



Trade Negotiations Committee

**ORAL REPORTS BY THE CHAIRS OF THE BODIES ESTABLISHED BY THE TNC
AND STATEMENT BY THE CHAIRMAN OF THE TNC**

MONDAY, 27 APRIL 2015

At this meeting, the Chairman proposed, and Members agreed, that the detailed and comprehensive reports from the Chairs be heard first, before the Chairman could provide his overview.

1 ORAL REPORTS BY THE CHAIRS OF THE BODIES ESTABLISHED BY THE TNC

**1.1 Report by the Chairman of the Committee on Agriculture in Special Session -
Ambassador John ADANK**

I have, as forecast, intensified my consultations on key aspects of the negotiations in agriculture. I have now completed a cycle of consultations in various formats on key issues in all three pillars - Domestic Support, Market Access and Export Competition - as well as Cotton and Other Issues. I reported in detail on my consultations to an informal meeting of the Special Session last Friday. My report is being circulated, it is on the website and I won't repeat it here. Let me just underline some points from it.

As I said on Friday, my overall assessment of the situation in the agriculture negotiations is a sombre one. We are a long way from where we should be given the July deadline. In key areas we are, as yet, far from convergence on certain threshold issues. This in turn inhibits progress on other issues. The intensive process in which we have been engaged has still not seen delegations move from entrenched positions or able to find acceptable ways around them. Doing so is the urgent challenge that is still ahead of us.

For example, in **Domestic Support** it has become clear in the consultations that the nature and extent of disciplines on the **OTDS** - Overall Trade-Distorting Support - is likely to be a key determinant of the possible outcomes across this pillar as a whole. Another key issue is the treatment of **de minimis** support. Here the question is the coverage and extent of any reductions in existing limits.

The situation in **Market Access** is quite similar to Domestic Support. Here too there is at least one major threshold issue that remains unresolved and that is impeding progress in other areas. This is the **overall approach to be taken to tariff reductions**. This is not in any way to minimise the importance of other outstanding issues, such as safeguards, which have also been covered by my consultations and where there is also little progress to report.

Export Competition is on a surer footing in terms of the specific provisions from Hong Kong and Bali, but issues remain over the details and timing for implementation of results.

On **Cotton**, which as we all recall Ministers have committed to address ambitiously, expeditiously and specifically, we had some useful exchanges and discussions, including on data. Following a suggestion by the C4 which was widely supported, I intend to pursue actively the discussions on cotton in the coming months, in particular at a technical level, with a view to consider possible ways forward in a focused manner.

Finally, although, as we all know, the issue of **Public Stockholding for Food Security Purposes** is under a separate, dedicated track, in the interest of transparency I took the opportunity to report on the latest consultation I held on that issue too. I noted that despite more active engagement among delegations, we have yet to move into focused work on solutions, though there were a few indications of possible paths to explore further. I repeated my advice firstly to keep in mind the collective mandate, that is, to find a permanent solution, and secondly to move beyond the assertion of well-stated positions. I will of course pursue these consultations and convene another Dedicated Session at an appropriate time.

In conclusion, Mr Chairman, there is an urgent need to move from repeating positions to working for solutions. There have been signs that a number of delegations are trying to do this, and I encourage them-and everyone else- to continue. However there is no escaping the fact that any possible progress towards convergence is being seriously impeded by the standoff among some major players over the threshold issues I have mentioned. They need to find ways to bridge the gaps between them and everyone needs to help as much as they can to enable this to happen.

As I said on Friday, I will of course go on working intensively with delegations, but I do not need to repeat at this stage the cycle of consultations just concluded. Instead I will focus over the next few weeks on the key problem areas and the delegations most closely connected with them, while not losing sight of the bigger picture or the wider membership. I intend to convene another open-ended meeting in the second half of May. As always, I remain available for any delegation wishing to meet with me.

That concludes my report.

1.2 Report by the Chairman of the Negotiating Group on Market Access - Ambassador Remigi WINZAP

The last time I reported to Members was at the informal Heads of Delegation meeting convened by the Director-General on 18 April 2015. My report at that meeting was distributed to Members in document JOB/MA/117.

Since my last NAMA-specific meetings, which took place in an open-ended format on 2 March 2015 and in a Room D format on 17 March 2015, I have sensed continued engagement by Members. In other words, I sense that a more genuine effort is being made by Members to explore avenues to move forward on NAMA. At the same time, I have also observed that there is difficulty for some Members to conceive outcomes on NAMA market access in the absence of visible progress in agriculture.

Since the last informal Heads of Delegation meeting, I met with a number of Members in different configurations to address specific issues which are of concern or interest to them. As an example, I had a meeting on the issue of NAMA binding coverage with several so-called formula applying Members with relatively low levels of binding coverage. I have also used the opportunity during my meetings to bring up the subject of Non-Tariff Barriers (NTBs). At this point in time, I do not see that much engagement by Members on NTBs. Furthermore, I have remained in close contact with the DG, as Head of the TNC, and with my fellow Chairs in order to fully anchor the NAMA work into the bigger effort which is being undertaken by all of us to deliver on the DDA.

My intention is to continue the NAMA discussions in different configurations. The goal is, as the DG said, to get us into a situation of allowing us to explore potential solutions.

Having said that, I would encourage Members to accelerate this exploratory phase and to start evaluating possible options. This will enable us to move in NAMA when the situation in agriculture evolves further. In this sense, I appreciate the fact that the ACP group has aired ideas in their document JOB/TNC/46 of 12 March 2015 on ACP elements for defining a post-Bali work program. A direction sketched in that document is to look for an approach in NAMA for the so-called formula-applying Members closer to the one which has been envisaged in Rev.3 for other Members, like for instance SVEs. I remain open to all ideas and suggestions and will be happy to discuss with the membership such ideas once they are in more mature shape.

Finally I will convene an open-ended session in the coming weeks where I intend to discuss with Members, in general terms, what they want to see in the work program on NAMA.

1.3 Report by the Chairman of the Council for Trade in Services in Special Session - Ambassador Gabriel DUQUE

I started my consultations on the services element of a post-Bali Work Programme early this year in various configurations, so as to listen to a range of ideas on how to proceed.

Based on what I had heard during those meetings, I circulated an informal note (contained in document RD/SERV/123, dated 17 February 2015) to update all Members in a transparent manner on my consultations, and to share the ideas that had transpired in them.

One idea that had attracted a degree of interest during these consultations was to hold an open discussion on 'aspirations' for the services negotiations, so as to approximate *what* the services negotiations could be aiming at. The discussion was not meant to address the question of how to proceed to realize such aspirations, so as to avoid the issue of linkages with other areas of the negotiations.

At an informal meeting on 24 February, there was a large degree of support for holding an open discussion along these lines. Further to a request by Members at that meeting, the Secretariat organized a "Briefing Session on GATS Negotiations" on 10 March, to review the different stages in the services market access and rules negotiations. The briefing was well attended, and in my view, was a very useful refresher that should help all of us in the development of the services element of the Post-Bali Agreement.

During the following informal meeting on 26 March, Members agreed to hold an open discussion on the elements for a services component of the post-Bali Work programme, allowing delegations to freely express their views. It was agreed that the output of the discussion should be a Chairman's summary that was factual, non-binding, non-attributable, and neutral. The summary should also avoid qualifications and conclusions and not prejudge any next steps.

The open-ended discussion took place last Monday, on 20 April 2015 at an informal meeting of the Special Session. Members recognized the need for realism and doability, and to calibrate results with other areas of the negotiations and, in particular with agriculture and NAMA.

Many delegations mentioned that the market access negotiations should reduce water in the commitments. Some also referred to the importance of securing broad participation. Several delegations highlighted sectors and modes of particular interest to them. The centrality of a pro-development outcome that delivered liberalization on sectors and modes of interest of developing and least developed countries while at the same time providing flexibility for them, was emphasized by a large number of delegations. The importance in particular of mode 4 commitments on contractual and independent service suppliers was mentioned repeatedly.

The need for building into the Work Programme a high level of transparency on the outcome in market access was also mentioned, some delegations suggested that this transparency could begin with an exchange of lists of what Members needed and what they could contribute.

A number of delegations underscored the importance of allowing for the necessary lead time to prepare revised offers.

On the rules aspects of the services negotiations, a difference in assessment between domestic regulation and GATS rules was evident. Most Members who spoke saw domestic regulation as forming part of the outcome from the post-Bali work programme, whereas only a few delegations advocated an outcome on emergency safeguards. No delegation considered an outcome on government procurement and subsidies to be realistic. On domestic regulation, there appeared to be broad agreement that the focus of work should be on those issues that enjoyed wide support and on which convergence was realistic and doable, particularly in the areas of transparency and procedural rules.

Some delegations questioned the need at this point of advancing discussions on the Work Programme, given the absence of progress in other DDA areas, especially agriculture.

I will circulate my Chairman's summary in the course of today, and I have called for a further meeting on 7 May to continue to discuss the services elements of the Post-Bali Work Programme, including next steps.

1.4 Report by the Chairman of the Committee on Trade and Development in Special Session - Ambassador TAN Yee Woan

Members will recall that in February 2015, the proponents had tabled two lists of S&D provisions which they would like to pursue in the Special Session. The African Group and ACP jointly tabled a list of 14 S&D provisions whilst the LDC Group tabled a list of 25 S&D provisions (the LDC Submission was later circulated to Members as JOB/DEV/28). It is my understanding that these two lists could potentially be the universe of S&D provisions that the Special Session will need to consider as we finalise the post-Bali Work Programme. However, so far these are only lists of provisions in different WTO agreements that the proponents have expressed interest in pursuing in the Special Session. Clearly, these are not yet in the form of specific textual proposals that can be discussed in the Special Session.

Since taking over the chairpersonship of the Special Session in March this year, I have been in contact with the proponents, namely, the coordinators of the LDC, African and ACP Groups and their respective focal points on development. I understand, from these consultations, that the proponents are still in the process of finalising textual proposals on the S&D provisions identified in the two lists which have been tabled. During my consultations with the proponents I have underscored that meaningful work in the Special Session can only begin after these textual proposals have been tabled.

We have very little time till the end of July and it is, therefore, important that the proponents present their textual proposals as soon as possible, so that substantive work in the Special Session can start.

1.5 Report by the Chairman of the Council for TRIPS in Special Session – Ambassador Dacio CASTILLO

Since the General Council Decision of 27 November 2014 to resume work on the post-Bali agenda, the Special Session of the Council for TRIPS has held informal open-ended meetings on 12 December 2014 and on 23 February 2015. The purpose of these meetings was to permit Members to share any new ideas on how progress could be made in the work of the TRIPS Special Session, and on how it should be reflected in the "clearly defined work programme on the remaining DDA issues" mandated by Ministers at the Bali Ministerial Meeting.

While there is no indication of a substantive shift of Members' traditional positions, Members did agree at the meeting in December to hold an informal information session on the activities of the negotiating group, in order to update delegations on the work undertaken in the TRIPS Special Session up to 2011.

After further consultations with Members in early 2015, the Council held such an informal information session on 23 February 2015 in which the Secretariat provided a detailed factual overview of past work in the TRIPS Special Session, tracing the negotiations of a Register for wine and spirit GIs from 1997 to 2011. This information sharing session was appreciated by Members as comprehensive and useful - in particular for delegations who had not recently been involved in the negotiations - for illuminating the amount of work that had already been accomplished in the course of these negotiations so far.

It is my impression that, while some Members continue to highlight the importance of this issue for them substantively, engagement in the TRIPS Special Session has so far not improved. The traditional differences on the substance and scope of the negotiations persist, and delegations remain hesitant to fully engage in the TRIPS Special Session for lack of clarity on the overall negotiations picture after Bali. Nevertheless, the in-depth background provided by the informal information session has prepared Members to return to more substantive discussions once the overall atmosphere for re-engagement has become more favorable.

In the meantime, I will be reaching out to delegations again to explore further avenues of progress over the coming weeks.

1.6 Report by the Chairman of the Negotiating Group on Rules – Ambassador Wayne McCOOK

As foreshadowed at the last meeting of the Trade Negotiations Committee, I held extensive bilateral consultations in late March, meeting with sixteen separate delegations and several groups. My objectives were two-fold: to hear directly from delegations their views regarding the role they believe that Rules should play in the post-Bali Work Program, and to hear their ideas regarding the process that we should be following in order to ensure that the Membership can collectively arrive at a conclusion regarding that role.

In regards to process, and as confirmed in open-ended consultations of the Negotiating Group on 14 April, there will be two Rules-related activities on 4 May. In the morning, there will be an information session conducted by the Secretariat, which will provide delegations with factual background about the state-of-play in the Rules negotiations. In the afternoon, there will be an open-ended discussion in the Negotiating Group itself, at which delegations are invited to express their views about the role that Rules could play in the post-Bali Work Program. I realize that there remain varied views about how and when we can most productively engage on Rules, and I appreciate delegations' willingness to compromise so that we can begin the discussion of how Rules issues might move forward.

I do not intend to report here on the substantive positions that delegations are beginning to develop regarding the role of Rules in the Work Program, as I would much prefer that delegations talk to each other in the 4 May discussions convoked for that purpose. I will only say that there are positive signs that delegations are beginning to become a bit more concrete about their objectives, including in written submissions. I hope that our 4 May discussions will help delegations to better understand each others' positions, and to prepare the ground for further constructive engagement.

1.7 Report by the Chairperson of the Committee on Trade and Environment in Special Session – Ambassador Wiboonlasana RUAMRAKSA

The CTESS held an informal information session on 13 March, following the request made by delegations. At this session, the Secretariat provided a detailed overview of the discussions that have taken place so far in the CTESS on all three items of paragraph 31 of the Doha Development Agenda. This informative session was a good opportunity for delegations to refresh their memory and gain a better understanding of the state-of-play. Following the Secretariat's presentation, several delegations expressed their openness for further discussions in the CTESS, noting that delegations should engage with a fresh look, open mindedness and realism going forward. Some other delegations indicated that further clarity on the core issues of DDA negotiations was necessary before taking additional steps in the CTESS.

I would like to reiterate my call for delegations to intensify their reflections on what should be part of the post-Bali work programme and what contribution the group could make to MC10, keeping in mind the DG's criteria of do-ability. I have invited interested delegations to informal bilateral consultations, to which some delegations have already responded positively. The objective is to hear from delegations their concrete ideas on how the CTESS should contribute to the post-Bali work programme, what possible elements should be included in the work programme, and how to move the work of the CTESS forward. I have started to meet with delegations last week and invite any other interested delegation to contact me.

1.8 Report by the Chairman of the Dispute Settlement Body in Special Session – Ambassador Ronald SABORÍO SOTO

Over a period of two weeks in March, I held a round of substantive consultations bilaterally with several Members, including those who expressed interest in consulting with me on the work of these negotiations. During the week of 13 April, I convened a series of small-group meetings in various configurations on select areas of the negotiations. These meetings addressed some of the points of continuing divergence among participants, and allowed candid exchanges on Members'

principal concerns and potential flexibilities. I believe that this was very valuable and has helped us all better to assess what may be achievable. I provided a debriefing of my assessment to a larger group of participants, to be circulated to all Members as document JOB/DS/18.

In my view, the work that has been done since the end of the horizontal process has demonstrated participants' continued commitment to work constructively towards an achievable, balanced outcome. Much work still remains to be done to confirm what is doable; but I believe that important improvements and clarifications to the DSU are within reach. I have encouraged participants to explore all of the issues on the table in parallel, as I think they should have a sense of what the overall picture could look like, and how the pieces of the puzzle could fit together for an outcome. I intend to convene further meetings in the weeks to come to build on the progress achieved recently and I remain available to meet with any delegation.

2 STATEMENT BY THE CHAIRMAN OF THE TNC

I will now make my statement as Chair of the TNC. In my report to the General Council in February, I said that we had intensified our negotiating work. I said that our aim was to have a deeper political discussion in a more interactive format, through a number of parallel but complementary tracks.

I think we have made a good start in that effort. And we have made good use of the momentum that we had coming into 2015. I have been consulting with and listening to Members. We have met in Room W. And the Chairs have been doing a terrific job in running their respective cycles of consultations. I have met with all of the Chairs in recent days, and I want to take this opportunity again to thank them for their work.

Sometimes they are confronted by big gaps between positions, but they have not been discouraged. They continue to push Members to engage. They continue to provoke new conversations, and to urge Members to explore new ideas. I am very grateful for their efforts.

We have all listened to the Chairs' reports today. I draw three essential conclusions from these reports, and from my own consultations.

First, a lot of good work has been done, particularly in the 3 core areas of Agriculture, Non-Agricultural Market Access and Services. I think it is clear that achieving outcomes in these areas will be essential to the success of these negotiations. I should note here that we need to make sure we are advancing work in all areas, trying to avoid any kind of de facto sequencing. At the same time, of course, we all know that there are gateway issues that we need to focus on – and the reality is that these are predominantly in the Agriculture and NAMA pillars. And, in all this, we also need to make sure that we do not leave Services behind.

My second conclusion is that it remains very clear that development and LDC issues remain central to everything we do here – and that we must continue working to move these issues forward. The Global Review of Aid for Trade in June will provide an important additional focus to the development component of our work. And, in addition, I will remain closely engaged with broader efforts such as the UN's work on Financing for Development and discussions on the post-2015 development agenda.

My third conclusion is that while it is clear we still have a long way to go, and that some areas are proving very problematic, there is no doubt in my mind that we are making progress. There is a great amount of engagement on the core DDA issues – and I want to thank Members for their efforts to date.

It is encouraging that participation has been at a high level. Ambassadors are getting involved. This suggests that you are invested in the process, that you have been doing your homework, and that you have been engaging your capitals in this work. I think this is a very positive sign. And this engagement has been overwhelmingly constructive.

We have moved from a finger-pointing mode to a solution-finding mode. This is exactly where we need to be – but I do not think we ever expected it to be easy. Indeed, I think that this solution-finding mode is proving to be tough. We should not expect it to lead to immediate convergence, or to produce instant results. If it did, it would be truly amazing!

As we have heard from the Chairs, Members are still at odds on some major issues, and some big gaps remain. Some are still repeating their old positions, or taking more time to move to a solution-finding approach. Again, this is to be expected, and I would urge you not to be discouraged by it. I think this has been part of every negotiation that I have ever been involved with. So we have to look at some of these signs, which could be perceived as negative, in the right context. The fact that Members are at odds on some issues now does not mean we are not willing to talk and move forward.

On a similar point, I think there is some nervousness about exploring new ideas because it seems as if this requires moving away from positions of comfort. Of course exploring options doesn't mean giving up your position or fully committing to the ideas being tabled. However, sticking to such old and comfortable positions will prevent us from moving forward. Whatever outcome we have, there is no doubt that it will be uncomfortable for everyone.

We have all been through many cycles of negotiations. So I want to be honest in my perception of where we are. Some will say that we are not making progress, or that our work is not going to lead anywhere. I disagree entirely. It would be extremely surprising if, at this point in time, we already had solutions to the problems that we've been grappling with for so long.

Many voiced similar doubts in our lead up to Bali – and it did look very difficult at times. But, in the end, they were proved wrong. Just as in Bali – if the political will is there, we will deliver. And there are reasons to be upbeat.

While some Members are still taking a cautious approach, others are being more proactive. Some are putting forward fresh thinking, making proposals and putting forward papers. Moreover, Members are discussing these proposals. This is very positive. And so the situation is very different from what we have experienced before. In the past, discussions had been limited to entrenched positions, with nothing new on the table. Now we have ideas and proposals to discuss. This is real progress. In several areas we may have potential outcomes which are largely acceptable to everyone. The question now is whether we can find balance overall – in a way that everyone can live with.

But we have another level of negotiations which has not yet been fully explored. This is the horizontal discussion to identify inter-sectoral trade-offs. We need to put more focus on identifying the trade-offs within pillars and between them.

By definition the Chairs' work cannot explore some of these trade-offs. They work strictly within their respective 'jurisdictions'. But it is their work that makes these trade-offs possible because they identify the potential options. This underlines again why it is important that we avoid sequencing our work. We have to keep moving forward in all of the different groups now, so that we can explore how they might interact. These trade-offs are not clearly on the table yet. And I think that, once we begin to take a more careful look at them, things may change quite considerably.

In the coming weeks the chairs will continue their work, but I will increasingly be looking at ways to facilitate discussion on those horizontal trade-offs. My ongoing conversations with delegations are very useful in this context. Sometimes in these conversations I hear elements which do not feature in the bigger meetings. Of course the overall positions expressed are the same, but I often hear the reasons behind positions, or additional elements which shed light on new avenues which could provide a way forward. I think that this horizontal process, which we will take to the wider Room W meetings in due course, will be vital in fulfilling our mandate.

After-all, our instructions remain very clear. We are working to conclude a "clearly defined" work program on the remaining DDA issues by July this year. I have said from the beginning that the best outcome would be a work program that is specific and modalities-like, and which therefore allows us to finalise negotiations fairly quickly after the work program has been agreed. We are getting close to July now. And therefore we have to be realistic about just how specific and

modalities-like it can be. That is a question which only you can answer. And the earlier we find conceptual solutions for the big, tough issues before us, the better the end product we will be able to deliver.

Whatever the nature of the work program we get by July, clearly it will have to fulfill certain criteria:

- First, it will have to be substantive and meaningful.
- Second, it must give us guidance on how to conclude the negotiations.
- And third, it must be a springboard towards a successful 10th Ministerial Conference in Nairobi in December.

What we do now will dictate what is possible in Nairobi. So let us keep this at the forefront of our minds in our current discussions.

We still have three months before the July deadline. That is enough time to advance this work and deliver a substantive outcome. But we must use that time to the fullest. We will need to increase our efforts in all of the negotiating formats. And we will need to engage capitals to an even greater degree, as we are approaching the stage where political calls will need to be made.

As I have indicated, the Chairs process will continue. I will be increasing the intensity of my consultations. And of course the principles of transparency and inclusiveness which served us so well on the road to Bali will continue to be a hallmark of our work as we move forward.

We have a long way to go. But we are making progress. We are testing new ideas. After many years of deadlock we are genuinely breaking new ground.

There are a number of possibilities and avenues available to us. But it is down to us to explore them. This is not going to happen by itself. We have to be creative. And I think we are beginning to be creative. Again, testing new ideas does not commit you to those ideas.

We have to maintain our focus on what is doable. We have to be prepared to leave our comfort zones. We will all have to contribute.
