

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED

MTN.GNG/NG3/3

31 July 1987

Special Distribution

Group of Negotiations on Goods (GATT)
Negotiating Group on Natural Resource-Based Products

NEGOTIATING GROUP ON NATURAL RESOURCE-BASED PRODUCTS

MEETING OF 1 JULY 1987

Note by the Secretariat

1. The Negotiating Group (GNG/NG3), chaired by H.E. Mr. L. Duthie (Australia), held its third meeting on 1 July 1987. It adopted the agenda contained in the convening Airgram (GATT/AIR/2444).

2. The Chairman briefly recalled main points of discussion at the Group's previous meetings (cf. documents MTN.GNG/NG3/1 and /2).

Items A and B:- Continuation of exchange of views and/or proposals for organizing the work of the Group

- Determination of issues relevant to the negotiating objectives

3. Many delegation statements related jointly to Agenda Items A and B, and are hence also joined in the summary of points presented in this note.

4. A number of delegations drew attention to proposals made, and discussions held, in the Negotiating Group on Tariffs (NG1) and the Negotiating Group on Non-Tariff Measures (NG2), which had just concluded their third meeting. Some of the points and proposals made in these Negotiating Groups were mentioned as being relevant also for the deliberations in the Negotiating Group on Natural Resource-Based Products.

¹Major points made and proposals discussed in NG1 are summarized in MTN.GNG/NG1/3. In relation to NG3 work, attention is drawn in particular to paragraphs 3 to 8 of .../NG1/3 and, for details of delegation proposals, to documents MTN.GNG/NG1/W/5, 6, 7, 8 and 9. Major points made and proposals discussed in NG2 are summarized in MTN.GNG/NG2/3. For details of submissions by delegations in NG2 see documents MTN.GNG/NG2/W/3 and Corr.1, -/W/4 and -/W/5, the latter document is identical to MTN.GNG/NG1/W/6, MTN.GNG/NG3/W/3, e.g. submitted with a view to it being considered also in NG3. A delegation proposal submitted in NG Agriculture at its meeting on 6 and 7 July (document MTN.GNG/NG5/W/14) is also partly relevant (for fishery and forestry-products) in the context of NG3 work.

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5. Apart from the documents which were brought to the attention of the Group (references in footnote 1) NG3 received at its third meeting two written submissions by delegations, drawn up with a view to addressing problems encountered in the context of trade in natural resource-based products.

6. The submission by the United States, circulated in MTN.GNG/NG3/W/2, addresses the question of the scope and definition of the issues to be dealt with in relation to achieving multilateral agreement on natural resource-related objectives, with the aim of liberalizing trade in natural resource-based products, relating to both imports and exports, and also to clarify where existing GATT rules are inadequate to meet trade needs of participants. Broadly-defined issues taken up in the United States submission are: dual-pricing of natural resources, related export restrictions (including among other practices also export taxes and charges, local processing requirements, embargoes), subsidies (in respect of which a cross-reference is made in the submission to MTN.GNG/NG10/W/1), certain government ownership practices, tariff and tariff escalation and various types of non-tariff measures. Recognizing the need to take into account objectives and developments in other relevant areas of the negotiations, the submission noted that in respect of tariff and non-tariff import measures there were several negotiating groups that could act as appropriate venues for negotiation of these measures. The United States considers that within NG1 and NG2 a request/offer procedure would, generally, be the best modality for achieving countries' objectives for reduction of import barriers. Such a procedure provides maximum flexibility to all contracting parties regarding country participation, product and measures coverage and focus. Similarly, the suggested procedure is seen as being very suitable for dealing with problems of tariff escalation, as perceived by participants, without need for unnecessary debate over the definition of "escalation". The submission further stated that the United States believes that the product coverage for NG3 should be broad and that the Group should also consider country actions affecting energy-based products, including, but not limited to, petrochemicals, uranium, construction materials, and oil- and gas-processing. In closing, the United States delegate stated that he did not expect definitive comments and reactions to the United States proposal at this third meeting, given the fact that the proposals had only just been tabled.

7. Written submissions by the EC, distributed during the course of the meeting, covered two main headings: A. Distortions in the field of raw materials trade, and B. Multilateral negotiations in the fisheries sector - subsequently circulated in document MTN.GNG/NG3/W/4, dated 9 July 1987.

8. In introducing their submission, the EC representatives expressed the view that for natural resource-based products negotiation in the so-called horizontal groups would be impossible. Problems in the NRB product area were quite specific, in fact, it might be said, were different and specific even as between sub-sectors. It was not conceivable that distortions which, as was also brought out by the studies, were caused by import and export restrictions, access to resource limitations, price arrangements

(often officially encouraged), could meaningfully be dealt with in the existing horizontal groups. Among measures which distort trade, listed in heading A, were high import duties on various non-ferrous metals in certain specified developing as well as in some developed countries. The EC said that it was one thing to have protective duties, but still another matter when the duties were prohibitive. The EC's aim in the Uruguay Round was to reduce these duties to reasonable levels. Another problem cited was a ban on imported materials in one important market in public procurements relating to defence. Another problem arose from "double-pricing" (including "reverse-dumping"), and this was illustrated in relation to certain non-ferrous metals in specified markets with reference also to titanium sponge and phosphates. The EC said that although some of the problems would fall under the label NTM's, they were generally not covered by the GATT NTM group, and required special study and/or action, as, for instance, the problems dealt with by the Expert Group on Copper - whose work should be taken into account by NG3. Also mentioned were certain pricing policies (involving overcharging or undercharging) in transactions between affiliated enterprises, as compared with pricing practices in sales to non-affiliated enterprises. The EC submission further noted that this type of problem is covered in the UNCTAD Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, but that - on the other hand - there did not so far exist an appropriate GATT provision. Other measures distorting trade specifically referred to were export restrictions and export taxes on such products as hides and skins, logs and rattan and metal scrap. The EC considered that NG3 should seek to work out adequate provisions to eliminate these distortions, the objective being to adopt a standard procedure for dealing with such problems, rather than trying to solve them on a case-by-case basis. Noting that the few cases cited were typical, but not exhaustive, the representative of the EC reserved the right to table more formal proposals at a later stage.

9. Under heading B, the EC submission recalled that at Punta del Este the Community had underlined that, in regard to the fisheries sector, discussions would be carried forward only if all the factors specific to that sector and having trade effects are taken into consideration. The submission, referring also to GATT document MDF/W/55 - noted that the general extension of exclusive economic zones (EEZ) for fishery to 200 nautical miles since 1977 has resulted in:

- a radical change in the structure of trade;
- a proliferation of bilateral agreements on fisheries; and
- increased State intervention in fishery activities.

and that the trend towards bilateralism in respect of fisheries trade was directly threatening the principles of multilaterality and non-discrimination on which the General Agreement is based. Further, in the absence of generally accepted international rules for defining a "surplus" and criteria for its allocation (a matter, the EC said, perhaps not too dissimilar to the concerns expressed in the United States submission in relation to the issue of 'government ownership and management'), any tariff concession would carry the risk of encouraging arbitrary action by coastal States. Unless the question of access to

resources was taken up in the MTN it would be vain to believe that any expansion and liberalization of world trade can be achieved through multilateral tariff concessions. While noting and accepting the responsibilities arising from Part IV, and reaffirming support for the objectives of the Uruguay Round, the EC considered that NG3 should continue to identify problems arising in the fisheries sector, on the basis of the background documentation assembled by the Working Party on Trade in Certain Natural Resource-Based Products. More specifically, during the initial phase, the Group should further develop information regarding:

- (a) tariff and non-tariff measures on imports;
- (b) aids to production and trade; and
- (c) other factors specific to these products and which have trade effects.

As regards measures falling under (a) and (b) above, the EC would shortly be forwarding to NG3 a notification concerning its own measures in respect of fishery products (MTN.GNG/NG3/W/5 - circulated on 17 July 1987), stating further, that it would be necessary for other participants likewise to submit the relevant information. As regards (c), the Group's consideration was invited to the points in MTN.GNG/NG3/W/4, part B, and to document MDF/W/36, of 28 May 1985. The elements developed in these notes were important and should be examined carefully with a view to achieving the fullest liberalization of trade in the fisheries sector.

10. The Chairman and a number of delegates expressed appreciation of the efforts made in presenting written submissions to the Group, with the aim of helping NG3 in the task of organizing its work. Several participants reserved comments on the submissions for a later meeting, given the fact that they and their authorities had not yet had time to study the proposals made, especially as some of the texts concerned were still awaiting translation. They undertook to examine carefully the submissions made. The Chairman invited other interested delegations to submit any negotiating proposals they might wish to make to the Group, in writing.

11. There were, however, some initial reactions. Many participants felt that several of the problems raised in the United States and EC submissions, though presumably quite real and relevant in the context cited, were perhaps - and some felt, certainly - of a more general nature than the NRB instances cited. The EC submission, for instance, contained a reference to hides and skins, not one of the product areas covered in the Working Party on Trade in Certain Natural Resource-Based Products. If the concern was over hides and skins, then, presumably, there was some concern also over leather, and why not footwear? In the same vein - in forestry products, was the concern related only to wood, or also to pulp, paper and furniture? On the subject of natural resource-based product subsidies, could the same concerns and problems and a misallocation of resources not arise from any input subsidy? What all this added up to was that generic solutions were required for problems which are general in nature. One participant noted that the United States submission, more so than the EC submission, seemed to imply a search for generic solutions. A number of participants stated that they thought that problems of a general nature might best be worked out in horizontal-group approaches.

12. On the question of the suggested request/offer procedure for reducing or eliminating tariff and NTM barriers, several delegations stated that past negotiation-experience suggested that this might not be the optimal approach for achieving liberalization. They preferred, therefore, that tariff and NTM liberalization be pursued in a comprehensive manner, as envisaged in NG1 and NG2. Several of the comments made by delegations might, to some extent, be associated with the subject of tariff and NTM negotiations as such, rather than with the NG3 negotiations only, since most of the proposals referred to by delegations at the NG3 meeting had earlier been tabled in NG's 1 and 2. Moreover, the United States proposal, or rather proposals, envisage, or permit, negotiations on tariffs and NTM's to be pursued in different Negotiating Groups, but also by different means, so that request/offer procedures can be complemented by, for example, formula cuts. In fact, provision is made in the United States proposals for recourse to different modalities for different groups of participants. The view that tariff and NTM liberalization objectives should primarily be pursued through the type of comprehensive mechanisms proposed for NG1 and NG2 is, however, not shared by all of the NG3 participants. Thus, one of the participants reminded the Group that at least some of the sponsors of the NRB study and negotiation initiatives had stressed the need for deeper tariff cuts, fuller liberalization and earlier implementation of negotiation results for NRB products trade. Further, one of the specific delegation proposals, envisaging import duty elimination, did provide for tariff-cutting negotiations for forestry and mineral products in NG3, rather than in the context of NG1. Further, the stated position of one of the participants was that tariff and NTM liberalization in the fisheries area was dependent on other important factors also being dealt with in the negotiations. A proposal by one of the participants for the submission of export or negotiating interest's lists before the end of 1987 drew no objections, but received support from a number of delegations.

13. One participant, commenting on a proposal in the EC submission, recalled that no consensus had been reached at Punta del Este on coverage of restrictive business practices in the Uruguay Round, nor had a decision on that issue been taken in the GNG. The EC expressed its awareness of the points raised, but felt that part of the problem might be semantic, noting, at the same time, that dual-pricing practices, proposed as a negotiating issue in the United States submission, had some of the same effects and characteristics as certain restrictive business practices. These questions deserved further consideration.

14. The Group did not engage in a separate discussion of the product coverage to be aimed at in NG3 negotiations, except that one participant stated that his authorities were not in favour of extending product coverage beyond the product areas covered in the earlier study programme. Of relevance in this context are, however, the points made in the written United States and EC submissions, as well as some comments reflected in paragraph 10 of this note - and a specific problem, mentioned by one of the participants during the meeting - certain import regulations for coal, in Europe.

15. While some participants indicated that they did not see NG3 negotiations as sectoral negotiations, one of the participants from a developing country said that a sectoral approach should not a priori be excluded if it would facilitate greater liberalization for trade of developing countries, for instance through applying the 'favourable and differential treatment' concept to measures which would contribute to the establishment and development of processing facilities in developing countries, on the basis of their respective natural resources.

16. The problems set out in Part B of the EC submission in regard to multilateral negotiations in the fisheries sector attracted considerable comment. Several delegations stated that the question of negotiations on access to supplies was outside the scope of negotiations in the Uruguay Round and that questions regarding the interpretation, or application, of the United Nations Convention on the Law of the Sea (1982) was not within the jurisdiction of the GATT. This position had been clearly and repeatedly stated and remained unaltered. The EC pointed to the facts set out in their submission, identifying the trade effects resulting from the extension of the EEZ's and from various governmental policies and intervention measures. The EC had drawn attention to this problem on numerous occasions and had clearly defined the EC's position at the Punta del Este meeting, recorded in the Minutes (MIN(86)SR/7, pages 6 and 7), which state, inter alia, that the Community would pursue discussions in the fisheries sector only if all factors specific to this product and having an influence on trade therein were taken into account. Given the additional information now submitted to NG3, it was their hope that a consensus would develop to deal with all relevant aspects of problems of trade in fisheries. The EC, and others, urged that all of the participants (i.e., those against and those in favour of covering the issue of access to supplies) give further consideration to overcoming the problems of negotiations on fisheries.

17. Several delegations expressed disappointment over what appeared to be a certain lack of consistency in the approach to negotiations on NRB products. One participant explained that his authorities had not been among those sponsoring NRB problems to be dealt with in a special group. They had, however, been persuaded to see merit in the establishment of the NRB Negotiating Group and believed that there were, indeed, issues which could usefully be treated in NG3. On the other hand, it appeared, some of the original sponsors now seemed to see NG3's rôle as being limited primarily to monitoring developments in other NG's. Another participant found that on the part of certain exporters of NRB products, there appeared to be some hesitancy to address not only the question of liberalization of access to markets, but also the interests of importers of NRB products. It was necessary for all participants to recognize that the stated Uruguay Round objective of fuller liberalization of trade in natural resource-based products was unachievable, unless importers' interests, including also such issues as access to supplies, not only for fisheries, but even in the broader term of national security interests, were also fully taken into account. One participant stated that the discussions relating to the tasks before the Group had, to some extent, an air of unreality. If meaningful progress was to be made, realities would have to be faced. Other participants stated that, although they saw some of the issues proposed for

negotiations in NG3 as being better suited for negotiation in other NG's, or in other contexts, this did not mean that they wanted to avoid the consideration of real-world problems identified in relation to trade in NRB products, but, as they saw it, found also in other areas of trade. One participant noted that some of the questions raised, for example, in relation to the possible inadequacy of existing GATT provisions to govern NRB products trade might, perhaps, be better dealt with in NG GATT Articles. Similarly, subsidy problems and issues might usefully be dealt with in NG Subsidies which, under its negotiating plan, was expected to work towards the improvement of GATT disciplines relating to all subsidies and countervailing measures that affect international trade. The pursuit of negotiations on some issues in one or another GNG/NG, rather than in NG3 itself, should in no way be seen as a lack of commitment to strive towards achieving the agreed objectives of the Uruguay Round.

18. Interested delegations will continue to consult on the scope and coverage of negotiations in NG3, the organization of its work and the interrelationship with negotiations in other NG's. The Group will revert to these matters at a future meeting.

Item C: Review of existing data-base and/or other requirements for establishing a factual base for negotiations

19. At its third meeting the Group did not discuss this item separately. The Group will revert to this matter at a future meeting.

Item D: Observer organizations

20. The Group heard proposals that FAO, the IBRD, the IMF and the UN-Secretariat be granted observer status in the Group. The Group noted that questions concerning the criteria for observer participation in the Uruguay Round are still under discussion (cf. MTN.TNC/3, dated 22 July 1987, pages 3 to 6.)

Item E: Other business - future meetings

21. The Group agreed that it would be useful to envisage informal consultations among interested delegations and an informal meeting, at the Group level, prior to the fourth meeting, foreseen for autumn 1987, subject, however, to any decisions the GNG may take. As regards an informal meeting at the Group level, several delegations expressed the hope that such a meeting might be held in the week starting 11 October 1987.