

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)

Negotiating Group on Natural Resource-Based Products

SUMMARY OF STATEMENTS AND PROPOSALS MADE CONCERNING
NEGOTIATIONS ON NATURAL RESOURCE-BASED PRODUCTS

Note by the Secretariat

1. At its fourth meeting, held on 21 October 1987, the Negotiating Group on Natural Resource-Based Products (GNG/NG3) instructed the secretariat to prepare a summary of statements and proposals made, relevant in the context of the Negotiating Group's further work in completing the Initial Phase of its work mandate, as provided for in the Negotiating Plan for GNG/NG3, adopted by the GNG on 29 January 1987.

2. The note that follows has been prepared on the responsibility of the secretariat, on the basis of documentation available to it. The note is in no way intended to prejudice the rights of participants as regards possibly different interpretations of statements or proposals made so far, or the submission of additional proposals.

I. Determination of Issues

3. As regards the determination of issues during the Initial Phase of NG3's work the Plan agreed by the GNG is open-ended in that it stipulates (i) that account is to be taken of the documentation established by the Working Party on Natural Resource-Based Products; and (ii) of proposals by delegations.

4. As regards (i), it is relevant to recall the terms of reference of the "Working Party on Problems of Trade in Certain Natural Resource Products", set up by the Council on 13 March 1984, which are as follows:

"To examine, in accordance with the Decision on Problems of Trade in Certain Natural Resource-Based Products adopted at the Ministerial Meeting of the CONTRACTING PARTIES in 1982 (BISD 28S/20), problems falling under the competence of the General Agreement relating to tariffs, non-tariff measures and other factors affecting trade in the following natural resource products including in their semi-processed and processed forms, with a view to recommending possible solutions:

- (a) Non-ferrous metals and minerals;
- (b) Forestry products;
- (c) Fish and fisheries products.

"The Working Party shall conduct its examination on the basis of background documents prepared by the secretariat. Other relevant documentation, including any information provided by delegations, may also be considered."* (*Reference: C/126; rest of text omitted as not being directly relevant for this note.)

5. Taking into account both the specific and the general Uruguay Round negotiation objectives, and with reference to the terms of reference of NG3 and its backward linkage to its deliberations, the reports and the documentation and proposals by delegations in the Working Party, several delegations have proposed that NG3 should address not only the question of the reduction or elimination of tariff barriers, of tariff escalation and of non-tariff measures - which, some delegations hold, should mainly be pursued in Negotiating Groups 1 and 2, respectively, - but also such problems, or issues, as:

- officially encouraged price-fixing practices;
- dual-pricing practices and resulting subsidies, and/or reverse dumping;
- pricing policies in transactions with affiliated versus non-affiliated enterprises;
- government-condoned restrictive business practices;
- other restrictive business practices;
- government ownership and management of natural resource products trade;
- natural resource development policies and practices;
- State trading;
- abnormal investment incentives;
- inadequate subsidy disciplines;
- discriminatory procurement;
- access to supplies and related questions (for instance: fisheries: "surplus")
- export restrictions and export taxes;
- "voluntary" export restraint arrangements;
- prohibitive import duties;
- low duties resulting in high levels of effective protection;
- discriminatory technical standards;
- sanitary and phytosanitary regulations;
- problem of natural resource products displacement by substitutes.

6. A number of delegations hold the view that one or more of the above-listed subjects are either outside the scope of the Uruguay Round, such as access to fisheries resources, for which the UN Convention on the Law of the Sea was the appropriate juridical instrument, or involve

problems that are not NRP sector-specific, and which might hence better be dealt with in the respective, so-called "horizontal" negotiating groups. Furthermore, for some of the issues listed, there was no consensus in Punta del Este on their coverage in the Uruguay Round. Other delegations hold the view that the issues cited are particularly prevalent in the natural resource-based products area, have emerged there, and should, hence, be dealt with in NG3.

7. Some delegations consider that negotiations on natural resource-based products should exclusively focus on access to markets.

8. In relation to several of the problem areas cited above in the context of Uruguay Round, the statement made by the Chairman of the Ministerial Meeting at Punta del Este prior to the adoption of the Ministerial Declaration may be recalled:

Quote (excerpt)

"Representatives of certain governments had expressed concern regarding a number of problems relating, in particular, to commodities, natural resource-based products and tropical products. Those governments were concerned that solutions to their problems be found and implemented quickly. Specific proposals had been put forward by certain African governments in MIN(86)/W/18. While he was sure that this conference attached great importance to those concerns, it had not been possible to complete consideration of the proposals at the conference. It had, therefore, been agreed that the proposals would be considered by the Trade Negotiations Committee foreseen in the Declaration. ...

"He noted that there were certain issues raised by delegations on which consensus to negotiate could not be reached at this time. These issues included the export of hazardous substances, commodity arrangements, restrictive business practices and workers' rights." (BISD 33S/29 and 30).

9. In his closing remarks the Chairman of the Ministerial Meeting further said:

"No delegation present would see in the Declaration all the points it wished to be included when this meeting had opened. Many of the specific concerns would have to be pursued in the negotiations themselves, and this was as it should be." (BISD 33S/30).

¹The TNC, at its meeting in January 1987, decided under heading "Part G. Organization of the Negotiations:

... The GNG shall, inter alia:

... (iv) also decide upon inclusion of additional subject matters in the negotiations;"

10. At the Ministerial Meeting, on the question of negotiations on natural resource-based products, the representative of the EC, immediately following the adoption of the Ministerial Declaration as a whole,

... "said that the Community accepted the text on natural resource products in general, and was ready to aim at further liberalization in that sector. Regarding fisheries, however, the Community regretted that the options which it had developed in the Working Party on Fish and Fisheries Products and had stated in that Group's report were in no way reflected in the text. The Community therefore felt obliged to repeat what it had consistently stated in all fora where this issue had been discussed, namely that it would pursue discussions on the fisheries sector only if all factors specific to this product and having an influence on trade therein were taken into account."

(Reference: MIN(86)SR.7, pages 6 and 7.)

11. As regards specifically negotiations on fish and fisheries products, the EC has submitted to NG3 a position paper - MTN.GNG/NG3/W/4 (which also covers problems, or issues, identified in relation to other natural resource-based products). Additional details of the position adopted by the EC, supported by some delegations, but objected to by a number of other delegations, are summarized in documents MTN.GNG/NG3/1, 2, 3 and 4.

12. Some delegations indicated in NG3 discussions that, although certain of the issues raised should not, in their view, be dealt with in NG3, or, for that matter, on reasons of principle, in the Uruguay Round, they might be prepared to consider, on an ad hoc basis, how certain problems that had been, or might still be, identified could be resolved.

Product Coverage

13. Product coverage for NG3 work is seen by some delegations as being open ended in respect of natural resource-based products and not being narrowly defined, while, according to the views expressed by other delegations, product coverage is to be limited to the product groups considered earlier by the Working Party on Problems of Trade in Natural Resource Products, e.g.,

- Non-ferrous metals and minerals;
- Forestry products;
- Fish and fisheries products;

including in their semi-processed and processed forms.

14. Product groups mentioned so far by one or more delegations for coverage in NG3, additional to the three product areas already covered, as listed in paragraph 19, are:

- energy and energy-based products, including natural gas, petroleum, coal, uranium, petrochemicals, oil and gas processing;

- other non-ferrous metals and minerals, notably mineral sands, titanium (including titanium sponge), tungsten;
- iron ore, metal scrap, primary steel;
- construction materials, phosphates, salt;
- rattan;
- hides and skins.

II. Establishment of a Factual Basis for Negotiations

Documentation

15. Documentation prepared in the context of the Working Party on Problems of Trade in Natural Resource Products is identified and listed on page 4 of MTN.GNG/NG3/1. There was general agreement at NG3's first meeting that that documentation should permit the Group to make an early start on its work. At the second meeting, one delegation stated that it would be useful if the secretariat could compile from existing source material, background documentation relating to international trade in coal and natural gas. Another delegation expressed interest in having the existing documentation supplemented by further data on subsidies and also on certain export taxes on lumber. Some delegations then felt that it would be too soon to determine what further documentation and data might be required.

16. Questions relating to documentation and/or data base were not discussed in detail at NG3's third and fourth meetings.

17. At the second meeting of NG3 reference was made to request procedures which should help in identifying participants' respective negotiating interests.

18. At its third meeting the NG3 had before it position papers submitted by the United States and the EC regarding negotiating interests in NG3. The United States paper provided, inter alia, for a request and offer procedure. Another delegation proposed that participants submit export or negotiating interest lists before the end of 1987. This proposal was supported by a number of delegations. Some delegations pointed out that certain of their proposals made in other negotiating groups were of relevance also to NG3; these proposals are identified in footnote 1 on page 1 of MTN.GNG/NG3/3.

19. At its fourth meeting NG3 took note of a statement by Australia outlining certain elements of Australian negotiating interests (MTN.GNG/NG3/W/7).

III. Elaboration of Techniques and Modalities

20. Point (iii) of NG3's Initial Phase Negotiating Plan provides for the:

"Elaboration of techniques and modalities for achieving the agreed objective of negotiations in this area, taking into account those elaborated in other relevant areas."

21. Several delegations stated that they envisaged NG3 having primarily a monitoring and surveillance function, thereby ensuring that all negotiating interests, as they relate to natural resource-based products, are fully covered as work progresses in the different negotiating groups.

22. Other delegations stated that for natural resource-based products the problems encountered were often different and quite specific, even as between subsectors. One delegation made the point that for natural resource-based products negotiations in the so-called horizontal groups would be impossible.

23. Several delegations stressed the need for realism in addressing real-world problems and the need for balance in covering in the negotiations not only the interests of natural resource-based products' exporters but also the interests of natural resource-based importing countries. Reference was made also to the need for ensuring a balance between the interests of large and efficient producers of natural resource-based products and those of developing countries that are small producers and beset by balance-of-payments difficulties.

24. One suggested technique involves the elaboration and submission of interest lists. Another proposal provides for the exchange of request and offer lists. This procedure is expressis verbis provided for in NG3's Negotiating Plan for the subsequent negotiating process. One delegation explained that its authorities had not yet decided whether they would wish to submit request lists.

25. Several delegations stated that past negotiation experience suggested that a request and offer procedure 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 for NG1 and NG2.

26. One proposal envisages that negotiations on tariffs and NTM's be pursued not only in different negotiating groups, but also by different means, so that request/offer procedures can be complemented by, for example, formula cuts.

27. It was also suggested that a request/offer procedure would be very suitable for dealing with problems of tariff escalation without need for debate over the definition of "escalation".

28. Another delegation reminded the Group that at least some of the sponsors of GATT's work on natural resource-based products had stressed the need for deeper tariff cuts, fuller liberalization and earlier implementation of negotiation results for natural resource-based products, as compared with that for other classes of goods.

29. Another proposal envisages that negotiation objectives for fish and forestry products be pursued in a measure analogous to the approach suggested by the same delegation for agricultural products.

30. One delegation stated that a general tariff-cutting proposal they had made did not cover fish, forestry and metal products.

31. One of the position papers submitted states that in regard to the fisheries sector, discussions could be carried forward only if all the factors specific to that sector and having trade effects are taken into consideration.

32. One of the Uruguay Round negotiating proposals that has been tabled provides for products of tropical wood to be dealt with in the Negotiating Group on Tropical Products.

33. One delegation pointed out that the heading "non-tariff measures" covered a wide variety of measures, not all of which are covered by the GATT NTM group. Some of the non-tariff measure problems required special study or action, as - for instance - the problems dealt with by the Expert Group on Copper.

34. One of the submissions pointed out that certain pricing-policy problems (involving over-charging or under-charging) in transactions between affiliated versus non-affiliated enterprises, are not appropriately covered under existing GATT provisions. Furthermore, there were export restrictions and export taxes on a number of products which had the effect of distorting trade. NG3 should strive to work out adequate provisions to eliminate these distortions with the objective of adopting a standard procedure for dealing with such problems, rather than trying to solve them on a case-by-case basis.

35. On the question of coverage in the Uruguay Round of restrictive business practices, it was recalled that no consensus had been reached at Punta del Este, nor had a decision on that issue been taken in the GNG. It was, however, also pointed out that the issue of 'dual-pricing' raised in NG3 addressed some very similar problems, and the question of how such problems could be resolved should be examined.

36. Another delegation suggested that it would be desirable to explore whether understandings could be reached on what might be acceptable trading practices for some of the products being dealt with in the Group.

37. One delegation stated that one of the issues to be addressed at an early stage should be the examination of the adequacy, or otherwise, of existing GATT provisions for dealing with problems arising in international trade in natural resource-based products.

38. A delegation from a developing country stated that a sectoral approach should not a priori be ruled out if such an approach would facilitate greater trade for 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.

39. One delegation explained that some of the problems mentioned as resulting from natural resource subsidies, were not much different from problems resulting from input subsidies in other sectors. Generic solutions were thus required for problems which are general in nature and these could best be worked out in horizontal group approaches.

40. One of the participants in NG3 pointed out that State trading as such should not be considered an issue and, as far as restrictive business practices were concerned, not only those condoned by some governments could cause problems, e.g., such problems would have to be considered in a comprehensive fashion.

IV. Establishment of a Common Negotiating Basis

41. The Negotiating Group is currently examining a number of approaches towards the establishment of a common negotiating basis.