

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG11/W/27
21 September 1988

Special Distribution

Group of Negotiations on Goods (GATT)

Original: English

Negotiating Group on Trade-Related Aspects
of Intellectual Property Rights, including
Trade in Counterfeit Goods

STATEMENT BY THAILAND AT THE MEETING OF 12-14 SEPTEMBER 1988

The Thai Delegation has been following closely and with great interest the discussions in this Negotiating Group. Our silence so far should neither be construed as indifference nor acquiescence.

As the discussions proceed, several proposals emerged and more ideas expressed, the Thai Delegation would like to share its thoughts and concerns on this specific item in the agenda.

At the meeting of the Negotiating Group on Goods in July the developing countries have expressed their collective concern over the manner in which discussions in this Group have proceeded. The statement clearly points out that the GATT deals with the liberalisation of international trade in goods as they cross national boundaries, therefore the scope of the negotiations should be confined to issues relating to the enforcement of intellectual property rights at the border only.

We are in general agreement with the views expressed by the developing countries in the meeting. Thailand is most willing to work in hand with other contracting parties to contribute to the successful outcome of the Uruguay Round. From our perspectives, however, the motives and objectives of some contracting parties in proposing wider coverage including the establishment of international norms and standards of intellectual property protection basing on their own national interest and standards clearly go beyond the intents and spirit of the Ministerial Declaration on this issue.

In order to make substantial progress in the negotiations, we would humbly suggest that the Group concentrate on, and devise, appropriate enforcement mechanisms to ensure adequate protection of intellectual property rights.

The United States proposal has touched upon this particular issue on enforcement. We can agree with certain elements contained therein. The United States proposal, requiring contracting parties to provide procedures enabling owners of intellectual property to enforce their rights by petitioning Governments to prevent importation of infringing products, is appealing. As far as we are aware, the European Community has established this type of procedures. Similar procedures also find their appearance and enforcement in Thailand.

We strongly urge that the following elements should be incorporated into the enforcement mechanisms contemplated:

First, the enforcement procedures should lead to further liberalisation. They should not themselves become barriers or harassment to legitimate trade or lead to excessive protection that obstructs technology transfer.

Secondly, the procedures should reflect the genuine intention and obligations of individual contracting parties to provide due process of law. However, this does not imply that harmonisation of national laws is required.

And thirdly, the procedures should afford maximum degree of transparency.

With the installation of such procedures into national mechanisms, we believe that further trade liberalisation could be achieved. However, we can also envisage non-compliance or disputes. We are of the view that disputes that may arise should be settled through existing and improved dispute settlement mechanisms within the GATT and unilateral action by contracting parties should be prevented.

Finally, we wish to draw the attention of the Group to the undeniable fact that the two fundamental goals pursued by Governments when granting intellectual property protection are the stimulation or encouragement of intellectual creation and the accord of proper and legitimate protection for public interest. It goes without saying that the former must not put undue burden on or adversely affect the latter.

The rôle of any government is to find a proper balance between the two. This is indeed a challenging task ahead of us.