

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED  
MTN.GNG/NG2/5  
10 December 1987  
Special Distribution

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Group of Negotiations on Goods (GATT)  
Negotiating Group on Non-Tariff Measures

MEETING OF 17 AND 19 NOVEMBER 1987

Note by the Secretariat

1. The Negotiating Group on Non-Tariff Measures held its fifth meeting on 17 and 19 November 1987. In the absence of Ambassador L. Duthie, the meeting was chaired by Mr. M.G. Mathur, Deputy Director-General of GATT. The agenda contained in GATT/AIR/2504 was adopted.

2. The Negotiating Group had at its disposal a paper on "Issues raised and suggestions put forward" (MTN.GNG/NG2/W/7) which had been prepared by the secretariat at the request of the Negotiating Group. The Negotiating Group also had before it new submissions made by the delegations of Australia, the European Communities and the United States and contained in MTN.GNG/NG2/W/8, MTN.GNG/NG2/W/9 and MTN.GNG/NG2/W/4/Add.1, respectively.

Establishment of an adequate data base for the negotiations and examination of proposals from participants setting out the particular problems that they want to address and the techniques which they consider should be asked to deal with them

3. Introducing the communication contained in MTN.GNG/NG2/W/8, the representative of Australia stated that the use of non-tariff measures had increased sharply in recent years, especially in some key industrialized countries. Application of these barriers had impacted more heavily on developing countries, especially in the case of voluntary export restraint arrangements, variable levies, restrictions under the MFA and non-automatic licensing. Twenty-one per cent of exports from developing countries to industrialized countries were subject to these kinds of measures, whereas the corresponding figure for trade among industrialized countries was only 16 per cent. If the incidence of production subsidies were included, much higher figures would probably be reached. Australia proposed that countries use effective levels of assistance to industry, as a tool and yardstick for measuring progress in the negotiations. It did not propose that negotiations be based on reductions in levels of industry assistance, because the negotiations should proceed on the basis of the Ministerial mandate for reduction and elimination of tariffs and non-tariff measures. Australia thought that the contribution which participants might make to the achievement of the objectives of the Round should be assessed in terms of the reduction in direct industry assistance and not merely the depth of

cut in the most visible measures. They recognized that different approaches could be adopted for negotiating tariffs and non-tariff measures and remained open about the most effective means of organizing the negotiations. Many of the various types of non-tariff measures had been listed in NTM/W/17, including quantitative restrictions, mixing regulations, discriminatory sourcing, voluntary restraint arrangements, domestic price regulations, tariff quotas, port and statistical taxes, government procurement practices, special valuation practices, and special rules of origin. These means of providing assistance or protection could all be readily tackled by the effective rate of assistance methodology.

4. Australia was prepared to negotiate a broad package of measures designed to reduce overall levels of assistance to industry as part of a broadly based multilateral approach to reductions in protection. With respect to the non-tariff measures aspect of these negotiations, Australia was prepared to eliminate over an appropriate implementation phase, all quantitative import measures designed to protect domestic industry, such as quantitative restrictions, import licensing practices and embargoes. Australia would expect its trading partners to achieve similar reductions in the effective levels of assistance they provided to their industries, including tariffs, non-tariff barriers and subsidies which had a trade effect. They did not suggest that an identical multilateral approach could be applied generally to all non-tariff measures. Some measures which had a price or quantity effect lent themselves to liberalization by formula and Australia was flexible as to the most appropriate methods of reducing particular measures. Other measures required different approaches. The effective rate of assistance was meant as a tool which would allow each participant to make its own assessment of the result achieved in the negotiations. This could apply separately to negotiations on tariffs and on non-tariff measures. Australia proposed that the secretariat prepare an explanatory document on this approach and submit work sheets which participating countries would use in making their assessment of effective levels of assistance.

5. Some delegations welcomed the fact that the Australian proposal advocated an integrated approach by individual countries to the assessment of the results of the negotiations, and not an integrated approach to the negotiations as such. They stressed that this proposal should not be used to substitute tariffs for non-tariff measures. On the other hand, they agreed that formula approaches should be used whenever possible, and requests and offers only as a residual method. Other delegations had doubts as to whether it was possible to assess precisely the effective rate of assistance to industry. They felt that a judgement could not be reached on this proposal until progress had been made in the negotiations. Some delegations drew attention to the need to distinguish between subsidies which had trade effects and those that did not, which was a question discussed at length in the Committee on Subsidies and Countervailing Measures.

6. In answer to these comments, the representative of Australia stated that even though they were advocating an integrated approach in the assessment of the results of the negotiations, they did not think that this method should only be used at a later stage in the negotiations. They would themselves use this concept in the negotiations to assess whether offers made to them were good or not. They would expect their own trading partners to use the same method of evaluating effective protection in their negotiations with Australia. With respect to subsidies, it was clear that domestic subsidies had an effect on market access. While the Code on Subsidies and Countervailing Measures contained rules whose adequacy was debated the effects which subsidies had on market access had to be re-examined in the framework of negotiations on non-tariff measures. The Punta del Este declaration recognized that "aspects of one issue may be discussed in more than one negotiating group". Delegations were entitled to raise in the Negotiating Group on Non-Tariff Measures matters related to agriculture or any of the other Negotiating Groups.

7. Introducing the communication contained in MTN.GNG/NG2/W/9, the representative of the European Communities stated that in the area of non-tariff measures, one was dealing with a vast range of disparate types of measures, differently recorded in the GATT, and whose true impact could only be assessed with difficulty. Like Australia they felt the need to arrive at a methodology for assessing non-tariff measures, which could vary in scope from one restriction affecting a single product to whole legal systems which impeded trade. It was important to organize data so as to link it to a negotiating approach. This idea was similar to the one contained in the Australian submission though in order to make progress in this Group, one had to look in the first instance at matters which were not covered by other groups or by existing Code Committees. It would not be wise to mix up activities and this was the basis for their hesitations with respect to the integrated approach. It would be better to use the negotiating plans as a starting point and attempt to organize the negotiations according to that structure. The integrated approach might be a process which could be used in the later stages of the negotiations.

8. In the immediate future, a negotiating instrument was needed which would help identify the non-tariff measures which were of particular importance to individual contracting parties. Once these measures had been identified, they could be evaluated by reference to a certain number of criteria, which would have to be elaborated by the Group. They would then be entered into a Central Negotiating Register or Exchange which would allow the process of plurilateral or bilateral negotiations to be monitored and evaluated against the criteria devised by the Group. For measures which were candidates for multilateral action, leading to new provisions of the General Agreement or new multilateral instruments, a mechanism would be established to take the negotiating process forward, which was the objective of the Communities' submission.

9. Commenting on the proposal of the European Communities, some delegations did not agree that the Negotiating Group on Non-Tariff Measures should only deal with measures not taken up in the other Negotiating Groups or Code Committees, and considered instead that a flexible approach had to be maintained. Doubts were also expressed about the usefulness of a self-limiting Central Negotiating Register, because it might restrict the scope of the negotiations, in the absence of criteria for assessing the effects of non-tariff measures. Other delegations thought this was a useful concept to use as the negotiations progressed, because information contained in the existing data bases was too voluminous for the purpose of the negotiations. On the other hand, some were worried that an additional and time-consuming step might be introduced in the work of the Group, because agreement would have to be obtained on such matters as the criteria for selecting measures for negotiations. The proposal did not address the question of GATT-consistency, even though the Negotiating Group had to work within the objectives set out in the Punta del Este declaration. Some delegations welcomed the recognition contained in the proposal, that certain measures could be liberalized through formula approaches. In the view of these delegations, import prohibitions, voluntary export restraints, variable levies, non-automatic licensing and minimum pricing regulations constituted examples of such measures.

10. Responding to these comments, the representative of the European Communities acknowledged that they would have to be more specific in the criteria to be used in selecting measures for negotiations. It was not possible to obtain precise information on the trade effects of measures, but one had to make an attempt to go further than what was contained in the Inventory of Non-Tariff Measures (Industrial Products). Some non-tariff measures had an impact on the quantity or volume of supplies into a particular market. Others had an effect on prices. Still others interfered with the administrative procedures for supplies into particular markets. Some reference points had to be found, however elementary, for assessing the effects of measures which could be taken up in the negotiations. The Central Negotiating Register would serve as a device for obtaining information on ongoing bilateral negotiations. It would also identify to the degree possible the trade-inhibiting effects of measures. The Communities considered that at least in the early stages of the negotiations, one should avoid cross-references between different Negotiating Groups. There was no need to be concerned by the self-limiting nature of the Register. The objective was not to limit the scope of the negotiations but there could not be rapid achievements in the negotiations if a self-limiting approach was not adopted to begin with.

11. Introducing their submission contained in MTN.GNG/NG2/W/4/Add.1, the representative of the United States stated that it provided examples illustrating the integrated approach which they had presented orally at the previous meeting of the Negotiating Group.

12. Some delegations welcomed the flexible approach this proposal contained. The possibility of addressing in the Negotiating Group on Non-Tariff Measures specific issues related to the MTN Codes should not be excluded. A number of issues raised in the Negotiating Group on Natural Resource Based Products, which were of a generic rather than a specific nature, could also be taken up in the Negotiating Group on Non-Tariff Measures. Other delegations felt that each sectoral group was in a different situation and had separate negotiating objectives. With respect to textiles, the reintegration of the MFA régime into the GATT was a matter for the Negotiating Group on Textiles and Clothing, and issues related to that would not be taken up in the Negotiating Group on Non-Tariff Measures, which would only deal with other non-tariff measures affecting textiles and clothing. Some delegations thought that the United States paper did not provide the necessary structural premise to allow the negotiations to move forward. It was not enough to provide for requests, even at the tariff-line level and covering all market access problems. Neither did trade offs seem to be a procedure which could be used immediately, though they could be at a later stage.

13. When opening the discussion on the paper prepared by the secretariat on "Issues raised and suggestions put forward" (MTN.GNG/NG2/W/7), the Chairman recalled that many of the issues in it had been examined during the discussion on the recently submitted proposals. The objective of the discussion at this stage would not be to arrive at agreed conclusions, but rather to identify points of convergence between delegations.

14. On the issue of the establishment of an adequate data base for the negotiations, one delegation recalled that a number of suggestions had been made for the improvement of the data base on quantitative restrictions. The Council had also adopted a decision (C/W/532) on the establishment of an integrated data base which would assist the negotiations. But supplementary information would be needed, especially for the implementation of the principle of differential and more favourable treatment for developing countries. The secretariat could thus undertake a statistical description of both the dispersion and the concentration of non-tariff barriers by chapters of the CCCN; a preliminary assessment of the impact of non-tariff barriers on developing countries' exports; and a preliminary assessment of the effect of the elimination of non-tariff barriers on developing countries' exports, i.e. a measurement of the potential effect of the proposed trade liberalization.

15. According to this delegation, the conclusions to be drawn from the studies requested, would help the developing countries to evaluate the scope of the contributions that they could make. All contributions made by developing countries in terms of trade liberalization throughout the duration of the negotiations should be acknowledged as concessions, especially in the area of market access, and should be accompanied by liberalization measures in the markets of developed countries, in favour of developing countries. However, other delegations considered that the

proposal to gather supplementary information was premature until the scope of negotiations was defined.

16. Another delegation pointed out that while the existing data base, which had taken 15-20 years to build up, might not be adequate, it could still be used as a starting point in the negotiations, since participants had a clear idea of which non-tariff measures they wanted to see eliminated. Subsequently the negotiations could be broadened by the use of new data. The representative of a group of delegations, stated that the Central Negotiating Register which they were advocating would contain supporting data which would accompany and justify the notifications of measures on which negotiations were requested. This was a practical approach to get the negotiations going without addressing the question of whether the existing data base was adequate.

17. On the issue relating to the possible submission of export-interest lists, one delegation stated that it rejected the principle of requests and offers in favour of multilateral approaches. It could therefore not agree with the idea that export interest lists could be submitted.

18. On the issue of the GATT-consistency of the measures which would be taken up in the negotiations, the representative of a group of delegations stated that it had not been mentioned in their submission because it was dealt with in the Punta del Este declaration, to which they subscribed. The problem was to determine what were GATT-inconsistent measures. It was preferable to address this question during the negotiations, so as not to delay them.

19. At the end of the discussion, some delegations expressed the hope that areas of commonality in the proposals could be explored so as to help move the work of the Group forward. The Chairman suggested that in consultation with delegations the secretariat be asked to revise MTN.GNG/NG2/W/7 with a view to reflecting the points made in the discussions, as well as the additional proposals which had been submitted. The objective before the participants should be to bring out points of convergence among delegations and work towards unified suggestions to carry the work of the Group forward. He also called on delegations to submit before 17 December 1987 any new proposals that they might wish the Negotiating Group to consider at its next meeting.

#### Other Business

20. The Chairman said that as required by the negotiating plan for the initial stage, the Group had conducted a first examination of the issues to be covered, including the relationship between the negotiations in this area and other areas of negotiations. It had discussed the question of the establishment of an adequate data base for the negotiations. The Group had also carried out an examination of proposals put forward by participants, with a view to reaching a common understanding on appropriate techniques

and procedures for the negotiations and on subjects to be dealt with multilaterally. A number of issues had been clarified. It was clear that during the subsequent negotiating process the Group would continue its discussion of a number of matters which had been raised with a view to reaching as soon as possible the common understanding referred to above. Participants would maintain the right to put forward further proposals.

21. The Chairman suggested that subject to confirmation by the Group of Negotiations on Goods, the Negotiating Group agree that its next meeting be held in the week of 25 January 1988. However, some delegations were of the opinion that it would be up to the GNG to review the work carried out in the initial phase and suggest schedules of meetings for the Negotiating Groups. It was therefore premature to put forward in the Negotiating Group indicative dates which might undergo considerable modification. Another view was that flexibility should be maintained for the Negotiating Groups, inter alia, in the matter of schedules of meetings.