

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG8/W/26

2 March 1988

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Group of Negotiations on Goods (GATT)

Negotiating Group on  
MTN Agreements and Arrangements

CHECKLIST OF ISSUES RAISED IN THE NEGOTIATING GROUP  
ON MTN AGREEMENTS AND ARRANGEMENTS

Note by the Secretariat

At the meeting of the Group on 5-6 November 1987, the request was made that the secretariat prepare "a checklist of issues already raised" (MTN.GNG/NG8/4, paragraph 29).

A draft checklist was before the Group at its meeting on 7 December 1987 when the secretariat was requested to add new proposals and cross-reference issues identified by the Group in the area of anti-dumping with issues in the Checklist of Issues before the Negotiating Group on Subsidies and Countervailing Measures. Delegations who so wished might indicate suggested changes to the secretariat not later than two weeks before the next meeting (MTN.GNG/NG8/5, paragraphs 7 and 29).

The present checklist has been drawn up in response to the request, taking account of the suggestions received.

A. AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF  
THE GENERAL AGREEMENT ("Anti-Dumping Code")

I. Determination of dumping

1. Interpretation of the expression "introduced into the commerce of another country" (Article 2:1).\*
2. Definition of the term "like product" (Article 2:2).\*

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\* Items marked with an asterisk have also been proposed for negotiation in the Negotiating Group on Subsidies and Countervailing Measures with respect to the criteria and procedures governing application of countervailing measures, see MTN.GNG/NG10/W/10/Rev.1.

3. Definition of the circumstances in which normal value cannot be established on the basis of home market prices in the exporting country (Article 2:4, "When there are no sales ... proper comparison, ...").
4. Order of preference between export sales to third countries and constructive value as alternative methods to determine normal value in cases where normal value cannot be determined on the basis of home market sales (Article 2:4).
5. Constructed value methodology (Article 2:4).
6. Elements for which allowance should be made in the comparison between export price and normal value (Article 2:6).
7. Determination of normal value in cases referred to in the Second Supplementary Provision to paragraph 1 of Article VI of Annex I to the General Agreement (Article 2:7).
8. Use of weighted averages in the calculation of export prices and normal values.
9. Margin of dumping and exchange rate fluctuations.
10. Input dumping.
- II. Determination of the existence of material injury<sup>1</sup>
  1. Price undercutting (Article 3:2).
  2. Margin of dumping and level of price undercutting.\*
  3. Minimum market share or threshold of market penetration below which there would be a presumption of absence of material injury.
  4. Cumulative injury assessment; cumulation "across the Codes".\*
  5. Threat of material injury (Article 3:6).\*
  6. Definition of the term "domestic industry" (Article 4:1).\*

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<sup>1</sup>The view has been expressed that the Group should take into account in its work the Report of the Group of Experts on the definition of the word "related" in Article 4:1 (ADP/M/5, p.19) and the Recommendation Concerning Determination of Threat of Material Injury (ADP/25).

- III. Initiation and conduct of anti-dumping duty investigations<sup>2</sup>
1. Definition of the term "domestic industry" (Article 4:1).\*
  2. Procedures to verify whether a petition has been filed "on behalf of" the domestic industry affected.
  3. Evidence required for the opening of an anti-dumping investigation.\*
  4. Determinations<sub>\*</sub> made on the basis of best information available (Article 6:8).
- IV. Price undertakings
1. Criteria for the acceptance or refusal of offers of price undertakings from exporters (Article 7:2 and 7:4).
  2. Revision and/or termination of price undertakings (Article 7:5 and 7:6 and Article 9).
  3. Price undertakings in anti-dumping proceedings involving imports from developing countries (Article 7 and Article 13).
- V. Imposition and collection of anti-dumping duties
1. Application of anti-dumping duties on finished products to imports of parts of such finished products; application of existing anti-dumping duties to newly developed products.
  2. Criteria for the reimbursement of excessive anti-dumping duties (Article 8:3).
- VI. Duration, review and termination of anti-dumping measures
1. Time-limit to the duration of anti-dumping measures.\*
  2. Review of anti-dumping measures after a certain period of time.\*
- VII. Anti-dumping action on behalf of a third country (Article 12)\*
- VIII. Increased disciplines for recidivist dumping
- IX. Circumvention of Anti-Dumping Duties through certain diversionary practices

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<sup>2</sup>The view has been expressed that the Group should take into account in its work the following recommendations adopted by the Committee on Anti-Dumping Practices on procedural aspects of anti-dumping investigations: Recommendations Concerning Transparency of Anti-Dumping Proceedings (ADP/17); Recommendation Concerning Procedures for an On-the-Spot Investigation (ADP/18); Recommendation Concerning the Time Limits Given to Respondents to Anti-Dumping Questionnaire (ADP/19); Recommendation Concerning Best Information Available in Terms of Article 6:8 (ADP/21).

B. AGREEMENT ON INTERPRETATION AND APPLICATION OF ARTICLES VI, XVI AND XXIII OF THE GENERAL AGREEMENT ("Subsidies Code")

I. Interpretation and application of Article 14.5 of the Agreement

C. AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ("Customs Valuation Code")

I. Burden of proof regarding transaction value (Articles 1 and 17, and Paragraph I:7 of the Protocol)

(a) When the price is less than that noticed in a series of transactions immediately preceding the relevant one; and

(b) when the price is less than that noticed for transactions involving identical goods imported directly from the country of manufacture.

D. AGREEMENT ON GOVERNMENT PROCUREMENT

I. Special and differential treatment for developing countries

1. Implementation of the provisions for special and differential treatment in the context of entity negotiations (Articles III and IX:1(b)).

2. Gradual expansion of entity lists (Article III:3 and 14).

II. Accession of contracting parties

1. The requirement that consent of all Parties is needed in terms of accession, and the procedures adopted by the Committee concerning accession (Article IX:1(b); and Article IX:9)).

2. Due consideration of differences between entity offers in terms of the relationship between entities' above-threshold procurements and their total contract values (Article IX:1(b)).

III. Tendering procedures

1. The process of, and the time required in, pre-qualification procedures (Article V:2(c)).

2. Bid deadlines (Article V:10-11).<sup>3</sup>

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<sup>3</sup> Prior to the entry into force of the Protocol Amending the Agreement, this was Article V:9-10.

IV. Information and review

1. More detailed breakdown of product categories, statistical analyses and improved means of comparing statistical presentations (Article VI:10).<sup>4</sup>

E. AGREEMENT ON IMPORT LICENSING PROCEDURES

I. Clarification of the language of the Agreement

1. Incorporation of recommendations adopted by the Committee on Import Licensing in May 1987 (LIC/12).
2. Clarification of Article 1.1 including definitions used.

II. Increased discipline over discretionary licensing

1. Discipline on the duration and trade coverage of licensing schemes.
2. Discipline on the use of non-automatic licensing, including increased transparency and institutionalized review procedures.

III. Export Licensing

F. AGREEMENT ON TECHNICAL BARRIERS TO TRADE ("Standards Code")

I. Further improvements of the Agreement

1. Code of Good Practice for non-governmental standardizing bodies.
2. Voluntary draft standards and their status.
3. Information on voluntary standards being made mandatory by legislation.
4. Establishing a method of ensuring compatibility of standards issued by recognized national bodies and other standardization bodies within Parties.
5. Transparency on bilateral standards-related agreements.
6. Transparency on regional standards activities.
7. Languages for exchange of documents.

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<sup>4</sup>Previously Article VI:9.

II. Further clarification of the Agreement

1. Processes and production methods.
2. Re-examination of the provisions of the Agreement in the light of the recommendations and decisions adopted by the Committee on Technical Barriers to Trade.

III. Further expansion of the Agreement

1. Testing, inspection and type approval.
2. Transparency of the operation of certification systems.
3. Transparency in the drafting process of standards, technical regulations and rules of certification systems.
4. Extension of major obligations under the Agreement to local government bodies.