

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)
Negotiating Group on Natural
Resource-Based Products

NEGOTIATING GROUP ON NATURAL RESOURCE-BASED PRODUCTS

Meeting of 21 October 1987

Note by the Secretariat

1. The Group, chaired by Mr. L. Duthie (Australia), held its fourth meeting on 21 October 1987.
2. The Group adopted the agenda set out in GATT/AIR/2488. The Group took up agenda items A and B together.

Agenda Items:

- A. Continuation of exchange of views and/or proposals for organizing the work of the Group
- B. Continuation of work under the initial phase of the Negotiating Plan of the Group on Natural Resource-Based Products

3. At the outset, the Chairman drew attention to the secretariat's notes summarizing discussion at the preceding meetings. He recalled that at the third meeting the United States and the EC had submitted, in writing, position papers and proposals regarding work to be done in relation to natural resource-based products. Several delegations had then indicated that they would need some time to study the proposals and points made in the submissions. He invited comments.

4. Commenting on specific points in the EC position paper, the representative of Japan explained that the import duty on copper in Japan (¥ 15,000/ton) was equivalent, on average over the last five years, to approximately 4.6 per cent ad valorem, rather than 8.0 per cent, as stated in the EC paper. Further, it was not correct that Japan operated a double-pricing system for copper, nickel or titanium sponge. Prices in the Japanese market for these products were determined solely by commercial considerations. These points apart, Japan did agree that export restrictions and access to fishery resources should be addressed in the work of NG3. More generally, Japan felt that account should be taken not only of exporting countries' interests, but also of those of natural resource products importing countries.

5. A delegation speaking, on behalf of the four Nordic countries and referring to the general views on the work of NG3 - views which had not changed - added certain points of clarification regarding their position. While the Nordic countries remained convinced that the goal of liberalizing tariffs and non-tariff barriers, in this and other areas, should be pursued by means of general negotiating techniques, they were willing to discuss in NG3 problems in the areas of tariffs and non-tariff measures that participants perceive as specifically relating to natural resource-based products. As regards product coverage, the spokesman stated that, while the Punta del Este mandate itself did not specify the product coverage of this Negotiating Group, there was a precedent in the 1982 Work Programme which covered three sectors, that is minerals, forestry products and fish. In addition, the United States, for example, had suggested that the examination be broadened to cover various other natural resource-based product areas, such as energy-based products. In principle, the Nordic countries were not opposed to looking at problems encountered in such areas, provided, however, that these were truly specific for the areas in question and also that the products concerned are of significance in world trade. They believed that these were some pertinent criteria that should guide the approach in this area. Nevertheless, a word of caution was warranted, because the more the work is expanded in this Negotiating Group, the more it would be fragmenting the work on tariffs and non-tariff measures. He said that, if one were to take the definition of natural resource-based products to its extreme, one could end up with a gigantic sectoral negotiation - and that was something that the Nordic countries could not accept. As regards other specific problems covered in the submissions made so far, one saw such issues as export restrictions, subsidies, dual pricing and government ownership. The Nordic countries did not question the existence of problems in these areas, in fact, some of the Nordic countries' experience coincided, inter alia, with what the EC had stated in its submission in respect of two-price systems regarding certain minerals. Yet, in general, the Nordic countries doubted whether these problems listed under the above-cited headings were not, in reality, of a generic nature, rather than sector-specific. The Nordic countries were not opposed to discussion of these issues in this Negotiating Group, but it was their hope that, at least when it came to deciding on a negotiating approach, a multilateral approach would be found most appropriate. The EC suggestion for the elaboration of standard procedures for dealing with the respective problems could be interpreted, perhaps this could be confirmed, as an indication of recourse to horizontal approaches. The problem of export restrictions was a pertinent example. He recalled that towards the end of the Tokyo Round negotiations some thorough discussions were held on the subject, with the aim of formulating general guidelines for the application of such restrictions. It might, hence, be interesting to refer back, with the help of the secretariat, to the work that was done at that time, and to see what conclusions might be drawn for the work of this Negotiating Group. Finally, on another point, the subject of fishing rights, the Nordic countries' position remained unchanged, e.g., they were not prepared to cover these in the negotiations.

6. Some participants stated that the fact that certain problems listed in the submissions had been identified in natural resource-based products trade should not be interpreted as occurring only in the natural resource-based products area. It was for that reason that they favoured generic approaches for dealing with generic problems; furthermore, they could not accept to cover in the negotiations the question of access to resources.

7. The delegate of Australia informed the Group that Australia was now in a position to present its proposals for work on natural resource-based products, without prejudice, however, to its right to submit additional proposals in future. (The text of the statement, which was circulated at the meeting, is reproduced in document MTN.GNG/NG3/W/7) She stated that Australia considers that the Uruguay Round negotiations on natural resource-based products should address all market access issues and subsidies which restrict or distort trade in these products. Major industry assistance measures distorting trade included subsidies, other non-tariff measures, tariffs and tariff escalation and abnormal investment incentives. The application of such measures differed significantly as between countries and also as between sectors within a country. In some instances there was more emphasis on border measures while in other instances countries relied more on budgetary and other assistance measures. Australia believed that product coverage for NG3 should be broad and should include, but not be limited to, all primary and processed ferrous and non-ferrous minerals and metals, energy, including oil, coal, natural gas and uranium, forestry products and fish and fisheries products. Australia believed that the Uruguay Round provides an opportunity to obtain multilateral trade liberalization in energy and mineral products and to begin the process of removing distortions from international markets for energy and mineral products. Protectionist and other trade-distorting measures were inhibiting the adjustment process by preserving or expanding high-cost domestic production, whilst more efficient producers were facing closure or scaling-down of production, hence at increasing cost to both producers and consumers. Examples cited, and vividly demonstrated with supporting facts and figures, focused on production and international trade in coal. Other sectors referred to in which subsidies distort production and/or trade were primary steel, iron ore, salt, uranium and tungsten. Australia held the view that NG3, taking into account the work of other negotiating groups, should: identify subsidy practices, examine their effects on world trade and review existing GATT Article and Subsidies Code disciplines on domestic subsidies, as they affect natural resource-based products trade, either directly or indirectly; determine how these disciplines might be improved to afford an appropriate level of discipline over trade-distorting domestic subsidies, and develop a multilateral solution to the problems. This was an important exercise to be undertaken. Non-tariff measures other than subsidies which restricted market access had also proliferated since the Tokyo Round and continued to have a negative effect on trade. Voluntary restraint arrangements, in particular, had severely distorted world trade patterns in steel and steel-making raw materials. Other examples of non-tariff barriers were: quantitative restrictions, discriminatory procurement practices, regulations forcing

consumption of high-cost domestic supplies, technical standards written in a way to favour particular production, health and sanitary requirements, non-commercial considerations influencing purchases. On the tariff front, residual tariffs continued to be a problem, for instance, for copper, zinc, alumina, aluminium, primary steel and mineral sands. Tariff escalation and significant levels of effective protection - far exceeding nominal tariff rates (which might be of the order of 5-10 per cent) - were other problems to be addressed. What was now necessary was to develop a consensus on appropriate negotiating modalities, taking into account those elaborated in other relevant areas of the Uruguay Round negotiations.

8. Commenting on the submissions made by the United States, the EC and Australia, the delegate of New Zealand stated that he certainly agreed that the issues raised were of considerable importance. Like certain other delegations he considered some of the issues raised not as being product area-, or sector- specific, but as being issues to be dealt with in a wider perspective. It was for that reason that his authorities favoured having these issues dealt with in groups which have a systemic perspective and approach. As regards the question of negotiations on fisheries it was his hope that negotiations in this area could move effectively forward without insistence on the stated conditionality for starting such negotiations.

9. The United States delegate noted with appreciation that the paper the US had submitted at the previous meeting had, in the meantime, been given serious consideration by the members of the Group. The United States did wish to re-emphasize that, in their view, NG3 had an important function in the Uruguay Round. Indeed, as described in the position paper, two-tier pricing, subsidies and related export practices and restricted government ownership were not only closely intertwined, but were also particularly prevalent in the area of natural resource-based products; it was thus justified to pursue these issues in the particular context of NG3. While the United States did not agree that the question of fishing rights was an appropriate subject for the Uruguay Round, and, while recalling that no consensus had been reached as regards the appropriateness of covering restrictive business practices in the negotiations, the United States, without taking a position on all the points and issues raised in the EC and the Australian submissions, agreed that the problems mentioned, and the ideas put forward, deserved to be looked at. As regards product coverage, the United States was prepared to approach the question with an open mind.

10. The delegation of the EC stated that it was encouraging to note that a number of participants now had expressed their recognition of the fact that there are some problems identifiable as being particular to the natural resource area, and were prepared to seek solutions for these, whatever the problems were, however formulated, and without prejudice to how that might be done. Yet it was also somewhat troubling that in some of the interventions, including those in the context of informal exchanges, there was an insistence, or over-insistence, on the question of market access. It was important to bear in mind that in NG3's mandate there was not a

reference to "market access", but to "trade" in natural resource-based products. Trade, evidently, is a two-way affair. In other negotiating groups, in short-hand fashion sometimes referred to as "market access groups", concerns over access to supplies were likewise never far from the minds of negotiators. He said that the EC would need some time to study before commenting in detail on the very interesting submission by Australia. The EC was, however, prepared to offer some additional points of clarification and perspective in relation to the EC position papers, relating mainly to minerals and metals and to fishery products.

11. As regards the minerals and metal-based products sector, the representative of the EC noted the numerous references that had been made in NG3's discussions to the Punta del Este Declaration and to the mandate of NG3. In most instances the references seemed to be focused almost exclusively on questions of market access. If that were the only issue to be addressed there would be no need for a separate Negotiating Group on Natural Resources, since the question of market access could, perhaps, be dealt with in other negotiating groups. If, however, one bore in mind the spirit and intent of the Punta del Este Declaration, it was obvious that a special Negotiating Group on Natural Resources had to be created to reflect in the negotiations the specificity of the natural resource area, a specificity that should never be lost sight of. The Natural Resource Products Group should not be seen as something akin to the Negotiating Group on Tropical Products - a Group whose objective it was to do more for tropical products in the negotiations than for other classes of goods. What was required in negotiations on natural resource-based products was to do something better, something more adequate than what would normally result. In fact, the approach should be to rely on the best possible combination of all the ingredients to be addressed in the Uruguay Round and, within these ingredients, there were of course such elements as market access, access to resources, prices, subsidies and so on. As regards market access it was necessary to be clear from the outset which markets were to be the subject of negotiations. For instance, was the interest directed to markets as they were currently, or to future markets? If it were present-day markets, one would be considering very depressed markets. In these markets the main part of demand was accounted for by the industrialized areas, another characteristic was worldwide over-capacity, resulting in prices which were not at all remunerative. If still further opened up, these markets would become asphyxiated, either at the level of quantities or as regards prices, which, inevitably, would lead to still further contraction. Perhaps such a view might be considered protectionist, but, more correctly, it should be seen as a recognition of the changed way in which natural resources are now being used in the world economy, as compared with earlier periods. Part of this might be explained by the general processes of dematerialization of most modern national economies (an ever-increasing share of GNP being accounted for by services), as reflected in a continuous regression in the amount of raw materials consumed per unit produced. Ten or fifteen years ago, for example, most family-sized motor cars weighed about 1,500 kg., while the often found second car in the family weighed about 800 kg. On average,

these cars were replaced after four years of service. Nowadays, the typical pattern was just one car per family, weighing about 1,000 kg. and the car was now being kept for about ten years. The point was that the quantity of raw materials which entered into consumption had declined greatly.

12. Then there was the not undangerous phenomenon of substitution, not only of one natural resource product by another such product, but also by synthetic products. Moreover, there were on the horizon totally new resources. Technological possibilities and progress were such that it was conceivable to imagine that industrialized countries could, some time in the future, develop and meet a large part, if perhaps not all, of their natural resource requirements from within their borders. For example, fifteen to twenty years hence, nuclear fusion processes might be counted upon to provide virtually unlimited energy, at very low cost. This would make it possible to extract from any kind of rock all the different types of minerals that may be required. It had been calculated that by fusion extraction processes, 1 cubic kilometre of any kind of rock could yield all the EEC's mineral requirements for a five- to ten-year period. Given the developments in technology, it would be dangerous to assume that the possession of a rich natural resource base is a natural advantage secure forever and ever. He believed that the real future demand for natural resources was not in the industrialized areas, but in the developing countries. For example, annual per caput aluminium consumption in the EC was of the order of 15 kg., while the average for the developing countries was of the order of 0.6 kg. As aluminium consumption could be considered as one of the parameters of economic development - there would, evidently, be need and scope for increasing world aluminium production. Assuming that by the year 2000 aluminium consumption per head in the developing countries might rise to 1.5 kg., or one-tenth of present EC consumption, this presupposed that over the next twelve to thirteen years, about seventeen additional smelters, each with an annual capacity of about 70 thousand tons would have to be built. Even such a modest target of providing one additional kilogramme of aluminium per inhabitant in the developing countries raised formidable questions as to how the extension of the smelter capacity and the required processing can be financed, and where to find the raw materials and the necessary energy inputs. Looked at in this broader perspective it should be evident that progress in the natural resource products sector cannot be achieved through confrontation, involving the disappearance of certain production capacity in the developed areas, on the basis of the so-called theory of comparative advantage, but only by setting up some complementarity as between the owners of the natural resources and the users. If one accepted that the producers of raw materials presently need markets and outlets, it was also true that they needed other elements, such as investment, technology, know-how and research and development. In the field of prospection, who, nowadays, could still be content with relying mainly on pick and axe rather than using satellite tele-detection. Even in fisheries, use was made of tele-detection tools and other high technology tools and equipment. Similarly for reforestation, or afforestation, modern biotechnologies and

imaginative methods had to be relied upon if progress on a sufficiently vast scale was the aim. There existed an interdependence, a complementarity between developed and developing countries and resource owners and resource users, which is why, the EC believed, it was decided in Punta del Este to give specific recognition in the negotiations to the specific characteristics of the natural resource products sector, namely, to do more and to do better. GATT and NG3 had an important rôle to play in the co-ordination of all the concessions that will be negotiated within the other groups and in ensuring that development of natural resources will continue for the benefit of all countries, but particularly so for the developing countries.

13. As regards negotiations on fisheries products, the EC delegation offered additional comments of clarification on their earlier, succinct submission. It was recalled that under the existing rules governing fisheries, possibilities for a given country to fish in the territorial waters of another country presupposed the existence of the so-called "surplus", e.g., fishable resources in the territorial waters concerned in excess of those actually, or potentially, exploited by the resource-owning and/or managing country. The surplus concept itself created some problem, in that it could not be excluded that the quantities deemed as surplus might be determined arbitrarily. But it was not only the quantity element that could be a problem, it was also the way in which the surplus, once it was set and announced, is distributed. In principle, as in dealing with access to scarce supplies, export restrictions and quota sharing - for which there existed agreed criteria in the GATT - access to the "surplus" should be administered in a non-discriminatory fashion, GATT Article I being one of the cornerstones of the GATT. In reality, however, access to the surplus was generally determined under bilateral agreements, e.g., out of step with the GATT principle of multilaterality. This was a dangerous development, with possible spill-over effects into related measures. The Community was not putting in question the right of developing countries to benefit from the new riches which the extension of the Exclusive Economic Zones to 200 nautical miles had presented. The concerns of the EC were over the problems encountered by the changes brought about by the EEZ's operated by countries at a stage of development similar to that of the EC, and with which concessions had been exchanged in earlier years, under entirely different conditions.

14. Several delegations recalled and reaffirmed statements they had made at previous meetings, explaining that they considered questions relating to access to fishery resources as being outside the scope of the Uruguay Round negotiations.

15. Referring to the points made by the delegation of the EC on the possible impact of technological developments on demand for natural resources, and the possible shift to, or increased reliance on, new energy sources, the delegate of Zaire stated that it was unfortunate to have to note that, on the one hand, possibilities for developing countries to develop by themselves their natural resources were seen to be hardly

promising while, on the other hand, faith in possibilities of solving problems of resource shortages through technology was high. Given popular reactions and protests against nuclear power programmes in a number of developed countries, some of the assumptions made about future energy use and resource procurement scenarios might not be realistic. The most important matters to be dealt with in the natural resource sector concerned problems of market access, particularly for semi-manufactures and manufactured products, namely, tariffs, other duties, quantitative restrictions, but also subsidies. A possible extension of the product coverage for NG3, as had been proposed by certain delegations, was a matter sufficiently important as to require serious examination.

16. Commenting on the threat posed to natural resource producing countries by the development of substitute materials, the representative of Mexico suggested that it would be useful if a background paper could be prepared on that subject. Another issue which he suggested the Group should take up is sanitary and phytosanitary regulations.

17. Referring to the stated EC position that natural resource products trade involved problems of a particular nature, the delegate of New Zealand pointed out that he remained unconvinced that the problems cited were natural resource products sector-specific. Problems found in the NRP area could, for instance, be reduced and defined as follows: declining demand, product substitution, improving technology, investment needs, need for research and development and need for technical skills in developing the resource. The problems were real and they had been found in the NRP area, because that was the area which had been studied. But, in reality, were not these problems and concerns encountered in all the different industries and trade, whether high technology or highly labour intensive? In other words, there was no particular NRP-specificity. This did not mean that his delegation was not prepared to look at the facts and real world problems identified. Indeed, they expected that all participants, in any area of the negotiations, would fully acknowledge the full range of commercial concerns and interests. At the same time, it was important to stay, in the context of negotiations in this Group, within the bounds of the mandate, and more generally, those of the General Agreement. He was fully conscient of the provisions of Articles I and III, which had earlier been referred to, but it had to be realized that the provisions of these Articles related, respectively, to importation and exportation; internal taxes, charges, and regulations. The application of these GATT provisions and others that may apply - such as Articles XI and XX - to trade in fishery products was not at issue; what was at issue was a rather different question, namely access to a resource.

18. Several delegations stressed that a balance has to be found and maintained in the negotiations between the interests of resource-rich exporting countries and resource-poor importing countries. Unless there was such a balance there could be little incentive for importing countries to liberalize their import markets. The delegation of Korea specifically made the point that questions of access to resources, export restrictions

or prohibitions, and trade-distorting production and export subsidies would have to be covered in the negotiations, regardless of whether or not these issues were covered by the provisions of the General Agreement. They also stressed that a balance of interests will have to be maintained as between large and efficient suppliers and small developing country suppliers, which are in balance-of-payments difficulties, even if they might not be very efficient producers of the resource products concerned.

19. The delegation of the Philippines, while agreeing with the point made on the need for a balance of interests, stated that such a balance would have to be found within the cornerstones of the General Agreement.

20. Referring to the various comments which the EC position papers, and the additional background information supplied, had elicited, the delegate of the EC noted that certain misunderstandings or apprehensions seemed to persist. He explained that the EC was not attempting to channel the discussion into one particular direction or another, nor was the EC enunciating principles that should immediately be converted into GATT Articles. The EC was convinced, however, that problems of non-discrimination are of concern to GATT, as a principle, even though Article I might not be specifically invoked. Problems of national treatment, insofar as they concern natural resource-based products, are a consequence, without doubt of Article III, even though Article III might not be specifically invoked. It was important for everyone to bear in mind that the Uruguay Round involved the negotiation of a living GATT, of a moving GATT, a process of seeking to strengthen the rôle of the GATT and to improve the multilateral trading system, based on the principles and the rules of the GATT, but also to bring about wider coverage of world trade under agreed and effective and enforceable multilateral disciplines. The message the EC wanted to leave was that it was not a static situation. They were conscious of the fact that in all areas, and the NRP area in particular, it would not be wise to simply blinker one's vision and to say what was the world of yesterday should be the world of tomorrow. Ten years from now, it might be totally inappropriate. It was in that spirit that the EC had put forward its proposals and certain ideas, as food for reflexion, which, though perhaps not directly relevant for each and every problem before the Group, were certainly not irrelevant.

21. The Chairman said that the discussion had been useful and interesting, and had, indeed, raised a number of points for further reflection. He was concerned, however, that there was only one more series of meetings available for completing the initial phase of the Group's Negotiating Plan, and there was not yet general consensus on a number of questions. To facilitate the task of the Group in making further headway in its work, he suggested, and the Group concurred, that the secretariat prepare a summary schedule of the views expressed, either orally or in writing, in this Group on the scope and the nature of the issues and matters to be covered in NG3. He invited delegations who might wish to supplement their proposals, or wished to make new proposals, to transmit these to the secretariat, and, if the proposals were intended to be reflected in the summary schedule, not later than by the end of the first week of November.

Item C: Other Business

22. The Chairman recalled that at previous meetings of NG3 different delegations had proposed that FAO, the IBRD, the IMF and the UN Secretariat be granted observer status in the Group. The proposals made had been seconded by several delegations, but the Group had not acted definitively on these proposals, since, at the time, discussions were still in progress concerning the criteria to be adopted for observer participation in the Uruguay Round. Subsequent to the Group's last meeting, such criteria were agreed upon by the TNC (MTN.TNC/3). He proposed that the Group notify the GNG and the TNC that observer status of the above-listed organizations was acceptable to NG3 participants, subject to the understandings agreed upon in the TNC. This was agreed.

23. The Chairman recalled that, at its meeting on 4 October, the GNG had approved the calendar of meetings up to 18 December. NG3 was scheduled to meet on 18 and 19 November. The Group took note of the agreed meeting schedule.