

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG8/2
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Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on MTN Agreements
and Arrangements

NEGOTIATING GROUP ON MTN AGREEMENTS AND ARRANGEMENTS

Note by the Secretariat

1. The Negotiating Group on MTN Agreements and Arrangements held its second meeting on 21 May 1987 under the Chairmanship of Dr. Chulsu Kim (Korea). The Group adopted the agenda set out in GATT/AIR/2415.
2. The Chairman stated that in accordance with the request addressed to him at the Group's first meeting, he had held consultations with a number of delegations on the question of participation in the work of the Group. There had been full agreement on the following understanding regarding participation:

"First, all participants in the Uruguay Round are entitled to participate fully in every stage of the Negotiating Group's work. Secondly, the decisions of the Negotiating Group will be taken by consensus."

The Group agreed to this understanding.

Continuation of consideration of suggestions by participants indicating the issues that they wish to raise with respect to individual agreements and arrangements

3. The Chairman noted that there had been some discussion at the last meeting of the Agreements on Import Licensing and Technical Barriers to Trade, based largely on a submission by the United States (MTN.GNG/NG8/W/1). The Group had before it at this meeting a background note which had been requested from the secretariat at the first meeting on special and differential treatment of developing countries under the MTN Agreements and Arrangements (MTN.GNG/NG8/W/2). In addition, Korea had circulated a communication on the Anti-Dumping Code (MTN.GNG/NG8/W/3). Finally, Colombia had undertaken to circulate a proposal concerning Article 14.5 of the Subsidies Code and Japan had undertaken to circulate a document identifying for review certain aspects of the Agreement on Technical Barriers to Trade. These papers have since been distributed as MTN.GNG/NG8/W/5 and MTN.GNG/NG8/W/6 respectively.

4. Several delegations addressed the question of what the underlying objectives of the Group should be. Among the objectives mentioned were an increase in membership of the Codes, the establishment of a better balance of rights and obligations under the Codes, the clarification of existing disciplines, the establishment of new and improved disciplines, and the fuller integration of the Codes into the GATT system. A number of delegations were of the view that it would be useful at this stage for the Group to consider how it was going to organise its work. In this connection, one delegation suggested that a deadline should be established by which all suggestions and proposals concerning the Codes would have had to be made. This idea was opposed by a number of delegations. The Chairman, however, observed that it would help the Group's work if those delegations intending to make submissions did so as soon as possible. One view expressed was that the Group should only address those Codes which were not to be taken up in other Negotiating Groups. However, other delegations did not want the Group's mandate to be circumscribed in this fashion.

5. Reference was made by some delegations to the relationship between the Group and the Code Committees. The view was expressed that while work in the Code Committees would not come to a stop during the Uruguay Round, there was a clear linkage between this work and the Group's mandate. It was important, therefore, that the Code Committees kept the Group informed of their activities. It was also important that work in the Committees did not prejudice negotiations in the Group. It was suggested that the Chairman might hold consultations on this matter, and on the related question of the coverage of the Group's work.

6. A number of delegations spoke on the question of why more developing countries had not become signatories to various MTN Agreements and Arrangements. One view was that contracting parties had not refrained from becoming signatories because of any inadequacies in the special and differential treatment provisions of the Codes, but for a variety of other reasons. For example, some of the Codes presented little interest to certain countries, while in other cases it had been estimated that there was more to lose than to gain from joining the Codes, or that the administrative and legislative changes that would be required upon joining were too onerous. It was also noted that it was not only developing countries which had failed to sign all the MTN Codes. It was suggested that a difficulty with the Codes which made them less attractive was the lack of clarity and uniformity of interpretation and application of certain Codes. Another view was that the Codes had in certain respects actually weakened the disciplines of the General Agreement.

7. In introducing the paper circulated by his authorities on the Anti-Dumping Code (MTN.GNG/NG8/W/3), the representative of Korea expressed concern at the increasing number of anti-dumping cases that were being brought, and said that these actions in many countries resulted in the creation of real trade barriers. Part of the problem arose from the

application of domestic legislation which was inconsistent with the Code and from the arbitrary administration of national anti-dumping laws. Moreover, there were inadequacies in the Code itself, both of a procedural and a substantive nature. Many of these were mentioned in document MTN.GNG/NG8/W/3. A number of delegations expressed gratitude for the Korean contribution. Many delegations stated their intention to revert to the matter when they had had time to study the document.

8. Concern was expressed by a number of delegations in regard to draft anti-dumping and countervailing duty legislation currently under consideration in the United States Congress. This draft legislation included a number of concepts, which were inconsistent with international obligations, such as "diversionary input dumping", "cumulative injury assessment", and an expanded definition of "domestic industry" and coverage of countervailable subsidies. The representative of the United States said that to discuss draft domestic legislation in this forum was inappropriate, and that he was therefore not in a position to comment on it.

9. The representative of Colombia proposed (MTN.GNG/NG8/W/5) that the Group examine the manner in which signatories of the Subsidies Code interpreted and applied Article 14:5 of the Code. He expressed the view that the interpretation by one contracting party of this provision had effectively nullified it. This view was supported by a number of other delegations.

10. One representative, referring to the document circulated at the Group's first meeting by the United States on aspects of the Agreements on Import Licensing Procedures and Technical Barriers to Trade (MTN.GNG/NG8/W/1), said that his authorities were prepared to enter into negotiations on these issues. He mentioned in particular the desirability of establishing simple and transparent systems and procedures for non-automatic import licensing, and of working towards greater mutual acceptance of test data under the Agreement on Technical Barriers to Trade.

11. The Chairman undertook to request on behalf of the Group that the Committees of the MTN Agreements and Arrangements provide the Group with information on their work. He also undertook to hold consultations in advance of the next meeting on the relation between the work of the Group and that of the Code Committees, and on the future organisation of the Group's work. It was further agreed that the secretariat would prepare factual background notes on those aspects of the MTN Agreements and Arrangements which had been raised in the discussions.

Observer Organisations

12. The Chairman stated that following the decision of the Group of Negotiations on Goods taken on 14 April, each Negotiating Group was invited to make recommendations to the Group of Negotiations on Goods as to the international organisations which it considered could assist with its work and which it therefore wished to invite to its meetings. The Chairman also noted that a request for observer status in the Group had been received from the Customs Cooperation Council (CCC) and that the United States had

circulated a paper (MTN.GNG/NG8/W/4) proposing observer status for the World Bank, the International Monetary Fund, the United Nations and the United Nations Conference on Trade and Development. One delegation, supported by others, proposed that the CCC be invited to attend the Group's meetings. Some delegations also supported the proposal made by the United States. However, other delegations considered that it was unclear what contribution certain of the organisations mentioned could make to the Group's work. Another view was that it was premature to take any decision on this matter. The Chairman said that since there was no consensus, the Group could not make any recommendations at this stage.

Other Business

13. The Chairman proposed that the Group's next meeting be held on 17-18 September 1987. It was agreed that these proposed dates would be the subject of consultation if this proved necessary.