

MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND

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

NEGOTIATING APPROACHES AND POSSIBLE ISSUES FOR NEGOTIATION  
IN NATURAL RESOURCE-BASED PRODUCTS

Note by the Secretariat

INTRODUCTION

1. This note has been prepared by the secretariat at the suggestion of the Chairman of the Negotiating Group on Natural Resource-Based Products (NG3) in order to facilitate further discussions on the establishment of a common negotiating basis for the Group. It is intended to focus, in a preliminary way, on points and proposals made by delegations in NG3 and, to the extent relevant and appropriate, on proposals made and discussions held in other Negotiating Groups, notably the Negotiating Group on Tariffs (NG1), the NG on Non-Tariff Measures (NG2), the NG on Agriculture (NG5) and the NG on Subsidies and Countervailing Measures (NG10). The present note does not take up the question of product coverage in NG3.
2. As regards NG3, a secretariat summary document, "Statements and Proposals made concerning Negotiations on Natural Resource-Based Products", was distributed as MTN.GNG/NG3/W/8/Rev.1, dated 14 January 1988. That document might usefully be read in conjunction with the present note. References to certain other Negotiating Groups are largely based on the following documents: MTN.GNG/NG1/W/10/Rev.3: "Proposals by Participants relating to the Tariff Negotiations"; MTN.GNG/NG2/W/7/Rev.1: "Non-Tariff Measures - issues raised and suggestions put forward", and MTN.GNG/NG10/W/9/Rev.3: "Checklist of Issues for Negotiations" (NG on Subsidies and Countervailing Measures), as well as on meeting notes for these Negotiating Groups.
3. In the preparation of the present note, earlier discussions and proposals have been, by necessity, further compressed and, to some extent, rearranged with reference to different subject-related matters. It is hoped that, as a result, a better overview might be obtained of some of the broader topics to be considered by NG3. To the extent that delegations may consider it necessary and/or useful, additions, amendments or corrections to views reported in this note are invited. It should be stressed that proposals, views and statements relating, inter alia, to negotiating approaches and modalities are still under discussion in NG3 and in the other negotiating groups. The summaries attempted in this non-paper of discussions held and proposals made so far in NG3 and other negotiating groups are, therefore, in no way intended to prejudge the position of any participant in the respective negotiating groups.

ISSUES

4. Document NG3/W/8/Rev.1, paragraph 5, lists issues (or objectives) raised by delegations as being of relevance in connection with negotiations on Natural Resource-Based Products (NRBPs). This listing may be re-ordered as follows:

Tariffs:

Reduction or elimination of tariff barriers, particularly of excessively high, or prohibitive, import duties and of tariff escalation, but also of low duties (which may, nevertheless, result in high levels of "effective protection"), and action on export duties, or export taxes.

Non-Tariff Measures:

Licensing regulations; import and export prohibitions; quantitative import restrictions, levies, taxes, fees and charges and administrative entry procedures; State trading; subsidies and inadequate subsidy disciplines; discriminatory procurement; export restrictions; voluntary export restraints; discriminatory technical standards, sanitary and phytosanitary regulations<sup>1</sup>; general natural resource development policies and practices; government ownership and management of natural resource-based products production, or trade; "abnormal" investment incentives; access to supplies and related questions (for instance, fisheries "surplus"); problems of natural resource products displacement by substitutes; 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).

In consideration of action on trade barriers, or measures, it might be recalled that several delegations pointed to the need for differential and more favourable treatment for developing countries, including the objectives and commitments set out in Part IV of the General Agreement, notably with reference to GATT Article XXXVI.

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<sup>1</sup>Sanitary and phytosanitary regulations were identified, as far as NRBPs studied by the GATT are concerned, against certain fishery and forestry products. In this regard, the Working Party on Problems of Trade in Certain Natural Resource Products considered that solutions examined in connection with trade in agricultural products could be relevant. Reference is therefore invited, as appropriate, to documents in the MTN.GNG/NG5/W/- series.

SUBJECT MATTER: HORIZONTAL OR PRODUCT-AREA (SECTOR) SPECIFIC APPROACHES

5. A large part of the tariff and NTM data compilations presently before NG3, by the very nature of the work done earlier, are clearly natural resource product-specific and should, in the view of some delegations, consequently be addressed in NG3. Other delegations hold the view that most if not all the problems identified for natural resource products trade are problems of a general nature and should therefore be dealt with primarily or entirely in the context of broader and not sector-specific negotiations.

6. Furthermore, possibilities are seen by some participants for combined approaches, involving both horizontal and product- or sector-specific negotiations.

NTM - NEGOTIATION TECHNIQUES

7. As regards NTMs, some delegations hold the view that NTMs do not lend themselves to formula-type trade liberalization negotiations, while other delegations feel that such a technique could be applied to some types of NTMs. The NG2 Chairman's Proposal for Submissions in NG2 (referred to in MTN.GNG/NG2/6) provides, hence, for the submission of proposals involving possibly: (i) multilateral approaches directed towards the establishment of rules of general application, (ii) formula or other systematic approaches, and (iii) request/offer procedures.

SEPARATE OR INTEGRATED TARIFF/NTM APPROACH - RELATIONSHIP WITH OTHER "MARKET ACCESS" NEGOTIATING GROUPS

8. A related question concerns the desirability of addressing the subject of action on tariffs and on NTMs separately or jointly, the latter approach also being referred to as "integrated approach". Each of these approaches has been defended on various grounds.

9. The delegation of Chile has made it clear in each of the so-called "Market Access" Negotiating Groups, i.e. also including NG3, that there is an indissoluble link between the Groups on Tariffs, Non-Tariff Measures and Natural Resource-Based Products and the Negotiating Group on Textiles and that, furthermore, natural resource-based products should already be liberalized to the same extent as other industrial products. Chile, together with several other delegations, considers, moreover, that natural resource-based products trade constitutes a priority topic, asking for a speedy conclusion of the negotiations and the immediate implementation of the results.

10. The Negotiating Group on Natural Resource-Based Products has not discussed specifically the desirability, or otherwise, of addressing tariff and NTMs in an integrated approach.

SUGGESTED TARIFF NEGOTIATION APPROACHES

11. Based on the work carried out by the Negotiating Group on Tariffs (NG1), it can be said that subject to certain qualifications regarding product coverage and/or modalities of application, a formula approach for

tariff negotiations generally is favoured by a great majority of participants. Details of the various positions expressed in this regard could be found in MTN.GNG/NG1/W/10/Rev.3.

12. A paper recently introduced to NG1 on behalf several delegations contains a comprehensive approach for negotiating tariffs on the basis of a harmonization formula and additional criteria for eliminating or reducing low duties and narrowing remaining tariff escalation. This approach, circulated as NG1/W/18, calls, inter alia, for a substantial increase in the level of bindings by all participants.

13. Several participants to NG1 have gone on record for suggesting for tariff negotiations approaches based on requests and offers or a combination of a formula approach with request/offer procedures in certain situations. Some participants foresee the use of request/offer procedure for dealing effectively with tariff peaks and escalation. The use of a request/offer procedure for countries which have bound the overwhelming majority of their trade and where the average overall tariff rate is already very low has also been suggested. Details of participants' positions could also be found in MTN.GNG/NG1/W/10/Rev.3.

14. Earlier submissions by Canada, New Zealand and Australia call for some further descriptive detail in an attempted summary. Canada has proposed that "in order to assess the scope of negotiations, participants should submit, by 1 June 1988, export interest lists to other participants. This exchange of lists would complement whatever negotiating approaches or techniques are eventually agreed upon... The approach chosen, whether formula, hybrid, or request/offer, would have to deal much more effectively with the problems of tariff peaks and tariff escalation than the Tokyo Round. Links exist not only between tariff and non-tariff measures, but also with the resource-based products negotiations". The New Zealand proposal "aims at fixing a maximum ceiling at which all tariffs should be bound without exceptions, to be achieved over a period of time, which would have the effect of harmonization but avoiding some complexities of classical harmonization formulae". Australia's submission, as summarized for NG1 purposes, states that "Australia is willing to negotiate a broad package of measures to reduce overall levels of effective assistance to industries as part of a broadly-based multilateral approach to achieve reductions in industry assistance. This would cover tariffs and non-tariff measures, including subsidies which have a trade effect. Tariff reductions to be achieved through a simple formula, or fixed percentage reductions, implemented over a period of time. [Australia is] ... prepared to consider other formulae or systematic approaches capable of wide sectoral and country application. Integrated approach to be achieved through measurement of effective rate of assistance of tariff and non-tariff measures existing in individual countries' markets; [Australia] proposes submission of export interest lists by March 1988". It should be noted that Australia has already submitted to NG3 an export interest listing, as well as a proposal covering negotiation objectives, modalities and a suggested time schedule (NG3/W/7 and NG3/W/9 refer).

15. NG1 participants which, in their submissions, have explicitly addressed the question of low tariffs are: Argentina, Australia, Austria, Brazil, Canada, Chile, EC, Egypt, Hong Kong, Hungary, Japan, Republic of

Korea, Malaysia, Mexico, New Zealand, Pakistan, Philippines, Poland, Singapore, Switzerland, the United States and Yugoslavia. All of these participants, except as noted below, expressed the view that low tariff duties should be covered by the negotiations. The EC proposal, as it relates to possible action on low tariffs, contains a provision envisaging a further "reduction or removal [of low duties] only on a case-by-case basis, after careful consideration". Egypt proposes that for developed countries low tariffs should not be excluded, but does suggest for developing countries the exclusion from tariff cuts of tariffs below 10 per cent.

16. The question of tariff escalation (the reduction or elimination of which is explicitly referred to in NG3's terms of reference) is specifically addressed (sometimes in conjunction with proposed action on peak-tariffs) in submissions to NG1 by: Argentina, Australia, Brazil, Canada, Czechoslovakia, EC, Hong Kong, Hungary, Republic of Korea, Japan, Malaysia, Mexico, New Zealand, Pakistan, Peru, Singapore, Switzerland, United States and Yugoslavia. Some of these countries have made corresponding statements on this subject in NG3, and so have Chile and Poland.

#### NON-TARIFF MEASURES

17. Reference to procedures agreed in NG2 for preparation of NTM negotiations has been made in paragraph 7 above.

18. A number of specific issues have been raised in NG3 as examples of measures affecting trade in NRBPs which could usefully be taken up for negotiations in the Group. There has been no agreement in the Group concerning these proposals. Comments made by delegations which raised these issues are summarized below.

19. Subsidies. Australia noted in NG3 that questions taken up in NG10 had focused, in general, on legal aspects of the subsidies issue, leaving aside the question of the serious distortions to production and trade caused by subsidies, and the resulting problems for producers, exporters, and also for consumers. In fact, Australia stated that for many sectors of natural resource-based products, subsidy practices were the most important and harmful of all the NTMs, distorting production and international trade flows in a manner closely akin to that characterizing production and international trade in agricultural products. Consequently there was useful work to be done in NG3 without prejudice, of course, to work in NG10, where, among other things, such questions as distinctions to be made between subsidies and [investment] incentives, pricing policies and input subsidies for internationally traded goods, and, in a broader sense, development policies and structural adjustment measures, are under consideration. Attention should also be drawn to Australia's submission on subsidies and other non-tariff support programmes affecting market access in world minerals, metals and energy trade circulated as NG3/W/12 and to the United States communication circulated as NG10/W/20. (For a summary of the main issues so far raised in the Negotiating Group on Subsidies and Countervailing Measures, see NG10/W/9/Rev.3).

20. Export controls, export taxes, export prohibitions and questions of access to supplies, including questions of access to fisheries "surplus". The EEC has provided clarifications in this respect relating to the link between market access negotiations on fisheries products and a complementary consideration of the question of access to supplies, without prejudice or challenge to the generally accepted national sovereignty of coastal contracting parties (see, inter alia, NG3/W/11, pages 3, 4 and 5). Other delegations have stated that they are not prepared to deal with these questions in the framework of NG3 or the Uruguay Round.

21. Still on the question of export restrictions, the Nordic countries recalled for the consideration of NG3 that, towards the end of the Tokyo Round, thorough discussions on that subject had taken place aiming, inter alia, at the formulation of general guidelines for the application of such restrictions. The Nordic countries suggested that it might be interesting to refer back to the work that was done at that time, and to see what conclusions might be drawn for the work of NG3. One delegation, in relation to export taxes and export restrictions, stated that it would be useful to work out adequate standardized provisions for eliminating distortions arising from such measures, rather than trying to solve these on a case-by-case basis.

22. Dual-pricing, or two-price systems. The United States submitted a paper on this issue (NG3/W/13) indicating that two-tier or dual-pricing was one of the problem areas which tended to occur especially in international trade in NRBP's, particularly energy products. Some participants indicated that they had experienced problems on account of the operation of two-price systems, but there remained doubts that such practices, or systems, were natural resource sector-specific. Several delegations indicated, however, that, given the fact that such measures or practices existed, they would be willing to discuss these in relation to NG3-covered products significantly affected by such practices. The hope was expressed by some delegations that, at least when it came to deciding on a negotiating approach, a multilateral approach would be found most appropriate.

23. Pricing policies (involving overcharging or undercharging) in transactions between affiliated enterprises, as compared with pricing practices in sales to non-affiliated enterprises. In this context it was noted that this type of problem is covered in the UNCTAD Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, but that, on the other hand, there does not exist an appropriate GATT provision.

24. Government ownership and management of natural resource-based products production or trade; State-trading. The first issue covers a very wide subject, part of which may be interlinked with subjects touched upon in paragraphs 19 to 21 above. As regards State trading, as defined in GATT Article XVII, the point was made in NG3 by one delegation that State-trading as such should not be considered an issue. The question of State-trading in Uruguay Round negotiations also came up in NG2, in connection with a preliminary consideration in that Group of alternative and/or mutually complementary negotiation modalities, notably questions relating to recourse to either rule-making, or formula approaches for NTMs. Some

delegations thought that certain NTMs (quotas, customs fees and charges), but also including State-trading, might lend themselves to systematic formula approaches, without - as regards State-trading - necessarily drawing up new disciplines to strengthen Article XVII.

25. While the question of the negotiating approaches (for instance, formula - request/offer - rule-making) for NTMs remains subject to examination, both in capitals and in various Negotiating Groups, it is relevant to point out that in NG3 several delegations have questioned the adequacy of existing GATT provisions in governing international trade relations in respect of natural resource-based products trade. Attention is invited in this context to several NG3/W/- documents, notably W/10, W/11, W/13 and also the summaries of delegations' statements in documents NG3/3, 4, 5 and 7, which address, inter alia, some of the broader issues, principles and negotiation objectives, including (in NG3/4) also the topic of overall developments in the international market for natural resource-based products and the question of natural resource-based products substitutes.