

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Negotiating Group on GATT Articles

COMMUNICATION FROM NEW ZEALAND

The following communication, dated 14 May 1987, has been received from the delegation of New Zealand with the request that it be circulated to members of the Group.

The agreed Negotiating Plan for this Group calls upon participants to make requests for review of GATT Articles, provisions and disciplines, indicating why they consider that these should be the subject of negotiations. In light of this, and without prejudice to the possibility of requesting reviews of additional Articles, provisions and disciplines or providing more detailed elaboration, the New Zealand delegation requests a review of the following Articles for the reasons indicated below.

The request is also without prejudice to the possibility of the review of some of these Articles being carried out in separate Negotiating Groups, such as those on Agriculture and Subsidies and Countervailing Measures where they might more appropriately be discussed.

A. Article II 1 b: The lack of a definition of the phrase "ordinary customs duties", and the terms of the final sentence of this sub-paragraph which allows duties and charges other than "ordinary customs duties" to be imposed solely on imports if these were in existence on the date of a contracting party's accession, can allow some contracting parties to impose charges, solely on imported goods, in excess of the rates bound in the GATT. These charges therefore could impair the value of such concessions. New Zealand does not believe that it was intended that the terms of this Article could allow for a practice or system with the potential to impair bindings on tariff rates.

To ensure that the value of GATT bindings is not impaired by the application of duties or charges in excess of bound tariff rates, New Zealand requests that this paragraph be reviewed with a view to redefining the phrase "ordinary customs duties" to encompass all duties, taxes, levies or other charges (with the exception of those duties and charges subject to the terms of Article II 2) applied solely to imported products.

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B. Article XXIV 5 a: In the course of consideration by GATT contracting parties of customs unions there has been considerable but inconclusive discussion concerning the interpretation of the phrases "the duties and other regulations of commerce" and "the general incidence of the duties or regulations of commerce applicable" in sub-paragraph XXIV 5 a. This sub-paragraph in which these phrases occur is intended to define a fundamental requirement to be met by customs unions in order to comply with Article XXIV. In light of the lack of uniform interpretation of such a key provision, New Zealand proposes that this sub-paragraph be reviewed with a view to providing a clear definition of these phrases.

There has also been discussion concerning the precise meaning and implication of the terms "on the whole" as they occur in this sub-paragraph. There has been discussion, for instance, over whether this sub-paragraph implies the consideration of the impact of changes to duty rates or other regulations of commerce on individual contracting parties or whether such consideration is restricted to contracting parties as a totality only. New Zealand therefore proposes that this matter be reviewed in the context of a review of this sub-paragraph.

C. Article XXVIII 1: A number of contracting parties, including New Zealand, have raised in this Negotiating Group and in the Negotiating Group on Tariffs the problems faced by small countries which often have levels of trade which under the current interpretations of supplier status are insufficient to be involved in the renegotiations of concessions. New Zealand requests that Article XXVIII:1 be reviewed with a view to adding a new class of principal supplier along the lines which have been proposed by Switzerland, i.e. taking into account the importance of the exports to the exporting country concerned. New Zealand submits that one method to be considered in this context is to relate the value of exports to the GNP of the exporting contracting party.

D. Articles VI and XVI: New Zealand has submitted proposals for the review of Articles VI and XVI to the Negotiating Group on Subsidies and Countervailing Measures (MTN.GNG/NG10/W/2). These relate in particular to subsidies in general, export subsidies on products other than certain primary products, calculation of the amount of a subsidy, the definition of countervailable subsidies, and negotiating techniques. New Zealand intends to pursue these proposals in the Subsidies Group. New Zealand reserves its right to raise these proposals in this Group should it be considered appropriate to do so.

E. Article XI: New Zealand understands that detailed proposals on review of Article XI will be made in the Negotiating Group on Agriculture, focussing on those elements in this Article which allow for certain defined exceptions in respect of agricultural and fisheries products to the obligation to eliminate quantitative restrictions on goods. New Zealand reserves its right to raise this matter again in this Group should it be considered appropriate.