

**Committee on Trade and Development
Eighteenth Dedicated Session on the Monitoring
Mechanism on Special and Differential Treatment**

NOTE ON THE MEETING OF 11 JULY 2023

Chairman: H.E. Dr. José R. Sánchez-Fung (Dominican Republic)

A. ADOPTION OF THE AGENDA	1
B. MONITORING OF SPECIAL AND DIFFERENTIAL PROVISIONS.....	1
- Statement by the Chairman	1
C. OTHER BUSINESS	3

A. ADOPTION OF THE AGENDA

1. The Chairman said that, before turning to the draft agenda for the 18th Dedicated Session of the Committee on Trade and Development (CTD) on the Monitoring Mechanism (MM) on Special and Differential Treatment (S&D), he wished to request all delegations that would speak at the present meeting to email their statements to: ctd@wto.org. As this was the first meeting of the CTD's Dedicated Session on the MM on S&D in which he was informing delegations of this method to submit statements, he wanted his words on this matter to be reflected in the minutes of the meeting. Submitting statements to this email address would allow a more efficient preparation of the minutes of the meeting by the Secretariat. He thanked all delegations for doing so in the context of the present meeting, as well as in the context of future meetings of the CTD's Dedicated Session on the MM on S&D. He went on to say that the draft agenda for the CTD's 18th Dedicated Session of the on MM on S&D was contained in Airgram WTO/AIR/COMTD/MMSDT/16 circulated on 13 June 2023.

2. The agenda was adopted.¹

B. MONITORING OF SPECIAL AND DIFFERENTIAL PROVISIONS

- Statement by the Chairman

3. The Chairman said that, at the Ninth WTO Ministerial Conference (MC9) held in Bali in December 2013, Ministers decided to establish the MM on S&D. The Decision establishing the MM was contained in document WT/MIN(13)/45 – WT/L/920. According to the Decision, the MM was to act as a focal point within the WTO to analyse and review the implementation of S&D provisions. The Mechanism was to review all aspects of implementation of S&D provisions with a view to facilitating the integration of developing and least developed Members into the multilateral trading system. The Mechanism operated in Dedicated Sessions of the CTD. The present meeting was the 18th Dedicated Session on the MM, and it appeared that the situation remained unchanged from the last meeting, which was held in November 2022. For one thing, the monitoring of special and differential provisions in the Mechanism was to be undertaken on the basis of written inputs or submissions made by Members, as well as on the basis of reports from other WTO bodies to which submissions by Members could also be made. However, as Members were well aware, no written submissions had yet been made in the MM. Furthermore, paragraph 12 of the Decision establishing the MM stated that "The Mechanism shall be reviewed three years after its first formal meeting, and

¹ The delegation of Norway initially requested to deliver a statement on the use of the MM under "Other Business" but later indicated that the statement had been delivered under agenda item B.

thereafter as necessary, taking into account its functioning and evolving circumstances". This review had still not taken place. As had been previously highlighted, delegations had expressed different perspectives on the question of the review. He recalled that he had recently held informal discussions on the developmental aspects of WTO reform and would be making a statement on these informal discussions at the meeting of the CTD's Regular Session that would be held later the same day. In these informal discussions, a number of Members had raised concerns that the MM had still not been operationalized. He urged Members to come to a common understanding on how to move forward with the MM. He also indicated his readiness to facilitate any informal discussions that could help Members come to this common understanding.

4. The representative of Norway delivered the following statement:

5. The MM is a Member-made dedicated forum for analysing S&D provisions. Its mandate, formulated in the Bali Ministerial Decision, explicitly provides for reviewing all aspects of implementation of S&D provisions with a view to facilitating integration of developing and least-developed Members into the multilateral trading system. Further, as you probably all know, the Secretariat updates a compilation of all S&D provisions in the WTO Agreements and Decisions every second year. Though rarely referred to, this document can be a very useful tool and starting point when analysing S&D provisions. Unfortunately, the MM has not yet been used according to its mandate. Norway sees this as a lost opportunity for informed discussions on trade and development, within an agreed framework. The MM is not a competitor to any negotiations in the Special Session of the CTD (CTD SS). That must be clear. Quite the contrary, the MM could actually complement the processes in the CTD SS. The ongoing process on the two Agreement-specific proposals (ASPs) on sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT) measures are concrete examples. Norway stated at the previous meeting of the CTD SS that, as part of the process, we are interested in learning whether the existing S&D provisions in the SPS and TBT Agreements are used, and how they work for Members. Some have said that the lack of submissions to the MM proves that no improvements are needed. However, perhaps Members should rather reflect on whether there are other reasons for this non-use. Capacity issues may be one reason. It can be challenging to make a first submission to an unused Mechanism without recourse to any previous practice. One possibility would be that interested Members, in cooperation with the Secretariat, draft an example of a template for voluntary use, that could simplify a submission. Norway actually started working on such a draft some years ago and would be happy to share and further develop it. The bottom line is that we encourage Members to start using this forum for what it is meant for – starting by reflecting on whether there is input in any format that can be useful for discussions in, and recommendations from, the MM.

6. The representative of India delivered the following statement:

7. The MM was created as per the mandate in the Bali Ministerial Decision for the review of S&D provisions. However, as we have discussed, not much progress has been made and it has not worked. The Mechanism was supposed to have been reviewed three years after its first formal meeting. Seventeen formal meetings have already been held before today. We should review the Mechanism to figure out why it has not worked and report to the General Council for further deliberations as to what is considered appropriate. The Chair has suggested informal discussions. We need to assess if there are concerns with the mandate, the terms of reference or the general design of the MM. If need be, we should report back to Ministers at the Thirteenth WTO Ministerial Conference (MC13), given that the MM was created from a specific Ministerial mandate.

8. The representative of the United States delivered the following statement:

9. We continue to believe that we should at least give it a try and use the MM. To work under the MM would lead to a more productive and specific discussion on the challenges and opportunities on utilizing existing S&D provisions. With reference to the proposal brought up by Norway, the United States believes that the MM does not specify a format to submit a proposal. It was designed specifically to be flexible in terms of a written submission. Whatever written form a Member uses, it is incumbent upon that Member to articulate fully the difficulties it is having in utilizing a specific S&D measure.

10. The representative of the European Union delivered the following statement:
 11. As explained at the informal open-ended CTD meeting held on 26 June 2023, the European Union believes that the use of the MM would prove very helpful and would complement the discussions in the CTD SS as well.
 12. The Committee took note of all interventions.
- C. OTHER BUSINESS**
13. No matter was raised under "Other Business".
 14. The meeting was adjourned.
-