

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG2/9
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Group of Negotiations on Goods (GATT)

Negotiating Group on Non-Tariff Measures

MEETING OF 17 AND 21 OCTOBER, AND 10 NOVEMBER 1988

Chairman: Ambassador L. Duthie (Australia)

Note by the Secretariat

1. The Negotiating Group held its ninth meeting on 17 and 21 October and 10 November 1988. It adopted the agenda contained in GATT/AIR/2890.

A. Continued examination of proposals on measures to be taken up by the Negotiating Group, submitted in accordance with the decision of 25 February 1988 (MTN.GNG/NG2/6, Annex)

2. The Chairman recalled that at its meeting of 19 July 1988, the Negotiating Group had requested the secretariat to prepare, on its own responsibility, a paper sorting the notifications received before 30 September 1988, using the classification contained in the Inventory of Non-Tariff Measures (MTN.GNG/NG2/8/Add.1, paragraph 4). The secretariat's paper which classified the notifications received before expiry of the deadline was contained in MTN.GNG/NG2/W/19, and he suggested that it be updated to incorporate additional submissions which would be received as the work of the Negotiating Group proceeded.

3. It was so agreed.

4. The Negotiating Group heard introductory statements from the delegations of Poland, Australia and New Zealand in which they explained the different elements contained in their submissions to the Group, contained respectively in MTN.GNG/NG2/W/18, 20 and 21. All three speakers stressed the importance which they attached to the liberalization of non-tariff measures and suggested different negotiating approaches for this objective to be achieved. The delegations of Australia and New Zealand considered that formula or other systematic approaches had a crucial rôle to play in securing a meaningful and multilateral result to the negotiations. Though the formula could vary depending on the nature of the measure and possibly between countries, participants should commit themselves to applying a system of reduction or elimination which embodied

the same principles and rate of reduction of protective effect. In this way, the result would be achieved by formula, and comparison between countries would be possible. For price-related measures, the formula could involve a linear reduction over an agreed period of time, in the difference between domestic prices and prevailing world prices. For quantitative measures, the process could include a minimum access level based on apparent consumption with a fixed percentage growth in quotas over an agreed period.

5. Commenting on some of the proposals before the Group, some representatives considered that a multi-faceted approach had to be adopted for the elimination or reduction of non-tariff measures, some of which were governed by the provisions of the General Agreement or the Tokyo Round Codes, or were discussed in other negotiating groups. The Negotiating Group on Non-Tariff Measures should concentrate on problems of principle while major negotiations should be held in those other groups. Priority in the negotiations for the elimination of quantitative restrictions, should be given to measures which affected products originating in developing countries, which had been identified in Annex 16 of NTM/W/17, prepared by the secretariat for the Group on Quantitative Restrictions and Other Non-Tariff Measures. Appropriate solutions had to be found for the participation of developing countries in the negotiations, taking into account their development, financial and trade needs. Consensus was needed on the proposals relating to measures to be negotiated in the Group, before they could be taken up. It could not be assumed that the measures which had been notified to the Group, necessarily constituted obstacles to trade. At the present stage, the Group could not go beyond listing a number of modalities for the negotiations. Transparency should be assured and preference be given to the elaboration of rules of general application over request and offer procedures, which should only have a residual rôle. The formula approach could serve more as a tool for assessing the results of negotiations than as a negotiating approach. With reference to measures that might fall within the coverage of the Tokyo Round Codes, some felt that countries which had not yet done so should be encouraged to accede to these codes.

6. Several representatives stressed the need for the submission of additional proposals as progress in pursuance of the Group's negotiating objective could only be achieved with the broad participation of developed and developing countries.

7. Some representatives informed the Group that their authorities were engaged in preparing initial submissions. Some stated that their countries' submissions might include preshipment inspection, export restrictions, customs formalities, import charges and fees among the categories of measures which could be considered appropriate for multilateral approaches. Some considered that duties and charges were amenable to formula approaches as they were quantifiable. They expressed the hope that concrete results could be achieved before the Ministerial

mid-term review meeting and considered that the Group could usefully start discussing principles or guidelines which could be used in the negotiations, on the basis of the submission contained in MTN.GNG/NG2/W/15.

Examination of categories of measures for which multilateral approaches have been proposed, including preshipment inspection

8. A number of statements were made on preshipment inspection (PSI). Some delegations recognized that there were legitimate concerns, such as the need to reduce capital flight and customs fraud, which led countries to introduce PSI. However, they were concerned at the trade-distorting activities of inspection agencies which went beyond their legitimate functions. According to these delegations, exporters were not alone in experiencing problems with PSI firms. Some governments had recently terminated their contracts with them, in some cases because exchange controls had been lifted but in others because of private sector complaints in the importing countries that PSI companies were hampering trade through delays and other trade-distorting activities. Since PSI companies could create problems for exporting as well as importing countries, the goal of the negotiations should be to develop multilateral rules designed to minimize the trade distortions caused by inspection programmes. These delegations therefore considered that a continuation of the discussion on the subject would help clarify the problems.

9. Other representatives considered that PSI was not a non-tariff measure since it did not relate to government actions, unless a contract between a government and a private company were held to constitute an obstacle to trade. In order to see whether rules of general application on PSI had to be developed in the Uruguay Round negotiations, it was necessary to establish a list of the practices which were considered to act as a barrier to trade. The Negotiating Group would then be able to determine the link between PSI and GATT rules and see what action might be appropriate.

10. The Chairman welcomed the various suggestions which had been made, and hoped that they would be developed at future meetings of the Group.

Suggestions made at the last meeting for additional background papers by the secretariat

11. The Negotiating Group requested the secretariat to prepare:

- (i) Background papers on customs and consular formalities, and on fees, dues and other import charges similar to the secretariat's earlier notes on preshipment inspection and rules of origin.
- (ii) An information document on the Effective Rate of Assistance (ERA) and related methods, drawing as appropriate on

GATT sources and other international organizations, on the understanding that it will not prejudice the applicability of the work in the context of the Group.

12. The Chairman called on delegations which had expressed an interest in the study on the ERA to help the secretariat in its preparation, principally by providing material relating to the work carried out on ERA in other international organizations.

B. and C. Modalities for the conduct of negotiations; Other business, including contribution to the meeting of the Trade Negotiations Committee at Ministerial level and arrangements for future meetings of the Negotiating Group

13. The Negotiating Group held a discussion on the question of the modalities for the conduct of the negotiations, with the help of the submission put forward by a group of delegations (MTN.GNG/NG2/W/15). At the end of the discussion, the Chairman stated that during the preparation of the report which he would submit to the Group of Negotiations on Goods for the Ministerial meeting of the Trade Negotiations Committee, he would take into account the points made in the discussion. At a resumed meeting held on 10 November 1988, the Chairman consulted the Group on a draft report. At the end of the meeting, he announced that he would revise this draft in the light of the discussion and forward it to the GNG.

14. At the suggestion of the Chairman, the Group agreed to hold its next meeting in the week starting 23 January 1989.