

REPORT (2002) OF THE COMMITTEE ON MARKET ACCESS

1. Since the last review, the Committee on Market Access has held three formal meetings (15 March, 12 June, and 23 September 2002) and eleven informal meetings (11 December 2001, 14 January, 31 January, 18 February, 26 April, 16 May, 28 May, 6 June, 12 June and 26 July 2002 and 7 October 2002). The meeting of 23 September 2002 was suspended on two agenda items and will be reconvened before the end of the year. The minutes of the formal meetings are contained in documents G/MA/M/31 to G/MA/M/33 (to be issued). In addition, two periodic reports giving an overview of the issues discussed in the Committee and providing factual information related to the requests for waivers and waiver extensions, both for the introduction of HS96 changes and for the transposition of schedules into the Harmonized System are contained in documents G/MA/114 and G/MA/116 and Corr.1.

2. At its meeting of 12 June 2002, the Committee took note of the nomination of Mr. Phoho Setipa (Lesotho) as Chairman of the Committee for the current year and elected him by acclamation. At that meeting, the Committee elected as Vice-Chairperson for the current year, Mr. Trevor Matheson (New Zealand).

A. TRANSPOSITION OF SCHEDULES OF CONCESSIONS INTO THE HARMONIZED SYSTEM (HS)

3. At its meeting of 23 September 2002, the Committee took note that there were 2 Members under waiver for the transposition of their schedules into the Harmonized System.

B. INTRODUCTION OF HS96 CHANGES TO SCHEDULES OF CONCESSIONS

4. On 13 December 1995, several Members were granted individual waivers for the introduction of HS96 changes (WT/L/124 + Corr.1) which for operational reasons were grouped into one single decision. These waivers were extended by successive decisions of the General Council until 30 April 2002 (WT/L/400). The Committee agreed in 2001 that this would be the last HS96 waiver to be granted on a collective basis but that this did not preclude any Member from requesting a waiver on an individual basis. In this connection, at its formal meetings of 15 March and 23 September 2002, the Committee took note of and approved the individual requests for waivers and waiver extensions, respectively, to carry out possible consultations/negotiations under Article XXVIII following the introduction of HS96 changes in national tariffs.

5. At its formal meetings, the Committee examined the situation related to the submission of HS96 documentation set out in documents G/MA/TAR/2/Rev.27-29. At its meeting of 23 September 2002, the Committee noted that the submissions of ten Members, whether they had requested an extension of waivers or not, remained pending due to ongoing consultations and/or negotiations.

6. In continuing with the practice established in 2000, the Committee agreed to hold informal meetings dedicated to the review of the HS96 situation based on the informal list prepared by the Secretariat. These meetings were held on 26 April and 26 July 2002. At its meeting of 23 September 2002, the Committee agreed to the Chairman's proposal to have another special session

of the Committee dedicated to the review of the situation of HS96 submissions based on a revision of the informal list prepared by the Secretariat detailing the situation.

C. INTRODUCTION OF HS2002 CHANGES TO SCHEDULES OF CONCESSIONS

7. At the Committee meeting of 15 March 2002, the Chairperson reported on the consultations she had conducted on the draft decision entitled "Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions" (G/MA/W/29). The Committee approved the draft decision as well as the Chairperson's statement concerning the parity of treatment for Members requiring a waiver subsequently. At its meeting of 12 June 2002, the Committee agreed to forward Romania's request for a waiver (G/L/553) and the accompanying draft waiver decision (G/C/W/383) to the Council for Trade in Goods for approval. The request had been submitted in connection with the introduction of HS2002 changes in Romania on 1 January 2002.

8. At its formal meetings, the Committee took note of documents G/MA/TAR/4 and its two revisions containing information on documents circulated in connection with the procedures to introduce HS2002 changes to schedules of concessions. At the Committee meeting of 12 June 2002, the Chairman reported on the Committee's first dedicated informal session held on 26 April 2002 to undertake a multilateral review of proposed HS2002 changes of some Members. At the Committee meeting of 23 September 2002, Japan raised concerns about the delay in the issuance of the Secretariat verification sheets. The Committee also agreed that the Chairman should hold consultations on the situation of Members whose waivers, granted in connection with the introduction of HS2002 changes into their schedules for concessions, were expiring at the end of 2002.

D. DATABASES

9. With reference to the modalities and operation of the Integrated Data Base (IDB), the Committee, at its formal meetings, examined the status of IDB submissions on the basis of documents G/MA/IDB/2/Rev.13 to 15. The Secretariat presented an oral report on the status of IDB dissemination, use of IDB information, IDB technical assistance, status of submissions, and the status of software development (IDB reporting tools and internet analysis facility). Some Members stressed the importance of the IDB in the context of the current agricultural and non-agricultural market access negotiations, and urged Members to comply with the notification requirements of the IDB.

10. At its formal meetings, the Committee took note of the Secretariat's reports on the status of the Consolidated Tariff Schedules Database which included the status of CTS files for both the tariff and agricultural commitments for Members. The software development status for dissemination and analytical facilities was also presented. Some Members stressed the importance of the CTS database and urged those Members required to prepare their own CTS files to make the necessary notification to the CTS database as soon as possible.

11. At its meeting of 12 June 2002, the Committee adopted the dissemination policy of the IDB and the CTS database (G/MA/115). At that meeting, the Committee also agreed to turn on the CTS database on the understanding that the Secretariat would continue to report on the status of submissions to the CTS database. This reporting requirement was deemed necessary as one Member had yet to make a submission and questions remained on two other schedules. At its meeting of 23 September 2002, the Committee was informed that the one pending submission had been made. The Committee also took note that the CTS database was now available on line and that work to link the CTS data to the IDB data had started.

E. IMPLEMENTATION ISSUES

- (1) Implementation-Related Issues and Concerns: Meaning to be given to the phrase "substantial interest" in paragraph 2 (d) of Article XIII of GATT 1994 (paragraph 1.2 of WT/MIN(01)17)

12. At its meeting of 15 March 2002, Committee agreed to the Chairperson's proposal that the Secretariat prepare an empirical paper illustrating how "substantial interest" would be taken into account if the proposal by Korea (Annex II to WT/GC/50) were to be used. The Chairperson stated that this paper was only meant to assist the Committee in its initial thinking of the subject and did not prejudge the position of any delegation.

13. At the Committee meeting of 12 June 2002, the Chairman reported on the work done thus far by the Committee in the context of informal meetings on the meaning to be given to the term "substantial interest" in paragraph 2(d) of Article XIII of GATT 1994. The Committee agreed that the Secretariat should do additional case studies basing itself on the proposal by St Lucia circulated as G/MA/W/30. Ecuador stated that his delegation had no objections to additional studies being undertaken, but that no conclusions should be drawn from them as WTO jurisprudence had already interpreted Article XIII:2(d). Ecuador's statement was circulated in document G/MA/W/32.

14. At its meeting of 23 September 2002, the Committee took note of the report by the Chairman on the consultations held so far on this implementation issue. The Committee agreed to the Chairman's proposal to suspend the meeting on this agenda item in order to undertake further work on this issue and reconvene at short notice in order to approve recommendations to the General Council. The Committee noted that pursuant to paragraph 1.2 of WT/MIN(01)/17, the recommendations had to be made to the General Council not later than the end of 2002.

- (2) Outstanding Implementation Issues raised by Members: Tired 99 of Job(01)/152/Rev.1 – Measures designed to secure a Redistribution of Negotiating Rights in Favour of Small and Medium-sized Exporting Members in Trade Negotiations

15. This implementation issue, transmitted by the Council for Trade in Goods to the Committee, was considered by the Committee for the first time at its 12 June 2002 formal meeting. Following discussions at that meeting, the Chairman agreed to hold informal consultations on: 1) how to transmit this issue back to the Council for Trade in Goods, General Council or TNC as it was not limited to Article XXVIII but much broader in nature, covering both services and goods; and 2) to look at the market access aspect of this matter on the basis of a background paper by the Secretariat.

16. At its meeting of 23 September 2002, the Committee took note of the report by the Chairman on the consultations held so far on this implementation issue. The Committee agreed to the Chairman's proposal to suspend the meeting on this agenda item in order to undertake further work on this issue and reconvene at short notice in order to approve the report to the TNC. The Committee noted that the report to the TNC had to be made by the end of 2002.

F. STATUS OF NOTIFICATIONS ON QUANTITATIVE RESTRICTIONS AND REVERSE NOTIFICATIONS OF NON-TARIFF MEASURES

17. The Committee reviewed the status of notifications under the "Decision on Notification Procedures for Quantitative Restrictions" and under the "Decision on Reverse Notification of Non-Tariff Measures", on the basis of Secretariat documents G/MA/NTM/QR/1/Add.8 and G/MA/NTM/W/3/Rev.1, respectively.

G. PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA – CHINA'S TRANSITIONAL REVIEW MECHANISM

18. At its meeting of 12 June 2002, the Committee agreed that the review foreseen under paragraph 18 of the Protocol of Accession of the People's Republic of China would take place at the meeting of the Committee scheduled for 23 September 2002.

19. For the 23 September 2002 meeting, the following documentation was circulated: information submitted by China was circulated in documents G/MA/W/39 and G/MA/W/41; questions put to China by the European Communities, Japan, US, Canada and France were circulated in documents G/MA/W/33, 34, 35, 36 and 40, respectively; and China's questions to Argentina, European Communities, Hungary, Mexico, Poland, Slovak Republic and Turkey were circulated in document G/MA/W/38. Following the discussion under this agenda item, the Committee agreed that the report to the Council for Trade in Goods on this subject would take the form of a short factual report, which referenced the documentation submitted in connection with the transitional review and which referenced the paragraphs of the minutes of the meeting which would reflect the substantive discussion held under this agenda item.

H. OTHER ACTIVITIES

20. At the Committee meeting of 15 March 2002, the Committee took note of document G/MA/TAR/3/Rev.7 which reflected the latest tariff information available in the Secretariat. Delegations were encouraged to provide copies of their national tariffs to the tariff library and were also requested to notify the Secretariat accordingly if they wished to have the data submitted by them in the context of the IDB or the Trade Policy Review Mechanism (TPRM) exercise also made available in the Tariff Library. The Chairperson also informed the Committee that she had received a letter from the Chairman of the Committee on Trade and Development (CTD) requesting information on any discussions or other developments relating to special and differential treatment taking place in the Committee in the first-half of 2002. Her response to the Chairman of the CTD would indicate that a lot of technical assistance work was being undertaken especially in the context of the IDB. At that meeting, concerns were voiced by the US concerning certain trading practices of China and Egypt.

21. At the Committee meeting of 12 June 2002, Japan complained about China's use of specific duties on photographic and cinematographic goods, which in the view of Japan breached China's bound ad valorem commitments. The US drew the Committee's attention to what, in the US view, appeared to be China's discriminatory application of the VAT to fertilizer imports. The US supported by Canada complained that China's allocation of fertilizer tariff rate quotas for 2002 was delayed by several months and still appeared to be incomplete. Canada, under other business, raised a problem connected with the application by China of variable tariffs on newsprint. China responded that consultations were ongoing with the Members concerned in capital.

22.. At the Committee meeting of 23 September 2002, Ecuador put several questions to Panama (G/MA/W/37) on the decision by the Panama Canal Authority to put in place a new Canal transit toll structure with effect from 1 October 2002. Panama responded in detail and the response has been circulated in document G/MA/W/42.