



**Committee on Trade and Development
Special Session**

**REPORT BY THE CHAIRPERSON OF THE COMMITTEE ON TRADE AND DEVELOPMENT IN
SPECIAL SESSION, AMBASSADOR TAN YEE WOAN (SINGAPORE),
TO THE TRADE NEGOTIATIONS COMMITTEE**

1.1. I am making this report as Chairperson of the Special Session of the Committee on Trade and Development (Special Session) on the work undertaken in the Committee so far this year. The report is factual and is being made under my responsibility.

1.2. Members will recall that despite our best efforts and constructive engagement in Geneva in 2017, we could not bridge fundamental differences on the G90's 10 Agreement-specific proposals before leaving for Buenos Aires. At MC11, Ministers had an opportunity to engage in frank, open-ended discussions, held over two sessions, on broader trade and development issues under the Facilitator, Foreign Minister of Norway Ine Eriksen Søreide. Although no specific outcome was reached, a number of ideas and suggestions were made, including calls for fresh approaches that Members felt could help make progress.

1.3. At a subsequent informal Ministerial gathering, held in Delhi in March this year, there was significant discussion on the issue of development and special and differential treatment (S&D). In my view, the Delhi meeting had built on the MC11 Facilitator-led discussions, and elevated the discussion on development.

1.4. Against this backdrop, and in order to restart discussions in Geneva, I sent a fax to Members on 22 March 2018 informing them of my intention to begin a process of informal consultations. Fifty-two delegations signalled their interest. In the end, about 40 delegations showed up over the course of the three small-group informal consultation meetings I held from 9 to 11 April. In these consultations I sought Members' views on three guiding questions which I had earlier sent to Members.

1. What were Members' main take-aways from the Ministerial discussion on trade and development in Buenos Aires?
2. What were their suggestions on how we could take forward the work in the Special Session?
3. What were their views on the broader trade and development discussion, and how it could bear on work in the Special Session?

1.5. During the informal consultations, I had recalled the Facilitator's assessment at MC11 that a fresh look was required to break the deadlock and take things forward; and that alternative approaches should be adopted with the specific objective of finding ways and means of making progress on the G90 proposals.

1.6. Each of the three small-group discussions had its own dynamics. Overall, the discussions were useful. Although the respective positions of Members remained divergent and basically unchanged from the past, I found that the engagement, frankness and open-mindedness demonstrated in the consultations was at a higher level than I had observed in the past two years.

1.7. Several points emerged from these consultations:

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- There was a general recognition among Members that development is central to the WTO's work and that S&D is integral to it, though views continue to differ on how best to achieve development.
 - On the question of whether or not to engage in a broader trade and development discussion, some Members believed that it would be useful. Other Members differed with this view and felt that such a discussion would not be helpful. Yet there were other Members who expressed willingness to go along with whatever could gain consensus. In any case there seemed to be a general sense that if any such discussion should be held, it should not be at the Special Session whose work should remain focused and aimed at achieving concrete S&D outcomes.
 - Many cautioned against a "one-size-fits-all" approach to S&D. However, the contexts in which this was said were vastly different. On the one hand, to some Members it meant that S&D could not be applied in a "one-size-fits-all" manner for a heterogeneous group of self-declared developing countries, which now also included, among them, major players in global trade. On the other hand, for some Members it meant that as developing country Members had different levels of capacities, a "one-size-fits-all" set of rules would not work and appropriate S&D responding to specific needs would have to be tailored.
 - Some believed that the discussions on the G90 proposals had been exhausted and that it would not be advisable to continue doing what Members had been unproductively doing for the past 16 years. Some others continued to stress the importance of resuming work on the basis of the G90 S&D proposals in line with paragraph 44 of the Doha Declaration. Having said this, I also detected a cautious willingness to look at fresh approaches being proposed and of what that could comprise.
 - There was a view expressed that developing a common understanding on the mandate would help achieve progress. However, some others reminded that this was something which Members had attempted on several occasions, but had failed.
 - Throughout the discussions, repeated calls, by some Members, were made for exploring more creative and constructive approaches (including, among others, case-by-case approach, case studies, country-specific issue-based approach, possible opt-outs etc.) with the aim of putting the Special Session's work on a more workable, realistic and result-oriented track. If any such fresh approach should be embarked upon, it should be with the understanding that it was without prejudice to Members' respective positions on this portfolio.
 - From the suggestions which have been made thus far in respect of possible fresh approaches, I discerned the following two broad groups of ideas that I believe could benefit from further exploration:
 - a) To consider a methodology of work at the Special Session based on a case study approach.
 - b) To consider suggestions aimed at addressing the basic concern of heterogeneity amongst the group of developing countries, such as by looking at S&D provisions on a case-by-case basis including a possible voluntary opt-out by some developing countries from some provisions.
 - Views differed on how these ideas could translate into concrete progress in the Special Session. The calls for case studies and case-by-case assessments entailed that the requesting Member(s) present specific cases backed by the relevant evidence and facts in order for the Membership to assess the merits of either the proposals for improving on the current S&D provisions, or to support developing Members' invocation of S&D.
 - The dissenting views which were expressed included that the premise of the WTO's S&D regime was for general application to all developing country Members and this right to claim or forego a particular S&D provision could not be challenged. It was for each developing country Member to decide which particular S&D provision it wished to benefit from or to forego its right in doing so. No developing country Member could be forced to make a particular choice.

- Concerns were also expressed that what was being suggested would be tantamount to seeking a waiver which, in their opinion, was cumbersome, time consuming, unnecessarily invasive and difficult to pursue. They also felt such an approach would put developing country Members under unnecessary scrutiny and force them to prove their otherwise evident development needs.

1.8. The richness of the discussions prompted me to pose a number of additional questions for Members to reflect upon:

- How does the envisaged case study methodology of work differ from what the G90 had been doing in providing examples in the detailed elaborations on the 10 S&D proposals in the run up to MC11?
- Since the case study methodology would require facts, data and other kinds of detailed preparation and engagement, will there be Members who would volunteer to be the subject of such case studies?

Here, I should report that several ideas had been flagged, including (i) that a country-specific issue-based approach could benefit from the concrete examples that might be available in the Trade Policy Review (TPR) knowledge base; (ii) that the dispute settlement jurisprudence could be another source; and (iii) that lessons could be learnt from the work and experience of other intergovernmental organizations such as the World Bank, the IMF and other WTO Committees' work on development.

- In respect of the suggestions aimed at addressing concerns over the heterogeneity of the group of developing country Members, the question is that while there could possibly be scope for creative S&D to be negotiated in future WTO trade rules, how could the suggestions for according S&D on a case-by-case basis and voluntary opt-out basis apply to current WTO trade rules? In the latter case, what could be the possible modalities/options that would allow such an approach to be considered?

1.9. In order to share the results of these consultations with the wider Membership, I convened an informal open-ended meeting of the Special Session on 23 April 2018. Though it was primarily a transparency exercise, I encouraged Members to share additional views that they might have. Several delegations took the floor to basically reaffirm the views they had earlier expressed in the small-groups' consultations.

1.10. Members of the G90 and some other developing countries reiterated the need for WTO rules to be development-friendly. They stressed that the rules must facilitate an increase in the beneficiaries' trade capacity and share in global market. They also called for focusing the Special Session's work on the S&D proposals in line with paragraph 44 of the Doha Declaration and in this context on the need to develop an understanding of the mandate.

1.11. Some Members expressed their willingness to follow any methodology, including the holding of a broader debate on trade and development in workshops/symposia outside the Special Session.

1.12. There were some who rejected a case-by-case approach as a possible modality of work and voiced strong views against any discussion on differentiation in the context of Special Session.

1.13. Views were also expressed that in the run up to MC11, the proponents had provided concrete examples, requisite data and rationale of each proposal. They questioned as to how this was any different from case study, case-by-case or issue-by-issue approach.

1.14. While recognizing that development was central to WTO, some other Members said that development did not mean that two thirds of the Membership should be excluded from the fundamental disciplines of the multilaterally agreed rules. They believed that the G90 proposals would not be conducive to a positive result on trade led development.

1.15. In their view, a succession of S&D proposals in the past 16 years had not resulted in meeting of minds. Members had exhausted discussions on them. There was hardly any usefulness in continuing with the way of work that Members had been doing in the past.

1.16. Some Members advocated the need for exploring fresh approaches in the quest for identifying concrete solutions to the underlying issues.

1.17. Some felt that at this stage a broader discussion on trade and development was warranted. They generally agreed that it could take place outside the purview of the Special Session.

1.18. More generally, the speakers shared the view that development and S&D were key components of WTO rules. The discussion revealed that a diversity of perspectives remained on the relationship between trade rules and development, the rationale of S&D, the usefulness of a broader trade and development debate and on ideas such as case study, case-by-case or issue specific approaches. In addition, there remains a dichotomy of views between Members that want to restart the Special Session's work on the basis of the G90 proposals and those who continue to oppose this way of working.

1.19. I intend to soon begin another round of consultations in variable geometry that would focus on some of the points highlighted in my report and that in my view need further exploration. In the meanwhile, I remain available should Members wish to share any ideas that can help us move forward in our work.

1.20. This concludes my report.
