

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG3/W/4

9 July 1987

Special Distribution

Group of Negotiations on Goods (GATT)
Negotiating Group on NRBPs

Original: English/French

SUBMISSION FROM THE EC

The following submission has been received from the delegation of the European Communities with the request that it be circulated to members of the Negotiating Group on Natural Resource-Based Products.

A. Distortions in the field of raw material trade

1. In this field numerous distortions prevail throughout the world giving rise to a variety of trading problems. Clearly it ought to be the task of the Uruguay Round to devise solutions to these problems so as to ensure fair trading conditions. The problems which the Community has in mind are briefly, but not exhaustively, described below.

2. A first problem is the existence of abnormally high import duties. To quote a few examples, for copper, duties are 14 per cent in Argentina, 10-15 per cent in Brazil, 5 to 20 per cent in South Korea, ¥ 15,000 per ton in Japan (equivalent to approximately 8 per cent ad valorem) and 100 per cent in India. For titanium, the 17 per cent import duty prevents any import into the United States. For zinc alloys, the 17 per cent duty in Canada and 19 per cent in the United States achieve a similar result.

3. One of the aims of the Uruguay Round ought to be to reduce these prohibitive duties to reasonable levels.

In a number of cases, notably in the United States, imports are also barred by a ban on imported materials in public procurements relating to defence.

4. A second problem is due to double pricing. One practice consists of maintaining higher domestic prices for refined metals compared with world market prices.

5. This practice can only work if import restrictions official or concealed are imposed. The consequence is that it gives the domestic refiners the possibility to offer higher prices for the imported raw materials and thus to overbid their competitors and deprive them of their raw materials supplies.

6. This is the case for example for copper in Japan (+20 per cent at present) and in Brazil (+100 per cent) as well as for ferro-nickel (15-20 per cent) in Japan.

7. But double pricing can also be operated in the reverse way. In such cases raw material is sold to domestic processors/fabricators at prices lower than those charged to overseas processors/fabricators. This gives domestic producers an advantage over their foreign competitors both in the competitors' domestic and export markets. This is the case for example for titanium sponge produced in Japan, for phosphates produced in Morocco and in the United States.

8. This practice called "reverse dumping" cannot generally be countered by anti-dumping measures, since the exporters of the processed products do not sell below costs and apply the same prices on both domestic sales and exports.

9. Such behaviour i.e. the use of pricing policies in transactions between affiliated enterprises which overcharge or undercharge for goods or services purchased or supplied as compared with prices for similar or comparable transactions outside the affiliated enterprises is covered in the UNCTAD Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, but not by an appropriate GATT provision.

10. Another distortion is caused by quantitative export restrictions or by export taxes. Examples of such practices are hides and skins in Argentina, Brazil, India and Pakistan, logs and rattan in Indonesia and metal scraps in numerous countries.

11. The Community considers that the Negotiating Group on Natural Resource-Based Products among other things, should seek to work out adequate provisions in order to eliminate these distortions. The objective would be to adopt a standard procedure for dealing with such problems rather than try to solve them on a case by case basis.

12. The present document is intended to highlight a few typical problems but is in no way exhaustive. The Community therefore reserves its right to table more formal proposals at a later stage.

B. Multilateral negotiations in the fisheries sector

1. In regard to natural resource-based products, the Ministerial Declaration of Punta del Este stipulates that negotiations in the framework of the Uruguay Round shall aim to achieve the fullest liberalization of trade in these products, including in their processed and semi-processed forms.

It should be noted, however, that at Punta del Este the Community underlined that in regard to the fisheries sector, discussions would be carried forward only if all the factors specific to that sector and having trade effects were taken into consideration.

2. The general extension of exclusive economic zones (EEZ) for fishery to 200 nautical miles since 1977 has resulted in¹:

- a radical change in the structure of trade;
 - a proliferation of bilateral agreements on fisheries;
 - increased State intervention in fishery activities.
- (a) Whereas certain coastal States have suddenly acquired control over access to vast fishery zones, others have incurred substantial losses through the exclusion of their distant water fleets from traditional fishing areas which, virtually overnight, have been brought under the jurisdiction of third countries.
- (b) Although Article 62 of the United Nations Convention on the Law of the Sea of 1982 stipulates that where a coastal State does not have the capacity to harvest the entire allowable catch in its EEZ, it must give other States access to the surplus, it does not lay down constraining criteria for allocation of the surplus to third countries by resource-rich countries. The present situation is that the coastal States unilaterally determine the size of the surplus, the conditions for its allocation and the countries that may benefit from such allocations, in the light of their own interests, in particular their trade interests. Access to marine waters, associated with various compensations, has led to the conclusion of more than 300 bilateral agreements in the period 1977 to 1985.
- (c) The great distortion of international competitive conditions which is characteristic of the present situation has naturally resulted in increased State intervention in fishery activities, whether in the form of direct aids or of sectoral policies, thereby contributing to aggravate existing inequalities to the detriment of the resource-poorest countries.

3. On several occasions the Community has underlined that this pronounced trend towards bilateralism in respect of fisheries trade is directly threatening the principles of multilaterality and non-discrimination on which the General Agreement is based.

In the absence of univocal and generally-accepted international rules for defining a surplus and criteria for its allocation, any tariff concession would carry the risk of encouraging arbitrary action by the coastal State. Unless the question of access to resources is taken up in the framework of the multilateral negotiations, it would be vain to believe that any expansion and liberalization of world trade can be achieved through multilateral tariff concessions.

¹Source: Background study by the GATT secretariat, MDF/W/55 of 15 November 1985

4. In its effort "to ensure mutual advantages and increased benefits to all contracting parties"¹, an effort which constitutes the common objective of the new round of negotiations, the Community remains fully aware of the particular responsibility of the industrial countries vis-à-vis the developing countries. Having regard to that responsibility and to the principles and objectives of Part IV of the General Agreement, an equitable sharing of benefits implies that the developed countries must help the developing countries to make lawful use of their resources.

5. The Community considers it necessary that the Group on Natural Resource-Based Products continue to identify problems arising in the fisheries sector, on the basis of the background documentation assembled by the Working Party on Trade in Certain Natural Resource-Based Products.² During the initial phase, the Group should further develop information regarding:

- (a) tariff and non-tariff measures on imports;
- (b) aids to production and trade;
- (c) other factors specific to these products and which have trade effects.

6. As regards measures falling under (a) and (b) above, the EEC will shortly be forwarding to the Group on Natural Resource-Based Products a notification concerning its own measures in respect of fishery products. It would be necessary for other participants to do likewise.

7. As regards other factors, the Community considers that the elements it has developed in the present note, and those already transmitted to the Working Party in 1985 (see document MDF/W/36 of 28 May 1985), are important and should be examined carefully with a view to achieving the fullest liberalization of trade in this sector.

¹ Summary of objectives of the negotiations, made by the Chairman at Punta del Este on 29 September 1986

² Report of the Working Party, document L/5895 of 25 October 1985