

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)

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

STATEMENT MADE BY THE DELEGATION OF MEXICO AT
THE MEETING OF 17, 18 AND 21 OCTOBER 1988

The delegation of Mexico wishes to make a formal statement of its views concerning the interesting discussions in the Group, and contribute to overcoming some differences which it believes have impeded progress in the negotiations. Our delegation reserves the right to modify these positions as the negotiations within this Group proceed.

First of all, we shall refer to the Punta del Este terms of reference, in order to try to establish as clearly as possible the interpretation that is to be expected of the terms of reference, and the degree to which the Group's activity could fulfil them. The terms of reference comprise three paragraphs, of which the first two specify the scope of the negotiations, with regard to trade-related aspects of intellectual property rights, on the one hand, and with respect to trade in counterfeit goods, on the other.

The first paragraph in the Declaration (Negotiation Objective) states that the negotiations shall aim to clarify GATT provisions and elaborate as appropriate new rules and disciplines. This means that the initial basis for any negotiations consists in identifying and examining the Articles of the General Agreement. Since that is the commitment, and no one has come out against this approach, this is where we must focus our attention in order to achieve the established objective.

In the second paragraph the commitment is clearer, namely, to develop a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods. Work has already been undertaken in this area, and may be drawn upon in the elaboration of the multilateral framework.

Notwithstanding the foregoing, the terms of reference contain a third paragraph which supplements the negotiating objectives in the two areas described above. According to this paragraph, it is necessary to identify and co-operate with other international fora with which the GATT negotiating activity converges.

We believe that this is the interpretation on which Ministers agreed in September 1986, and that proposals submitted should tend in this direction in order to establish a "common basis" for negotiation. However,

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it is not surprising that now, two years after the launch of negotiations, this common ground has not yet been agreed on, because the terms of reference, as we have seen, are apparently not broad enough for some participating countries in view of their specific interests.

Secondly, Mexico, from its standpoint as a developing country, considers that the negotiations should take into account the following elements to achieve the established objectives:

- A. Consideration of the Articles of the General Agreement should be continued in order to determine whether they contribute to developing effective and adequate protection of intellectual property rights which does not distort or hinder international trade, as well as their possible amendment where this is agreed to be required. In order to pursue this exercise, without prejudice to its outcome, this delegation proposes that Articles IX, XX and XXIII of the General Agreement be examined, because it believes that their revision could contribute to the achievement of the negotiating objectives.
- B. The provisions of the General Agreement should not be used to modify legal régimes governing intellectual property rights, but should aim, in the best of cases, at recommendations to reduce distortions in international trade and barriers to that trade which may derive from the application and protection of intellectual property rights.
- C. The negotiating objective regarding the improvement of intellectual property rights should not become a barrier to access by developing countries to technologies produced in developed countries. Therefore, any results obtained in this Group will necessarily have to include more flexible elements for the use of such technology by developing countries, since countries with different levels of development cannot respond in the same way to each of the trade and intellectual-property aspects.

Thirdly, we wish to refer to trade in counterfeit goods. In this regard the Government of Mexico shares the international community's concern that trade in such goods must be attacked on all fronts. In this connection my delegation considers that the Group's activities should aim at the development of a multilateral framework of principles and rules to strengthen action against trade in such goods. To achieve this objective, we consider that the greatest benefits to be gained by participating countries derive from the effective application of existing provisions in the field of intellectual property rights which enable trade-distorting effects to be reduced.