

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)

GROUP OF NEGOTIATIONS ON GOODS

Sixteenth meeting: 9 April 1990

1. The Group of Negotiations on Goods held its sixteenth meeting on 9 April 1990 under the Chairmanship of the Director-General.

Item I: Review of progress in the negotiations under Part I of the Punta del Este Declaration

2. Opening the meeting, the Chairman said that meetings of the GNG and the TNC had in general well served their purpose of enabling participants to assess the overall state of the negotiations and to identify potential blockages. This week's meetings would be particularly important, in the light of the existing agreement that by July we should have a very clear profile of the results in each Negotiating Group and in the Round as a whole. In order to make the most efficient use of the GNG and TNC meetings he suggested that the GNG should concentrate on discussion of progress and problems in the work of specific Negotiating Groups, and that the TNC should assess the overall balance of the Round and the negotiating process. The Chairman added that in response to a request from a number of delegations, reports on the status of work in the Negotiating Groups had been submitted by their Chairmen; in two cases the reports were made on the responsibility of the secretariat, since in the short time available it had not been possible to contact the Chairmen. It was hoped that these would provide a useful input to the discussion.

3. In response to the Chairman's proposal participants largely confined their remarks to the assessment of the work of particular Negotiating Groups, but a number of general points were also made. Many speakers agreed that the pace of work must be accelerated over the next three months in order to achieve by the time of the next meeting, in late July, a very clear appreciation of the results to be expected in each Group. This would be necessary, among other things, for the maintenance of a proper balance between the interests of all participants. Several speakers detected a lack of sensitivity to the special needs of developing countries in certain Groups, where contributions inconsistent with their financial and development needs were sought from developing countries, and drew attention to the need for an equitable balance of rights and obligations in the system. A participant said that the overall progress of the Round was generally satisfactory; in all of the Negotiating Groups the policy options had been fully clarified and the time had now come to choose between them. Practically all Groups seemed likely to produce acceptable and indeed significant results.

4. Several speakers referred to the fundamental restructuring and liberalisation of their national economies, making the point that the success and durability of these painful reforms, which were in themselves an important contribution to the liberalisation of world trade, would be vitally affected by the success or failure of the Round in providing improved access to export markets. The point was also made that a negotiated settlement to the problem of indebtedness was also crucial for the health of the trading system and for the ability of heavily indebted countries to participate fully in it. References were made to a continuing tendency towards unilateralism and to the adverse effects of closed regional groupings, both of which were seen as threats to the multilateral system.

5. With reference to the negotiations in the area of market access, one participant said that major results in this area, leading to an improvement in access across the board, were a priority for his government and for the private sector. The offers of liberalisation so far tabled were inadequate; the priority sectors of all participants must be covered. Readiness to negotiate global free trade in certain important sectors would demonstrate GATT's ability to build bridges between major regions and markets. Government procurement should be opened up in the area of high technology. The point was made that recent agreements on procedures in the access area should give rise to only mitigated satisfaction, since they were much delayed. Some speakers said that certain participants appeared not to be fully respecting the general principles in Part I.B of the Punta del Este Declaration, pointing out that the credibility of the negotiations depended on meeting the objectives agreed at Punta del Este and in the Mid-Term Review.

6. With regard to Tariffs, it was said that negotiating prospects had been improved by the tabling of offers from many participants, but that the procedural agreement had not wholly unblocked the negotiations. Moreover it was regrettable that a bilateral approach favourable to larger participants would predominate. A number of developing countries referred to the proposals they had tabled or to the programmes undertaken domestically to rationalise and liberalise tariff structures, pointing out that negotiating credit should be given for these efforts of liberalisation. One speaker said that the tariff negotiations provided an opportunity to correct collectively one of the many imbalances which had developed in the GATT system, in this case the serious imbalance between contracting parties with almost universal tariff bindings and those with very few. Wide differences in the levels of duties constituted another imbalance. Developing countries should now demonstrate their good faith: it could not be accepted that tariff reductions were harmful to the development process - this thesis would lead to a state of permanent under-development.

7. Several speakers said that substantial results must also be achieved in liberalising Non-Tariff Measures, in some cases referring to the request lists tabled by their delegations. With reference to the negotiation on rules of origin it was suggested that the Group should now capitalise on the existing consensus.

8. The recent adoption of negotiating procedures in the Group on Natural Resource-Based Measures was welcomed by a number of participants, all of whom however expressed concern about the introduction of issues which were in their view outside the competence of the Group, and indeed of the GATT, notably the question of access to resources. It was suggested that lack of results in this Group would have serious repercussions in other areas. The point was also made that it had been agreed by Ministers that progress in this area should be consistent with progress in other related areas.

9. A large number of speakers expressed concern about the pace of negotiations in the Negotiating Group on Textiles, notwithstanding the recent agreement on a programme of future work. It was stressed that failure to agree by July a framework providing for integration of textiles and clothing into GATT could have serious consequences for the Round. Several speakers said that the first requirement would be to agree the technique for the elimination of restrictions under the MFA, which they saw as an essential element in a successful Round. In this connection, several participants said that they would not be able to accept the introduction of a global quota system in replacement for MFA restrictions. Agreement on the length of a transition period was also said to be essential; one speaker called for the termination of MFA restrictions in July and the reintegration of textiles and clothing into GATT by 1999 at latest. Some participants pointed out the great importance of this sector as a generator of industrial development and foreign exchange earnings for developing countries; one referred to its role in promoting peaceful economic development in areas affected by terrorism and the drug industry. Other participants said that the agreement on July as the target date for a framework agreement on the reintegration of the sector was a positive step; no delegation was seeking to frustrate progress and all were working towards the same objectives. One speaker said that the proposal of a global quota system was based on the principles of MFN treatment and comparative advantage, and must be seriously debated.

10. Many participants emphasised the central importance of Agriculture in the achievement of a satisfactory overall result, and the agreement of the broad outlines of a deal by July was said to be essential. Political decisions must be taken early enough to leave time for the resolution of highly technical difficulties, and it was clear that there were still substantial differences of position between the major participants. Nevertheless the recent clarification of national positions had been useful and some movement was now discernible - though one participant said that mere activity should not be confused with progress. He added that internal support, border protection and export competition must all be tackled effectively, and expressed the fear that without real changes in the working environment no clear profile would be visible by July and the possibility of agreement in December would be endangered. It was suggested that the Cairns Group deserved credit for making it understood that agriculture could not again be sidelined. Several speakers referred to the vital economic and social role of agriculture in developing countries,

which would make necessary the provision of a degree of flexibility for them. It was also suggested that concrete provision should be made for net food importing countries, in line with the Mid-Term decision. The point was also made that all forms of exceptional treatment in the agricultural sector should be eliminated or phased out. It was noted that in many areas a great deal of technical work remained to be done - in defining the scope of the internal measures needing to be reduced, in demonstrating how tariffication could reduce effective protection and in finding means for negotiation on subsidies (for which it was pointed out that the indicative list annexed to the Subsidies Code might be a basis). One speaker said that the process of bilateral negotiations on access for agricultural products must now begin, bearing in mind that for some participants agriculture included fisheries and wood products; another emphasised the importance of fruit and vegetables for many participants.

11. In a discussion of the implications of the 1990 US Farm Bill the point was made that this would not prejudice or make impossible the implementation of the Uruguay Round results, nor did it affect or limit the US negotiating mandate; the Bill must however be presented this year and could not be based on assumptions about the outcome of the Round. All US farm policies were on the negotiating table; their elimination or modification would depend on a satisfactory result overall, but all other participants in the Round were in the same position vis-à-vis their political authorities. Another speaker said that though this was understood, it was nevertheless the case that the Farm Bill appeared to run counter to the stated objectives in the Uruguay Round, which must create some uncertainty among other participants. It was indeed true that the farm policies of all major participants must be restructured - perhaps above all for internal reasons - and delay in opening real negotiations would be dangerous.

12. With respect to the negotiations on Tropical Products concern was expressed that at this late stage in the Round nothing firm had been said about the elimination of tariffs and non-tariff measures for all unprocessed, semi-processed and processed tropical products. It was said that the elimination of tariffs in this sector was a realistic objective, and the hope was expressed that there would be a considerable advance on the liberalisation agreed in the Mid-Term Review. The contribution of developing countries should not be assessed on a sectoral basis, within the context of this Group, but globally.

13. As to the Negotiating Group on GATT Articles it was said that useful progress had been made in a number of areas; reference was made to Articles II, XVII, XXV:5, XXVIII and the Protocol of Provisional Application. Several speakers said that proposals relating to Article XVIII:B, however, would affect the basic equilibrium between developed and developing countries, and that this provision should be regarded not as a safeguard but as a recognition of the reality that many developing countries face structural balance-of-payments problems. There was no evidence that the balance-of-payments provisions were ineffective or had

been abused. One participant welcomed the fact that there was no proposal to renegotiate the Article itself but was concerned that what was presented as strengthening of procedures would in practice curtail the flexibility offered to developing countries. Other speakers suggested that the issue should be dedramatised. It could not be accepted that exemptions from GATT obligations originally permitted to meet specific circumstances should become a permanent privilege or that such an important issue should be declared non-negotiable. This would risk the creation of an unworkable two-tier system of GATT obligations. However, the proposals on the table did not attack Article XVIII:B or seek to create new disciplines but rather to clarify the existing disciplines and to make them more credible. If this were not possible the good faith of some of those calling for the restoration of multilateral disciplines would be questionable.

14. Discussion of the work of the Group on MTN Arrangements and Agreements concentrated largely on anti-dumping, where several speakers spoke of the need to eliminate ambiguities and arbitrary interpretations which had led to the use of anti-dumping measures as trade barriers and as instruments for harassment of exporters. It was said that further discussions should focus on a number of key issues: one such issue mentioned was the definition of diversionary measures, in the absence of which remedial measures might become new trade barriers. One participant said that exporters were looking for a fair appraisal of injury and causality while importing countries wanted enforceable remedies; all countries wished to avoid unilateral measures. Another speaker said that the value of anti-dumping measures as a credible deterrent must be maintained, which required that the Group address the problems of circumvention and persistent offenders.

15. In discussion of the negotiations on Safeguards a number of delegations emphasised that to introduce the practice of selectivity into the operation of Article XIX would undermine the GATT. It was said that the use of selective measures posed a particular danger for developing and smaller countries. The Group should demonstrate that the GATT is capable of dealing with systemic problems by agreeing on an mfn-based safeguard system. The point was made that to achieve this would require inputs from key capitals, not merely from negotiators in the Group. It was also said that grey-area measures should be recognised as illegal, and phased out accordingly. A participant said that agreement in the Safeguards Group was essential; failure to agree - persistence of the status quo - would inevitably lead to the spread of the grey area. The question was how to eliminate the grey area. There were problems in Article XIX, and it was not sufficient simply to insist on the mfn principle; contracting parties should consider whether selective or even grey-area measures were not preferable to unilateral actions.

16. With regard to Subsidies and Countervailing Measures one delegation said that while the rules should be universal, new disciplines should maintain a due proportion between the trade distorting effects of various forms of support and the prescribed remedies, and should reflect the different situations of contracting parties. Another participant said that

the freedom to use subsidies as a tool of development should be maintained. Concern was expressed that some participants appeared to wish to eliminate Article 14 of the Subsidies Code and about disregard of the concept that export subsidies are a necessary part of the development process. It was also said that imagination must be shown in the development of disciplines to curb trade-distorting subsidies and countervailing measures, particularly bearing in mind their importance in agricultural trade. Another speaker said that all countries must recognise the need for an agreement providing more effective discipline in the use of subsidies; otherwise the need to rely on national remedial measures would necessarily increase.

17. With regard to the negotiations on new subjects one delegation said that failure to establish clear rules in these areas could lead to a proliferation of disputes and of unilateral measures. The Negotiating Group on TRIPS was said by some speakers to be making rapid progress, notably by comparison with more traditional areas of negotiation, and it was said that a balance must be maintained - as also, within the TRIPS negotiations, between the protection of intellectual property and other public and developmental objectives. One participant said that the trade-related aspects of intellectual property rights should form part of the effort to eliminate trade distortions as well as unilateral actions, and should include the control of abusive and anti-competitive practices. His country was committed to the protection of creators, in proper balance with public policy objectives, and accepted the necessity to control cross-border trade in counterfeit goods. However, the long-term technological development of all participants must be safeguarded. Certain aspects of intellectual property law should be discussed in other fora while others would remain in the realm of national legislation. Another participant expressed opposition to any link between the results in TRIPS and the GATT, and concern that while efforts were made to exceed the proper scope of the negotiations the need for effective developmental provisions was ignored. Economic development was not merely a function of time and for this reason transitional measures alone would be insufficient. The Group should be dealing only with trade-related aspects, not with substantive standards. Another participant said that intellectual property rules were not necessarily trade-related, for which reason his delegation had proposed a two-part system of dispute settlement under which the existence of breaches of intellectual property standards would be ascertained in WIPO while any trade consequences would be addressed in GATT. One speaker regretted that some participants were holding up progress on this subject but emphasised that a far-reaching result on TRIPS was essential and indeed inevitable, since effective intellectual property protection was an essential condition for economic development.

18. With regard to Trade-Related Investment Measures several participants said that there was a danger of deviation from the proper mandate of the Group. Some agreed that trade-distorting investment measures should be identified and the relevant GATT Articles carefully examined, leading to a discussion of criteria which might be applied when adverse trade effects were found to exist. The notion of prohibition of certain investment measures could not be accepted, since investment policy could not be

limited simply to its trade aspects. One speaker said that while mutually advantageous results could be obtained in this Group, this would be more easily achieved if development imperatives were taken into consideration. It was also said that the Group should focus on investment measures with clearly trade-restrictive effects, and that investment incentives should be addressed in the context of subsidies. Another speaker said that the negotiations must, in order to fulfil the mandate, result in clearer rules in the area of investment measures, which often caused serious trade distortions. Any results which would have the effect of weakening the national treatment obligation in Article III, and thus the GATT itself, could not be accepted.

19. On Dispute Settlement it was suggested that further work should reinforce areas not dealt with in the Mid-Term Review - compensation, withdrawal of concessions, adoption of reports and implementation of recommendations. One speaker said that the essential goal was to curb unilateralism; he regretted the slow progress in removing the impasse over the implementation of panel reports.

20. With regard to the Functioning of the GATT System it was said that the main need was to ensure greater coherence of macro-economic policies while giving concrete expression to the link between trade, finance and development. The point was also made that the GATT should retain flexibility in its relations with the IMF and the World Bank.

21. Summing up the discussion, the Chairman said that he regretted that this debate, which he had found very substantive and helpful, had not taken place in December. It was clear that participants were now addressing the essential substance of the negotiations, but they were doing so three months later than was desirable. The situation was therefore both encouraging and somewhat disturbing. Many speakers had related their comments on specific issues to the three major objectives of the Round - the liberalisation of access to markets, the improvement of the conditions of competition and the use and coverage of dispute settlement mechanisms.

22. It had been recognised that progress had recently been made on tariffs and non-tariff measures but it seemed clear that in some important areas of the access negotiations - agriculture, textiles, natural resource-based products and tropical products - the outline of a solution was not yet in sight. In these areas it was urgently necessary to break the deadlocks which impeded progress. The picture was broadly similar in the area of competition, where options had been clarified and progress achieved on a number of subjects, such as subsidies, anti-dumping, safeguards and rules of origin. It could be said that the negotiations on TRIPS and TRIMS, and even on Article XVIII:B, were closely related to the question of ensuring fair competitive conditions. As regards dispute settlement, speakers had emphasised the importance of effective procedures; he would himself offer the comment that those who suffered the effects of grey-area measures had a remedy to hand in the existing provisions.

23. Participants must now decide how to organise the next stage of the negotiations. Many had underlined the need to have available by July a clear profile of the eventual package, and he strongly supported this view. In some Negotiating Groups it would be possible by July to reach conditional agreements - conditional only in the sense that all results were conditional until the final package was agreed. Where this was not possible, Negotiating Groups should aim to reach the closest possible approximation to an agreement, in the form of a text, since only in this way could the final difficulties be identified. The next meeting of the GNG would therefore be called upon to consider texts on all fourteen subjects. It must be remembered that the process of putting agreements into final legal form in the autumn would be very difficult and time consuming. The question of the coverage of dispute settlement provisions, both inside the goods area and possibly in relation to services also, would then need the most serious consideration.

24. The discussion had shown that even within Part I, the negotiations were a global undertaking, with many interlinkages and with the three basic themes of the Round arising in nearly all Groups. It was clear that participants must work with the same intensity in all areas: all would agree that the essential need was to raise the tempo and commitment of work in all Groups to the level of the most advanced. He had been glad to note the many references to programmes of adjustment and liberalisation in national economies, which underlined the importance of the Uruguay Round for events in the real world.

Other Business, including Date of Next Meeting

25. It was agreed that the next meeting of the GNG would take place in the week beginning 23 July, but that if it should be necessary to convene an earlier meeting this would be done.