

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

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Group of Negotiations on Goods (GATT)  
Negotiating Group on GATT Articles

NEGOTIATING GROUP ON GATT ARTICLES

Meeting of 3 March 1987

Note by the Secretariat

Revision

Appointment of the Chairman

1. Mr. John M. Weekes (Canada) and Dr. Chulsu Kim (Korea) were appointed Chairmen of the Negotiating Groups on GATT Articles and on MTN Agreements and Arrangements for the initial phase. They were appointed on the understanding that Mr. Weekes would have primary responsibility for GATT Articles and Dr. Kim the primary responsibility for MTN Agreements and Arrangements. In the absence of Mr. Weekes, the meeting was chaired by Dr. Kim.

Requests by interested parties for review of GATT Articles, Provisions and Disciplines

2. A number of delegations stressed the importance of agreeing on the organisation of the work of the Group at an early stage, in order for the Group to be able to meet the timetable for the initial phase of the work, as set out in the Negotiating Plan. Some delegations expressed the view that any request for review of a GATT Article should be accompanied by a detailed justification in writing of why the request was being made. Other delegations, without opposing the idea of having a justification, considered that such justification was not essential in the preliminary stages of the work, and that the justification for a request in regard to a particular Article could be made in due course.

3. It was suggested that it would be appropriate in the first instance, in order to avoid unnecessary duplication of work, for the Group to exclude from its consideration those Articles which were to be taken up in other Negotiating Groups, such as Articles VI, XVI, XIX and XXIII. Other delegations agreed that this was a practical manner in which to proceed, but noted that all contracting parties had the right to request the review of any GATT Article by this Group at any time should they consider it in their interests to do so.

4. Some delegations expressed the view that the Group did not have a mandate to seek to overhaul or to rewrite the General Agreement. The

purpose of the exercise was rather to identify certain specific problems and to address these within the structure of the General Agreement as it stood. One delegation said that in the view of his authorities, GATT provisions were not by and large in need of revision. The basic problem was a political one relating to a lack of willingness of contracting parties in certain cases to abide by their GATT obligations. This delegation also noted that while any contracting party was entitled to request the review of a GATT provision, it was a matter for common determination whether negotiations on the revision of any provision were appropriate. Other delegations said that the present exercise provided an opportunity to examine the adequacy of the existing balance of rights and obligations among contracting parties. One delegation also referred to the balance of benefits derived by contracting parties from the General Agreement.

5. Article XXIV was identified by several delegations as requiring review in the context of the present exercise. A number of these delegations considered that the drafters of the Article had not foreseen the widespread growth of preferential regional arrangements which had occurred since the GATT's inception, and in the present situation countries which were not party to these arrangements were at a severe disadvantage. In addition to some specific questions, such as the method of calculating the "general incidence" of duties and regulations before and after the formation of a customs union or a free trade area, certain delegations considered that a general weakness of Article XXIV was its failure to provide adequately for surveillance of regional arrangements. Other delegations expressed the view that the basic problem was a lack of commitment to comply with the provisions of Article XXIV.

6. One delegation said that a review of Article XVII was required, particularly with reference to the requirements that state trading enterprises conduct their transactions in a non-discriminatory manner and on the basis of commercial considerations. In the view of this delegation, it was also necessary to clarify notification requirements under Article XVII in order to be able to make a proper assessment of the extent to which contracting parties complied with their obligations. Other delegations were of the view that the provisions of Article XVII were satisfactory, and that the focus of any review should be the application of these provisions by contracting parties.

7. Many delegations identified various aspects of Article XXVIII as being in need of review. Most of these delegations considered that the manner in which negotiating rights were defined for the purpose of tariff renegotiations was inequitable. In this view, the concept of "principal supplying interest" required redefinition in order to take account of smaller suppliers for whom a product on which the tariff binding was being renegotiated represented a significant source of export earnings. It was noted that Paragraph 5 of the interpretative notes to Article XXVIII:1 foresaw such a possibility. A related question raised for examination concerned the method of calculation of trade shares for the determination

of suppliers' rights. In the view of one delegation a question for consideration was whether suppliers' rights should be calculated so as to exclude trade under contractual preferential arrangements. Certain delegations also expressed the view that in the determination of suppliers' rights, provision should be made for potential trade growth, both in terms of new products entering trade and new entrants in a market. One delegation considered that when an unlimited tariff binding was replaced by a tariff quota, the level at which the quota was fixed should make provision for potential trade growth. Finally, some delegations stated that in their view there was a need to ensure that contracting parties did not resort too readily to the right to renegotiate tariff bindings, since this would undermine the security of access enjoyed on account of the bindings.

8. A number of other GATT provisions were proposed for review in the context of the present exercise. These were: Articles XI, XIII, XII, XVIII, XV, XXI, XXV and the Protocol of Provisional Application of the General Agreement.

9. The Group agreed that the secretariat would prepare a factual background note on the problems that had been identified in the Group's discussions and in earlier discussions in the Senior Officials' Group and the Preparatory Committee, and also providing background information, on the basis of material available in the Analytical Index, on each of the Articles mentioned in paragraphs 5-8 above and on the Protocol of Provisional Application.

#### Observer Organisations

10. The Chairman noted that a number of international organisations had sought observer status in the Uruguay Round or in specific Negotiating Groups. Consultations had taken place among delegations on this matter and the GNG would take a decision at its next meeting on the requests received, taking into account any views expressed in the Negotiating Groups in this regard. No proposal was made regarding observer status in this Negotiating Group.

#### Other Business

11. It was agreed that the secretariat would prepare a short factual note on the proceedings of each meeting.

12. It was agreed that the next meeting of the Group would take place in the week beginning 18 May 1987.