

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)

GROUP OF NEGOTIATIONS ON GOODS

Eleventh meeting: 25 and 26 July 1988

1. The Group of Negotiations on Goods met on 25 and 26 July 1988 under the Chairmanship of the Director-General. The Group had on its Agenda: (i) Review of progress in the negotiations under Part I of the Declaration; (ii) Other Business, including the date of the next meeting. The two items were discussed together.
2. Introducing the discussion, the Chairman drew to the attention of the Group certain operational matters, on some of which the Negotiating Groups would need guidance from the GNG (see paragraph 21). In this respect, he expressed the hope that the GNG would agree to request Chairpersons of the Negotiating Groups to submit to the GNG in November reports, prepared after consultations with members of Negotiating Groups, which would be the major input to the GNG's report to the TNC at ministerial level. It might be envisaged, by way of guidance rather than as a strict formula, that these reports would essentially be in two parts, the first briefly describing the work accomplished so far and the second containing any propositions on the basis of which, through the GNG's report to the TNC, ministers would be called upon to take decisions. The GNG report to the TNC would take the form of a consolidation of the reports of the Chairpersons of the Negotiating Groups.
3. The discussion of progress in the negotiations was focused largely on specific issues or problems of concern to delegations, but almost all speakers emphasised the commitment of their countries to energetic and positive pursuit of a successful outcome. Many drew attention to the rapid progress in the Uruguay Round as compared with earlier Rounds, to the very wide participation in the negotiations and to the great volume of negotiating proposals and technical background papers which had been tabled. It was noted that participation from capitals had been extensive and positive. Many speakers expressed overall satisfaction with the work done, while recognising that the same rate of progress could not be expected on all subjects, since they varied in complexity, in the degree of preparation needed and in negotiating dynamics. A large number of speakers nevertheless expressed concern about what they saw as a lack of balance in the results achieved so far. Though solid progress had been made in some areas, others lagged behind, including some which were fundamental to the strengthening of the multilateral trading system, such as those dealing with the improvement of access to markets and safeguards. It was suggested that imbalance might result from excessive attention to new areas of work. While strict parallelism between subjects could not be expected, the globality of the negotiations required that none should be neglected.

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4. A number of speakers referred to the need for an improvement in the external economic environment, particularly as it affected developing countries and those carrying heavy debt burdens. It was said that inadequate attention was being paid to this problem and to the general relationship between trade policies and the international financial system, and that protectionism, in the form of quantitative restrictions and other non-tariff barriers, had continued to increase since the launching of the Round. With reference to the position of developing countries, it was pointed out that the sixty-six developing countries associated with the EEC through the Lomé Convention, despite the advantage of preferential access, still provided only one per cent of total imports of manufactures into the Community.

5. With reference to the perceived imbalance in the progress achieved in different subjects, it was pointed out that in a number of Negotiating Groups agreement had not yet been reached on a common basis for negotiations or on techniques and modalities for negotiation. This was so, for example, in the Groups on Tariffs and Non-Tariff Measures and in other areas relating to the liberalisation of access to markets. The suggestion was made that agreement on these matters should be a prime objective of work in the Autumn. A successful outcome of the negotiations could hardly be envisaged without significant improvement in access to markets, which was also essential to the resolution of the debt crisis. In relation to Safeguards, which many saw as of capital importance both in its own right and through its links with other subjects, it was said that the subject was not receiving the priority attention it merited and that the lack of progress resulted from the unreadiness of certain participants to discuss fundamental issues. It was said that the basic concepts of GATT must first be preserved if other objectives of the Uruguay Round were to be meaningful. One participant called for early agreement on unconditional application of the MFN principle and others suggested that attempts to widen the safeguards concept to cover such matters as dumping, subsidies and trade restrictions applied for balance-of-payments reasons were inappropriate.

6. Several speakers referred to initiatives, for example in relation to Safeguards and to GATT Article XVIII, which in their view called in question or tended to erode the principle of special and differential treatment, and to the requirement in Section G of the Ministerial Declaration that effective application of this principle should be ensured through an evaluation of the results of the negotiations. It was suggested that in a number of areas inappropriate requests were being made for reciprocity from developing countries. One participant said that while he agreed that developing countries should play a fuller part in GATT, as their economies develop, differentiation between them according to their alleged capacity to make concessions was a matter of concern; contributions made by them should be voluntary, not imposed. However, the point was also made that there should be no confusion between the overall objectives of the General Agreement and the need for special and differential treatment, which was only a means to an end.

7. The representative of Bangladesh introduced a communication (MTN.GNG/W/14) on behalf of least-developed countries in which proposals relating to special and more favourable treatment for LLDCs were put forward for the consideration of Negotiating Groups. The communication also called for expeditious implementation of the relevant provisions of the 1982 Ministerial Declaration and for increased efforts in the area of technical assistance. A number of speakers supported this initiative. Reference was made to the deterioration of the external environment facing LLDCs, whose number had risen to more than forty, and to its consequences for their economic development.

8. A number of speakers expressed disappointment at the rate of progress in some areas of special importance to developing countries, such as textiles and clothing and tropical products. In relation to textiles the representatives of a number of textile-exporting developing countries said that negotiations had not yet been seriously engaged and called for greater political commitment and negotiating inputs from importing countries, which should freeze further restrictions under the MFA and agree to a timetable for achievement of the negotiating objective. The point was made that this sector accounted for the largest proportion of manufactured exports of developing countries but had been subject to a continuous increase in discriminatory restrictions. It was also suggested that to link the integration of this sector into GATT with results achieved in other areas, such as tariffs, non-tariff measures and safeguards, would distort the mandate. In relation to the negotiations on tropical products concern was expressed about proposed linkages with results in agriculture, and about requests for reciprocal contributions by developing countries, which were said to be inconsistent with the principle of special and differential treatment. Some speakers called for preferential treatment of the least developed countries in this sector. It was said that despite the priority accorded to this subject by ministers it had not yet been possible to agree on techniques and modalities for the negotiations. Failure to achieve concrete results by the time of the Montreal meeting would undermine the credibility of the Ministerial Declaration and of the Round.

9. Many participants stressed the importance for developing countries of the negotiations on agriculture, which should not be seen as the special concern of major developed countries. It was suggested that account should be taken in the negotiations of the interests of countries with a low degree of self-sufficiency in agriculture, and that incentives given to farmers in developing countries should not be subject to the same disciplines as subsidies in developed countries. One participant said that disciplines on subsidies should not be restricted to one sector only and that action to counter the adverse effects of subsidies should remain in the hands of the contracting party concerned. He also expressed concern that unilateral or non-GATT measures might worsen the position of net food importers by increasing the price of imports while their export volumes and prices remained depressed. A number of speakers referred to the recent proposal of the Cairns Group as a constructive basis for the achievement of the negotiating objective. Others expressed the view that remarkable

progress had been made in the negotiations on agriculture, which had reached the point where differences in national positions could be clearly identified; in the months before Montreal it might be possible to reconcile these differences and identify the elements of an overall solution. It was pointed out that fundamental reform and liberalisation of agricultural trade policies would benefit developing countries more than any other aspect of the Round.

10. In relation to the negotiations on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods, a statement was made on behalf of developing countries to the effect that proposals for the negotiation in GATT of standards for the protection of intellectual property rights and that such standards should be enforced through the GATT dispute settlement mechanism went beyond the mandate agreed in Punta del Este. GATT's proper concern was with the liberalisation of trade in goods crossing national boundaries, and it was not the proper forum for the elaboration of substantive standards. National laws and regulations on intellectual property reflected political, social and scientific objectives, and the need for a balance between the rights of the intellectual property owner and the public interest. The overriding objective of the negotiations was to reduce distortions and impediments to international trade and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade. Respect for the mandate and for the negotiating plan would enable progress to be made on trade in counterfeit goods, where the need for a multilateral framework of rules was accepted but on which no progress had been made. A number of speakers supported or elaborated on views; it was suggested that work on TRIPs should concentrate on the clarification of GATT provisions and on the development of a multilateral framework dealing with international trade in counterfeit goods, on which there was a possibility of early progress. One participant said that the negotiating mandate on TRIPs should not necessarily lead to the establishment of new substantive rules nor to an international system for their implementation, with commercial sanctions applied to non-complying countries. Resort to unilateral and illegal actions as a way of imposing a negotiating position must defeat the purpose of the negotiations on TRIPs. It was also said that if they were to have the confidence necessary to negotiate on any of the new issues, developing countries must be assured that there would not be adverse consequences for their investment and development objectives.

11. On the other hand it was stated that the relevant provisions of the mandate on TRIPs in no way prohibited the negotiators to address substantive standards and their appropriate enforcement. The trade effects of inadequate protection and inappropriate enforcement had been amply demonstrated in the Group. Adequate protection of IPRs would prevent trade distortions and contribute to economic growth and development of all countries through enhanced technology transfer and international investment. Another speaker remarked that the Declaration provides for the elaboration of new rules and disciplines as appropriate and that proposals

made in the Group were fully consistent with it. It was his country's right and intention to pursue in the negotiations its view that new rules and disciplines in GATT were sorely needed to promote effective and adequate protection of intellectual property rights. If not resolved beforehand, this issue would be for Ministers to decide at Montreal. The point was also made that in a negotiation between individual contracting parties, each of which must assume its own contractual obligations, statements made on behalf of groups of countries were inappropriate. Any tendency to polarise the negotiations in terms of a conflict of interests between North and South was potentially disruptive. Negotiations should focus on issues of substance rather than on the interpretation of the mandate; the substantive interests of developing countries would benefit from the kind of protection that had been proposed. The danger of unilateral or bilateral approaches made it necessary to seek a solution on the multilateral level. Another speaker said that standards of protection must be elaborated because the trade-related aspects of intellectual property could not be properly analysed without full knowledge of the existing system of intellectual property protection. It was suggested that GATT must develop the mechanisms necessary to attack the problems arising in this area.

12. It was suggested that there was a tendency to exceed the mandate of the Negotiating Group on Trade-Related Investment Measures.

13. Many participants saw good possibilities for the achievement of substantive results by the time of the Montreal Meeting in the areas of Dispute Settlement and Functioning of the GATT System. In relation to dispute settlement it was said that the system must serve the interests of smaller as well as larger countries. The Group should keep in mind the need for consensus; obligations that did not exist in GATT should not be created by "constructive interpretation". Increased provision should be made for special and differential treatment of developing countries.

14. Concerning the Functioning of the GATT System, all speakers supported enhanced surveillance of trade policies and it was suggested that modalities for this should be worked out before the Montreal Meeting. It was also suggested, however, that the first priority should be to secure the basic elements of the GATT system, then to ensure their proper functioning through an equitable surveillance system. One participant expressed doubt about the value of visits to national capitals in the course of surveillance of trade policies. One speaker expressed support for regular meetings of GATT Ministers at intervals of two or three years, while several had reservations as to the desirability of a restricted group at Ministerial level. Several speakers held that inadequate attention had been given to the interrelationship between trade policies and the international financial system, which was seen as crucial to the necessary improvement of the external economic environment, particularly for countries with a heavy debt burden.

15. With reference to the Negotiating Group on GATT Articles, it was said that disproportionate attention had been given to Articles XII and XVIII by comparison with other important provisions under discussion, such as Articles XXIV, XXV:5 and XXVIII, and that the elimination of the balance-of-payments justification for trade restrictions, given the difficulty of the general economic environment, would not be acceptable. Another speaker said, however, that so far as he was aware nobody intended to call in question the relevant provisions themselves; what was sought was a return to the correct application of these disciplines. With respect to the Group on Subsidies and Countervailing Measures, it was said that little progress had been made, particularly on countervailing, and concern was expressed about the unilateral enforcement of domestic legislation through countervailing measures.

16. Many participants emphasised the importance of the commitments undertaken at Punta del Este on standstill and rollback, respect for which was seen as fundamental to the success of the Round and of the Montreal meeting of the TNC. It was said that despite these commitments there had been an increase in quantitative restrictions and other non-tariff measures and that so far no rollback of measures inconsistent with GATT had taken place. One participant referred to delay in the implementation of a Panel report which had been adopted by the Council. It was also pointed out, however, that a number of countries, some of them developing countries, had taken significant steps to liberalise their trade régimes, and it was suggested that full credit for these unilateral contributions should be extended in the negotiations.

17. In discussion of the December meeting of the TNC at Ministerial level, many speakers indicated that they would expect the imbalances which had been signalled in the current meeting, to the extent that they could not be redressed in the Autumn, to be taken up at Montreal. The hope was expressed that the Negotiating Groups would be able to bring to Montreal a degree of progress which would enable all Ministers to reach a positive assessment of the state of the negotiations. The Ministerial meeting should provide a positive signal for the world trading community both by making it clear that the negotiations were on course for balanced and mutually advantageous results and by adopting concrete results wherever possible. It was said that clear directions should be provided for the future course of negotiations, for example through agreement on negotiating modalities and approaches in such areas as Tariffs and Non-Tariff measures. A number of speakers said that the objectives to be sought at Montreal should be reasonable and pragmatic, and acceptable to all participants, and many expressed the willingness of their own countries to work hard for the achievement of such results. The point was made that major political efforts would need to be concentrated on a number of issues on which progress was needed but which were clearly more difficult than others. One participant saw a danger that because of changes in political authority that would take place in a number of participating countries, the Montreal meeting might not be taken seriously enough to permit substantive results to be attained. Yet major efforts by capitals were still needed in many

areas, such as Agriculture and Tropical Products. However, it would also be unhelpful to exaggerate the importance of Montreal, since it was not the end of the Round and could not be expected to produce a balanced result in every area - even though there must be some balance in its outcome. Pressure for unrealistic objectives would therefore be a third obstacle to success.

18. Commenting on the overall assessment of the state of the negotiations, one speaker said that in the short time available before Montreal it would indeed be necessary to accelerate the negotiating process in order to remedy any excessive imbalances. Nevertheless, it was unfortunate that so many speakers in the debate had given the impression that nothing was going right whereas in reality very impressive progress had been made in many areas. Unlike any previous Round, the Uruguay Round had been prepared, launched and carried out on the basis of consensus and in accordance with the deadlines which had been agreed. This collective response to the dangers which threatened the multilateral system was a good augury for a successful outcome, and should not be underestimated. It was also said that there was a danger that insistence on the negative aspects of the negotiations could become a self-fulfilling prophecy.

19. Some participants, discussing the rôle of the GNG itself, suggested that in coordinating the negotiations in the coming months, the GNG should ensure full respect of all elements of the negotiations and coherence among the proposals made in the Negotiating Groups. It should also carry out an interim evaluation of the results, with a view to ensuring differential and more favourable treatment for all less-developed contracting parties, consistent with their individual development, financial and trade needs. Its report to the TNC should be prepared in time to facilitate review in capitals. It was suggested that a closer relationship should be established between the reviews of developments in trade policies carried out by the Council in special session and the work of the GNG. A number of participants referred to the need to ensure transparency in the negotiating process.

20. In concluding the debate, the Chairman drew attention to the magnitude of the process, in merely mechanical terms, in which the negotiators were engaged. The fourteen Negotiating Groups had now held in total more than one hundred meetings and had considered some five hundred working documents, and over a hundred countries were participating. The machinery was needed because in a multilateral context it was essential for every participant to be able to express his point of view, and because the final objective was to express the results of the negotiations in terms of legal rights and obligations. The GNG's discussion, which had been very substantive, showed that all participants were committed to vigorous pursuit of the negotiating objectives. It was widely recognised that the December meeting of the TNC at Ministerial level should bring to the trading community the confirmation that governments are fully engaged in carrying out the objectives they had agreed at Punta del Este. There had been general recognition of the useful and constructive work in all

Negotiating Groups, and many expressions of appreciation for the work of the Group Chairpersons. Nevertheless, it was clear that the progress made varied between Groups, both because of the dynamics of particular subjects and because of different national interests in play. The discussion had permitted all participants to make known their particular concerns - but also to note those of others. It had confirmed that the balance achieved in the Ministerial Declaration remained valid, including the priority attached to Tropical Products and the central importance of Safeguards. Most participants had underlined that improvement in Market Access remained a very important goal, and that the Agriculture negotiations played a central rôle. Interest in the work of the Groups on Functioning of the GATT System and Dispute Settlement was widespread. The GNG had also collectively underlined the importance of the standstill and rollback commitments. Several participants had stressed the different aspects of the concept of special and differential treatment for developing countries, aspects which included concern for the special problems of the least-developed countries, questions concerning reciprocity, and questions related to balance-of-payments exceptions under Article XVIII. Almost all subjects for negotiation had been touched upon, and in one case significant differences over the interpretation of the negotiating mandate had been evident: on this point he expressed the view that in the coming weeks a major effort should be made to resolve the substantive differences underlying the question of the mandate.

21. With reference to the proposal that Chairpersons of Negotiating Groups should be invited to prepare, for the November meeting of the GNG, reports of the kind described in paragraph 2 above, the question was raised whether such reports would be based on their individual appreciation of the situation or on consensus reached through consultations in the Negotiating Groups. The Chairman replied that he had full confidence in the sense of responsibility of the Chairpersons, who would be fully aware that it would serve no purpose to present reports that would be subject to challenge. He proposed that it should be left to the Chairpersons to assume their responsibilities. It was so agreed.

22. The Chairman announced that the GNG would meet before the Montreal meeting to prepare its report: he proposed that the period of 16-18 November should be reserved for this purpose. It was clearly the general view that until then efforts should be concentrated in the Negotiating Groups, with a view to the common objective of achieving substantial results before Montreal. The GNG would remain on standby, and would be convened if necessary. Having taken stock of the situation in this meeting it would now be necessary to introduce a sense of movement into the negotiations, and this implied a need for flexibility on all sides. He proposed that the Group should take note of the Tentative Programme of Meetings which had been distributed; this would be subject to amendment in the light of developments in the negotiations. He further proposed that Negotiating Groups should be invited to agree during the Autumn on the dates of their first meetings in 1989. It was so agreed.