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## **Third Meeting of Trade Ministers of Landlocked Developing Countries (LLDCs)**

### **Comments on the World Trade Organization (WTO) Doha Trade Negotiation Round**

**Statement by**

**H.E. Ambassador Rudolf BAERFUSS - Switzerland**

**Switzerland**

**Ezulwini, Swaziland, 22<sup>nd</sup> October 2009**

Mr. President, Honourable Minister Senator Mashwama,  
Excellencies,

Mr. Shishir Priyadarshi from the Secretariat of the WTO has been very able in giving us a complete and admirably balanced picture of the current state of negotiations in the Doha Round. I can therefore limit my remarks to a couple of comments on the current state of play from a Swiss perspective. I will also try to give you an up-date on negotiations on Freedom of Transit, an issue which perhaps does not take center-stage in Geneva, but which for obvious reasons is of great interest to LLDCs, and on which the LLDC-group and Switzerland are cooperating in Geneva.

### **Overall picture**

Allow me to use a familiar image to describe our overall assessment of the current state of play of the Doha Round: Current trade talks are not yet out of the tunnel. I wouldn't even say that we see the light at the end of the tunnel yet. But we are at least *in* the tunnel, on our tracks again after a number of set-backs, and moving. And some trade-diplomats in Geneva who are gifted with particularly sharp eye-sight even assert to be seeing light glimmering on the walls behind the next turn, which could indicate that we may soon have a better sense of where we are heading to.

A breakthrough didn't seem impossible in July 2008, when some Trade Ministers met in Geneva in the hope to prepare an agreement in particular on market access for agricultural and industrial goods. As you know, negotiations broke down after failing to reach a compromise on a safeguard clause for developing countries on agriculture. After the breakdown, negotiations continued at the technical level and revised texts *inter alia* on Agricultural and Industrial Goods were issued in December 2008. Switzerland considers these texts as being the basis for further talks.

Not much happened in Geneva in the first half of 2009, due to domestic constraints of some important WTO Members, domestic constraints that in part hamper negotiations up to the present day.

The informal Ministerial Meeting of Trade Ministers in New Delhi at the beginning of September as well as the G-20-meeting in Pittsburgh at the end of September did inject new life in the talks. The objective set by the G-20 – to conclude the round in 2010 – is of course met with some skepticism by those of us that have seen many deadlines come and lapse without much ado. New Delhi and Pittsburgh nevertheless managed to set talks on the track and moving again. The G-20 decided to review progress by Trade Ministers early in 2010 and again, by Heads of Government and State, at its next meeting in Canada in June 2010. By deciding to convene regular meetings at the level of Senior Officials in Geneva, an attempt has been made to transfer this momentum to Geneva. As we speak, Senior Officials are in fact in Geneva for their second meeting since Pittsburgh in order to take stock of current progress and give further guidance to the intense work being carried out in all negotiating groups. Furthermore, since the meeting in New Delhi and Pittsburgh, Members seem more willing to tackle all open aspects which are part of the single undertaking of the Doha Round in parallel, without artificially limiting the focus on modalities for agriculture and industrial goods. This is a welcome development from Switzerland's perspective. Many areas of negotiations are technically and politically not as mature as Agriculture and Industrial Goods, two areas in which differences are few and well-identified. Progress on such important issues as services, rules, trade-facilitation, trade and environment or the TRIPS-related issues is also called for, so as to allow us to conclude all negotiations at the same time.

Switzerland expects that until early 2010 intense and useful work will be carried out in Geneva and in bilateral meeting and hopes that a breakthrough will be possible in the coming months.

Many obstacles however remain. Public opinion in many countries has become more sceptical with regard to international trade in the wake of the current economic and financial crises. Insecurities with regard to the domestic situation of a number of important WTO-Member persist, including the renewal of the current Commission of the European Union, presidential elections in Brazil and parliamentary elections in the US. The good news is that from a purely technical point of view the conditions for

a breakthrough seem as good as ever, and that the overall gains to be made from this round both in terms of economic windfall and of systemic stability are well recognized.

As I said: We are in the tunnel, on the tracks, and moving, but not quite with full speed. What is needed now is a lot of hard work in order to achieve steady and concrete progress on all open issues.

### **On Freedom of Transit**

On Freedom of Transit: As you know, the Negotiating Group on Trade Facilitation has been mandated inter alia to “improve and clarify” Article V of the GATT on Freedom of Transit. Negotiations on Trade Facilitation have been considered the “success story” of the Doha Round almost since their start: Work in the negotiating group has proceeded well on the basis of a series of textual proposals and their revisions up until last summer. As a result of the deadline set by the G-20 to conclude negotiations by 2010, the Chair has called upon Members to establish a consolidated draft document containing all textual proposals as well as alternative wording suggestions until the end of this year. This document will then serve as a basis for detailed negotiations in 2010 and lead - or so we hope - to the establishment of a new WTO Agreement on Trade Facilitation, which will include an important chapter on Freedom of Transit.

Switzerland and a group of LLDCs have been collaborating very closely on this issue and have been the co-authors of the most comprehensive textual proposal on Freedom of Transit that now serves as a negotiating basis.

At the last meeting of the Negotiating Group in Geneva, from the 5<sup>th</sup> to the 9<sup>th</sup> October, it emerged clearly however that two issues on Freedom of Transit remain disputed.

The first concerns the scope of the disciplines on Freedom of Transit: A number of countries do not see any merit in having explicit language on goods transiting via

fixed infrastructure such as pipelines as well as electricity grids. In Geneva, many believe that this is the most controversial and difficult issue in the context of these negotiations on Freedom of Transit. We for our part believe that it should be possible to find a mutually agreeable solution to this issue in due time, as positions on the basic intention seem to be close.

The second issue is of a more fundamental nature and concerns the exact meaning and extent of disciplines on Freedom in Transit of Article V of the GATT. Some WTO-Members estimate that due to the heavy burden of transit traffic that they have to bear, they should be allowed to regulate and limit traffic in transit in order to protect traffic infrastructure, or in pursuance of other legitimate policy objectives. This view is contested by other Members, who would not want to see negotiations misused to limit instead of improving Freedom of Transit disciplines. A solution to this issues will have to be found.

Allow me to recall that the exact meaning of GATT V has never been precisely defined in the long history of the GATT. In fact, only one panel report has ever examined and to some extent clarified certain aspects of GATT V. Recent media reports suggest that India and Brazil are considering lodging a case on the seizure of certain products in EC transit ports due to alleged violations of Intellectual Property Rights. It is argued that GATT-V disciplines might have been violated in the process.

I desired to mention these two examples to illustrate that there is a growing recognition of the importance of disciplines on Freedom of transit for a rules-based international trading system well beyond the Group of Landlocked Countries. It is perhaps an irony of history that up to the present it is sea-faring nations that had and have recourse to WTO-Freedom-of-Transit rules to seek remedy from measures they estimated being discriminatory, and not LLDCs. We expect that as a consequence of these dispute settlement cases and as a consequence of the on-going negotiations the Freedom-of-Transit disciplines will play a more important role in the future.

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<sup>1</sup> Dispute Settlement Case 366 between Colombia and Panama on Restrictions on Ports of Entry, on which the Panel has issued a report on the 27<sup>th</sup> of April 2009.

## **Concluding Remarks – On the importance of the WTO**

Mr. President, Excellencies,

Trade talks have been in this past year overshadowed by continued instability and uncertainty in the financial sector and a rapid decline in economic activity throughout the world economy. In addition, the measures designed to stabilize the financial system and reduce the severity of the recession risk creating the very barriers to trade that World Leaders agreed to avoid repeatedly. LLDCs are among those worst hit by the effects of this crises, and do not necessarily have at their disposal the means to counter the effects as industrialized countries have .

The crises has highlighted the importance of the World Trade Organization in upholding a rules-based international trading order, and interest which Switzerland and the Group of Landlocked Developing Countries share. Allow me therefore to conclude by thanking you for the privilege to participate in your important work as an observer country and by thanking you for the excellent collaboration of our respective delegations in Geneva .