

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG2/3  
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Group of Negotiations on Goods (GATT)  
Negotiating Group on Non-Tariff Measures

MEETING OF 30 JUNE 1987

Chairman: Ambassador L. Duthie (Australia)

Note by the Secretariat

1. The Negotiating Group held its third meeting on 30 June 1987. It adopted the agenda contained in GATT/AIR/2435.

Continued examination of the issues to be covered, including the relationship between the negotiations in this area and other areas of the negotiations

2. The representative of Brazil drew attention to a submission which his delegation had made at the meeting of the Negotiating Group on Tariffs (MTN.GNG/NG1/W/9, reissued as MTN.GNG/NG2/W/6) which was also relevant to the work of the Negotiating Group on Non-Tariff Measures. They would be submitting a proposal on non-tariff measures based on similar lines.

Establishment of an adequate data base for the negotiations and proposals from the participants setting out the particular problems which they want to address and the techniques which they consider should be used to deal with them

3. The Chairman recalled that in accordance with the Decision adopted by the CONTRACTING PARTIES at their Forty-Second Session (L/6100), the secretariat was going to issue as NTM/W/6/Rev.4 an updated version of the quantitative restrictions documentation. The documentation which would incorporate all new notifications made since the summer of 1986, was expected to come out in August 1987. He also recalled that the secretariat had circulated to interested delegations its proposals regarding the creation of an integrated trade and trade policy data base (subsequently issued as C/W/521) which were being discussed in an Informal Advisory Group, open to all delegations.

4. The representatives of Australia, Canada and the United States introduced the submissions contained in MTN.GNG/NG2/W/3 and Corr.1, MTN.GNG/NG2/W/5 and MTN.GNG/NG2/W/4, respectively.

5. Many of the comments made were of a preliminary nature. Some delegations reserved their right to revert to the submissions at the next meeting of the Group.

6. Some delegations welcomed the submission presented by the delegation of Australia which they saw as an interesting contribution to the efforts to get the negotiations started. They acknowledged that one of the difficulties faced by the Group was the method to be selected for handling the vast amount of data which was available to it. However, some delegations considered that the work suggested by Australia could lead the Group into discussions which would delay the negotiations. Moreover, the data base on which this exercise could be based was incomplete and lacked information on a number of countries. The Inventory of Non-Tariff Measures (Industrial Products) relied on counter-notifications, and for that reason was less comprehensive than the documentation on quantitative restrictions. One delegation said that a standard format could be applied to notifications on non-tariff measures with a view to improving the documentation. The documentation put together by the Group on Quantitative Restrictions and Other Non-Tariff Measures could also be improved by the inclusion of the AG/DOC/- series.

7. Some delegations also stated that there was already a de facto grouping of non-tariff measures in different Negotiating Groups. The Negotiating Group on Non-Tariff Measures would deal with measures which were not taken up multilaterally elsewhere. The work had to be ordered by tariff line so as to make possible the examination of individual non-tariff measures. This would be facilitated by the establishment of an integrated data base. In the opinion of some delegations, it was difficult to apply a formula to quantitative restrictions as suggested by the delegation of Australia. Other delegations asked whether it was the intention to request the Negotiating Group on MTN Arrangements and Agreements to deal with measures which could be considered as being within the framework of those arrangements and agreements or whether such measures would be taken up in the relevant Code Committees. One delegation recalled that the mandate of the Negotiating Group on MTN Agreements and Arrangements was to improve the arrangements themselves and not to negotiate all non-tariff barriers in areas dealt within the Codes. Some delegations asked which body would be competent to deal with measures implemented by countries which were not parties to the MTN Arrangements and Agreements. Some delegations pointed out that the Punta del Este declaration did not refer to the elaboration of new codes, to which certain delegations were averse. This made them unable to accept a categorization system which implied the negotiation of new codes. They also asked whether only measures which complied with the GATT would be the subject of negotiations, and of how this distinction could be made. One delegation wondered whether it was appropriate to put measures which had a price effect into the same category as measures which had a volume effect.

8. In response to these comments, the representative of Australia stated that their submission was aimed at identifying where each particular measure could be taken up. The four categories which they had proposed were not fixed, though they covered the broad spectrum of negotiating interest on non-tariff measures. If no effort was made to classify the information available, the Group would drift into bilateral exchanges of

requests and offers, even though history showed that there was an urgent need to try other approaches. It would be useful to identify non-tariff measures which were not covered by the MTN Agreements and Arrangements. They had not attempted to define the negotiating techniques to be used, a matter to be discussed separately. They did, however, believe that the formula approach could be applied to the non-tariff measure field. It was well-established that the trade effects of measures which had a price or a volume effect could readily be quantified and therefore they could lend themselves to a formula approach if only to one which provided for a simple expansion of volume.

9. With respect to the Canadian and United States submissions, some delegations raised doubts about integrating all market access problems in the fields of tariffs and non-tariff measures, if only for the reason that the General Agreement separated tariffs and non-tariff measures in a very specific way. Moreover, there was no reference to an integrated approach in the negotiating objectives of the Groups on Tariffs and Non-Tariff Measures. Another view was that when negotiating on tariffs on a particular product one had to look at whether the value of a tariff binding might be impaired by special import charges, fees, surcharges, monopolies, import deposit schemes, delays in the issuance of import licences, etc. In that sense, it was clear that negotiations had to be integrated. A systematic approach had to be devised for addressing measures which recurred over a number of products. Cross-fertilization between different Negotiating Groups also had to be maintained. Different aspects of the same measure could be addressed in different groups. In the opinion of other delegations requests could not be formulated until the Harmonized System came into effect on 1 January 1988.

10. With respect to the United States' submission, the statement that parties should not pay for the elimination of illegal practices was welcomed by some delegations. Affected parties would have to identify measures which were not consistent with the GATT and which should be eliminated under the rollback commitment. There was an important interface between the activities of the Negotiating Group and those of the Surveillance Body. However, the United States' submission would postpone the question of GATT-consistency of measures until the end of the negotiations, which would be disconcerting because of the undertakings contained in the Ministerial Declaration. Arguing that it was not possible to distinguish between GATT consistent and inconsistent measures would be tantamount to saying that the rules of the GATT were too obscure. The integrated market approach would also lead to the substitution of one form of protection for another. In some cases, the results of past rounds of tariff reductions could be negated, since under the procedure envisaged, a non-tariff measure could be replaced by a high tariff. This was of particular concern in relation to textile restrictions maintained under the MFA which were not illegal because they were the subject of a formally agreed derogation recognized as such under the GATT. No price had been paid in terms of reduced tariffs when the MFA was established and a non-tariff measure régime was introduced. There was therefore no basis for demanding a price now and the United States' submission had to be read as not applying to textiles.

11. Some delegations considered that the secretariat's analyses contained in NTM/W/17 indicated areas in which multilateral action was possible. The need to observe special and differential treatment in favour of developing countries was also mentioned in this connection.

12. At the end of the discussion, the Chairman recalled that the negotiating plan required that before the end of the initial phase the Group had to reach a common understanding on appropriate techniques and procedures (bilateral requests and offers, subject to procedures to ensure transparency, multilateral approaches) and on subjects to be dealt with multilaterally (MTN.GNG/5). The Group had to move towards this objective at the next meeting. Delegations therefore had to come to the next meeting of the Group prepared to agree on techniques and procedures which would be used in bilateral requests and offers. One of the main purposes of these would be to ensure that these negotiations take place in a multilateral framework. An understanding would also have to be reached on how to deal with differences of opinion on whether or not bilateral requests and offers should cover measures on products which are the subject of negotiations in other Negotiating Groups and on whether negotiations on non-tariff measures should or should not deal with measures which are contrary to GATT.

#### Observer organizations

13. No agreement was reached on suggestions that UNCTAD, IMF, IBRD and UN be invited to attend the meetings of the Group and provide expertise on non-tariff measures. The Chairman reminded the Negotiating Group that discussions would be held in the Trade Negotiations Committee on the subject of observer organizations.

#### Other business, including arrangements for the meetings of the Negotiating Group during the initial phase

14. The Chairman stated that the discussion which had taken place indicated that the Negotiating Group would need two additional series of meetings before it could complete the initial phase. He suggested that the Group meet again immediately after the next meeting of the Negotiating Group on Tariffs, which was expected to be held in mid-October.