussing, *inter alia*, on tariff reduction, flexibilities for developing countries, treatment of NTBs and transparency including in respect of non-*ad valorem* tariffs.

23. The issue of balance and linkage with progress in other pillars of agriculture, and for some even outside agriculture, also came up in the Market Access discussions.

Export Restrictions

24. The discussions on Export Restrictions addressed both the exemption of WFP food purchases for humanitarian reasons and the elements on transparency and clarification on export restrictions.

25. Most of the Members who spoke at the meeting expressed support for a Decision to exempt WFP food purchases for humanitarian reasons from export restrictions. Following the presentation of the African Group's inputs, participants proffered the view that paragraph 1 of the current text in JOB/AG/215, together with the relevant preambular language, should be considered as a stand-alone Decision.

26. Several Members urged the removal of brackets around the second sentence of that paragraph and suggested turning that sentence into a new paragraph. In addition, a Member considered it appropriate to refer to challenges facing NFIDCs as per the preamble of the AoA.

27. One Member suggested to make explicit that any decision on WFP exemption or on the other elements would be limited to "quantitative" export restrictions.

28. Notwithstanding these developments, one Member reiterated its concerns, citing its questions to the WFP regarding examples of actual export restrictions hindering its work, and its questions to other Members on whether the proposed Decision would cover food assistance procured from PSH stocks by the WFP or through bilateral non-commercial humanitarian channels.

29. With regard to the remainder of the draft Decision on Export Restrictions in JOB/AG/215, several Members, notably the proponents of enhanced transparency, reiterated their support for the current text while submitting specific textual suggestions to further clarify and improve the existing rules on notifications of export restrictions under the AoA. Suggestions in this regard were drawn from proposals on the table and included, for example, advance notice periods with a possible 10 days ex-post notice in situations of "*force majeure*", and a requirement to explain reasons for continuing export restrictions for longer than six months.

30. Several suggestions were also made on the way the Secretariat could be invited to provide technical assistance to Members, including the addition of possible additional supporting trade related data.

31. Other Members, particularly developing countries, considered that many elements of the draft Decision would require deeper discussions and are therefore not ripe for a decision at MC12. These Members however stressed their support for improving transparency in principle and would be amenable to a work programme covering various aspects of transparency improvements in the current text.

Export Competition

32. On Export Competition, most of the discussions focused on paragraphs 4 and 5 of the draft Decision on Export Competition contained in JOB/AG/215 read in conjunction with Annex 1.

33. While reaffirming its support for improving transparency as a general principle, the African Group considered that any attempt to modify the information requirements contained in the Export Competition questionnaire would be premature, in light of the absence of replies so far by many Members.

34. On the other hand, the proponents noted that Members that have responded to the questionnaire covered a significant proportion of total world exports and considered that the suggested approach was the least burdensome. The proponents also suggested to amend the text contained in JOB/AG/215 in a sense closer to their initial proposal.

35. I was encouraged by the suggestions made during the discussions by some participants to explore ways to narrow the gaps on this issue and I invite them to pursue their efforts in this direction.

36. One Member also suggested the inclusion of elements contained in the proposal JOB/AG/213 with a view to streamlining the notification requirements in light of the Bali and Nairobi Decisions.

37. Finally, it was also proposed to include the reference to the post MC12 work programme at the beginning of the draft Decision.

Transparency

38. Let me now move on to transparency.

39. All Members acknowledged the critical importance of enhancing transparency, while not considering this objective as an end in itself and recognizing that transparency alone could not constitute a sufficient outcome for MC12.

40. On the structure of a possible outcome on transparency, Members generally signalled their flexibility and pragmatism regarding the possible way forward, between an approach composed of a horizontal Decision complemented by transparency-related elements incorporated in topic-by-topic decisions as suggested in JOB/AG/215, or an overall decision encompassing all transparency-related elements as initially suggested by the proponents.

41. It was also generally agreed that some specific transparency-related elements ought to be addressed within the Committee on Agriculture. Some Members suggested exploring ways to merge paragraph 4 of the text in JOB/AG/215 with the horizontal section proposed by the proponents in JOB/AG/213. Some questions were raised regarding the timeframe suggested by the proponents to conclude such a transparency enhancement-related work programme.

42. The discussions also focused on how to address capacity constraints faced by developing country Members. A suggestion by one Member to include a preambular paragraph to this end was supported by several other participants, while the African Group called for an operational paragraph recognizing the need for simplified notification formats and prolonged timeframes with developing countries, with special attention granted to LDCs and SVEs. Several participants suggested identifying first the challenges faced by developing country Members when fulfilling their notification requirements in order to assess whether it would be necessary to consider different formats of notifications.

43. One proponent concurred with the view that enhancing transparency could also aim at streamlining and simplifying notification requirements, as well as agreeing on realistic notification timelines.

44. It was also suggested to include a provision on the update of information and technology tools available through the AG-IMS system.

Cotton

45. The consultations on Cotton took place in the Cotton Quad Plus format yesterday afternoon. This meeting addressed both trade-related aspects under my chairmanship and development-related ones under DDG Paugam's chairmanship.

46. The C-4 introduced its submission TN/AG/GEN/51 - TN/AG/SCC/GEN23 and called for a more ambitious outcome than the one currently contemplated in the Chair's text.

47. Other Members attending the meeting, while acknowledging the importance of cotton and supporting the need emphasized by the C-4 to address cotton trade-distorting domestic subsidies considered the draft text contained in JOB/AG/215 as a good basis for future work, in light of the current state of play in the negotiations.

48. Other participants stressed the importance of transparency enhancement as a step forward at MC12, with different views being expressed on the opportunity to incorporate the Cotton questionnaire in the G/AG/2 notification requirements as suggested in the proposal JOB/AG/213.

49. The C-4 reaffirmed its invitation to other Members to engage constructively to reach a consensus on a mutually acceptable agreement.

50. The development-related aspects were discussed as per the well-established practice in the second part of the meeting chaired by DDG Paugam as Chair of the Director General Consultative Framework Mechanism on Cotton.

51. I will not report here about all the issues discussed in this part of the meeting, but just note that the text contained in section B of the recent proposal by the C-4 appears to be a good basis for a possible outcome at MC12 on the Cotton development-related track. One Member nevertheless raised questions on the approach to be followed to address such development-related issues in the context of MC12.

Public Stockholding for Food Security Purposes (PSH)

52. At the dedicated sessions in September, Members discussed how to amend the draft text contained in JOB/AG/215 so that it could be brought to consensus. Different views were expressed, with proponents calling for the adoption of the permanent solution on the basis of the African Group and G33 proposals, while some others were willing to consider an outcome based on Option 1, and some others Option 2. There was a renewed call for food security issues to be considered in a more comprehensive manner.

53. Since the September Dedicated Sessions, I held different consultations and notably two Room D-type meetings on the issue of PSH, on 6 October and 11 October. While the positions remained broadly the same, the discussions were lively and many suggestions were made how to amend the text, or how to take the discussions forward.

54. During these lively and interactive discussions, many proponents reiterated their support for the proposals put forward by the African Group and G33. Nevertheless, Members engaged on the Chair's text on a without prejudice basis. Some Members suggested to delete Option 2 and proposed changes to Option 1. These Members considered that the legal form of the Decision should entail the amendment of the AoA. In their view, a permanent solution should cover all agricultural products and all public stockholding programmes for food security purposes, a footnote clarifying the external reference price, and include no notification requirement other than the existing ones.

55. Some other Members considered that a permanent solution is out of reach for MC12 due notably to the persisting differences in the levels of ambition on this topic, but also a lack of technical discussions. A "Third Way" approach was suggested that would consist in a work programme, which would list specific elements to be addressed and some principles, such as product and programme coverage, notifications and transparency, anti-circumvention and safeguards, and legal form.

56. Some Members also reiterated that the level of ambition on public stockholding should be consistent with other negotiating pillars, particularly with the parallel progress on Trade-Distorting Domestic Support. Proponents again strongly opposed this view and the linking of the negotiation of a permanent solution on PSH to other issues.

57. Suggestions were also made how to organize the continuation of consultations so that it would allow for a parallel analysis of the alternatives.

58. On the basis of these discussions, I believe that a forthright conversation is needed between proponents and non-proponents to find a middle ground acceptable to all. I must stress again that time is extremely limited and we must make the best use of it.

Special Safeguard Mechanism (SSM)

59. During the two Dedicated Sessions on SSM in September, the discussions focused on my draft text contained in JOB/AG/215 of 29 July 2021. On the one hand, some proponents expressed the view that the draft text was not sufficiently ambitious whereas the other side maintained that no substantive outcome on SSM was feasible at MC12 in the absence of parallel progress on Market Access.

60. At the September 21 SSM dedicated session, the proponents again underscored the importance of an SSM for the livelihood of domestic producers and food security, and some of them put forth the idea of adopting an interim SSM (for a period of 6/9 years) at MC12 as a stopgap measure. These Members believe that the implementation of an interim SSM would enable all parties to gain practical experience with the operation of a safeguard mechanism and facilitate an informed appreciation of the impact an SSM may have on markets and trade. There was, however, no substantive discussion on this idea at the 21 September SSM Dedicated Session.

61. I also took up the theme of SSM in my Room D consultation process. At the recent small-group meeting early this week, the proponents of an interim SSM, pending the finalization of their proposal, provided some details of how such a mechanism would apply in practice. It was explained that the proposed interim SSM would have temporal applicability (at most nine years), would be flexible in respect of its legal form (for example it would not necessitate an amendment of the AoA) and would entail a notification-based system to annually determine eligible products.

62. Other Members appreciated the willingness of the proponents to share those technical details of the interim mechanism as well as their openness to engage; however, they expressed concerns that the proposed mechanism, even if time-limited, did not appear to be substantively different on core parameters like triggers, remedies or the treatment of trade under FTAs. As the invocation of the proposed mechanism could potentially allow tariffs to exceed the existing tariff bindings, the linkage between SSM and Market Access was also invoked by several Members asking whether any time-limited market access improvement could also form part of the arrangement.

63. Based on my consultations, I believe that a candid conversation is required between the proponents and the non-proponents in their search for an agreeable landing zone on SSM at MC12. This would need to happen sooner rather than later.

Conclusion¹

64. I have been encouraged by the level of engagement by Members, today and in recent weeks. However, with seven weeks to go until the start of the 12th Ministerial Conference, we need to sharpen our focus, enhance our engagement and start to reduce and close the gaps in the positions if we are to present something meaningful for our Ministers to consider at the 12th Ministerial Conference.

65. There is a need for further textual negotiations in order to collectively develop the most realistic text and the best possible outcome, taking into account the divergent views and time constraints. Members will also have to consider where the differences are greatest and what could be a reasonable middle ground.

66. Despite differences in views on many issues, all my consultations confirmed that Members consider an outcome on agriculture at MC12 to be a necessary step in the right direction to rebuild the WTO's credibility, and this strengthened my resolve to assist Members to take this step.

67. The lively discussions at several of my consultations and the many textual suggestions have led to useful – and sometimes heated – discussions that will, I believe, make it possible to see more clearly the contours of possible landing zones.

68. We are reaching the point where we have two choices: either we find a way to reduce the remaining gaps, or we have to adjust the level of ambition. That is the reality we are in.

¹ As delivered at the end of the CoA Special Session meeting.

69. Many Members continue to stress that an outcome in agriculture is long overdue. The COVID-19 context has added further urgency to ensuring an agricultural outcome at MC12 that would help address critical food security issues, as underscored in the ACP submission today.

70. I agree with Members that an outcome at MC12 would send a strong signal about WTO Members willingness to put their differences behind them and work towards a common goal of enhancing food security for all.

71. I will take my responsibilities and do everything in my power to facilitate negotiations between Members. Once again, I would like to emphasize that negotiations must take place between Members, not between Members and myself.

72. Looking forward, I intend to hold another round of topic-by-topic Room D-type meetings, initiated during the week starting on 4 October. The first round has stimulated useful exchanges between Members, and I would like to allow Members to further deepen their reflections and discussions. It is important to stress again that these meetings are brainstorming meetings and that the results of these meetings will be reported to the CoA SS. No decisions will be taken at these meetings and the groups will be representative of the Membership.

73. I will again invite Members to come prepared to make specific and constructive textual suggestions to the draft text I have circulated, so that it can attract consensus among Members. Textual suggestions are more likely to be agreed upon if they are the result of engagement within and between the groups of proponent and non-proponent groups. The aim is to have a text constructed by all Members, for all Members.

74. In order to ensure transparency and inclusiveness during this process, I also intend to meet with Group Coordinators and with any Member or group of Members willing to meet with me either in-person or virtually to share their ideas with the aim of helping to make progress.

75. In parallel, I will continue consultations in various formats with a view to determining with Members what could constitute an appropriate overall balance for a successful agricultural outcome.

76. We will need to have a much clearer idea of the potential landing zones if we are to be able to prepare a revised text for consideration by our Ministers at the 12th Ministerial Conference.

77. The next open ended CoA Special Session meeting is scheduled to take place on 28 October.

78. We will then have only four weeks left until MC12.

79. The coming weeks and hours are therefore of fundamental importance for our process.

80. I invite you once more to engage constructively with each other.
