

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG2/W/17

28 July 1988

Special Distribution

Group of Negotiations on Goods (GATT)
Negotiating Group on Non-Tariff Measures

Original: French

COMMUNICATION FROM ZAIRE

Preshipment Inspection

The following communication has been received from the delegation of Zaire with the request that it be circulated to members of the Group.

The Republic of Zaire was the first developing country to introduce a programme of verification prior to shipment. Zaire is convinced that this programme is important for the proper administration of its foreign-exchange control laws and that it is having a beneficial impact on Zaire's trade.

Zaire is also convinced that its preshipment inspection programme is in conformity with the applicable rules of the General Agreement.

Until such time as they could carry out such inspections themselves, developing countries would have to call upon preshipment inspection enterprises.

Early in 1963, the authorities of Zaire became aware that improper goods were arriving at Matadi and Kinshasa: bricks in cases which were supposed to contain cloth, sand in barrels which were supposed to contain oil, second-hand instead of brand-new clothing, etc. The purpose of such frauds was, of course, to illicitly transfer foreign currency to the detriment of Zaire. To counter such trafficking, the authorities of Zaire entrusted the Société Générale de Surveillance (SGS) with the task of checking only the quality and quantity of goods prior to shipment. After two years of activity by SGS, the situation was restored to the satisfaction of the authorities, for quantity and quality were arriving as per contract. In 1965, the foreign-exchange control officials of the Central Bank suspected that economic agents had another way of illicitly transferring currency, namely by over-invoicing. In response, the Republic of Zaire requested the extension of the preshipment inspection programme to include price comparison. Preshipment inspection has helped prevent abusive over-invoicing of imports and the arbitrary and discriminatory pricing practices engaged in by certain multinational companies operating in developing countries, and more particularly in the chemical and pharmaceutical sectors.

Developing countries often have to cope with sales of defective or inferior-quality merchandise at great cost to the country. The preshipment inspection programme has made it possible to detect and prevent such abuses.

The primary aim of the preshipment inspection programme contracted by Zaire is to ensure the effectiveness of foreign-exchange control regulations. Nothing in the General Agreement prohibits the use of such inspections to prevent fraud in the matter of foreign-exchange control or to ensure the best possible use of limited foreign-currency reserves.

On the subject of preshipment inspection, some contracting parties stated that there were some activities of preshipment inspection enterprises that were related to obligations under the Agreement. Other contracting parties did not think that preshipment inspection ought to be considered a priori as a non-tariff measure to be negotiated.

Inasmuch as the governments and industrial groups of certain developed countries are unilaterally trying to regulate and/or hinder the application of preshipment inspection programmes, Zaire supports the proposal of Indonesia to discuss this question in a wider framework.

The criticisms concerning preshipment inspection, as suggested by certain developed contracting parties, seem to be:

- delay in transactions;
- high administrative cost;
- price review and setting of prices;
- danger of disregard for confidentiality.

Delay in transactions

In a careful analysis of complaints concerning delay, it is important to distinguish between delays in shipment and delays in payment. As we see it, physical inspection takes place upon notification from the exporter that the goods are available. As to price surveillance, it may even precede the physical inspection and is generally carried out once the import licence is issued.

High administrative costs

According to our information, it seems that preshipment inspection has introduced only one additional document in the export process - one that is very easy to fill out. As to cost, the estimates given by exporters seem to vary from 0 to 100 per cent.

Price review and setting of prices

We do not think that the enterprises making preshipment inspections as agents of developing countries are trying to obtain the best price for the importer, since their customers are not importers but, generally speaking, central banks or finance ministries. The price surveillance seeks to identify the price prevailing on the export market. We quite understand that a comparison of prices may be unwelcome to an exporter whose price is considered to be out of line with those prevailing on the export market.

Confidentiality

To our knowledge, it seems that the preshipment inspection enterprises ask only for information regarding the transaction (invoice, letter of credit, contract ...) and general information regarding the products concerned (list of prices, description of the goods ...). Such information is routinely available to the customs services that have to examine the invoices, banks, insurance companies, forwarding agents, and other enterprises involved in the transaction, as well as, of course, the customer, who must decide whether or not to commit himself to the transaction with the exporter.

Statement on Preshipment Inspection

Some twenty-five developed countries have opted for preshipment inspection programmes, i.e. verification of the quality, quantity and price of imported merchandise. These programmes are useful in many respects, such as action against the flight of capital or evasion of customs duties, application of customs regulations, reduction of fraud and of abusive practices and discrimination in pricing. Preshipment inspection programmes have made a major contribution to the economic stability and the development programmes of the countries that use them and represent a kind of security for international trade in an environment of financial, economic and sometimes political instability. The flight of capital, for example, constitutes a major threat not only for the future of our countries but also for our trading partners, because it reduces our ability to service our debt and to finance our development. Preshipment inspection also helps us to combat the import of goods which are of poor quality if not dangerous to the life of our peoples.

The Negotiating Group on Non-Tariff Measures has discussed preshipment inspection at its last two meetings. A number of countries have expressed the opinion that preshipment inspection programmes have never constituted a barrier to trade and it is therefore unnecessary to subject them to an international discipline or even to negotiation. We support that point of view.

On the other hand, some exporters have objected to these preshipment inspection programmes and have asked their governments to take unilateral steps to limit such instructions, if not to prohibit them altogether. Any unilateral measure is of itself a barrier to trade and a threat to the multilateral system of international trading and its transparency. Such unilateral measures would confirm the opinion that the need and the efforts of developing countries to protect their future and their sovereign right to adopt preshipment inspection are not recognized. These preshipment inspection programmes constitute a vital support for the economies of many developing countries and should not be subjected to restrictions.

Preshipment inspection contributes to predictability in international trade and to economic growth and the expansion of trade by means of a contractual discipline. The developing countries that use preshipment

inspection programmes consider that such programmes can be implemented efficiently without thereby harming the legitimate interests of international trade.

That could be largely ensured by asking the preshipment inspection enterprises to abide by the "Code of Practice" drawn up by the Federation of Inspection Agencies (IFIA). This should convince the Negotiating Group, or any contracting party, not to contemplate further action.