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SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS MONITORING MECHANISM

Communication from the United States of America

The following communication dated 8 November 2002 has been received from the above delegation.

I. INTRODUCTION

1. Discussions-to-date reveal an emerging consensus that integration into the multilateral trading system is the underlying objective of special and differential (S&D) treatment, and that this goal is best achieved through greater participation in the WTO system. With this consensus in mind, we offer the following comments for deliberation by the CTD, pursuant to the General Council instruction, to develop monitoring procedures to make S&D more precise, effective, and operational.

II. PRACTICAL RESULTS

2. We join other Members in an effort to craft monitoring procedures to help ensure that S&D provisions meet their intended objectives - assisting developing countries, in particular the least-developed countries, to make better and more effective use of special and differential treatment provisions. The United States is committed to establishing a monitoring procedure under the direction of the Committee on Trade and Development (CTD) that can be operational at the beginning of 2003. We share with other Members the desire for a procedure that is targeted, streamlined, and not unduly burdensome. We believe creating a focal point within the CTD to consider these issues should add value and improve the effectiveness of Members in meeting their obligations, channelling scarce resources, and enhancing coherence with other international institutions. In this regard, the CTD is uniquely situated to look across WTO Agreements and Committees and allow Members to see how all elements fit together. Ensuring the success of this new procedure is a shared task among Members at all levels of development. It should enable us as Members to discuss how S&D provisions have been applied, discuss the extent to which they have been useful and helpful, identify areas for further work and attention, and to determine whether the provisions are facilitating the integration of developing-country Members into the WTO system. We see this as an important partnership in the efforts made since the launch of the Doha Development Agenda.

III. SCOPE AND FOCUS

3. We support the view that this new procedure should be responsive to the broad range of Members' concerns and interests expressed on S&D treatment. In addition to the implementation of current Agreements, a number of Members have drawn attention to the role and work of other international organizations, particularly as they relate to technical assistance and development goals.

In addition, the CTD has, as part of its mandate from Doha, an oversight role for the negotiations. The United States would not propose limiting the subject matter for the monitoring procedure, but would urge that the monitoring be organized in the most efficient manner, drawing on existing materials and information and avoid duplicating the work of other committees and negotiating groups. Attention should be given to four main areas:

- (a) implementation of WTO Agreements by all Members;
- (b) developments in the Doha negotiations and working groups;
- (c) development and delivery of identified technical assistance needs; and
- (d) the relationship between the WTO and other international institutions that are contributing to the broader development agenda and supply-side interests of developing-country Members.

IV. STRUCTURE AND FUNCTION

4. The United States is open as to how to best structure the CTD's monitoring work as well as any further role for the General Council. As we noted in the United States' submission in June 2002, a practical way to proceed would be to ensure that all the committees and negotiating groups include as an agenda point, at one or more meetings during the course of each year, the issue of S&D, and charge the Chairman of the CTD to maintain close contact with the chairs so that the CTD stays abreast of issues and developments. The CTD itself will have to determine the frequency of engaging in an overall review or monitoring of S&D. We see three main functions where the CTD should provide leadership and direction:

- (a) Enhancing integration and exchange among WTO bodies and committees, in effect, serving as a focal point for interaction and dissemination of information (for example, in the area of technical assistance, training, and WTO programming).
- (b) Assessing implementation and utilization of S&D provisions for purposes of furthering integration of Members into the WTO system by tracking the effective use of transitions and using bench-marks to tailor implementation plans to development needs and provide accountability.
- (c) Ensuring more effective and supportive relations with other international institutions, particularly the UNCTAD/WTO International Trade Centre and the international financial institutions.

V. ENHANCING INTEGRATION AND EXCHANGE AMONG WTO BODIES AND COMMITTEES

5. Discussions in the CTD confirm that there has not been enough attention to the question of how the work of the various committees, working groups and negotiating bodies deals with the important issue of S&D, either in terms of actual program results (e.g., in the Subsidies and Countervailing Measures (SCM), Technical Barriers to Trade (TBT)/Sanitary and Phytosanitary Measures (SPS) Committees and Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS)) or in helping to assess and define needs for technical assistance purposes. We recognize the potential for monitoring procedures to assist Members in this regard, by allowing Members to identify specific technical assistance "needs" across WTO agreements and therefore enhance the ability to take advantage of the range of opportunities available. To date, there have been a number of "Member Surveys" of technical assistance needs that have been undertaken by Committees with the express

goal of matching resources to requirements. We see the usefulness of this demand-driven process and further efforts are possible to improve coordination. One observation we have made regarding "needs" surveys is that they are only as useful as the information that can be provided by Members. Monitoring procedures that bring attention to such self-identification processes would be a positive contribution toward the WTO's development agenda. As part of monitoring, technical assistance surveys (such as those in the TBT and SPS Committees) should be forwarded to the CTD.

6. We join other Members in noting the existence of a broad range of information available on trade integration and development issues with relevance to S&D monitoring. These materials include such items as Diagnostic Trade Integration Studies, Trade Policy Reviews (TPRs), and committee reports. Working with the Secretariat, the CTD should provide Members with regular updates on documents tabled in other bodies that relate to S&D.

7. Beyond dissemination of materials, we believe Members would benefit from a greater exchange among WTO bodies on the topic of S&D. To help harness the efforts of WTO's various groups and committees, we suggest CTD Members consider increasing the interaction among the CTD and other bodies, holding back-to-back sessions or joint sessions with other WTO bodies on S&D issues, and exchanging questions and replies, as needed. A constructive approach to this exchange would take account of what works and what does not and expose gaps in the effective use of S&D. We are open to additional creative ideas from Members to enhance efforts toward a fuller exchange.

VI. ASSESSING UTILIZATION AND ENSURING ACCOUNTABILITY IN S&D PROVISIONS TO FURTHER INTEGRATION INTO THE WTO SYSTEM

8. Discussions to date have shown that a one-size fits all approach to transition periods may not be the most effective means of responding to the needs of individual developing-country Members as they pursue implementation of Agreements. An effective review of such provisions, if undertaken with a view toward strengthening them, and making them more precise, effective, and operational, will necessarily require a close examination of utilization rates of S&D throughout the various WTO Agreements. We note the valuable research on utilization begun by the Secretariat in WT/COMTD/W/77/Rev.1/Add.4 which raises some important questions. Have developing-country Members utilized transition periods in agreements to put in place the necessary legislation and infrastructure? If not, why not? Effective monitoring procedures could help track S&D utilization in the Agreements and allow the CTD to follow trends in compliance with WTO obligations. As part of this exercise, Members should consider bench-marking as an approach to tailor implementation programs to the objective development needs of Members.

9. The Customs Valuation Agreement (CVA) provides a positive example of how bench-marking S&D can contribute to greater WTO integration. Like most WTO Agreements, the CVA provides developing-country Members with special transitional measures that allow individual implementation deadlines. While many developing-country Members undertook timely implementation of the Agreement, the Committee continues to address requests for special and differential treatment. Constructive engagement on such requests combines work on rules with technical assistance. Members have requested either a transitional reservation related to a particular implementation methodology or a further extension of time for overall implementation. Committee Members have been working together with requesting Members to develop individual and detailed bench-marking programs. The key to establishing successful transitional programs is cooperative consultation between customs officials and industry to find a way forward that builds an open customs regime.

VII. ENSURING MORE EFFECTIVE AND SUPPORTIVE RELATIONS WITH OTHER INTERNATIONAL INSTITUTIONS

10. CTD discussions have confirmed the importance Members place on greater cooperation among the WTO and other international organizations on S&D and related issues. Monitoring procedures can contribute to more effective and supportive relations with other international institutions, particularly the partnership between UNCTAD and the WTO forming the International Trade Centre (ITC). The ITC is an important resource that is not being fully utilized. In addition to the ITC, there are opportunities available within the IMF, World Bank, UN agencies, and the joint effort of the Integrated Framework to help address trade integration and supply-side constraints that Members have identified in our discussions. The CTD could be a focal point for information on development resources and opportunities available to address supply-side issues while fully respecting the institutional prerogatives of the various institutions. A natural step to assist the CTD in this role would be to offer good offices of the CTD chair along with the WTO Secretariat to act as liaison with Members and other international institutions. We note that some efforts are already underway in this regard.

VIII. BUILT-IN EVALUATION

11. Since any agreed monitoring will be a new procedure, we see practical merit in initially establishing such procedures on a provisional basis. The CTD could assign a fixed-term for these new procedures followed by a built-in evaluation with the aim of refining the existing procedures.
