

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG4/21
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Special Distribution

Group of Negotiations on Goods (GATT)
Negotiating Group on Textiles and Clothing

MEETING OF 14 & 15 MAY 1990

Note by the Secretariat

1. The draft agenda, set out in GATT/AIR/2981, dated 27 April 1990 was adopted.

Introduction

2. The Chairman referred the Group to document MTN.GNG/NG4/20, a note by the Secretariat containing the main points raised at the last meeting. He also drew attention to document MTN.GNG/NG4/W/38 Rev.1, a revised Checklist of Documents prepared by the Secretariat, listing all working documents circulated to the Group and to three submissions which were being circulated at the present meeting: MTN.GNG/NG4/W/46 from the United States, MTN.GNG/NG4/W/47 provided by the EEC, and MTN.GNG/NG4/W/48 from Japan.

3. The Chairman suggested, as regards procedures, that the Group follow its Work Programme, addressing the topics in the order set out therein for this meeting; namely:

- (a) Strengthened GATT rules and disciplines;
- (b) Timespan, and
- (c) Further discussion as necessary of the points discussed at the April meeting, that is:
 - (i) Modality for the phasing out of MFA restrictions;
 - (ii) Modality for the phasing out of other restrictions not consistent with GATT rules and disciplines;
 - (iii) Safeguard mechanism during the transition period, and
 - (iv) Surveillance mechanism.

(a) Strengthened GATT rules and disciplines

4. The spokesman for the EEC, commenting on their communication in NG4/W/47, recalled their commitment to an MFA-based integration process taking existing restrictions as a starting point and the importance in achieving this objective of the aspect of strengthened GATT rules and

disciplines. He said that for such an integration process to take place, all participants would have to be confident of achieving a more fair, predictable and liberal trading environment. To reach this objective, he considered that a transitional régime would have to provide not only for the progressive elimination of restrictions but also, and in parallel, for the strengthening of GATT rules and disciplines with co-ordinated efforts to this end from all participants. In order to construct a credible and orderly process, three basic organizational elements would have to be present: graduality and progressivity, a surveillance mechanism and a verification system. (The specific views expressed on each of these three elements and the comments made thereon are set out below under the relevant topics.)

5. Some participants expressed broad agreement with the Community's approach, stating that a viable integration process would have to be based on strengthening of GATT rules and disciplines so as to ensure a general opening of markets, fair competitive conditions and satisfactory safeguard rules. Some others continued to be of the view that matters within the purview of other negotiating groups should be dealt with in such groups, although no participant was precluded from raising in this Group any issue considered relevant to the integration process or from assessing developments in other areas and drawing their own conclusions. It was considered, however, that this would be a subjective exercise and would not be relevant to the work in this Group particularly as regards the preparation of a draft framework agreement.

(b) Timespan

7. The Chairman noted that there were three major aspects to be addressed under this topic: the commencement date of the transition process, the dates for the intermediate steps that might be required, and the termination date. As regards the commencement date, some participants, while accepting the principle of beginning the transition process on 1 August 1991, noted that a number of bilateral agreements extended to the end of 1991 and suggested that consideration should be given to allowing measures covered by the bilateral agreements to run until that date.

8. Concerning the intermediate stages of the transition process, reference was made by the spokesman for the EEC in commenting on their submission, to the possible need for a verification mechanism to endorse the transition to each stage. (See also paragraphs 17 and 18). Others, however, considered that the dates of such stages should be established during the current negotiations without leaving each stage of the process to be negotiated separately. In this regard, it was suggested that the first stage could be of longer duration than others to facilitate the implementation of the results of the Uruguay Round in this and in other relevant areas.

9. As to the termination date, one participant confirmed that they were prepared to commit to a period of ten years, conditional on a satisfactory agreement being reached on the other elements. Another participant said that a ten-year period would be acceptable if their approach were to be

adopted. The view was expressed that this aspect, being linked to the question of strengthened GATT rules and disciplines, could only be considered towards the end of the negotiations; consequently, this question should be left for a later date, or possibly for ministerial decision. Others again stressed that the timespan must be decided during the current negotiations in this Group with no provision being made for renewal beyond the agreed period.

(c)(i) Modality for the phasing out of MFA restrictions

Proposal by Canada

10. The representative of Canada, providing further details on their earlier proposal (NG4/W/42), suggested that to reduce uncertainty at the beginning of the transition process, provision could be made for the initiation of investigations of possible market disruption or real risk thereof before the expiry of the MFA. In this regard, he considered that a major issue to be negotiated by the Group would be the test to be applied in such investigations. He was of the opinion that this test, to be applied by the appropriate authority of the importing country, should be based on objective measurements, and should not have a price factor. Furthermore, trade covered by free trade agreements would be excluded from any test determinations. He stressed that Canada's proposal would facilitate the transition process and would liberalize trade as: (a) it would include only products within H.S. chapters 50-63; (b) some product categories would be returned to GATT rules immediately; and (c) remaining products would be subject to pre-determined, multilaterally-negotiated growth rates as well as a progressive reduction in product coverage during the ten-year transition period. In addition, there would be no provision for aggregate or group limits or recourse to "special circumstances", while consideration could also be given to the application of GATT Article XIII, providing country allocations within the quotas. (His comments on the safeguard mechanism are contained in paragraph 19).

Proposal by the United States

11. The representative of the United States commented on their submission in NG4/W/46 and responded to questions from participants. Concerning the levels of country guarantees within the global quotas, he commented that special circumstances might exist in some countries which would warrant a level higher than the proposed three-year average. He also pointed out that under the global quota approach, there would be no place for group or aggregate limits, the quotas being on an individual product basis. As regards product categorization, he considered that each importing country should develop its own system, based on its domestic situation, not being subject to negotiation. The next step would be to determine the total (universe) of product coverage and, thereafter, to negotiate which products should be subject to the transitional process and which should be integrated into GATT immediately. In this regard, responding to a question, he confirmed that products such as pure silk should be subject to the disciplines to be negotiated in the Group but should not be subject to

quantitative restrictions. With respect to the immediate elimination restrictions on certain product and the elimination of others at stages during the transition, it was his view that each importing country should have the possibility of integrating different categories of products through this process, reflecting the varying product sensitivities in those countries. On this aspect, one participant cautioned that applying different models during the transition may not be helpful; rather, the goal should be one multilaterally-agreed system.

12. On the subject of growth rates, the representative of the United States said that, under their proposal, the multilaterally-agreed rate of growth would apply to the overall quota level but would be allocated to the global basket, the country guarantees remaining constant throughout the entire transition period. Also, products which become subject to restrictions during the transition period would be entitled to the growth rate for the year the measure was taken and would not revert to the growth rates for the initial year. It was also explained that growth rates for each year during the transition period would be cumulative, that is, compounded from the base (initial) year using the agreed formula. As regards criteria for establishing the quotas at the beginning of the transition period, it was considered that since market disruption or real risk thereof had already been demonstrated in respect of the products subject to MFA restrictions, there should be no need to re-demonstrate this on 1 August 1991, thereby providing an element of continuity and minimizing disruption to trade.

Proposal by Japan

13. The representative of Japan introduced their submission in NG4/W/48, pointing out that it was intended to expand upon the points in their earlier proposal (NG4/W/35) and to respond to questions posed by participants. He explained that it was considered essential to eliminate all MFA restrictions at the beginning of the transition period and apply thereafter new, strict criteria since some of the current measures had been concluded on the basis of maintaining orderly development of trade rather than market disruption. It was stressed that their proposal was intended as a progressive and pragmatic approach with a view to facilitating the transition process. With this in mind, it was suggested that the strict and objective criteria for invocation of restrictions should be moderate at the beginning of the transition, permitting a considerable portion of the existing restrictions to be changed over to the transitional régime, with no cut-backs in the restraint levels. The criteria could become increasingly strict as the transitional process progressed. Restrictions would have a maximum duration of two to three years, with no extension unless the criteria and procedures were again satisfied. The automatic phase-out mechanism, to be developed through the negotiations, was another essential element in the proposed modality otherwise there would be no guarantee of reaching the Group's objective.

(c)(ii) Modality for the phasing out of other restrictions not consistent with GATT rules and disciplines

14. The representative of the United States recalled their earlier statement (NG4/W/26) in which they outlined six categories of measures which they believed needed to be dealt with in the context of this topic. He also referred to a subsequent submission (NG4/W/33) containing a procedural proposal on how these categories of measures might be addressed without the necessity of assembling agreed lists. Pursuant to consultations held since that time, he put before the Group a modified and expanded proposal, set out in NG4/W/46, which he considered would be a practical approach to addressing this aspect of the Group's work.

15. The spokesman for the Nordic countries also suggested a procedure to deal with such restrictions when taken outside GATT procedures. He proposed that all restrictions on textiles and clothing applied on 31 July 1991, would be notified to GATT within thirty days from that date and any such restrictions which had not been notified would be considered to be inconsistent with the integration process and should be integrated forthwith. In cases where a participating country considered that another participant continued to apply a restriction inconsistently with the obligation referred to above, the issue could be referred to the established surveillance mechanism. The participating countries concerned should not be permitted to prevent consensus conclusions with regard to the consistency with GATT rules and disciplines of the measures referred to the surveillance mechanism. Notified restrictions, which had not been taken under GATT procedures would be phased out under the same modality as MFA restrictions. For other quantitative restrictions, notifications would specify national phasing out schedules. The phasing out would be carried out at least as rapidly and on the same conditions as the phasing out of MFA restrictions; the schedules being approved by the surveillance body.

(c)(iii) Safeguard mechanism during the transition period

16. The Group did not specifically address this topic.

(c)(iv) Surveillance mechanism

17. The spokesman for the EEC, commenting on their proposals in NG4/W/47, with regard to surveillance and verifications mechanisms as contained said that to minimize unknown factors it would be preferable to pattern the surveillance body after the current TSB, though with enlarged scope. He suggested that this Group should define the operating rules of the body, leaving certain operational elements to be developed by the body itself. As the recommendations of the body would be obligatory and as elements other than the MFA would be involved, it was considered that provisions should be made, where recommendations of the body could not be fully accepted, for recourse to the GATT dispute settlement mechanism. As regards the verification mechanism, it was suggested that a committee of signatories would review, on the basis of a report from the surveillance body, commitments undertaken in respect of the elimination of restrictions and the application of strengthened GATT rules and disciplines. This committee would endorse the transition to each stage and if, following a review by the surveillance body, it was found that a participant was not respect its commitments, the committee could decide on the terms under

which transition to the next stage would take place for the parties concerned.

18. Some participants questioned the provisions in the Community's proposals whereby the verification committee could modify individual country's obligations vis-à-vis the agreed stages, considering that these could introduce elements of selectivity and uncertainty into the integration process. Others were concerned that under this procedure a possible slowdown in the implementation of strengthened GATT rules and disciplines in other areas could have repercussions in the textiles integration process. The view was reiterated that the integration process should follow a definitive timetable, moving forward from an established base without leaving every stage of the integration process to be negotiated separately.

19. The representative of Canada said that surveillance of the integration process as well as the settlement of disputes arising during the transition process should be carried out pursuant to the rules and procedures of the GATT without creating a separate instrument for this sector. He referred specifically in this regard to the provisions of GATT Articles XXII and XVIII.

Future meetings

20. The Chairman noted that, pursuant to its Work Programme, the Group would continue its discussions of the outstanding issues at the next meeting. He urged all participants to come prepared for substantive discussions with a view to arriving at decisions on as many aspects as possible. He also pointed out that the agenda for the next meeting would include initial discussions of a draft framework agreement. The next meeting is scheduled for 12, 13 and 15 June 1990.