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**Committee on Market Access**

**MINUTES OF THE MEETING HELD ON 15 OCTOBER 2007**

Chairman: Dr. Mohammad Saeed (Pakistan)

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The Committee adopted the agenda as reproduced in WTO/AIR/3081. An annotated agenda was circulated in document JOB(07)/149.

**1. Periodic report of the Committee to the Council for Trade in Goods (G/MA/SPEC/36)**

1.1 The Chairman drew attention to document G/MA/SPEC/36 which contained the draft periodic report of the Committee. He noted that this report, which would be finalized in the light of the discussion that would take place at this meeting, would be submitted to the Council for Trade in Goods (CTG) for examination.

1.2 He noted that there were no requests for extensions of HS96 waivers so no factual information on this issue had been provided in the Annex.

1.3 The Committee took note of the periodic report and agreed to forward it to the CTG for appropriate action.

## **2. Submission of HS96 documentation**

2.1 The Chairman drew attention to document G/MA/TAR/2/Rev.40 which reflected the present situation concerning the submission of required HS96 documentation. From the document, it could be noted that the submissions of Argentina and Panama remained pending because of reservations maintained by other Members. In addition, Venezuela was working with the Secretariat on some technical issues in respect of this documentation. The Chairman observed that the situation did not look too bad at least in respect of those Members who had submitted HS96 documentation pursuant to the relevant legal procedures.

2.2 However, he also pointed out that many Members (around 60) had not submitted any HS96 documentation. He reminded Members that the Secretariat has undertaken the HS96 transposition work for all developing Members in connection with the exercise of preparing the CTS schedules. He also recalled that at that time (October 2005), the Chairman of this Committee had encouraged Members to make use of the information put together by the Secretariat to prepare and submit their HS96 documentation and to proceed with their certification in accordance with the procedures in GATT document L/6905. However, to date no Member had used the opportunity. He noted that the Members concerned by this situation were listed in document JOB(05)/124/Add.1. He requested Members to reflect further on how to address this issue and proposed to revert to this issue at the next meeting.

2.3 The Committee so agreed.

## **3. Extension of the HS2002 waiver (G/C/W/585)**

3.1 The Chairman recalled that a number of Members had been given an extension or granted a new waiver - through the form of a "collective decision"- in order to introduce HS2002 changes domestically and to subsequently introduce these changes to their respective schedule of concessions and to undertake negotiations if required. This waiver decision was contained in document WT/L/674 and would expire on 31 December 2007.

3.2 He noted that a number of the Members covered by this waiver had yet to complete the HS02 exercise and he proposed that the waiver be extended for another year. A draft decision was contained in G/C/W/585. He also observed that some of these Members might not require a waiver, for example Bulgaria and Romania (who were now Members of the European Union). Additionally, some of these Members had completed the HS02 exercise and presumably would not be requiring an extension, such as Canada, Hong Kong China, Macao China and Switzerland. He proposed that the Secretariat check directly with the Members concerned and remove their names from the list in the Annex if required.

3.3 The Committee agreed to forward the draft decision<sup>1</sup>, amended as required, to the Council for Trade in Goods for approval.

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<sup>1</sup> The decision was revised and is now contained in G/C/W/585/Rev.1.

#### **4. Extension of the HS2007 waiver (G/C/W/584)**

4.1 The Chairman recalled that a number of Members had been granted a waiver - through the form of a "collective decision" - in order to introduce HS2007 changes domestically and to subsequently introduce these changes to their respective schedule of concessions and to undertake negotiations if required. This decision was contained in document WT/L/675 and would expire on 31 December 2007. Thailand, Pakistan and Mexico had requested to be part of this decision and their communications were circulated as an addenda to the decision. Given the fact that HS2007 exercise was far from over, he proposed that the waiver be extended for another year. The draft decision extending the waiver was contained in G/C/W/584.

4.2 The Committee agreed to forward the draft decision to the Council for Trade in Goods for approval.

#### **5. Modalities and operation of the Integrated Data Base (IDB)**

- Status of submission of the required documentation (G/MA/IDB/2/Rev.26) and Report by the Secretariat

5.1 The Chairman referred to document G/MA/IDB/2/Rev.26 which had been circulated to all Members and presented the situation of IDB submissions as of 1 October 2007.

5.2 A member of the Secretariat (Mr. J. Richtering) introduced the report which is contained in Annex I.

5.3 The Committee took note of the report.

#### **6. Consolidated Tariff Schedules (CTS) Database**

- Introduction of HS2002 changes to schedules of concessions using the CTS Database (WT/L/605) – Report by the Secretariat on the status of work

6.1 The Chairman noted that since the last formal meeting of the Committee on 4 April 2007, there were two multilateral review meetings. The first on 24 April and the second one on 30 July. As provided by the Paragraph 14 of the HS2002 procedures, the Secretariat had circulated periodic reports for those meetings in the JOB(06)/8 series.

6.2 A member of the Secretariat (Mr. J. Richtering) introduced the report which is contained in Annex II.

6.3 Regarding the question of tariff lines unaffected by the HS02 changes which was mentioned in the Secretariat report, the Chairman recalled that at the multilateral review session in July 2007, the US delegation had raised the issue of a situation where a tariff line which was not affected by an HS02 change was included in a submission with the binding level increased. The US had been interested in the legal implications in cases where such a line was certified.

6.4 The Secretariat had consulted the Legal Division. Regarding the legal implications, the understanding of the Secretariat, and he stressed that this was only an understanding, was that the procedures for the HS02 transposition exercise WT/L/605 did explicitly reference the need for Article XXVIII negotiations for changes to concessions resulting from the HS2002 transposition. In other words, a multilateral review under the above decision would not obviate the need for Article XXVIII consultations and negotiations as regarded tariff lines affected by HS2002 transposition. As a legal matter, it would therefore also seem logical that a multilateral review of

HS2002 transpositions did not obviate the need for Article XXVIII consultations and negotiations for tariff lines unaffected by HS2002 transposition whenever the scope of the concession had been modified. Thus, the certification of a tariff increase for a tariff line unaffected by HS2002 would not prevent Members from contesting the validity of that certification with respect to the tariff line(s) in question based on the legal rationale that, and provided that, Article XXVIII consultations and negotiations had not been entered into by the Member concerned for such tariff lines. He further noted that these were the views of the Secretariat on the matter and it would appear that the interests of delegations were safeguarded in undertaking this transposition exercise.

6.5 The Chairman also updated Members on his activities concerning those Members whose HS02 files had been approved by everyone else but their own delegation. He recalled that he had already provided a report at the multilateral review session of 30 July, but thought it important to repeat what he had said for the record.

6.6 The Chairman recalled that he had started this process with a fax to all those Members whose files had been approved by all other delegations except their own. The fax provided information on the HS02 exercise and provided specific information on their schedules. It also urged these Members to submit their approvals quickly so that their schedules incorporating HS02 changes could be certified. This fax had been followed by an invitation to a bilateral meeting. He had felt that such a meeting might be a more effective way of trying to understand why delegations were having difficulties in providing approval to their own files. Following such bilaterals, he had sent a follow-up fax asking these Members if they needed any further assistance. All of these efforts had resulted in 13 approvals coming in, which was good. More importantly he believed that delegations were beginning to engage in this exercise and had been in touch with the Secretariat about this matter. He added that he intended to send reminders very soon to the relevant delegations.

6.7 The Committee took note of the report.

- Introduction of HS2007 changes to schedules of concessions using the CTS Database (WT/L/673) – Report by the Secretariat on the status of work

6.8 The Chairman noted that pursuant to Paragraph 2 of the procedures contained in WT/L/673, those Members preparing their own HS07 files were supposed to submit the required information to the Secretariat no later than 30 September 2007. He understood that Australia and Canada had submitted their HS07 files.

6.9 A member of the Secretariat (Mr. J. Richtering) introduced the report which is contained in Annex III.

6.10 The Committee took note of the report.

## **7. Dissemination of the IDB and the CTS database**

- Communication from the United Nations Economic Commission for Africa (G/MA/W/86)  
- Communication from the International Coffee Organization (ICO) (G/MA/W/87)  
- Communication from the Southern African Customs Union (G/MA/W/88)

7.1 The Chairman recalled that on 12 June 2002, the Committee had adopted document G/MA/115 containing the dissemination policy of the IDB and CTS database. Certain organizations (UNCTAD, IMF, World Bank, ITC) were given automatic access to these two databases. However, the Committee had agreed that other intergovernmental organizations wishing to have access would

need to obtain approval from the Committee on a case-by-case basis. This is contained in paragraph 5 of document G/MA/115.

7.2 In this connection, the Committee had before it a request from the United Nations Economic Commission for Africa, the International Coffee Organization and the Southern African Customs Union to use and publish the information contained in these databases in accordance with the terms and conditions laid out in document G/MA/115.

7.3 If the Committee agreed to grant access, he proposed writing to these organizations in similar terms as he had done to the organizations which had recently been granted access and asking them about what data they may have that they could share with the WTO on a reciprocal basis. Additionally, he would be encouraging them to urge their members to submit to the IDB if they had not already done so.

7.4 The Committee approved the requests for access to the IDB and CTS database.

## **8. Situation of schedules of WTO Members (G/MA/W/23/Rev.4)**

8.1 The Chairman noted that the Secretariat had prepared a document G/MA/W/23/Rev.4 which provided information on the situation of schedules of WTO Members. He believed there was room for improvement and noted as an example that there were a number of Article XXVIII renegotiations (16 of them) where the status of the negotiations was not clear. There were also some pre-Uruguay Round schedules which remained to be finalized. The Chairman proposed that the Secretariat contact the concerned delegations to let them know of the situation and to see if any assistance could be extended.

8.2 The Committee so agreed.

## **9. Transitional Review under Paragraph 18 of the Protocol of Accession of the People's Republic of China**

- Questions and/or Comments Submitted to China by the European Communities, Japan and the United States in documents G/MA/W/91, G/MA/W/90 and G/MA/W/89, respectively.

9.1 The Chairman noted that the Committee would be conducting its sixth transitional review (TRM). In this respect, he noted that a number of comments and questions had been put to China from the United States, Japan and the European Communities in that order. China had submitted the information required by Annex 1 of the Protocol, which was circulated in G/MA/W/92.

9.2 The representative of China noted that China was glad to have this opportunity to take part in this exercise of the Transitional Review Mechanism (TRM) in accordance with Paragraph 18 of the Protocol of Accession of China. He understood that there were specific requirements or regulations covering this exercise and his delegation would strictly abide by those rules. He acknowledged reception of the documents by the United States, Japan and the European Communities. He observed that none of the issues raised in those documents was new. In fact according to his analysis the same issues were raised last year by those delegations. As a result and in an effort to avoid duplication of work, he asked those delegations whether they had any comments and questions additional to those contained in their written submissions.

9.3 The representative of the United States noted that in their view, the TRM was designed to help Members understand and assess the progress that China had made in adopting and complying with WTO disciplines. From that perspective, the US believed that the TRM continued to be a useful mechanism. First it helped to provide the needed additional transparency on China's trade regime, as it

allowed Members to seek and obtain clarifications regarding the various trade policies and practices of China. Secondly it provided Members with a multilateral forum to convey their expectations of China and of their concerns with China's implementation and compliance efforts. In that regard, the TRM was a useful supplement to bilateral discussions with China. She noted that after nearly 6 years of WTO membership, China should have implemented almost all of the commitments that it had made in its Protocol of Accession. As a result, it might be expected that the TRM would focus more on China's ongoing adherence to WTO rules than on China's implementation of the specific commitments that it had made in its Protocol of Accession.

9.4 In their written submission before this Committee, the US's focus was on adherence to WTO rules. The US had raised questions about export quotas maintained by China on a number of raw materials. The US also sought clarification about a value-added tax (VAT) that China applied to a fertilizer known as diammonium phosphate (DAP). Regarding export quotas on raw materials, their questions on China's export quotas on raw materials raised serious WTO concerns. The time had long passed for China to get rid of its export quotas on raw materials. China nevertheless continued to maintain export quotas on at least a dozen raw materials that were particularly important to US industry even though China was the world's leading producer of 11 of the 12 items that the US had mentioned in their questions. The US wanted to see a level playing field on these items. However, with China's export quotas the US and other WTO Members were significantly disadvantaged. The export quotas artificially raised world raw material prices and lowered China's domestic prices. That gave a substantial artificial advantage to China's downstream producers over foreign downstream producers. In the past, for two of these raw materials China had argued that it needed to impose export quotas to protect an exhaustible natural resource. In this case the US believed that there was no basis because China was the world's leading producer of these raw materials and could not claim that the export quotas were there to protect the natural resources. For example China had been limiting coke (a key steel input) exports to 14 million metric tonnes (MT) per year, but at the same time China's domestic sales of coke had continued to increase every year and had dwarfed the amount of exports allowed. In fact, in 2006, China produced nearly 300 million MT of coke and allowed only 14 million MT of this coke to be exported, while the remainder totalling more than 280 million MT were sold domestically. She added that if China was really trying to protect exhaustible natural resources, it would have to limit domestic sales in the same way it limited exports. Her delegation looked forward to receiving response to their questions.

9.5 The representative of Japan noted that in document G/MA/W/90 Japan had asked basically three questions on: (i) tariff rates on photographic products, (ii) export restrictions of coke and (iii) export restrictions of non-ferrous metals. He had no additional questions but reserved the right to raise any issue if it became of interest or concern to Japan. He looked forward to the responses from China.

9.6 The representative of the European Communities stated that he was puzzled by the question from China on whether the EC had additional questions. The EC had already circulated their questions in document G/MA/W/91, so they had no additional questions. However, he did have some additional comments. Everyone who had glanced at the headlines of the front page of the Financial Times that weekend knew that Chinese exports to the EC were exploding and this year the EC had overtaken the US as the primary destination for Chinese exports. Chinese exports to the EC rose 37% in the year until September and China's trade surplus had jumped by 69% for the first nine months of the year to the amount of 185 billion dollars. He was not saying that this was bad. In WTO, the belief was trade was a good thing but the point he was trying to make was that the EC market was wide open to Chinese exports and therefore his delegation did not feel shy about putting questions to China on issues where they felt that there were barriers to their exports that potentially violated the WTO. The EC did this within the agreed mechanism which was the TRM. Their questions concentrated for instance on export restrictions where China should clarify/notify its restrictions including export taxes and justify those that it wanted to keep. In respect of China's compulsory certification, the question was whether in the review of this particular instrument, European test results would be accepted. On

automobiles, the question concerned the latest developments with respect to majority foreign ownership in joint ventures. His delegation also wished to know whether there had been any progress of a possible accession by China to the UN/ECE Agreement which would make it easier for China to export its automobiles to the world market. On steel, his delegation was asking for an explanation of Chinese policy. In chemicals, the EC sought information on developments concerning majority ownerships and on the possibility to access the retail sector. In pharmaceuticals and in cosmetics the question being asked related to less burdensome testing. There were also some questions on wood products. Finally, he noted that it might also be true that these questions had already been asked the previous year. However, they had been repeated now because his delegation believed that they had not been satisfactorily answered so far. He also noted that the latest document from China (G/MA/W/92) did not provide responses to those questions, and he hoped that the answers would be forthcoming.

9.7 The representative of China stated that with regard to the issue of VAT on DAP the US had requested data on the annual consumption of DAP and had also requested data on import and the share of import and total consumption of DAP. He informed the US representative that the data regarding DAP was as follows: annual consumption in 2001 was 4.97 million tons out of which 3.29 million were imported. In 2002, annual consumption was 7.12 million tons out of which 4.93 million were imported. In 2003, annual consumption was 5.3 million tons out of which 2.61 million were imported. From January until July 2004 total consumption was 3.66 million tons out of which 1.69 million were imported. In the case of MAP, in 2001 annual consumption was 2.11 million tons out of which 15.1 thousand tons were imported. In 2002, annual consumption was 2.68 million tons out of which 50 thousand tons were imported. In 2003, annual consumption was 3.2 million tons out of which 61.4 thousand tons were imported. From January until July 2004, consumption was 2.21 million tons out of which 49.5 thousand tons were imported. With regard to the US question on export quotas he noted that this issue was of systematic concern to his delegation. He was aware that the US had raised the same question in the Council for Trade in Goods last year. The three delegations (Japan, US and EC) had submitted questions related to quotas. He wondered whether those Members were sure that this was the appropriate agenda item or Committee to discuss this kind of issue. It was his understanding that relevant issues could be addressed in the transitional review once a year, and it was the intention of his delegation to see that this specific requirement of the TRM was observed. China did not want to see a situation where issues under the transitional review were reviewed several times a year because that was not the spirit of China's Protocol of Accession which spoke of once a year. With regard to the US comment on the usefulness and the nature of TRM and that this exercise should shift from reviewing accession commitments to reviewing compliance with on-going rules he did not believe there was a contradiction between the two objectives. China was prepared to participate in this exercise but strictly in accordance with the requirements of Paragraph 18. Any request that went beyond that would be difficult to satisfy. As to the EC comment about not getting satisfactory answers, he noted that if the mandate had been that the TRM should be carried out in a way to satisfy the requests of all Members, China would have done that, but such a mandate did not exist.

9.8 In respect of Japan's comments, the issue of photographic films was not new. He was glad to see that a number of the issues discussed in this Committee had been resolved. This was probably why Japan had not raised this subject during the TRM last year. The question was the methodology for converting commitments which were in specific duties into *ad valorem* equivalents. Experts from China and Japan had been able to agree on a methodology. However, on some issues he was not sure how far the experts had agreed. This was probably the reason why some new issues had been raised by Japan such as the ceiling or cap. His guess was that perhaps the Japanese business community was not satisfied with the results of the work of experts. In this regard, China was willing to continue to work with the Japanese experts. He also requested some explanation from Japan as to how Japan's request for a ceiling or cap related to any specific market access accession commitment of China. In respect of the second and third question from Japan, he had the same systematic concern as raised

earlier. He wondered whether this was the appropriate agenda item or appropriate Committee to address those issues. The kind of information China was required to submit to this Committee under Annex 1A of China's Protocol of Accession had been done and the document made available. But he was not sure whether this issue or information relating to so-called export restrictions fell within the purview of this agenda item.

9.9 Concerning the document submitted by EC and their comments he was glad to hear that China's bilateral trade with EC had been growing fast. According to China's statistics, EC exports to China had also been growing and China was glad to see that the two-way trade had been strengthened through China's accession to WTO. This was a demonstration of the joint effort made by Members, as well as a demonstration of sincere efforts made by China to implement all its WTO accession commitments. At the same time, he could not second the view that the EC market was wide open to China. Perhaps it was wide open, but it could always be wider. The same was perhaps true of the Chinese market which could be opened wider to the EC. This was the purpose and goal they shared and this was why the DDA, including the NAMA and Agricultural negotiations existed. China was prepared to work with the EC to realize that goal. As to the EC comment about not feeling shy about putting questions to China, his question to the EC was which was the right forum, agenda item or right body to handle the specific questions that the EC had submitted to China. He referred to the EC document which covered seven or eight major categories. He wished to ask the EC why, for instance, in the second paragraph of the EC document it said "Once the information to be provided by China in accordance with paragraph 8 and paragraph IV.3 (a) of Annex 1A of its Protocol of accession has been received, the EC might come back with additional questions". His question was whether the EC was sure that the kind of information to be provided by China fell within the mandate of the agenda item of this Committee. He felt that there was a mistake and urged his EC colleague to check. Concerning the so-called Chinese export restrictions, he did not know whether Members were talking about the same measure when they mentioned "export quotas", "export control measure", "export regulation" and "export restriction". He wished to know the legal basis for such a differentiation. Once again his question to the EC was whether this was the right agenda item and the right body to handle this kind of issue. His reading of China's Protocol of Accession clearly indicated otherwise. With regard to the second question from the EC, the China Compulsory Certification (CCC), he invited EC to read document G/MA/M/42 in which China had already provided answers to EC. On the issue of automobiles where the EC had raised concerns on investment arrangements in joint venture ownership limitation, he wondered whether the EC could explain how such an issue related to any specific commitment of China either in its Protocol of Accession or the Working Party Report. In fact, he wondered whether the EC could explain how this issue fell within the jurisdiction of the WTO at all. He understood that investment matters could be of concern to the EC and they could be discussed bilaterally in another forum. However, neither this Committee nor for that matter the WTO had the mandate to handle questions of this nature. If "investment" had not been dropped from the DDA as one of the Singapore issues, then China could continue discussions on this subject. Perhaps the question should be put to the Director-General Pascal Lamy as to why he agreed to drop the subject of "investment" from the DDA. On the question about the type-approval/homologation standards, according to feedback from his capital, it was not that China did not want to use the UN/ECE Agreement, but some Chinese companies had complained that using that agreement was too costly. On the other hand, they believed that the existing Chinese practice was more suited to the Chinese reality. China was prepared to continue the discussion with the EC on how a future agreement could be reached to the benefit of both sides to save cost and to benefit the entry into the Chinese market of European car models and to benefit sales of Chinese cars in the world. For the Steel Industry Development Policy, he referred to document G/MA/M/42 and G/C/M/22 where there were some answers already provided by China. However, he did not believe that the Steel Industry Development Policy was something that fit into any specific commitment that fell within the purview of this agenda item. Once again China sought clarification from the EC about how this issue related to any specific commitment of China to the WTO and how it was of relevance to this agenda item. On petrochemicals, it was a question pertaining to the joint venture ownership limitation and the



comments he had made regarding the joint venture ownership limitation on automobiles were valid for this issue too. Concerning retail and wholesales fuels market opening, it was a services issue and concerned the opening up of a distribution network. He wondered if the person who had prepared this document had some basic knowledge about WTO rules, about China's accession commitments to the WTO to be able to distinguish a services from a goods issue, and a market access issue from a non-market access issue. For pharmaceuticals, cosmetics and woods products, once again he wondered whether the EC could prove that these questions were related to any specific market access commitment of China or to any specific rule of this body or the WTO.

9.10 He thanked the delegations who had submitted questions and the majority of delegations who had not submitted any questions to China. He noted that the bilateral trade between China and the latter was growing in a very satisfactory manner but that did not mean that there were no problems. Rather, it meant that those Members who had not raised questions seemed to have a better understanding of the exact nature, meaning and purpose of the TRM.

9.11 The representative of the United States thanked the Chinese delegate for the answers that he had provided. Regarding China's concern about the appropriate body for asking questions, she wondered whether China could indicate in which Committee her delegation could obtain full answers to its questions. On the systemic concerns raised by China, she noted that the TRM was done once a year across many bodies. So raising questions in more than one of those bodies would not be doing the TRM twice because the mechanism itself was put across the various Committees and Council and that was how it had been established. Regarding the mandate of the Committee on Market Access, it was broad and the questions that her delegation had asked regarding, for example, export quotas fell clearly within the mandate of this Committee. She also noted that if the US had submitted some of last year's questions again this year, they would be within their rights because full answers had not been provided. Clearly the TRM covered ongoing trade concerns about compliance and so asking the same question twice made sense. Finally, she thanked the Chinese delegation for providing specific data, and requested that this information be provided in writing.

9.12 The representative of the European Communities noted he was extremely pleased that China subscribed to the same goal as the EC of further liberalisation and that China was prepared to work together with the EC on that issue. However, in answering the questions that the EC had asked, he had not witnessed the same positive spirit. He agreed with the US response regarding the systemic concerns raised by China. There was no rule that issues that were raised in this Committee could not be raised in any other WTO Committee. He did not agree with China's interpretation of the EC remark relating to the need to repeat questions because of the absence of a satisfactory answer. Clearly, the EC expectation was not that China immediately grant all their requests. It would be nice if China did that, but that would not be very realistic! What his delegation was asking was that China respond to the questions in writing. He had heard oral answers to some of the questions, but preferred to have those answers in writing. The answers by China mostly consisted of counter questions. However, this was not the transitional review of the EC but of China. He also noted that his delegation had made the link between the questions and the commitments that China had entered into. This could be seen with the first question where there was a reference to the commitment that China had made concerning export restrictions. While, he would not go into detail, he wished to note that a number of the other questions related to obligations that China had under the TBT Agreement. So it was not true that these questions were unrelated to what China had committed to do. Also, there was no particular reason why his delegation could not ask further questions once it had received answers, His delegation had every right to do so. He encouraged China to take this exercise seriously and to provide answers in writing to the questions that had been asked.

9.13 The representative of Japan thanked the Chinese delegate for his response. However, regarding the two questions that Japan had raised on export restriction of coke and non-ferrous metals, it was Japan's thinking that this was indeed a market access issue. That was the reason why Japan had

been raising this question in the past and at this meeting too. Concerning the issue of tariffs on certain photographic products, as China had mentioned Japan had been raising this issue in the past and some improvement had been made through bilateral contacts. However the reason why Japan was posing these questions again was that as China had committed to a tariff in *ad valorem* duty on the occasion of its accession to the WTO, for reasons of transparency and predictability Japan wished to see these commitments implemented as had been agreed to on that occasion. If such an application of an *ad valorem* duty was difficult, then Japan wished to see a certain system of ceiling or cap that would enable traders to foresee what kind of tariff that would be levied. Japan requested China to go through the questions that Japan had raised in the document and provide clear answers, preferably in writing for the sake of transparency.

9.14 The representative of China observed that some of his questions remained unanswered. A careful reading of Paragraph 18 showed that this review was not only about China's commitments. China was also entitled to raise questions/issues that were related to commitments made by other Members. It was incorrect to believe that this exercise was only about the review of China. Second point he wished to make was that some Members had accused China of not answering questions but they themselves were guilty of doing the same. For instance, he had sought clarification from the EC, but they had not addressed the specific concerns he had raised. He believed that the attitude of China toward this exercise was very positive. He understood the nature, limitations, obligations, rights and specific commitments of this exercise. Therefore, his delegation was prepared to participate in this exercise strictly in accordance with the requirements of Paragraph 18. For instance, some delegations required answers in writing. If Paragraph 18 said China was obliged to provide answers in writing to Members, China would have done that, but there was no such obligation. The US had said that they were entitled to raise the same issue in different bodies and the EC had said that there was no rule about the Committee in which questions could be raised. By the same token, there was no rule about which Committee China had to provide answers to or in what way. For instance, some Members had mentioned the obligation of China to notify export restrictions. His question was whether in those documents both the US and EC had not added some language. If one checked the original text it said "all quotas" without saying the word "export", but these delegations had inserted the word "export" and it had now become "all export quotas". If one checked the chapeau to that provision, it referred to the implementation of the import licensing agreement. Here the specific obligation of China was clear. If one looked at China's Protocol of Accession, some requirements were very specific. For instance, the kind of information to be submitted to the Market Access Committee. China had submitted that information and it was available in the room. However, there were some requirements which were very general, for instance, the frequency of the notification. Should it be on a monthly basis, semi-annual basis, or a one-time basis upon China's accession. In that sense, China had already made a notification because China had provided all the information on the sources, for example, new rules/regulations affecting trade in this aspect, all the names of journals and also websites. He suspected that some of the Members got this kind of information by taking advantage of the sources that China had provided. In that sense, China had already fulfilled its notification obligation.

9.15 The representative of the European Communities wished to make two remarks: (i) If one looked at the other review mechanism that existed in the WTO, the TPRM, and if one saw how all Members (and that included sometimes very small and poor developing countries) went out of their way and worked nights to answer all the questions that Members come up with and he compared that process to how the third major exporter answered questions asked in this Committee then he could not help but feel somewhat disappointed. He was not prepared to go through every question and explain how and where it related to commitments that China had made but he was willing to do so bilaterally but on the condition that then China commit to answering the questions in this Committee. Otherwise there was no point in doing that exercise. His delegation was willing to discuss these matters further with China.

9.16 In response, the representative of China noted that China was also willing to exchange detailed views on those issues bilaterally and actually that was what China had been doing in other fora. With regard to the remark on the attitude and participation of smaller Members in the TPRM, he reminded the EC delegate of the difference between the TRM and the TPRM. They were two distinct mechanisms, and once the EC had fully understood the difference, it would also be able to understand why this exercise was conducted in this manner and the other one in an alternative manner.

9.17 The Chairman believed that all delegations wishing to take the floor had done so. Regarding the report of the review to the CTG, as in previous years, it would be a brief factual paragraph indicating that the review took place, an acknowledgment of the documentation submitted pursuant to the review, and a reference to the discussions that took place, as reflected in the minutes of this meeting.

## **10. Draft Report (2007) of the Committee to the Council for Trade in Goods (G/MA/SPEC/37)**

10.1 The Chairman noted that the Committee was required to submit annually a report on its activities to the CTG. A draft report, covering the activities of the Committee in 2007, was circulated in document G/MA/SPEC/37. The report would be updated in light of the meeting.

10.2 The Chairman noted that following the previous year's procedure, the updated draft report would be sent to the Members by fax, and if no comments were forthcoming within a certain time period then it would be considered adopted. If there were minor changes, a revised report would be circulated with the changes marked clearly and if no comments were submitted within a certain time frame, the revised report would be considered adopted. However, if the changes were more substantive in nature he would then had to consider convening an informal meeting.

10.3 It was so agreed.

## **11. Election of Vice-Chairperson**

11.1 The Chairman noted that, as he had indicated at the last formal meeting, he intended to hold informal consultations on a Vice-Chair of the Committee for 2007. He had completed those consultations and, on this basis, proposed to elect Mr David Riley (UK) as Vice-Chairman of this Committee by acclamation.

11.2 The Committee elected Mr David Riley as Vice-Chairman.

## **12. Other Business**

- Date of the next meeting

12.1 The Committee took note that the next meeting of the Committee would take place in the spring of the following year.

## ANNEX I

### Integrated Data Base

#### IDB Submissions

Since the circulation of the Status of Submissions document, G/MA/IDB/2/Rev.26, the Secretariat received the following submissions:

- Chinese Taipei 2006 import data
- Ukraine 2006 import data (observer)

#### IDB Dissemination and Uses

The Secretariat continues to load information onto the IDB Internet File Transfer Facility on a monthly basis. As of 28 September 2007, 677 country-periods, covering 110 out of 123 Members and five acceding countries, are available on the IDB website.<sup>2</sup>

The following Members have not yet submitted any information to the IDB: Cambodia, Central African Republic, Chad, Democratic Republic of the Congo, Guinea Bissau, Haiti, Lesotho, Mozambique, Saudi Arabia and Viet Nam.

On the uses of IDB and CTS data I would like to mention:

- IDB and CTS continue to be used for the NAMA simulations at the request from Members, the NAMA Chair and the Secretariat;
- They are also used by the Secretariat in their assistance to Members regarding the calculation of AVEs for the NAMA Negotiating Group;
- World Tariff Profiles, a new publication which I announced last October has been published last June; it has been already downloaded more than 10000 times;
- In connection with this publication, I indicated last October as well that HS 6 digit summaries of IDB and CTS would be published. This was achieved last month and these data are now available to the public via the WTO Statistics Home page.

#### Technical Assistance

Since the last meeting of the CMA in April the following TA activities have been undertaken:

Two regional NAMA workshops in

- Barbados for the Caribbean
- Chinese Taipei for Asia

One national NAMA workshop in:

- Tunisia

The IDB and CTS were also presented in the regional Trade Policy courses in Namibia and in Chile and there have been various hands-on training sessions in Geneva.

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<sup>2</sup> The information provided by the European Communities covers its 27 member States as of 1 January 2007; the information provided by Switzerland covers also Liechtenstein.

### Software Development

A portable version of the IAF which operates from data distributed on CD-ROM and requires no Internet connection will be distributed to Members in November. The functionalities and reports are the same as the Internet version. The portable IAF will be accompanied by a data base maintenance utility that loads data from the CD-ROM to the application's database. The portable IAF runs on the Windows 2000 and Windows XP operating systems and the interface is available in the three official languages.

The Secretariat plans to issue IDB and CTS data updates for the Portable IAF bi-annually as is presently done with the IDB CD-ROM. The portable IAF will replace the IDB CD-ROM, for which the Secretariat plans to cease distribution in 2008.

## ANNEX II

### Consolidated Tariff Schedule Database

#### HS02 TRANSPOSITION

I will just give you a brief summary of the work on the HS02 files. The last full report was issued as JOB(06)/8/Rev.6 on 24 July 2007. As of 10 October we have the following situation:

- A. 10 draft HS02 files remain to be prepared,
- B. 14 draft HS02 files have been completed and sent to Members for review (including files that are due for multilateral review),
- C. No draft HS02 files are currently released for multilateral review,
- D. 71 HS02 files released and passed the multilateral review,
- E. 10 HS02 files approved / in certification process,
- F. 13 HS02 files certified.

The number of files approved for certification could be much higher if only Members could signal their approval. The number of files that have passed the multilateral review has reached almost 80 per cent of the WTO Membership.

Although there is some progress in the growing number of files approved and certified files, there is still some more work left. There are several reasons for this:

- Struggling with remaining "legal issues" (reviewing CTS files to establish the legal value of uncertified documentation (Pre-UR and Article XXVIII negotiations), clean up nomenclature inconsistencies and introduce latest certification documents );
- More extensive follow up work on files that have already been sent out to Members (trying to reconcile country submissions and/or comments with the Secretariat's version);
- Verification of Members' HS02 submissions (and two HS96 submissions) and preparation of comments sent to these Members.

As regards the verification of the unaffected part of the transposition files, out of the 108 draft HS02 files that were sent to Members for review, 13 developing Members and 2 developed Members have provided a full file. While the full files of developing Members have been checked against their CTS file in HS96, only the HS02 changes (affected HS 6-digit subheadings) of developed Members were checked against their CTS file in HS96.

As concerns the regular work on the CTS work was undertaken in the following areas:

- Updating Members' files with certified rectifications and modifications of schedules;
- Preparation of the CTS file for the newly acceded Member Tonga.

### ANNEX III

#### Consolidated Tariff Schedule Database

##### HS 2007 TRANSPOSITION

As reported in the last meeting, the HS2007 documentation was sent out to all Members in January 2007 in accordance with the General Council decision WT/L/673.

The procedures for the HS2007 transposition stipulated that the Secretariat transposes the schedules of developing country Members, except for those who undertake to prepare their own transposition and submit a notification to this effect before 31 March 2007. As of today the Secretariat received five communications from developing Members who indicated their preference to prepare their own HS2007 transposition files. I would like to remind you that only those Members that choose this option, i.e. to do the transposition themselves, need to notify the Secretariat. As of today we have also received the HS2007 files of two developed Members: Australia and Canada.

No progress was made in the HS2007 transposition work on the side of the Secretariat since the last meeting. The constraints highlighted in our previous report are still valid today:

1. uncertainty regarding the actual start of the scheduling since the negotiation modalities have not yet been finalized;
2. missing certifications of HS02 changes which have passed the multilateral review but which have not yet been approved by the Members themselves;
3. ongoing work on the HS02 transposition;
4. catching up with the backlog in IDB submissions;
5. continuous flow of requests on calculations and simulations often related to the negotiations.

In light of the above mentioned constraints, our first objective is to finalise the HS 2002 transposition and encourage Members to approve their own files. At the same time, we need to start on the HS2007 transposition work. Only limited resources can be affected to this work in the coming months. Our intention is to start with the review the HS2007 submissions of Australia and Canada in order to gain experience. We will then turn to LDC Members whose schedules are fully certified in HS02 and not likely to undergo changes in the context of the DDA. As of today, we have two LDC Members with fully certified files in HS02: Nepal and Cambodia.

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