

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG2/18
21 May 1990

Special Distribution

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

MEETING OF 1 MAY 1990

Chairman: Ambassador L. Duthie (Australia)

Note by the Secretariat

1. The Negotiating Group held its seventeenth meeting on 1 May 1990. It adopted the agenda contained in GATT/AIR/2971.

A. Continued examination of categories of measures for which multilateral approaches have been proposed

Preshipment inspection (PSI)

2. The representative of Sweden, speaking on behalf of the Nordic countries, introduced a statement later circulated as MTN.GNG/NG2/W/64, which contained issues related to PSI, considered to be of particular importance from the Nordic point of view.

3. The Chairman of the Informal Drafting Group on preshipment inspection (Mr. P. Williams, secretariat) reported, on his own responsibility, that the Informal Drafting Group which had held its first meeting on 30 April and 1 May 1990, had begun a first reading of the paper drawn up by the secretariat at the request of the Negotiating Group, which brought together drafting suggestions made by five participants. The Group had agreed to begin this first reading with the sections of the paper dealing with transparency, protection of confidential business information, delays, and the various aspects of dispute settlement, and then to turn to the other sections of the document. It had made a start in clarifying issues and had concentrated on identifying areas of convergence and divergence in the four sections mentioned above. The Group was expected to conclude its first reading of the document on 3 May 1990 when it would begin by looking first at the section of the document dealing with price verification. The Informal Drafting Group would meet again on 14 May 1990, continuing for several days.

4. At the suggestion of the Chairman, the Negotiating Group asked the Chairman of the Informal Drafting Group to report regularly on progress made at its further meetings.

Rules of origin

5. The representative of the United States made a statement, later circulated as MTN.GNG/NG2/W/66, which set out her delegation's views on preferential rules of origin. The representative of a group of delegations considered that preferential rules of origin were part of bilateral agreements which under the United States' approach would form the object of concessions with countries which were not parties to those bilateral agreements. These agreements had bilateral dispute settlement procedures which worked well and did not need to be taken up outside the bilateral framework. He was also concerned that the harmonized rules of origin which might evolve as a result of the work being carried out might only be applied in a very limited way, for example for customs purposes, but not for other non-preferential purposes. He considered that the aim should be to draw up one set of rules of origin which would be applied for all non-preferential purposes.

6. At the suggestion of the Chairman, the Negotiating Group established an open-ended Informal Drafting Group on rules of origin to be chaired by the secretariat, with the aim of drawing up elements of a compromise text for submission to the Negotiating Group. Reports on progress made in the Informal Drafting Group would be made to the Negotiating Group on a regular basis.

B. Information on progress in request-offer negotiations

7. The Chairman informed the Group that as of 1 May 1990, 25 participants, counting the European Communities as one, had submitted request lists. As provided for by the agreed framework and procedures (MTN.GNG/NG2/15), the secretariat had prepared for each of these lists and in consultation with the requesting participants, summaries which were being issued in the MTN.GNG/NG2/RS/- series. The secretariat was also circulating the request lists in accordance with the instructions received from the requesting participants. In accordance with Section F. of the procedures, a list of the participants having submitted requests was made available to the Group.

8. One representative reported that his delegation was engaged with its trading partners in an exercise aiming to clarify the contents of requests lists. It was also preparing offer lists in response to requests, and hoped to be able to submit them before 15 May 1990, as provided for by the procedures. He recalled that at the recent informal meeting of Trade Ministers held in Mexico, the hope had been expressed that progress in market access negotiations would be made at a series of bilateral meetings scheduled for the period 5-15 June 1990, which would be attended by officials from capitals. He suggested that the event could be repeated in the second half of July with a view to achieving concrete results during the available time-frame.

C. Information of proposals on the security of concessions

9. The representative of Uruguay introduced the communication of his delegation later circulated as MTN.GNG/NG2/W/65. Another representative informed the Group that his delegation was working on the issue. The objective of his delegation was to ensure that the outcome of negotiations on non-tariff measures was secured in the same way as in the case of negotiations on tariffs. The procedures of Article II could perhaps be applied to non-tariff measures though they had clearly been designed for tariffs. That might explain why no greater use had been made of them in the past for non-tariff measures. Another approach might be to have a separate agreement for the outcome of non-tariff measures negotiations. Agreements on non-tariff measures reached by participants in the course of the Uruguay Round could be incorporated into schedules. A covering agreement would include a number of provisions to protect these concessions. A key provision would deal with consultations in cases where a concession had been nullified or impaired by the introduction of a new non-tariff measure or the intensification or re-imposition of existing ones. If these consultations, which would be held within one month of a request being made, failed to settle the problem, the party maintaining the measure would be given a three-month period to report on whether or not it was able to remove or modify that measure. If at the end of the three-month period the complaining party was not satisfied by the action proposed, the concession concerned would be removed from the schedule and the complaining party could withdraw an equivalent concession, provided that a dispute settlement mechanism had established that the measure complained of had been introduced after the conclusion of the initial agreement and that it nullified or impaired benefits arising from the agreement. This approach did not try to define what a non-tariff measure was, as this seemed impossible. It also avoided the question of the GATT-legality of the non-tariff measures concerned.

10. Other representatives welcomed the contributions contained in the two statements. Some were also examining the issue with a view to ensuring that concessions were not nullified or impaired. One participant felt that the granting of concessions on non-tariff measures should not deprive contracting parties of the right to take action consistent with the GATT. The Chairman invited delegations to come to the next meeting prepared to reach an agreement on this question.

D. Examination of proposals on the recognition of liberalization measures

11. A number of delegations informed the Group that they were working on proposals seeking appropriate recognition for the liberalization measures adopted by their authorities.

E. Relationship between the rollback commitments and negotiations on non-tariff measures

12. The representative of Chile introduced the submission of her delegation (MTN.GNG/NG2/W/63), which set out measures found by the CONTRACTING PARTIES to be inconsistent with the GATT. Her delegation was

not prepared to make concessions for the elimination of the measures identified in the document. There were also measures inconsistent with the GATT which had never been brought to the dispute settlement mechanism and which should also be rolled back before the end of the Round. At the suggestion of a number of delegations, the Negotiating Group requested the secretariat to prepare a list of measures which had been found by the CONTRACTING PARTIES to be inconsistent with the GATT in the last five years and which were still in effect. This list would bring together information in GATT documents and would identify the product coverage of the measures concerned as precisely as possible.

F. Other business

13. The Chairman recalled that the next meeting of the Group would be held on 6-7 June 1990. He suggested that the agenda at that meeting be the same as at the present meeting.