

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED
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Group of Negotiations on Goods (GATT)

Negotiating Group on Natural
Resource-Based Products

SUMMARY OF STATEMENTS AND PROPOSALS MADE CONCERNING
NEGOTIATIONS ON NATURAL RESOURCE-BASED PRODUCTS

Note by the Secretariat

Revision

1. At its fourth meeting, held on 21 October 1987, the Negotiating Group on Natural Resource-Based Products (GNG/NG3) instructed the secretariat to prepare a summary of statements and proposals made regarding further work to be undertaken in accordance with the Negotiating Plan for GNG/NG3, adopted by the GNG on 29 January 1987. The requested summary was circulated in document MTN.GNG/NG3/W/8.

2. The revised summary that follows has been prepared on the responsibility of the secretariat, on the basis of documentation available to it, comments made at the Group's meetings and incorporating also a summary of proposals made at the Group's fifth meeting by four African countries, by Australia, by the United States and by Chile (cf. MTN.GNG/NG3/W/9 and MTN.GNG/NG3/5 and Add.1).¹ The note is in no way intended to prejudice the rights of participants as regards possibly different interpretations of statements or proposals made so far, or the submission of additional proposals.

I. Determination of Issues

3. As regards the determination of issues during the Initial Phase of NG3's work, the Negotiating Plan agreed by the GNG leaves this matter open-ended, in that it stipulates that account is to be taken of the documentation established (i) by the Working Party on Problems of Trade in Certain Natural Resource Products, and (ii) of proposals by delegations.

4. With respect to (i), it is relevant to recall the terms of reference of the Working Party on Problems of Trade in Certain Natural Resource Products, set up by the Council on 13 March 1984, which were as follows:

¹Attention is also drawn to MTN.GNG/NG3/3 and documents listed in the footnote on page 1 of the NG3/3 and to the documents in the MTN.GNG/NG1/,-/NG2/ and -/NG6/ series; Nos. 1 through 5, in each of these series, respectively.

"To examine, in accordance with the Decision on Problems of Trade in Certain Natural Resource-Based Products adopted at the Ministerial Meeting of the CONTRACTING PARTIES in 1982 (BISD 28S/20), problems falling under the competence of the General Agreement relating to tariffs, non-tariff measures and other factors affecting trade in the following natural resource products, including in their semi-processed and processed forms, with a view to recommending possible solutions:

- (a) Non-ferrous metals and minerals;
- (b) Forestry products;
- (c) Fish and fisheries products.

"The Working Party shall conduct its examination on the basis of background documents prepared by the secretariat. Other relevant documentation, including any information provided by delegations, may also be considered."* (*Reference: C/126; rest of text omitted as not being directly relevant for this note.)

5. Taking into account the general Uruguay Round objectives, the negotiation objectives relating specifically to natural resource-based products¹, as well as the terms of reference of NG3, the backward linkage to the reports -, documentation - and proposals by delegations in the Working Party on Problems of Trade in Certain Natural Resource Products, several delegations have proposed that NG3 should address not only the question of the reduction or elimination of tariff barriers, of tariff escalation and of non-tariff measures - which some delegations hold should mainly be pursued in Negotiating Groups 1 and 2, respectively, - but also such problems, or issues, as:

- officially encouraged price-fixing practices;
- dual-pricing practices and resulting subsidies, and/or reverse dumping;
- pricing policies in transactions with affiliated, versus non-affiliated, enterprises;
- effects of restrictive business practices (whether or not government-condoned);
- government ownership and management of natural resource products production or trade;
- natural resource development policies and practices;
- State trading;

¹ Explicit reference to the broader Uruguay Round objectives, as set out in the Punta del Este Declaration, Part A(i) and (ii) and also in Part B(v), was made by several delegations; cf.: MTN.GNG/NG3/4, para. 20 and MTN.GNG/NG3/5, paragraphs 5 and 6.

- abnormal investment incentives;
- subsidies¹ and inadequate subsidy disciplines;
- discriminatory procurement;
- access to supplies and related questions (for instance: fisheries - "surplus")²
- export restrictions and export taxes;
- voluntary export restraint arrangements;
- prohibitive import duties;
- low duties resulting, nevertheless, in high levels of effective protection;
- discriminatory technical standards;
- sanitary and phytosanitary regulations;
- problems of natural resource products displacement by substitutes.

6. A number of delegations hold the view that one or more of the above-listed subjects are either outside the scope of the Uruguay Round, such as access to fisheries resources, for which the UN Convention on the Law of the Sea is seen as the appropriate juridical instrument, or involve problems that are not NRP sector-specific, and which might hence better be dealt with in the respective, so-called "horizontal" negotiating groups. Furthermore it was noted that for some of the issues listed there was no consensus in Punta del Este as regards coverage in the Uruguay Round. Other delegations hold the view that many of the issues cited are particularly relevant in the natural resource products sector, have emerged there, and should, hence, be dealt with in NG3.³

7. Some delegations consider that negotiations on natural resource-based products should exclusively focus on access to markets. Other delegations pointed out that the negotiations would have to take into account not only the interests of natural resource-based products' exporters, but also those of the importing countries.

8. In relation to several of the problem areas, cited above as among those to be dealt with in the context of the Uruguay Round, the statement made by the Chairman of the Ministerial Meeting at Punta del Este, prior to the adoption of the Ministerial Declaration, may be recalled:

¹ One submission notes subsidies as being the major problem for trade in natural resource-based products - MTN.GNG/NG3/5, paragraphs 9-11.

² cf.: MTN.GNG/NG3/3, paragraphs 9 and 11; MTN.GNG/NG3/4, paragraphs 13 and 14; MTN.GNG/NG3/5, paragraphs 7 and 14.

³ cf., *inter alia*: MTN.GNG/NG3/3, paragraphs 8 and 11; MTN.GNG/NG3/4, paragraph 17; MTN.GNG/NG3/5, paragraph 21.

Quote (excerpt)

"Representatives of certain governments had expressed concern regarding a number of problems relating, in particular, to commodities, natural resource-based products and tropical products. Those governments were concerned that solutions to their problems be found and implemented quickly. Specific proposals had been put forward by certain African governments in MIN(86)/W/18. While he was sure that this conference attached great importance to those concerns, it had not been possible to complete consideration of the proposals at the conference. It had, therefore, been agreed that the proposals would be considered¹ by the Trade Negotiations Committee foreseen in the Declaration. ...

"He noted that there were certain issues raised by delegations on which consensus to negotiate could not be reached at this time. These issues included the export of hazardous substances, commodity arrangements, restrictive business practices and workers' rights." (BISD 33S/pages 29 and 30).

9. In his closing remarks the Chairman of the Ministerial Meeting further said:

"No delegation present would see in the Declaration all the points it wished to be included when this meeting had opened. Many of the specific concerns would have to be pursued in the negotiations themselves, and this was as it should be." (BISD 33S/page 30).

10. At the Ministerial Meeting, on the question of negotiations on natural resource-based products, the representative of the EC, immediately following the adoption of the Ministerial Declaration as a whole,

... "said that the Community accepted the text on natural resource products in general, and was ready to aim at further liberalization in that sector. Regarding fisheries, however, the Community regretted that the options which it had developed in the Working Party on Fish and Fisheries Products and had stated in that Group's report were in no way reflected in the text. The Community therefore felt obliged to repeat what it had consistently stated in all fora where this issue had been discussed, namely that it would pursue discussions on the fisheries sector only if all factors specific to this product and having an influence on trade therein were taken into account."
(Reference: MIN(86)SR.7, pages 6 and 7.)

¹The TNC, at its meeting in January 1987, decided, under heading:
"Part G. Organization of the Negotiations -
... The GNG shall, inter alia:
... (iv) also decide upon inclusion of additional subject matters in the negotiations;".

As of 16/17 December 1987, the dates of the latest GNG/TNC meetings, respectively, no decisions had been taken by the GNG or the TNC as regards the inclusion of additional subject matters in the negotiations.

11. As regards negotiations specifically on fish and fisheries products, the EC has submitted to NG3 a position paper - MTN.GNG/NG3/W/4 (which also covers problems, or issues, identified in relation to other natural resource-based products). Additional details of the position adopted by the EC, supported by some delegations, but objected to by a number of other delegations, are summarized in documents MTN.GNG/NG3/1, 2, 3, 4 and 5.

12. Some delegations indicated in NG3 discussions that, although certain of the issues raised should not, in their view, be dealt with in NG3, or, for that matter, on reasons of principle, in the Uruguay Round, they might be prepared to consider, on an ad hoc basis, how certain problems that had been identified could be resolved.

Product Coverage

13. Product coverage for NG3 work is seen by some delegations as being open ended in respect of natural resource-based products and not as being narrowly defined, while, according to the views expressed by other delegations, product coverage is to be limited to the product groups considered earlier by the Working Party on Problems of Trade in Certain Natural Resource Products, e.g.,

- Non-ferrous metals and minerals;
- Forestry products;
- Fish and fisheries products;

including in their semi-processed and processed forms.

14. Product groups mentioned by one or more delegations, up to and including the Group's fourth meeting in October 1987, for coverage in NG3, additional to the three product areas listed in paragraph 13, were:

- energy and energy-based products, including natural gas, petroleum, coal, uranium, petrochemicals, oil and gas processing;
- other non-ferrous metals and minerals, notably mineral sands, titanium (including titanium sponge), tungsten;
- iron ore, metal scrap, primary steel;
- construction materials, phosphates, salt;
- rattan;
- hides and skins.

At the Group's fifth meeting Australia spelt out in more detail (cf. MTN.GNG/NG3/W/9, pages 4-10), the products it proposes for coverage in NG3 (including also most of the products covered in the sectors listed in paragraph 13). In terms of Harmonized System Nomenclature and Position

¹ For complementary information see also MTN.GNG/NG3/5, paragraphs 19 to 21.

Numbers the following products are proposed for coverage: HS Nos.: 03.01 through 03.07; 25.01-25.22, 25.24-25.30; 26.01-26.21; 27.01-27.15; 44.01-44.07 (except tropical woods under: 44.07.2 and 44.07.99.9); 45.01-45.03; 47.01-47.07; 72.01-03, 72.05, 72.06; 74.01-03, 74.05-74.07; 75.01, -02, -04, -05.1; 76.01, -03, -04; 78.01, -03, -04.2; 79.01, -03, -04; 80.01, -03, -05; 81.01.1, -01.91, 81.03.10, 81.04.1, 81.05, -06, -07.1, -08.1, -09.1, and 81.10 through 81.13. The proposal also envisages that products at a higher stage of transformation, in the respective product groups, would, initially, be dealt with in other appropriate market access negotiating groups.

II. Establishment of a Factual Basis for Negotiations

Documentation

15. Documentation prepared in the context of the Working Party on Problems of Trade in Certain Natural Resource Products is identified and listed on page 4 of MTN.GNG/NG3/1. There was general agreement at NG3's first meeting that that documentation should permit the Group to make an early start on its work. At the second meeting, one delegation stated that it would be useful if the secretariat could compile, from existing source-material, background documentation relating to international trade in coal and natural gas. Another delegation expressed interest in having the existing documentation supplemented by further data on subsidies and also with information on certain export taxes on lumber. Some delegations then felt that it would be too soon to determine what further documentation and data might be required.

16. Questions relating to documentation and/or data base were not discussed in detail at NG3's third and fourth meetings. A suggestion was made, however, by one delegation, that a compilation of information on the effect of substitute products for the traditional natural resource-based products on NRP-trade might also be useful.

17. At the second meeting of NG3 one delegation proposed the use of request procedures for the purpose of helping participants to identify the respective negotiating interests.

18. At its third meeting, NG3 had before it position papers submitted by the United States and by the EC, outlining some of their main negotiating interests in the NRP's area. The United States paper provided, *inter alia*, for a request and offer procedure. Another delegation presented also in NG3 a proposal advanced in other negotiating groups which envisages that participants submit export or negotiating interest lists before the end of 1987. This proposal was then supported by a number of delegations, but was not further discussed at the Group's formal meetings held in October and November 1987. Some delegations pointed out, on a number of occasions, that certain of the proposals they had made in other negotiating groups were of relevance also to NG3; these proposals are identified in footnote 1 on page 1 of MTN.GNG/NG3/3; cf. also paragraph 20 below.

19. At its fourth meeting, NG3 took note of a statement by Australia, outlining certain elements of Australia's negotiating interests (MTN.GNG/NG3/W/7).

20. At its fifth meeting the Group had before it a submission (MTN.GNG/NG3/W/9) by Australia, spelling out more fully Australia's views on the scope of negotiations, product coverage, negotiating objectives, modalities for pursuing these objectives and proposals regarding a time-table for assembling the necessary documentation for the negotiation and the completion of negotiations. Introducing MTN.GNG/NG3/W/9, Australia provided complementary information, summarized, together with delegation comments thereon, in MTN.GNG/NG3/5 and Add.1. Also at the fifth meeting, Senegal, Cameroon, Ivory Coast and Zaire submitted a joint position paper/cum negotiating proposals. The United States provided an exposé of certain major negotiation interests and concerns. Both the joint position paper and the exposé are summarized in MTN.GNG/NG3/5. Brazil reminded the Group that the proposal it had made in the Negotiating Group on Tariffs was valid also for NG3.

III. Elaboration of Techniques and Modalities

21. Point (iii) of NG3's Initial Phase Negotiating Plan provides for the:

... "Elaboration of techniques and modalities for achieving the agreed objective of negotiations in this area, taking into account those elaborated in other relevant areas."

22. References made in paragraph 20, in Section II above, are also partly relevant for Section III.

23. Several delegations stated that they envisaged NG3 having primarily a monitoring and surveillance function, thereby ensuring that all negotiating interests, as they relate to natural resource-based products, are fully covered as work progresses in the different negotiating groups.

24. One delegation stated that natural resources were a priority topic and that one could not speak of new tariff reductions and the elimination of non-tariff measures, unless, at the same time, those reductions and eliminations applied likewise to natural resource-based products. The same and identical mechanism should be applied in the Negotiating Groups on Tariffs, - Non-Tariff Measures, - Natural Resource-Based Products and the Negotiating Group on Textiles. In fact, natural resource-based products should be liberalized to the same extent as had already been achieved in the historic liberalization of industrial products. The negotiations should aim at the immediate liberalization of forestry products, fishery products, and non-ferrous metals and minerals (cf. MTN.GNG/NG3/5/Add.1).

25. In a joint statement submitted by four African countries (reference: paragraph 20 above), it was explained that African countries, owing to their low level of economic development, export only a limited range of commodities, based on their natural resources. Their export earnings, and hence import capacity, depended largely on the trading terms accorded to them. The achievement of the Uruguay Round objectives would depend on the treatment accorded to natural resource-based products, tropical products and, in general, primary products. Trade liberalization in these classes

of products, taken by itself, would take into account only some of their countries' concerns, and could thus be considered only a minimum. They did not intend to prejudge the approach to be adopted for the negotiations. They were in favour of whatever method would be best suited, both to take account of the realities of the special situation of developing countries and also to ensure additional benefits (cf. also -/NG3/5, paragraphs 5-7).

26. One delegation stated, inter alia, that world trade in a number of resource products, particularly in mining and mineral processing, was subject to the same level of regulation and distortion as was the case for many agricultural commodities. The rules of world trade for natural resource products would have to be reformed to allow growth through development. The aim should be to eliminate all measures which impede trade and act to inhibit the adjustment process in national economies. NG3 would have a critical, indeed a central, rôle to play in ensuring that participants develop a comprehensive approach to liberalizing trade in the NRP's area. At the same time, it was appreciated that there are other possibilities for pursuing negotiation objectives in the NRP's area and it was, therefore, flexible as to which negotiating groups address issues in trade in natural resource-based products (cf. also -NG3/5 paragraphs 8-14).

27. Some delegations stated that for natural resource-based products the problems encountered were often different from those found elsewhere and were quite NRP-specific, even as between subsectors. One delegation made the point that for natural resource-based products effective negotiations in the so-called horizontal groups would not be possible.

28. Some delegations expressed the view that trade problems caused for NRP's by subsidies could best be dealt with in the Negotiating Group on Subsidies.

29. One delegation said certain tariffs continued to have a significant effect on trade and there were also certain trade-impeding non-tariff barriers, but the major problems facing trade and investment decisions and creating distortions in production and trade stemmed from subsidies. In GATT the full impact of protection in trade in NRP's had so far not been addressed, because of peculiar institutional reasons. In the Uruguay Round the subsidies issue had so far been set aside as a matter to be addressed in the Negotiating Group on Subsidies. In that Group, the emphasis had been on the adequacy of existing rules rather than on what sort of trade problems subsidies actually presented. It would be in contracting parties' collective interest to find a remedy in the Uruguay Round. The natural resource-based products area was a good place to start, because of the diverse range of interests, shared alike by many developing and developed countries. A review of existing disciplines on domestic subsidies as they affect NRP's, either directly or indirectly, should be an important focus in the pursuit of the objectives for the Uruguay Round.

30. One delegation said that some of the problems mentioned as resulting from natural resource subsidies were not much different from problems resulting from input-subsidies in other sectors. Generic solutions were thus required for problems which are general in nature and these could best be worked out in horizontal group approaches.

31. One delegation said that its experience was that a number of issues that had been raised, and in particular dual pricing, were found predominantly in the natural resource-based products sector. In the case of certain other issues, e.g., government ownership, export restrictions and subsidies, the incidence with which they occur in the NRP sector, and the frequency with which they are found in combination, often with dual pricing, suggested that they are so characteristic of trade in this sector as to require that they be given special attention in NG3. However, provided the issues can be addressed satisfactorily, the delegation remained open to any ideas of how that might best be done (reference: MTN.GNC/NG3/5, paragraphs 19-21).

32. Several delegations stressed the need for realism in addressing real-world problems and the need for balance in covering in the negotiations not only the interests of natural resource-based products' exporters, but also the interests of natural resources importing countries. Reference was made also to the need for ensuring a balance between the interests of large and efficient producers of natural resource-based products and those of developing countries that are small producers and beset by balance-of-payments difficulties.

33. Delegations from several countries asked that the negotiating approach to be decided upon should take into account the need to devise measures designed to attain stable, equitable and remunerative prices, in accordance with Article XXXVI:4 of the General Agreement.

34. One of the papers submitted proposes the adoption of specific measures in favour of the least developed countries, so as to facilitate the expansion of their trading possibilities, in particular through the elimination of customs duties and non-tariff barriers on processed and semi-processed products.

35. One delegation reminded the Group that at least some of the sponsors of GATT's work on natural resource-based products had stressed the need for deeper tariff cuts, fuller liberalization and earlier implementation of negotiation results for natural resource-based products, as compared with that for other classes of goods. Several delegations said that the initial phase of the negotiations should be concluded as rapidly as possible, so as to permit a speedy conclusion of the negotiations and the immediate implementation of the results.

36. One suggested technique, also put forward in other relevant negotiating groups, involves the elaboration and submission of interest lists. Another proposal provides for the exchange of request and offer lists. (This procedure is expressis verbis provided for in NG3's Negotiating Plan for the Subsequent Negotiating Stage). One delegation explained that headquarter authorities had not yet decided whether they would wish to submit NRP-request lists.

37. Several delegations stated that past negotiation experience suggested that a request and offer procedure might not be the optimal approach for achieving liberalization. They preferred, therefore, that tariff and NTM liberalization be pursued in a comprehensive manner, as was envisaged in the context of NG1 and NG2.

38. One proposal envisages that negotiations on tariffs and NTM's be pursued not only in different negotiating groups, but also by different means, so that request/offer procedures can be complemented by, for example, formula cuts.

39. It was also suggested that a request/offer procedure would be very suitable for dealing with problems of tariff escalation, without need for a debate concerning the definition of "escalation".

40. Another proposal envisages that negotiation objectives for fish and forestry products be pursued in a way analogous to the approach suggested by the same delegation for agricultural products.

41. One delegation stated that the general tariff-cutting proposal it had submitted did not cover fish, forestry and non-ferrous metal products. (Subsequently the delegation concerned has proposed that all agricultural, fishery and forestry products (HS 01-24 and 44, as well as the relevant products notified by participating countries) be covered by the Negotiating Group on Agriculture (reference: MTN.GNG/NG5/W/39; page 3).)

42. One of the position papers submitted states that in regard to the fisheries sector, discussions could be carried forward only if all the factors specific to that sector, and having trade effects, are taken into consideration.

43. Several of the Uruguay Round negotiating proposals that have been tabled provide for products of tropical wood to be dealt with in the Negotiating Group on Tropical Products.

44. One delegation pointed out that the heading "non-tariff measures" covered a wide variety of measures, not all of which are covered by the GATT NTM Group. Some of the non-tariff measure problems required special study, or action, as - for instance - the problems dealt with by the Expert Group on Copper.

45. One of the submissions pointed out that certain pricing-policy problems (involving over-charging or under-charging) in transactions between affiliated, versus non-affiliated, enterprises, are not appropriately covered under existing GATT provisions. Furthermore, there were export restrictions and export taxes on a number of products which had the effect of distorting trade. NG3 should strive to work out adequate provisions to eliminate these distortions, with the objective of adopting a standard procedure for dealing with such problems, rather than trying to solve them on a case-by-case basis.

46. On the question of coverage of restrictive business practices in the Uruguay Round, it was recalled that there had been no consensus on that point at Punta del Este, nor had a decision on that issue been taken in the GNG/TNC. It was, however, also pointed out that the issue of 'dual-pricing', raised in NG3, addressed some very similar problems, and the question of how such problems could be resolved should be examined.

47. One delegation suggested that it would be desirable to explore whether understandings could be reached on what might be acceptable trading practices for some of the products being dealt with in the Group.

48. One delegation stated that one of the issues to be addressed at an early stage should be the examination of the adequacy, or otherwise, of existing GATT provisions for dealing with problems arising in international trade in natural resource-based products.

49. A delegation from a developing country stated that a sectoral approach should not a priori be ruled out, if such an approach would lead to better trading conditions for developing countries, for instance, through applying the "favourable and differential treatment" concept to measures which would contribute to the establishment and development of processing facilities in developing countries, on the basis of their respective natural resources.

50. One of the participants in NG3 pointed out that State-trading, as such, should not be considered an issue and, as far as restrictive business practices were concerned not only those condoned by some governments could cause problems, e.g., such problems would have to be considered in a comprehensive fashion.

51. At the November 1987 meeting of the Group, one delegation proposed that all countries negotiate:

- A Phased Elimination, within ten years of the end of the Uruguay Round, of
 - all Tariffs and Non-Tariff Measures
 - all Export Subsidies, following an Immediate Freeze
 - all Other Subsidies which Disrupt Trade
 - Protective Regulations Affecting Market Access
- Bindings on All Tariffs
- New GATT Rules to Proscribe Domestic Subsidies which Disrupt Trade.

(Details of this proposal are set out in MTN.GNG/NG3/W/9.)

IV. Establishment of a Common Negotiating Basis

52. The Negotiating Group is examining a number of approaches towards the establishment of a common negotiating basis.