

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG10/2
10 June 1987

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Group of Negotiations on Goods (GATT)
Negotiating Group on Subsidies
and Countervailing Measures

MEETING OF 1-2 JUNE 1987

Note by the Secretariat

1. The Group held its second meeting on 1 and 2 June 1987 under the Chairmanship of Mr. Michael D. Cartland (Hong Kong). The Group adopted the agenda set out in GATT/AIR/2421.

Continuation of consideration of proposals by participants, together with any background notes, on issues to be taken up in the negotiations, and on negotiating techniques

2. The Group had before it written submissions by the United States (MTN.GNG/NG10/W/1), New Zealand (MTN.GNG/NG10/W/2), Korea (MTN.GNG/NG10/W/5 and MTN.GNG/NG8/W/3), Canada (MTN.GNG/NG10/W/6) and the EEC (MTN.GNG/NG10/W/7). Reference was made to a communication from Colombia submitted in the Negotiating Group on MTN Agreements (MTN.GNG/NG8/W/5). The Group had also before it two background notes by the secretariat (MTN.GNG/NG10/W/3 and MTN.GNG/NG10/W/4).

3. Several delegations put emphasis on the interrelationship between Articles VI and XVI. They considered that disciplines on the countervailing measures side were closely related to those on subsidies and that it would not be possible to deal effectively with countervailing duty problems unless appropriate solutions in the field of subsidies were also found. It was suggested that more could be achieved over the long term in the interest of eliminating trade distortions through improved disciplines under Article XVI. This should make it possible in turn to contemplate changes in the disciplines under Article VI. It was also pointed out that the recent increase in the use of countervailing duties was provoked by a growing perception of fading disciplines on subsidies and therefore one should not expect efficient solutions on the countervailing measures side only.

4. Several delegations, whilst acknowledging that the objective of the negotiations was to improve GATT disciplines, considered that prior to the possible establishment of new disciplines it was necessary to ensure that basic principles underlying Articles VI and XVI and the Subsidies Code were applied fully. In addition, before contemplating reinforcement or

extention of the rules there should be agreement on fundamental conceptual and definitional issues left unresolved in the Tokyo Round. In the absence of consensus on such basic matters, an attempt to establish a more elaborate edifice of rules and disciplines was bound to founder.

5. It was recalled that the Subsidies Code aimed to ensure that the use of subsidies by any signatory did not harm the trade interests of others and that countervailing measures did not unjustifiably impede international trade. The Code was, therefore, centred on a balance of rights and obligations in terms of equivalent disciplines regarding subsidies on the one hand and countervailing measures on the other, a balance which had been clearly upset over the years. For that reason any attempt to review provisions on subsidies and countervailing duties should aim to restore the equilibrium of rights and obligations by reinforcing the rules governing countervailing measures.

6. It was suggested that there was a great potential for abuse in the area of countervailing measures because they were discriminatory in their application, because they were not subject to compensation and there were no rights of retaliation, and because the present state of multilateral disciplines on their use left considerable room for unilateral interpretation. Several delegations identified issues they wished to raise in this context, such as definition of a countervailable subsidy (including the question of specificity), distinction between subsidies and other measures (including the concept of incentives for development or structural adjustment), measurement of the amount of a subsidy, issues related to the initiation and conduct of investigation (standing of petitioners, injury threshold, information available), imposition of countervailing duties (insignificant subsidy, marginal suppliers), injury (cumulation, cross-cumulation, criteria), definition of industry, definition of sale. Several delegations considered some new concepts in this field, such as targeting, as unacceptable insofar as its endorsement would put in question the industrial development policies, in particular those of developing countries.

7. Regarding the question of subsidies it was pointed out that at this very time a number of convergent factors might offer room and hope for the possibility of negotiating increased disciplines on subsidies. Almost all countries were facing severe budgetary deficit problems and some were beginning to realise that the economic return on the use of subsidies, especially under a competitive matching process, was considerably less than expected. There might, therefore, be a willingness to accept and negotiate disciplines on the subsidies that did not exist when the Subsidies Code was drafted in the Tokyo Round. It was also pointed out that the present negotiations were not starting from scratch but that there were already some disciplines which should not be revised downwards. Furthermore, agreed disciplines should not be circumvented by measures having a potentially equivalent effect or by subsidization of components.

In developing new or strengthening existing disciplines, special attention should be given to situations in third country markets where use of direct counter-measures was practically impossible.

8. Several delegations considered that in negotiating disciplines on the use of subsidies, account should be taken of the existing principles. In particular, any review of Articles XVI:1 and Article 8 should conform to the principle that subsidies other than export subsidies were widely used as important instruments for the promotion of social and economic policy objectives and that the rights of signatories to use such subsidies to achieve these and other important policy objectives which they considered desirable could not be restricted. It was suggested that a distinction should be made between subsidies acting as incentives to development or structural adjustment, i.e. not having trade distorting effects, and those which were used to promote otherwise inefficient production or for protectionist purposes. Another suggestion was that in parallel with the existing list of prohibited subsidies there might be a list of non-actionable subsidies. However, another view was that what really mattered was not one or another classification but effects on trade as provided for in Article XVI:1. A doubt was also expressed if, irrespective of possible multilateral agreements, governments would give up their sovereign rights to use subsidies if they needed them for the implementation of their economic or social policies.

9. Several delegations referred to the question of application of Article 14:5. It was pointed out that some problems in this field resulted from different interpretations and this was inconceivable in a multilateral body such as GATT. It was also said that whilst some considered that this article did not impose any obligation and that it was up to individual developing countries to decide what commitments, if any, they could enter into, another approach was to perceive Article 14:5 in conjunction with Article 19:9, which approach discouraged many developing countries from acceding to the Subsidies Code. Furthermore, this approach nullified the special treatment which developing countries should receive in terms of paragraphs 1, 2 and 4 of Article 14. For these reasons Article 14 should be reviewed to ensure full participation and better realization of developing countries' rights under the Code.

10. The Group agreed that, in accordance with the decision taken at its first meeting, the secretariat would prepare, on the basis of submissions received so far and those which would be received by the end of July 1987, a first version of the checklist of issues for negotiations. This list would be circulated at the beginning of September 1987 and it could be revised after the third meeting in the light of possible further submissions.

Observer organizations

11. The Group heard a number of proposals as to which international organizations could be invited to its meetings. It was agreed that the Chairman would hold informal consultations in order to propose how to deal with this issue in the future.

Date of the next meeting

The next meeting of the Group will be held, subject to confirmation by the Group of Negotiations on Goods, from 30 September to 2 October 1987.