

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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

NON-TARIFF MEASURES: FORMULA APPROACHES
TO TRADE LIBERALIZATION

Communication from Australia

The following communication, dated 12 May 1989, has been received from the Permanent Mission of Australia with the request that it be circulated to the members of the Group.

At Montreal, Ministers in acknowledging the importance of NTMs have undertaken to achieve "substantial" reductions in non-tariff measures. It is incumbent on the NTMs Group to give practical expression to this undertaking.

There may be different views about what constitutes "substantial". Our view is that it means a result with comprehensive coverage of NTMs and a total overall reduction at least equal to that agreed for tariffs at Montreal.

- Comprehensive because of the wide sectoral spread of NTMs which enmesh not only longstanding areas of restrictions such as agriculture, textiles, clothing and footwear but also automobiles, steel, consumer electronics, chemicals, non-ferrous metals and minerals and energy (coal).
- Any relatively smaller reduction in NTMs would simply compound the trend toward greater reliance on these barriers thereby further undermining the achievements of past Rounds in cutting tariffs.

Several studies on NTMs have shown that their incidence has doubled during the 1970s and 1980s affecting up to one half of world trade.

- Some 80% of Australia's merchandise exports are adversely affected by NTMs in at least one major market and in many cases, by similar NTMs in several markets. Virtually all participants are adversely affected by at least some NTMs.

There is no single universal formula for reducing NTMs. However, there are a number of formula approaches which could be applied to a range of measures including price or quantity related restrictions. Three approaches have been suggested for the reduction of NTMs:

- Formula liberalisation (Formula)
- New or improved rules (Systemic)
- Residual request/offer negotiations (Request/Offer)

Only the formula and/or multilateral rules approaches offer collective assurance of progress in achieving substantial reductions.

Only the formula approach provides both collective assurance and a comprehensive and sectorally neutral approach.

The two most common elements of non-tariff protection are price and quantitative measures. Formula approaches which focus on these measures can directly tackle these most pernicious forms of NTMs. Both types of measures are heavily represented in the request lists of NTMs submitted so far. These include: licensing, price supports, prohibitions, quantitative restrictions, tariff quotas, voluntary restraint arrangements, export subsidies and levies.

Formula approaches have proved successful in the past in systematically reducing major NTMs. For example, agreements underpinning the formation of the European Community contained provisions for the progressive elimination, over 12 years, of quantitative restrictions. The value of quotas was progressively increased resulting in the phasing out of major quotas between EC members. This process was facilitated by the previous liberalization of QRs in Europe, which had been achieved by the Organization for European Economic Cooperation (OEEC) before the European Community came into operation. OEEC liberalized quotas by progressively increasing the proportion of their total imports which were free of QRs.

A more recent example is the Australia New Zealand Closer Economic Relations Trade Agreement (CER), concluded in 1983, and which provides for a genuine free trade area. The systematic reduction or elimination of quotas between the two countries has been a key element in the substantial expansion of bilateral trade in the past five years.

There are several ways in which a formula approach could work in practice. For price support measures, there could be gradual linear or other formula reductions in the differences between domestic target prices and prevailing world prices or world market reference prices over an agreed period. Countries employing domestic price support could agree to limit the adjustment to 90% of the difference between the world and domestic target prices in the first year, 80% of the difference in the second year and so on. Where a minimum import price mechanism is used the MIP could be reduced to world market reference prices in the same linear fashion.

For quantitative measures which seriously affect trade in industrial, agricultural and natural resource based products, a formula process could include setting a minimum access level based on import shares of apparent consumption levels with a fixed percentage growth in import shares over an agreed period, until such time as further expansion of the quota has no effect on import shares, or until import shares have increased by at least one third which might be considered a "substantial" amount.

Clearly the size of the growth margin would be negotiable; it could be inversely related to the size of imports in the protected market at the base date which Australia believes should be the same as agreed at the Mid-Term Review for tariffs - 1 June 1986. Thus in products where the import share was small, the margin would be large, and in products where the import share was large, the margin would be small. There would be an overriding assumption that the protective effect of the quota would be eliminated or reduced by a "substantial" amount over the agreed time period.

This process of progressive enlargement can be equally applied to VRAs. In the case of prohibitions and licensing arrangements, these could be converted into global quotas which could be progressively enlarged until they are no longer constraining trade.

There should also be a requirement that, whatever the nature of the QR, the additional access should be made available globally, either by auctioning the additional units among quota holders in the importing country or by allocating the additional units in a non-discriminatory way among suppliers in accordance with Article XIII.

A formula approach could also be applied on a trade coverage or industry sector basis by the setting of progressive targets for the reduction of NTMs. An across-the-board approach could be more effective in countries where NTMs are not limited to particular sectors. The concentration of NTMs in particular "sensitive" sectors suggests the application of a sectoral approach to formula liberalization.

Proposals for tariffication involving the conversion of NTMs to their equivalent in tariffs which are then gradually reduced provide another possible means of liberalizing NTMs. This approach has been raised in the Agriculture Group and participants in this Group may wish to consider it alongside the other methods outlined in this paper.

What is common to all these formula approaches is their global, comprehensive nature in which all interested parties and participants can benefit. This is in marked contrast to the unhappy history of bilateral attempts at removing NTMs which have generally been unproductive: in some cases bilateral negotiations have merely meant that the burden of adjustment has been transferred from one competitive supplier to another. The multilateral/formula approach provides both greater transparency and security.

Obviously toward the end of the negotiations individual countries will need to assess their own contributions and be satisfied that the contributions of others are equitable, and constitute a "substantial" reduction in NTMs. In this context, we believe that a measurement technique such as the Effective Rate of Assistance concept would facilitate the evaluation process.

In negotiating on NTMs, participants will need reassurance concerning the security of concessions which they are prepared to offer and receive. This is necessary to avoid a repetition of the arbitrary way in which many NTMs have been imposed in recent years. As with tariff concessions Australia believes NTM concessions can be formally secured through binding commitments which would be included in schedules as part of the Uruguay Round outcomes. There are precedents in past GATT negotiations¹.

It goes without saying that any formula or other negotiation on NTMs will be without prejudice to rollback commitments².

Australia's Approach

For its part, Australia is prepared to negotiate decreased overall levels of protection as part of a multilateral approach to NTMs. Among several important steps taken to reduce industry assistance, the Australian Government is phasing out remaining QRs of a protective nature. Australia is also prepared to negotiate bindings in any sector of the tariff if the necessary agreements can be achieved.

Australia recognizes that some NTMs will need to be tackled on a residual request/offer basis. We also attach importance to efforts to negotiate new or improved rules for appropriate NTMs. However, we believe a systematic approach involving a formula supported where appropriate by a strengthening of the rules provides the best means of attacking a problem which has increasingly distorted world trade and undermined confidence in the GATT.

¹A GATT Working Party report adopted on 3 March 1955 (BISD 3rd supplement p225) noted in paragraph 14 "The Working Party also agreed that there was nothing to prevent contracting parties, when they negotiate for the binding or reduction of tariffs, from negotiating on matters such as subsidies, which might affect the practical effect of tariff concessions, and from incorporating in the appropriate schedule annexed to the agreement the results of such negotiations; provided that the results of such negotiations should not conflict with other provisions of the agreement."

Article IIB implies that bindings (can and do) embrace both tariffs and non-tariff measures. Renegotiation of bindings involving NTMs are covered by the existing provisions of Article XXVIII - this Article talks of concessions which can include NTMs.

²The Punta del Este Declaration states that there should be progressive implementation of the rollback commitment on an equitable basis. The formula approach provides the best means of fulfilling this commitment.

The variety and lack of transparency characterising NTMs need not be an insurmountable barrier to their liberalization. Proven precedents and methods exist for formulae to achieve a substantial freeing up of NTMs, in a way which other approaches such as request/offer are unlikely to match.

Proposal

To advance further consideration in the Group of the application of formula approaches to liberalization of NTMs, we suggest the following approach in considering the utility of formula cuts in achieving the goal Ministers have set us:

- examination of Secretariat's sorting of NTMs that might be reduced by formula methods;
- identification of those measures which are price or quantity related;
- evaluation of specific formulae applicable to each of these categories;
- selection of the most effective and practical formulae for negotiation.

We would suggest that this approach proceed in parallel with consideration of the need for new or improved rules and the scope for request/offer negotiations, with the objective of establishing appropriate formula methods before the end of 1989.