

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/14
30 November 1988

Special Distribution

Group of Negotiations on Goods (GATT)

GROUP OF NEGOTIATIONS ON GOODS

Twelfth meeting: 16-21 November 1988

1. The Group of Negotiations on Goods held its twelfth meeting on 16-21 November 1988 under the Chairmanship of the Director-General. It had on its agenda two items: (i) Review of progress in the negotiations under Part I of the Declaration on the basis of the reports by Chairpersons of the Negotiating Groups; Report of the GNG to the Trade Negotiations Committee; and (ii) Other Business, including date of next meeting. The report of the GNG to the Trade Negotiations Committee was approved and sent forward in document MTN.GNG/13.

2. In opening the meeting the Chairman drew attention to the reports submitted by the Chairpersons of the fourteen Negotiating Groups, all of which were now available. The GNG's work was an intricate combination of technical and political issues. Its purpose at this meeting was to transmit to the Trade Negotiations Committee at Ministerial level a report, consolidating those of the Chairpersons, which would make clear the political choices confronting the Ministers by resolving as many technical difficulties as possible. The Chairman also drew attention to a number of documents submitted by delegations for transmission to the TNC. These were as follows: Communication from the Chairman of the Sub-Committee on Trade of Least-Developed countries (MTN.GNG/W/15); Communication from the Delegation of Jamaica (MTN.GNG/W/16); Communication from the Delegation of Indonesia on behalf of the International Textiles and Clothing Bureau (MTN.GNG/W/17); Communication from the Delegations of Cameroon, Côte d'Ivoire, Nigeria, Sri Lanka and Zaire (MTN.GNG/W/18); Communication from the Delegation of Brazil on behalf of sixteen contracting parties members of the Latin American Economic System (MTN.GNG/W/19); Communication from the Delegation of the European Communities (MTN.GNG/W/20).

3. A first draft of the GNG's report was submitted to the Group on 17 November and a second draft was considered and approved, with certain amendments, on 21 November.

4. During the discussions a number of delegations made statements relating to the negotiations as a whole or to the state of negotiations on particular subjects. These statements are reported in paragraphs 5-25 below. In addition, during the consideration of the draft report, a number of points were made with specific reference to the draft. These points are recorded in paragraphs 26-36 below.

General Discussion

5. The representative of Jamaica noted that while Section II of the report was submitted only for the information of the TNC a careful balance must nevertheless be preserved. This was not so on all subjects, some proposals being given greater prominence than others. In future it might be necessary to agree a common format, or to dispense with Section II altogether.

6. With reference to the communication from the Chairman of the Sub-Committee on Trade of Least-Developed Countries (MTN.GNG/W/15) the Chairman was asked how it would be ensured that the interests of the least-developed countries would be brought to the attention of the TNC in Montreal. He replied that this document had become part of the proceedings of the GNG and would be formally transmitted to the TNC. He also noted that the concerns of least-developed countries were signalled in relation to a number of the subjects for negotiation covered in the GNG report.

7. With reference to the communication from the delegation of Jamaica (MTN.GNG/W/16) the representative of Jamaica made the point that reports coming from the Negotiating Groups were in different formulations, and some of them implied that the Trade Negotiations Committee could give instructions to the CONTRACTING PARTIES. Respect for the different competences of the CONTRACTING PARTIES and the TNC should be ensured. In this connection attention was drawn to the report on the Functioning of the GATT System, which was of overriding importance for small contracting parties.

8. The representative of Indonesia introduced the communication made by him on behalf of members of the International Textiles and Clothing Bureau (MTN.GNG/W/17). He noted that at the previous meeting of the GNG disappointment had been expressed with the pace of the negotiations on textiles and clothing. A political impetus should be provided through a freeze on further MFA restrictions and agreement within the Uruguay Round on a time-frame for the achievement of the negotiating objective. It appeared from their failure to endorse the proposals made by members of the ITCB in the Negotiating Group on Textiles and Clothing that some developed countries still lacked the political will to negotiate. Ministers should therefore give the necessary impetus by taking positive decisions on points (i) to (vii) in MTN.GNG/W/17, which had not been reflected in the report submitted by the Chairman. Other participants also said that their views were not adequately reflected in the report and the delegation of Pakistan reserved its right to raise in the TNC the reflection in paragraph 36 of the GNG report of views expressed in the Negotiating Group. The hope was expressed that both before the Montreal meeting and in the remainder of the negotiations there would be more convergence and less confrontation on textiles and clothing, progress on which, including at Montreal, was of major importance for developing countries.

9. With reference to the question of exports of domestically prohibited goods, a technical note on which had been circulated as MTN.GNG/W/18, the representative of Nigeria restated the strong view of the countries submitting this paper that a decision should be taken to include this subject in the Work Programme within the time-frame of the Uruguay Round and with due regard to ongoing activities in other international fora.

10. The Ambassador of Brazil, as Chairman of the meeting of the Latin American Economic System held in Geneva on 4 November and on behalf of the sixteen contracting parties belonging to SELA, read the Declaration adopted by the Latin American Consultation and Coordination Meeting in accordance with Decision No. 272 of the XIV Latin American Council on the Ministerial meeting of the Trade Negotiations Committee. The Declaration is reproduced in full in MTN.GNG/W/19.

11. It was stated by the representative of Zaire that a preliminary examination by thirteen African countries of progress in the negotiations to date suggested that the specific interests of African countries had not been sufficiently taken into account. This was worrying from several points of view and these countries therefore intended to make a common declaration in the Trade Negotiations Committee on this matter. The point was also made by the representative of Chile that the principle of globality was of key importance throughout the negotiations; Chile's readiness to negotiate on the "new" subjects was conditional on progress being made in areas such as tariffs, non-tariff measures, natural resource-based products and agriculture.

12. The representative of the EEC said that some of the declarations made seemed to him to present an excessively sombre picture of the state of the negotiations. In his own view there were many positive aspects to be taken into account - but the proper forum for general statements was the TNC. In response the point was made that the GNG itself was called upon to make an assessment of the progress made in the negotiations.

13. In response to a question about the length of the Ministerial meeting, the Chairman said that the time available would necessarily be very short. For this reason it was essential not to overload the agenda. The premises themselves would cease to be available on the evening of Friday 9 December. The representative of Tanzania expressed the hope that all would agree that the Ministerial meeting should end on 8 December, and that the precedent-creating nature of the meeting would be borne in mind.

14. The representative of Pakistan said that the Montreal meeting provided an occasion to demonstrate tangible evidence of progress, so as to restore faith in the negotiating process. So far, however, the way in which the concerns and interests of weaker participants had been addressed had been disheartening. The process would be furthered by respect for certain important principles. First, formal linkages between issues, whether between textiles and safeguards or between agriculture and tropical products, would be likely to block all progress. Secondly, pragmatic

compromises should be based on recognition that solutions should be acceptable to all participants. Thirdly, while it was acceptable that negotiations in some areas would proceed more quickly than in others, it was not acceptable that the subjects in which the less privileged participants had the greatest interest, such as safeguards, textiles, tropical products and tariff escalation, should be neglected; for a balanced package of results at Montreal concrete results in these areas would be essential because progress in them would have salutary effects in many other areas. Specific negotiating frameworks or principles should be agreed on most subjects, in order to maximize effective participation. In some areas a significant advanced contribution should be made as an earnest of good faith. Finally, in some of the "new areas", particularly the trade-related aspects of intellectual property rights, a great deal of further work was needed to allay anxieties about the implications of multilateralisation of these areas. With regard to the transparency of the negotiations, the guideline that not more than two Negotiating Groups should meet simultaneously had not been fully respected in recent weeks, which had made it difficult for small delegations to participate fully. Noting that the GNG would be transmitting alternative texts to Ministers on such subjects as textiles and clothing and TRIPs, the speaker expressed the hope that the deliberations at Montreal would be transparent and that no attempts would be made to set aside substantive differences through procedural devices.

15. The representative of Morocco, with respect to the GNG report in general, expressed appreciation for the efforts made by the Chairman in order to push forward the work of the Group and noted his opening declaration to the effect that the entire report should be regarded as being "within brackets" pending its approval by the TNC, and that the GNG's essential purpose was to facilitate the task of Ministers. In consequence, the report as presented should have no prejudicial or binding effect, nor did it have the force of a consensus.

16. Several participants reiterated the importance for their countries, and for many developing countries, of the negotiations on tropical products. It was pointed out that the contribution of developing countries to the tropical products negotiations could be made in the general context of the Round, not necessarily in that sector. It must be for developed countries to take the first step, and autonomous measures of liberalization by developing countries should be recognized. Though some of the proposals made by developed countries went in the right direction, progress at this stage did not appear to be balanced.

17. With respect to the negotiations on agriculture, the representative of Uruguay stressed their importance for his country and recalled that at a recent meeting in Budapest Ministers had stated that failure to achieve positive results on agriculture at Montreal would cast doubt upon the Mid-Term Review and might endanger the Round as a whole. For this reason his country would follow with great care the process referred to in paragraph 4(i) of the GNG report.

18. The representative of Turkey, in relation to the adoption of the GNG report, said that since there had been very little time to study it, or to appreciate the force of amendments suggested during the meeting, his agreement that the report should be transmitted to the TNC implied no commitment of any kind as to its contents.

19. Commenting upon the draft report as a whole, the representative of the EEC drew attention to the three understandings contained in paragraph 4; with reference to 4(i) he noted that to ensure a proper balance in the negotiations it might be necessary to request a further meeting of the GNG. Not merely the balance within each Negotiating Group, but also that at the level of the GNG, and finally that between goods and services must be ensured. In relation to paragraph 4(ii) he noted that the Uruguay Round, for the first time, offered the hope of a generally satisfactory solution in negotiations on tropical products. Such a solution must be based on three contributions. First the ACP countries would contribute, as a result of tariff reductions by the Community, through sharing with other developing countries the preferential access they enjoy to the Community market. Secondly, other developing countries would make their contribution to what must be a collective effort in which all would participate according to their means. Finally, all other developed countries would make their contribution, in addition to that of the Community.

20. With reference to paragraph 4(iii) of the report the representative said that the concluding declaration of the Chairman of the Punta del Este Conference formed an integral part of its results. All elements of the statement should be dealt with before the end of the Round; even if solutions could not be found to all these problems, to avoid them would be a serious mistake. In this connection, he had taken note of the statement made by Nigeria on exports of domestically prohibited goods.

21. Referring to specific subjects for negotiation, he expressed optimism as to the prospects of agreement at Montreal on the question of tariffs, but recalled the vital importance of a very substantial increase in the extent of tariff bindings. On safeguards, he understood but regretted the insertion of the bracketed second paragraph of the text in Section III: it was clear that on this subject only an overall solution would be feasible, and to extract certain elements at this stage appeared to prejudice the final result. In relation to trade-related aspects of intellectual property rights, including trade in counterfeit goods, he noted that whereas in Punta del Este developed countries appeared to share a common view while there were differences among developing countries, it appeared from this debate that at Montreal the situation might be the reverse. On dispute settlement, if genuine improvements were to be achieved, the law must be the same for all countries and national legislation must be in conformity with contractual obligations in the GATT. From this standpoint, the idea that a working party rather than a panel should consider cases involving a complaint brought against a developing country appeared trivial, and not up to the level of the joint effort required at Montreal. In regard to the establishment of the trade policy review mechanism proposed by the Group on the Functioning of the GATT System, it would be essential to guarantee that the non-trade environment will not vitiate or distort the review exercise.

22. With regard to textiles and clothing, Ministers in Montreal would have to act to resolve the deadlock exemplified in the text to be submitted to them, and it seemed out of the question that it could or should be resolved by a procedural device. The deadlock on the substantive problems in this area was the responsibility of all contracting parties, and other trading nations which were concerned with textiles trade. It would be in the interests of all to ensure that genuine negotiations could begin on a sound basis. The Textiles Negotiating Group was one of those which had made least progress, the main reason for this being the threat of a US Textiles Bill. But to delay the negotiations served no purpose unless the threat were removed. To conceal the concerns and the disagreements between participants would only cause them to break out more violently at Montreal or later. For this reason the formulation on textiles and clothing in the GNG report was acceptable.

23. On the substance of the textile problem, the trade could not be viably integrated into GATT until the sources of competitive imbalances were eliminated. It was clear that there would be no transfer of the textile industry from north to south, but rather a general development, allowing both sides to co-exist and cooperate. The Multifibre Arrangement had been undermined by successive departures, but many developing countries had benefitted from it by upgrading their industry or through the shelter it provided against unrestricted competition. Some developing country exporters had therefore come to recognise the usefulness of the MFA. On the other side, however, there seemed to be an irrational extremism among importers. Notwithstanding some ominous short-term factors, it was inappropriate that protectionist pressures should be intensifying in the most powerful country when its industry was producing at full capacity and making large profits. This could only undermine credibility. Likewise, it would be inappropriate for the Community to use its power for short-term ends, even though some of its member states, whose markets had formerly been heavily protected, were now facing heavy burdens of adjustment. Simplistic or revolutionary solutions, such as depriving the MFA of content by enlarging quotas, or even its rapid elimination, were unrealistic. Ministers should be advised to stay firmly within the terms of reference agreed at Punta del Este. But at this stage no time limit should be inserted. The final objective must be fair and free trade for all in textiles, and none could be exempted in the exercise.

24. Subject to the qualification that anything could be reopened at Montreal, the GNG had done good work: on six subjects work had been completed by consensus; on agriculture and tropical products there were good prospects of success; and on the remainder the alternatives had been usefully clarified.

25. A number of participants commented on the reference to ACP countries in the context of the negotiations on tropical products. It was pointed out that the erosion of acquired benefits would affect many least-developed countries, most of which were located in Africa, and that they could not be expected to make the major contribution to the success of the negotiations

on this subject. This could undermine the balance and the priorities established in the Ministerial Declaration. Participants signalled their intention to raise this matter both with the Community and in the declaration which African countries would be making at Montreal. The representative of the EEC said that it was essential to avoid ambiguities; this was why he had pointed out that it was inescapable that the reduction of preferential margins would affect the balance within the Lomé Convention.

Specific Points on Draft Report

26. Introducing the final draft of the GNG's report, the Chairman said that this was only part, though a very important one, of the process leading to Montreal, which should continue. The draft represented the best result attainable at the present stage and was still subject to editorial checking. Section III of the report would be submitted to the TNC for action. He drew attention to the understandings on page 2, paragraph 4, on the basis of which it was proposed the GNG should adopt the report. The Chairman also announced that a number of participants had proposed the transfer to Section II of the "Checklist of Issues" needing to be further addressed which appeared in Section III of the draft under Agriculture. This seemed to him to be logical since the checklist could hardly be submitted to Ministers for action.

27. A number of participants made comments for the record on the draft report.

28. On tariffs the representative of Hong Kong suggested that the third sentence in Section II (paragraph 7) should be amended to read "In general the results concept received favourable comments from some participants, several of whom noted, however, that the formulation of options for the results approach should be more specific and should include principles to govern the achievement of the results, and that the proposals needed to take into account the special needs of developing country participants." The representative of Uruguay said that the text on tariffs in Section III was understood as referring to the entire Customs Tariff of each participant, irrespective of what might be done in the Negotiating Groups on Natural Resource-Based Products, Agriculture and Tropical Products.

29. On non-tariff measures, the representative of Uruguay said that his delegation had requested the inclusion of a paragraph saying that in case of doubt as to whether a non-tariff measure was consistent with the General Agreement, the measures should be referred to the GNG for transmission to, and decision by, the Surveillance Body.

30. On natural resource-based products the representative of Peru said that the negotiating objective should be quoted in full in Section III of the report. The Negotiating Group had agreed that the objectives of the negotiations continued to be as agreed at Punta del Este. The representative of Chile supported this statement.

31. With regard to textiles and clothing a number of participants commented on the reflection in Section II of views expressed in the Negotiating Group (see paragraph 8 above). The representative of Jamaica suggested that the sub-headings in the text on textiles and clothing in Section III should be formulated in the same way as those on TRIPs.

32. In relation to agriculture, it was agreed to transfer to Section II, for the information of the TNC, the checklist of issues contained in page 43 of the draft report. It was agreed that it should be made clear that this was a checklist drawn up by the Chairman of the Negotiating Group on Agriculture of issues that would need to be addressed in further consultations before the TNC meeting in Montreal, on the long and short-term elements of a framework approach for the negotiations on agriculture. It was also agreed to add to paragraph 40, Section II, the phrase "problems of developing countries net importers of foodstuffs".

33. On trade-related aspects of intellectual property rights, including trade in counterfeit goods, the representative of India recalled the statement made on behalf of developing countries at the July meeting of the GNG in relation to the mandate of the Negotiating Group. The point had then been made that the mandate must not be exceeded in order to cover substantive issues of IPR protection, and similar views had been expressed on several occasions in the Negotiating Group. These views had not been reflected in Part I of the report submitted by the Chairman or in Section II of the draft GNG report. He would therefore propose the inclusion of the following sentence in paragraph 74 "The work of the Group should be to address the trade-related aspects of intellectual property rights as distinct from the questions of substantive norms and standards for intellectual property protection." The representative of Brazil said that his delegation had proposed the insertion of the following sentence in Part I of the Chairman's report: "Views were also expressed that substantive matters of intellectual property protection are outside the scope of the Group on TRIPs and of the General Agreement." However, this point did not appear in the report and he therefore requested that it be reflected in the report of the GNG. These views were supported by Colombia, Cuba, Egypt, Nicaragua, Nigeria, Peru, Tanzania, Thailand and Yugoslavia. The representative of Thailand also said that the work of other international organizations in this sphere must be taken fully into account. The representative of Yugoslavia said that it was his understanding that all of the four texts put forward on TRIPs would receive the same treatment in Montreal.

34. The representative of Chile said that whichever proposal were taken as the basis for negotiation, it should be made clear that the fundamental principles of the General Agreement included the m.f.n. principle, the safeguards system, dispute settlement and special and differential treatment. He added that he did not believe it would be possible to create a dispute settlement mechanism in this context which would be divorced from existing GATT procedures or those under discussion in the Negotiating Group on Dispute Settlement. Independently of whether Chile supported any particular proposal, he agreed that views expressed in the Negotiating Group should be reflected in the report.

35. The representative of Jamaica said that his delegation was not among those who found the elements put forward by the Chairman a suitable basis for negotiation, but that on the elements subsequently put forward there had been too little time for consideration, so that Jamaica reserved its position on this subject.

36. In relation to the functioning of the GATT system the representative of Jamaica said that it was his understanding that the draft format for country reports under the trade policy review mechanism (page 35 of MTN.GNG/13) would be approved by the GATT Council.

Conclusion

37. The draft report was adopted, with the agreed amendments, for transmission to the Trade Negotiations Committee. It has been issued as MTN.GNG/13.

38. The Chairman proposed that the Group's next meeting should take place in the week beginning 13 March 1989. This was agreed.