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PROBLEMS MULTIPLY AND NEGOTIATIONS UNRAVELLING AFTER 3RD DAY

The HK Ministerial looks as if it is unravelling as problems in finding agreement on many topics multiplied on the third day (15 December).

The G90 submitted a major services proposal, to replace the whole Annex C of the Ministerial draft with its own text. A group of 6 developing countries also wrote a letter insisting that Annex C is not a consensus text and reaffirming their opposition to many parts of it.

The NAMA negotiations are also showing up wide divergences of views, with the facilitator reporting that positions are entrenched and there is some "backsliding."

Below is a report on the third day of the Conference.

With best wishes
Martin Khor
TWN

PROBLEMS MULTIPLY AND TALKS UNRAVEL AT WTO MINISTERIAL 3RD DAY

By Martin Khor (TWN), Hong Kong, 15 Dec 2005

The WTO Ministerial Conference seemed on the verge of unravelling after its third day, with many developing countries voicing opposition to the services part of the draft Declaration, and positions in non-agricultural market access being even more apart than before.

The G90, comprising the majority of developing country members, submitted a proposal on services, to replace the draft's Annex C on services with a new text of their own. Also, a group of 6 countries sent a letter to the Conference chairman expressing "fundamental concerns" with Annex C and stating that it cannot be part of the final Declaration.

It seems that the top-down un-transparent process of the services negotiations in Geneva in the past several months - manifested by the unpopular Annex C that was drafted by the Chairman of the services negotiations - is coming back with a vengeance to haunt those responsible for the process, and the Hong Kong Ministerial itself, as a full-blown controversy and crisis looks imminent.

Meanwhile, the fight over NAMA intensified, with a standoff between developed and developing countries. The differences have become so fierce that the NAMA facilitator described it in terms of "entrenched positions" and "backsliding" as compared to Geneva.

On Wednesday night, an official plenary session heard African and other developing countries arguing their case for immediate action to put an end to export and domestic subsidies in cotton, while the United States countered that its subsidies played only a very small role in the depression of prices that impoverish the cotton-producing countries.

A solution to the cotton problem would have to be part of the overall deal on agriculture, said the US again, thus dashing any slim hopes that Hong Kong could produce any significant outcome in terms of "early harvest" action on cotton subsidies.

At the same plenary, developing countries receiving trade preferences for bananas gave a graphic picture of the adverse effects on them of reforms to phase out the preferences, while other developing countries that are efficient argued how they were being deprived of export earnings because of the preferences. With the problem being so intractable, any solution seemed most elusive.

The Green Room meetings, involving about 30 members, went on Wednesday night till three, and resumed this morning. Facilitators continued to hold consultations, but could not report progress on either agriculture, NAMA or services. Much of the negotiating energy was still focused on the "LDC package" with intense efforts to reach some compromise on duty- and quota-free access for LDCs.

It became clearer today that an agreement on this topic, which has become a sort of "flagship issue" of the Ministerial, can be made only if the LDCs give up on their demands that such access be bound, provided to all LDCs and for all their products. A number of developed countries, especially the US, made clear they could not accept these conditions.

With so many intractable problems, some of which increase rather than decrease by the day, the feeling is growing that time is running out on this Ministerial.

The emergence of a possible crisis in services began with a formal letter sent by South Africa, Indonesia, Philippines, Venezuela, Kenya and Cuba to the Conference chairman, Hong Kong Commerce Secretary John Tsang, with copies to the services facilitator (Korean Minister Hyung Chong Kim) and WTO Director General Pascal Lamy.

"We wish to draw your attention to the fact that Annex C of the draft Ministerial Declaration is neither an agreed text nor a consensus document," said the letter. "Therefore, it is our position that the said Annex cannot be part of the final Ministerial Declaration.

"We have already expressed our fundamental concerns regarding the said Annex during the sessions of the CTS/SS (Council for Trade in Services Special Session), the TNC (Trade Negotiations Committee) and GC (General Council) and other correspondence with the Director General. However, we are fully committed to engage to resolve differences of views of the Members on this matter."

Some hours later, the Group of 90 developing countries (comprising the ACP Group, African Union and LDC Group) sent in their proposal for an alternative text to replace the present Annex C.

The G90 text differs from Annex C in fundamental ways. The detailed paragraph 1, containing specific commitments for each of the four modes in services, is replaced by more general language stating that members to the extent possible should strive to ensure that any negotiated commitments reflect improvements in all modes of supply, extended coverage of sectors, reduction of MFN exemptions and economic needs tests, and clarity in scheduling and classification of specific commitments.

The second paragraph in Annex C (on sectoral negotiations) has been removed. In paragraph 4(b), the reference to "framework agreement on government procurement" has been removed.

In paragraph 7 on the plurilateral approach, the three specific sub-paras (a), (b) and (c) have been removed, including the most contentious clause that members to whom requests have been made shall enter into plurilateral negotiations.

There are also other changes and additions, including some amendments to the sections in timelines and review progress.

It is to be seen what will be the response of other members, especially the developed countries, to the two submissions of these developing countries. There has been widespread speculation that the EU may also put in amendments, but to "strengthen" Annex C and the paragraphs on services in the body of the main text, with more details on Mode 3 commitments and possibly some language implying acceptance of quantitative benchmarking or numerical targets.

At a heads of delegation meeting Thursday evening, the facilitators presented reports of the progress in their consultations, according to a trade official. Guyana Minister, Clement Rohee, said convergence is emerging on aspects of the development package. He affirmed that the development package is not confined to LDC issues but discussions had started on these.

On duty- and quota-free access for LDCs to developed countries' markets, he reported that the LDCs want a predictable and secure commitment, and this goes beyond Doha. Members were positive and considered how to do this, including by binding the commitments. But other members said that binding was not practical. Rohee suggested to use the term "on a lasting basis", and work is focusing on whether such language can be accepted.

Another demand of the LDCs is that the access is provided for all LDCs, reported Rohee. However some developed countries had problems with this, although many members were willing to accept the term.

On product coverage, Rohee said that the LDCs wanted the access to cover all products. However, some countries could not accept this. Rohee said a compromise was being sought, for example, to make use of one of the options in Annex F, that those members with difficulty to make this offer could initially commit a specific percentage of products by a given date and progressively increase this over time.

The facilitator for services, Minister Kim from Korea, said the basis for discussion was the draft text. He reported that while many said it was a sound basis for negotiations, others wanted the text strengthened.

There was a third group of countries that viewed the text as too prescriptive and not in line with the GATS, and the services guidelines and procedures for negotiations. This group did not agree with the sections in the text on qualitative objectives, sectoral objectives and plurilateral negotiations. He also said the G90 would meet him to present him with their proposal.

The facilitator for NAMA, Pakistani Commerce Minister Humayun Khan, reported that there had not been much progress towards consensus on the draft. He had told an open ended working group that there was broad support for a Swiss formula with two coefficients.

But he admitted that this was countered by a group of developing Members who recently co-sponsored a letter to the Chairman of the Ministerial Conference, expressing the view that there needed to be strict parallelism between agriculture and NAMA. They believe that the contribution made by developing Members in NAMA had to be proportional to, and commensurate with, the contributions by developed countries in agricultural market access. These Members want language in the Ministerial text which would clarify and ensure this strict parallelism.

On flexibilities, many developing countries want the flexibilities in paragraph 8 of the NAMA framework to be independent of the level of ambition of the formula. But developed countries insist on linking flexibilities with the formula. There was also disagreement among members on treatment of unbound tariffs and the sectoral approach.

He added that the small and vulnerable countries insist on further exemption for countries with a share in world trade of below 0.1%; but there was opposition against this from developed and some developing countries.

On paragraph 6 flexibilities, the countries involved want to extend their exemption to sectoral cuts; and want the binding around a certain percentage removed. Others suggest a non-linear mark up.

On preference erosion, some countries find that there should be recognition for the problem through the identification of vulnerable products. Others however see preferences as a trade distortion that should end; they suggested compensation through Aid for Trade.

Newly acceded countries demanded a higher coefficient and a larger percentage (3% extra) for flexibilities. But there is no consensus on this.

Khan concluded by saying that it is becoming increasingly evident to him that delegations have remained entrenched in their Geneva positions and have not demonstrated the necessary flexibility to turn this Ministerial into a success story. He also felt that there may be some risk of backsliding on some of the issues.