

MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND

RESTRICTED

MTN.GNG/NG2/6  
21 March 1988

Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on Non-Tariff Measures

MEETING OF 22 AND 25 FEBRUARY 1988

Chairman: Ambassador L. Duthie (Australia)

Note by the Secretariat

1. The Negotiating Group held its sixth meeting on 22 and 25 February 1988. It adopted the agenda contained in GATT/AIR/2545.
  - A. Continued examination of proposals by participants with a view to reaching a common understanding on appropriate techniques and procedures (bilateral requests and offers, subject to procedures to ensure transparency; multilateral approaches) and on subjects to be dealt with multilaterally.
2. The representative of Australia recalled that his delegation had circulated in MTN.GNG/NG2/W/8 a proposal relating to the measurement of the effective rate of assistance to industry (ERA) which it considered to be a useful concept for assessing offers on tariffs and non-tariff measures and progress in the negotiations. This was not a new concept though it had not been used in trade negotiations before. He suggested that the secretariat be asked to prepare an information document on the use which had been made of the concept and on the possibility of applying it in the negotiations in the way envisaged by Australia.
3. Many delegations offered their initial comments on the Australian proposal. Some delegations recognized that the ERA concept was already familiar to them as a tool for national administrations, but they were doubtful about its applicability in the GATT context, and particularly, in the negotiating process. They pointed out that at this stage the Group needed to focus on reaching a common understanding on appropriate techniques and procedures for the negotiations, whereas the ERA was not designed to be a negotiating technique. They also pointed out that the ERA did not make a distinction between GATT consistent and inconsistent measures, and therefore would be contrary to the clear understanding of the negotiating mandate of the Punta del Este Declaration. One delegation recalled that it had proposed that the secretariat be asked to gather supplementary information for the implementation of the principle of differential and

more favourable treatment for developing countries. Other delegations were ready to explore the possibility offered by the ERA concept though they saw some weaknesses in it. They considered that an information paper by the secretariat could assist individual delegations in addressing the relevance of the ERA concept for trade negotiations. There would be use for the ERA concept when the time came for assessing the concessions made in the negotiations, but at the moment the Group had to go ahead with its work without digressing into the ERA. At the end of the discussion, the Chairman suggested that further consultations be held on the concept and on the work that the secretariat could carry out on the subject. It was so agreed.

B. Consideration of next steps in the work of the Group and arrangements for further meetings.

4. The Chairman introduced his proposal contained in MTN.GNG/NG2/W/10 which set out a number of elements for a practical way of carrying the negotiations forward. Many delegations welcomed the proposal and thought that it could be adopted by the Group. They considered that it would enable the Group to make progress in fulfilling its task without prejudicing any delegation's position. However, other delegations required more time than was envisaged in the proposal to identify measures that they might table for negotiation. Even though the right of delegations to make submissions after the expiry of the deadline was preserved under the proposal, the target date of July 1988 for a decision on modalities for negotiations implied that this decision could be taken in the absence of proposals from many participants, including developing countries. Therefore these participants suggested that the target dates envisaged in the proposal be modified to take account of their concerns. Some participants could not accept the proposal because it did not acknowledge the connection which existed between the Negotiating Group on Non-Tariff Measures and other Negotiating Groups such as the ones on Tariffs and Natural Resource Based Products. Another delegation thought that the objective of the negotiations should be set out more clearly than was the case in the proposal.

5. After some informal consultations, the Chairman submitted a revised proposal (Annex). The delegation of Chile made the following statement:

"In order to avoid undermining the consensus, the delegation of Chile gives its approval to the document entitled Proposal by the Chairman. It does so, however, with the following reservation and understanding:

Chile understands that paragraph 2 of the Chairman's Proposal refers to the very close link that exists between the Negotiating Groups on Tariffs, Non-Tariff Measures, Natural Resource Based Products and Textiles. These four groups form what is known as the Group on Market Access and in view of this close link you, Mr. Chairman, are Chairman of all the above-mentioned groups.

Consequently, the progress made in the Negotiating Group on Non-Tariff Measures should benefit and be applied at least in an identical manner to natural-resource based products. That is the sense of paragraph 2 of the Chairman's proposal and it is only on that understanding that Chile gives its approval to this Proposal.

No good can come of leaving out of this Group the issue of natural-resource based products. It must be understood that for a large number of countries, developed and developing, there can be no success in these negotiations, until the existing imbalance in concessions between industrial products and natural resource based products is rectified.

This must particularly be taken into account when the time comes for adopting decisions that are of greater importance than this one."

6. The representative of the European Communities contested the statement made by the representative of Chile. The representative of Peru shared the views of the representative of Chile with regard to the close linkage between the Negotiating Groups on Tariffs, Non-Tariff Measures, and Natural-Resource Based Products, as well as on the need for parallel progress to be made in these three negotiating groups.

7. The revised proposal was adopted.

8. The representative of Uruguay then stated that his delegation was not opposed to the consensus but that it did not participate in it. Part I of the Ministerial Declaration launching the Uruguay Round had been adopted by the CONTRACTING PARTIES and consequently, the negotiations which would be carried out under it would be conducted according to the legal framework of the General Agreement, or the Instruments negotiated within the framework of GATT or under its auspices. The non-tariff measures over which negotiations would be held in the Negotiating Group on Non-Tariff Measures would therefore be the ones which were within the framework of the General Agreement, the Instruments negotiated within the framework of GATT or under its auspices. His delegation reserved the right not to accept the discussion in the Group of measures which were not consistent with the General Agreement and to refuse proposals for his delegation to negotiate on such measures.

9. The representative of the European Communities reserved his position on the statement of the representative of Uruguay. The representative of India failed to understand why the European Communities had a reservation to make on the statement of Uruguay which in substance was consistent with the Ministerial Declaration, and agreed that the concerns expressed by Uruguay could have been reflected more clearly in the Chairman's proposal which had just been adopted. The representative of Chile fully shared the concerns of Uruguay. Measures which were not consistent with the GATT were not negotiable. The representative of Brazil thought that the date retained in paragraph 5 of the proposal was too restrictive for developing countries but his delegation had accepted it for the sake of progress in the negotiations.

10. The Chairman suggested that the Negotiating Group hold its next meeting on 9 and possibly 10 May 1988 in order to conduct an exchange of views on the progress made in the preparation of submissions. The subsequent meeting of the Group would be held on 18-19 July 1988 after the expiry of the target date envisaged for the initial submission of proposals. It was so agreed.

C. Other business

11. The representative of Indonesia stated that the subject of pre-shipment inspection had been discussed in the Committee on Customs Valuation but because the problems related to pre-shipment inspection were broader than those addressed by the Committee, his delegation considered that it should be taken up in a wider forum. The discussion should respect the interests, rights and obligations of all participants, particularly since some 20 developing countries which implemented pre-shipment inspection programmes were not signatories of the Customs Valuation Code. In the last few years, pre-shipment inspection programmes had been criticized as contributing to delays, increased costs and arbitrary price determination on the basis of unverified allegations. Certain governments and industry groups in developed countries had sought unilaterally to regulate and/or inhibit the use of pre-shipment inspection programmes. Therefore Indonesia believed that the subject of pre-shipment inspection programmes should be taken up in the Uruguay Round negotiations, and that the Negotiating Group on Non-Tariff Measures was the competent forum to do so. As a multilateral issue, pre-shipment inspection required a multilateral response, rather than unilateral regulation.

12. The representative of the European Communities welcomed the suggestion of Indonesia, as his delegation supported the search for multilateral solutions to problems in preference to unilateral action, as had clearly been stated by it at the latest session of the CONTRACTING PARTIES. The Chairman suggested that the secretariat be asked to prepare an information note on pre-shipment inspection which would provide background for a discussion of the problem which might take place at the next meeting of the Group. It was so agreed.

Annex

SUBMISSION OF PROPOSALS

Proposal by the Chairman adopted by  
the Group on 25 February 1988

1. This note sets out a number of elements for a practical way of carrying the negotiations forward, with a view to reducing or eliminating non-tariff measures, including quantitative restrictions, without prejudice to any action to be taken in fulfilment of the rollback commitments. Participants in the negotiations reiterate their commitment to the general principles set out in Section B of Part I of the Ministerial Declaration launching the Uruguay Round, including paragraphs (iv) to (vii) thereof, which relate to developing countries.
2. The note is not complete and does not include, for instance, an element dealing with the relationship between the Negotiating Group on Non-Tariff Measures and other Negotiating Groups linked to it.
3. Without prejudice to a decision on the modalities for negotiations referred to in paragraph 7, participants would set out separately, to the extent possible by 30 June 1988, indicating in each case the aims of their proposals (eg. elimination or reduction):
  - where multilateral approaches directed towards the establishment of rules of general application are proposed, the categories of non-tariff measures to be covered and, for each category, the problems to be dealt with and an assessment of their trade effects together with any supporting data;
  - where formula or other systematic approaches relating to quantifiable or other non-tariff measures are proposed, the categories of non-tariff measures to be covered, an assessment of their trade effects together with any supporting data, the formula to be used and the basis for the application of the formula;
  - where request and offer procedures directed towards negotiation on specific measures applied by individual participants are proposed, the measures concerned (where applicable on a tariff line basis) and an assessment of their trade effects together with any supporting data.
4. These proposals would be without prejudice to any action to be taken in fulfilment of the rollback commitments which provide that:

- (i) all trade restrictive or distorting measures inconsistent with the provisions of the General Agreement or Instruments negotiated within the framework of GATT or under its auspices, shall be phased out or brought into conformity within an agreed timeframe not later than by the date of the formal completion of the negotiations, taking into account multilateral agreements, undertakings and understandings, including strengthened rules and disciplines, reached in pursuance of the objectives of the negotiations;
- (ii) there shall be progressive implementation of this commitment on an equitable basis in consultations among participants concerned, including all affected participants. This commitment shall take account of the concerns expressed by any participant about measures directly affecting its trade interests;
- (iii) there shall be no GATT concessions requested for the elimination of these measures.

5. Participants would also, by 30 September 1988, make any specific proposals regarding procedures for the conduct of the negotiations, including any proposals for specific modalities for the principles laid down in paragraphs (iv) to (vii) of Section B of Part I of the Ministerial Declaration launching the Uruguay Round, and any proposals relating to additional data requirements for the negotiations.

6. Participants would retain the right to make further proposals at any stage of the negotiations.

7. The Group will meet in July 1988 and possibly subsequently to examine proposals referred to in paragraph 3 above. It will also meet in October 1988 to examine further proposals referred to in paragraph 3 and proposals referred to in paragraph 5 above with a view to taking a decision on the modalities for the negotiations, including procedures to ensure transparency and the role of the Group in this regard. When more clarity is obtained on how the negotiations would proceed, the Group would examine any proposals regarding additional data required for the negotiations.