



**Negotiating Group on Rules**

**NEGOTIATING GROUP ON RULES  
FISHERIES SUBSIDIES**

**REPORT BY THE CHAIR, H.E. MR SANTIAGO WILLS TO  
THE TRADE NEGOTIATIONS COMMITTEE**

*6 December 2019*

At the beginning of the informal meeting of the Trade Negotiations Committee on Friday morning, 6 December, I made a short oral report on work in the Negotiating Group on Rules. This written report is slightly longer than the oral one as it provides some more details and takes into account the work undertaken by the NGR on 6 December after I had completed my oral report to the TNC.

As you know, immediately upon taking up the Chair of the Negotiating Group on Rules on 8 November 2019, I started bilateral consultations with interested Members, and also called an informal open-ended meeting at the Head of Delegation level for 15 November. The purpose of that meeting was: to report back on the bilateral consultations I had held; to seek the views of the Heads of Delegation on the current state-of-play in the negotiations on fisheries subsidies; and to ask for guidance on how best to move the negotiations forward.

After the meeting of 15 November, I continued with my consultations and then convened another informal open-ended HoD-level meeting on 28 November. At that meeting I posed five substantive questions in the areas of scope, possible exclusions, special and differential treatment, and how the fisheries subsidies disciplines could be incorporated into the WTO system.

From the interventions in the two HoD-level meetings, it was clear that we are not going to meet the December deadline to conclude the negotiations. That is a serious setback. But, on a positive note, Members strongly expressed their commitment to conclude the fisheries subsidies negotiations by the 12<sup>th</sup> Ministerial Conference. Furthermore, they committed to an intensive work programme next year, including intersessional work, and supported the facilitators continuing their work, including engaging with delegations in a variety of formats, and coming up with suggestions for text in areas where the facilitators think this would help to build convergence.

The December cluster of meetings of the Negotiating Group on Rules was held during the week beginning 2 December, with all day Monday, all day Tuesday, and Wednesday morning available for bilateral and other meetings organized by delegations. The rest of the week was used for open-ended meetings.

In the latter context, having finished the last meeting cluster of the year without keeping to the deadline adopted by Trade Ministers at MC11, and based on what I had gathered from the consultations and meetings that I had held, I felt that it would be useful for the NGR to receive some ideas regarding where the negotiations are and what remains to be done, and to have some orientation for the next steps. For that reason, I instructed the facilitators to prepare working papers, including texts where possible, for review by the Negotiating Group at the December cluster, and for thorough consideration in capitals over the holiday period. Earlier this week, the facilitators circulated the first drafts of their working papers.

It should be noted that each of these papers was prepared on each facilitator's responsibility; some of them have a greater level of maturity than others; and they differ in style and approach. Although these documents do not replace proposals, delegates engaged in a constructive discussion on their contents. It was also encouraging to hear that in two areas, subsidies to IUU fishing and to fishing

on overfished stocks, delegates stated that they were ready to engage with the facilitators using the working papers, including textual elements, as a starting point for more focused discussions in the new year.

By the end of Friday 6 December, the facilitators had presented the revised versions of their working papers in the meeting room. The facilitators' revised reports, which were circulated after the meeting cluster, can be found in room documents RD/TN/RL/113/Rev.1, RD/TN/RL/114/Rev.1, RD/TN/RL/115/Rev.1, RD/TN/RL/116/Rev.1, RD/TN/RL/117/Rev.1, RD/TN/RL/118/Rev.1, and RD/TN/RL/119/Rev.1.

On Friday afternoon, I also provided additional details about the work programme for January to June 2020, based on the support I received during the most recent HoD-level meeting where I had outlined the basic elements of the programme. In particular, the programme includes clusters of meetings in the weeks beginning 13 January, 3 February, 2 March, 30 March, 20 April and 11 May 2020. The meeting clusters will continue to be structured as a mixture of about half of the time during each cluster reserved for bilateral and Member-organized small group meetings, and the rest for plenary sessions. In addition, intersessional work will be more important and intense than to date, and the facilitators will continue to work in their areas of responsibility. I and the facilitators will continue our consultations in a variety of formats while ensuring full transparency as this is critical to the negotiations, and I will be calling on Heads of Delegation to take part in these activities in different configurations as appropriate, based on how the negotiations are progressing. And as I indicated during the discussion on Friday afternoon, I will coordinate closely with the facilitators to ensure that the process is coordinated and that all issues receive adequate time and attention, and also will bear in mind the constraints faced by small delegations when scheduling meetings.

The process moving forward sounds promising, given the endorsement of the work programme and the strong commitment expressed by all delegations to achieving a meaningful outcome by MC12. Of course, the promise of the process depends on the progress on the substance. I have to say, for someone entering these negotiations this late, it is quite worrying to note that the advances in the facilitators' working papers since July when the first set was circulated are quite modest. These papers are still not the "clean consolidated" texts that the Negotiating Group had been instructed to develop before the summer break.

What is evident is that Members are still holding on to their well-known positions, even at this late stage. It might be a cliché, and it may have been said many times in the past, but it is now more true than ever that everyone needs to get out of their comfort zones. Compromise in negotiations does not mean defeat – indeed everyone is going to have to move away from their existing positions because that is the only way to find common ground.

In my opening statement at the December cluster, I said that in order to get to a text-based negotiation, each delegation will need to become very uncomfortable. In the context of negotiations, uncomfortable is good. We had a taste of that in the discussions on disciplines for subsidies to IUU fishing and fishing of overfished stocks, when several Members expressed their discomfort with the need to separate themselves from their strict and rigid positions. But that is negotiation, and that is the only way to move forward – Members can no longer hold onto positions that remain dear to them, even if they have held on to them for several years.

Some Heads of Delegation have suggested holding a senior officials' meeting by next Easter, which would give us four clusters to get ready for such a meeting. Without a significant level of progress, however, there would be no point in bringing senior officials together, and I will have to make a judgement call as work progresses.

Also, if we want to meet both the mandate in SDG target 14.6, which is a clear instruction from our Heads of State, and the Decision taken by our Ministers at MC11, then we are all demanders in these negotiations, meaning that we all need to work collectively toward our shared goal of a meaningful outcome. This means that work will have to intensify during the next coming months, and all delegations will have to do what we are supposed to do – be flexible and negotiate.

Finally, I would recall that at the 28 November HoD-level meeting, I was given the flexibility to convene further meetings at that level, in such configurations and at such times as I deem useful for the process. So, I would kindly request Heads of Delegation to be ready, as I may be calling on you at short notice.

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