

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)

**Negotiating Group on Market Access**

**MEETING OF 26 JULY 1991**

**Note by the Secretariat**

1. The meeting was convened by GATT/AIR/3214 of 12 July 1991 and chaired by Mr. G. Denis. The Group adopted the following agenda:

- (a) Stock-taking of the market access negotiations;
- (b) Application of Article XXVIII to the modification or withdrawal of non-tariff measures;
- (c) Approach to give credit for bindings and recognition for liberalization measures;
- (d) Arrangements for future meetings.

**Stock-taking of the market access negotiations**

2. The Chairman referred to his written report, contained in document MTN.TNC/W/85 and reproduced in document MTN.GNG/MA/W/1, to the Chairman of the Trade Negotiations Committee. In this report he had provided his assessment of the major problems facing the market access negotiations which were related to the scope of the negotiations, tropical products, natural resource-based products, sectoral negotiations, high tariffs and tariff peaks, non-tariff measures and tariff bindings. He noted that since the last meeting serious and good faith negotiations had been undertaken and invited delegations to provide their assessment of the state of play in the market access negotiations.

3. Participants agreed generally with the views expressed in the Chairman's letter. A few participants pointed out that the lack of a single negotiating modality had resulted in an inefficient negotiating process.

4. One participant stated that following the last meeting of the Group, contact had been made with a number of delegations. Unfortunately little progress had been achieved for a number of reasons. Certain delegations were hesitant to commit themselves to a further reduction and binding of their tariffs. High tariffs remained a real obstacle to market access and many offers did not address this problem. His authorities had initiated a number of sectoral negotiations relating mainly to the textile and clothing, and the petrochemical sector. While these undertakings had not

been successful, his authorities planned to pursue them. Furthermore, the existence of non-tariff measures prevented real market access. His delegation appreciated the far reaching reforms undertaken by many developing countries in this area. Responses to his authorities' requests to reduce certain non-tariff measures had in the majority of the cases taken the form of explanations as to why these measures were being maintained. While restrictive measures applied to exports of raw materials had been dealt with extensively in the Negotiating Group on Natural Resource-Based Products so far there was no progress.

5. Another participant said that her delegation had noted a willingness on the part of many other delegations to enter into detailed discussions on a tariff-line basis and on a sectoral basis. Plurilateral discussions were held on various issues including pharmaceuticals, medical equipment, non-ferrous metals, construction equipment and electronics. A joint proposal regarding one sector had been formulated with a partner, and proposals on the electronic sector and the non-ferrous metals sector were being examined. A harmonization approach had also been proposed for the chemical sector. While her delegation did not favour such a method, it was built on the suggestions made by several other trading partners, and provided a comprehensive approach to the liberalization of trade in chemicals. Her delegation intended to continue with such plurilateral meetings during the month of September. Progress in the non-tariff measures area had not been encouraging. Her authorities considered the elimination and binding of non-tariff measures important and would take into account these elements when evaluating the offers of other participants.

6. Several developed country participants stated that they had undertaken a number of bilateral and plurilateral negotiations since the last meeting of the Group. Concern was voiced at the lack of real progress in all market access areas and especially in the non-tariff measures area. One participant stated that there was an imbalance in the various offers put forward. His country's offer was substantial in both the tariff and the non-tariff measures areas, but most of his country's concerns had not been addressed in the offers of other countries. Another participant stated that representatives of some countries which were considered important target markets had refused to participate in any bilateral discussions; the reason given was that there was nothing new to discuss. In some cases further bilateral consultations were not followed up because it was recognized that it would be difficult to pursue discussions with those countries while an outcome had not been reached in the negotiations between the two major trading partners.

7. Some developed country participants indicated that since the last meeting of the Group they had participated in only a few bilateral consultations. This was due to the lack of resources and the fact that most of the time had been spent on plurilateral meetings. It was mentioned that the number of sectoral initiatives appeared to be increasing and it was suggested that those countries offering zero per cent tariff offers on a sectoral basis should be prepared to make alternative offers in the event that such agreements did not materialize.

8. One developing country participant stated that requests on fisheries had been submitted by his country to one important trading partner, but no answer had been forthcoming. This lack of response could be attributed to the problem of trying to reach a consensus among several participants with different interests. His delegation could not accept the idea that the elimination and the binding of quantitative restrictions constituted a concession, mainly because such measures were prohibited by Article XI of the GATT. His country was ready to negotiate not just with developed country participants but also with developing country participants.

9. Another delegate from a developing country informed the Group on liberalization measures undertaken by his Government in both the tariff and the non-tariff measures areas and requested that trading partners recognize and give credit for such measures.

10. A participant from a developing country stated that his Government had offered to reduce tariffs in a linear fashion. Now most participants were waiting to see the outcome of the discussions between the two major trading partners before embarking on further negotiations. He made clear that his country remained committed to the multilateral system even if it was in the process of negotiating a free trade agreement. He stressed that it was important to achieve the Montreal target.

11. Disappointment was expressed by some developing country delegations at the fact that their countries' concerns had not been addressed in the offers of other trading partners. There was need for a more flexible negotiating process so that results in all areas, including textiles, agriculture and tropical products, could be achieved.

12. Some participants from developing countries informed the Group that their Governments had submitted improved offers either following bilateral consultations or with the idea of stimulating progress in the negotiations. One of these participants stated that further improvements to his country's offer would be proposed in view of the responses made by the other trading partners. He requested delegations to consider the offer in light of the level of his country's development and the relevant provisions of the Punta del Este and the Montreal Declarations dealing with developing countries, as well as in light of the autonomous liberalization measures undertaken by his country and of the value of the offers made by his country's trading partners in terms of increased market access for items of interest to his country, in particular in the agriculture and textiles areas.

13. Regarding future work, many participants indicated their willingness to actively engage in bilateral and plurilateral negotiations. Several delegations mentioned that their offers remained flexible and open for improvement. Many participants stressed the importance of parallel progress in all market access areas and the need for more flexibility in the negotiations.

14. The Chairman noted that the major problems outlined in his report were still very much in evidence. However, he was encouraged to hear that delegations had undertaken serious and good faith negotiations and that they intended to continue with such discussions.

Application of Article XXVIII to the modification or withdrawal of non-tariff measures

15. The Chairman pointed out that discussions held by the Group on this issue at the last meeting was reflected in document MTN.GNG/MA/1, and that it had been agreed that the technical and legal questions of concern to individual delegations could be further examined by the Group. In this connection, the secretariat had received a communication from one delegation, which had been circulated in document MTN.GNG/MA/W/2.

16. The view was expressed that non-tariff measures outside the scope of the GATT should be excluded from consideration under this issue and due account should be taken of the difference between a tariff and a non-tariff concession when applying Article XXVIII. Future discussions should also cover the question of the right of developing contracting parties to invoke Article XVIII:B and the right to apply quantitative restrictions in such a context. It was also pointed out that delegations had the freedom to negotiate on both tariff and non-tariff measures and to bind the results of these negotiations. Contracting parties also should have the right to indicate the precise terms of their offered binding, the only restriction being that these conditions should not be detrimental to any other contracting party. Once such a concession had been established and reflected in a schedule of concessions the legal framework which applied was the General Agreement. While discussions thus far had been focused only on the question of the applicability of Article XXVIII, it should be possible to invoke any Article of the General Agreement with respect to a non-tariff concession depending on the situation and the conditions under which such a binding had been offered. Consequently, there appeared to be no need to establish and adopt a general rule for a bound non-tariff measure.

17. It was pointed out that no contracting party could oppose the results reached by two parties following their bilateral negotiations. The problem arose when through inclusion in a schedule of concessions, a bilaterally negotiated concession acquired a multilateral effect, and at a future date a party might have to undertake consultations on a quantitative restriction prohibited by Article XI of the GATT.

18. The Chairman recalled that at the last meeting it had been clarified that concessions could not be made on non-tariff measures illegal under the General Agreement, and that the entering into GATT schedules of bindings on non-tariff measures consistent with the General Agreement was an optional procedure to be done in accordance with the provisions of the GATT. He further pointed out that the work of the Group was to examine the applicability of Article XXVIII with respect to the withdrawal and

modification of non-tariff concessions and not the possibility of making such commitments. Clearly more work needed to be done in order to narrow down the areas of concerns so that the Protocol could properly reflect the trade liberalization measures taken under market access.

Approach to give credit for bindings and recognition for autonomous liberalization measures

19. The Chairman recalled that although these two issues were related, they were separate. He drew the attention of the Group to the revised "List of Liberalization Measures" prepared by the secretariat which took account of two more notifications. He also informed the Group that another notification had been received and circulated with document MTN.GNG/MA/W/4. He then requested the delegate who had been charged by the Group at its last meeting to hold informal consultations with interested delegations on these questions, to report on the discussions.

20. The participant stated that at the plurilateral meeting the discussion had centered only on the question of credit for binding based on an unofficial document, which was the result of a combination of two previous non-papers, and which reflected the different views of participants. It was agreed that the document contained interesting elements but that there were certain factors that had to be further examined. One point that emerged from the discussions was the new idea of credit for bindings which related to the concept of binding coverage as a proportion of national tariffs and which was in line with the Montreal commitment to extend the scope of bindings. While concern was expressed that this type of a mechanism would act as a disincentive for the market access negotiations, in his view, such a system could only have a positive impact on the negotiations. It was furthermore questioned whether only a quantitative method should be used when evaluating credit or whether qualitative factors should also be taken into account. It was evident that quantitative factors facilitated the multilateral mechanism while qualitative factors required an assessment at the bilateral level. Also, the topic of the relationship between tariff and non-tariff measures which was connected to the question of real market access and the subject of the actual binding of a non-tariff measure was addressed. The two latter elements, he pointed out, were already part of the on-going discussions under this Group. He also informed the Group that a meeting of twenty-three Heads of States from the Ibero-American region took place recently in Guadalajara. Their final communication reflected an interest for the concept of credit and recognition to become operational in such a manner as to support the liberalization process undertaken by many countries during the past year.

21. In reply to a request by the Chairman, the participant stated that he was ready to pursue informal consultations on these matters with interested participants. It was his intention to take as the reference point for future discussions the non-paper dated 15 July 1991 and to report back to the Group on the progress made during these meetings.

Arrangements for future meetings

22. The Chairman indicated his intention to hold another formal meeting of the Group on 27 September 1991, subject to endorsement by the GNG, and further meetings as required later on. He hoped that most delegations would have their negotiators in Geneva during the two weeks preceding this formal meeting. This time period, beginning 16 September 1991, would allow all participants to undertake active and intensive negotiations on tariff and non-tariff measures issues. He stressed that, in view of the limited time remaining until the end of 1991, there was an urgency for participants to begin to negotiate actively and achieve concrete results which would lead to an overall balanced market access package reflecting the interests of all participants. He proposed that at the next meeting the Group examine progress made in the negotiations and decide on the procedure to be followed to ensure the attainment of substantial and balanced results within the given time limit. He also informed the Group that he intended, on his own responsibility, to make a further report on the status of the market negotiations to the Chairman of the Trade Negotiations Committee. This report would be made available as soon as possible to all delegations.