

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG8/W/26/Rev.2

6 October 1989

Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on
MTN Agreements and Arrangements

CHECKLIST OF ISSUES RAISED IN THE NEGOTIATING GROUP
ON MTN AGREEMENTS AND ARRANGEMENTS

Note by the Secretariat

Revision

At the Group's meeting of 18 and 20 September 1989 the secretariat was, in the area of anti-dumping, requested to circulate, prior to the next meeting, a second revision of the checklist in MTN.GNG/NG8/W/26, which would (i) include additional issues raised and (ii) give relevant references to working documents in which each individual item has been dealt with.

The present revision has been made in response to this request and also represents an up-date on issues raised concerning other MTN Agreements.

A. AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE GENERAL AGREEMENT
("Anti-Dumping Code")

I. Objectives of Anti-Dumping Measures and Rules for the Determination of
the Existence of Dumping

1. Amendments to the preamble of the Agreement concerning the concept of comparative advantage, the causal relationship between dumping and material injury, pricing practices which are in accordance with commercial considerations, alignment of prices, the exceptional character of anti-dumping measures, the consideration of the public interest in anti-dumping proceedings and procedural aspects of anti-dumping duty investigations

- NG8/W/51, pp.1-2 (Hong Kong)

2. Amendments to Article 1 of the Agreement concerning the concept of comparative advantage and the avoidance of the use of anti-dumping measures in a manner which leads to local content requirements, quantitative restrictions and price cartels in the market of the importing country

- NG8/W/51, pp.2-3 (Hong Kong)

3. Applicability of the concept of dumping in cases where exporters align prices to those prevailing in the domestic market of the importing country

- NG8/W/12, pp.1-2 (Nordic countries)
- NG8/W/15, pp.3-4 (Nordic countries)
- NG8/W/51, p.2 (Hong Kong)

4. Interpretation of the expression "introduced into the commerce of another country" in Article 2:1

- NG8/W/3, p.2 (Korea)
- NG8/W/10, p.2 (Korea)
- NG8/W/11, p.2 (Japan)

- NG8/W/15, pp.1-2 (Nordic countries)
- NG8/W/15/Corr.1 (Nordic countries)
- NG8/W/30, pp.2-3 (Japan)
- NG8/W/40, p.2 (Korea)
- NG8/W/40/Add.1, p.1 (Korea)
- NG8/W/48, p.1 (Japan)

5. Interpretation of the term "like product" in Article 2:2

- NG8/W/3, p.2 (Korea)
- NG8/W/10, pp.2-3 (Korea)
- NG8/W/11, p.2 (Japan)
- NG8/W/30, p.3 (Japan)
- NG8/W/40, p.2 (Korea)
- NG8/W/40/Add.1, p.1 (Korea)

6. Legal structure of the exporting company in the context of the determination of the normal value under Articles 2:2 and 2:4

- NG8/W/28, p.4 (EEC)
- NG8/W/30, pp.6-8 (Japan)
- NG8/W/48, p.2 (Japan)

7. Treatment under Article 2:3 of products imported from a third country

- NG8/W/40, p.3 (Korea)
- NG8/W/40/Add.1, p.1 (Korea)

8. Definition of the circumstances in which the normal value cannot be determined on the basis of home market prices in the exporting country (Article 2:4: "When ... comparison")

- NG8/W/11, p.2 (Japan)
- NG8/W/30, p.4 (Japan)
- NG8/W/48, p.2 (Japan)

9. Order of preference between export sales to third countries and constructed value as alternative methods to determine the normal value under Article 2:4

- NG8/W/3, p.2 (Korea)
- NG8/W/10, p.3 (Korea)
- NG8/W/11, p.2 (Japan)
- NG8/W/30, p.4 (Japan)
- NG8/W/40, p.4 (Korea)
- NG8/W/40/Add.1, p.2 (Korea)

10. Calculation of the amount for administrative, selling and other costs and for profits in constructed value calculations under Article 2:4

- NG8/W/3, pp.2-3 (Korea)
- NG8/W/10, pp.3-4 (Korea)
- NG8/W/11, p.2 (Japan)
- NG8/W/15, p.5 (Nordic countries)
- NG8/W/30, pp.4-5 (Japan)
- NG8/W/40, p.4 (Korea)
- NG8/W/40/Add.1, p.2 (Korea)
- NG8/W/48, pp.2-3 (Japan)

11. Allocation of costs of production in the case of certain high technology products

- NG8/W/11, pp.4-5 (Japan)
- NG8/W/30, pp.16-18 (Japan)

12. Comparison of normal value and export price under Article 2:6

- NG8/W/3, p.3 (Korea)
- NG8/W/10, p.5 (Korea)
- NG8/W/11, pp.2-3 (Japan)
- NG8/W/15, p.2 (Nordic countries)
- NG8/W/30, pp.5-10 (Japan)
- NG8/W/40, pp.5-6 (Korea)
- NG8/W/40/Add.1, pp.2-3 (Korea)
- NG8/W/48, pp.4-5 (Japan)
- NG8/W/48/Corr.2 (Japan)

13. Use of weighted averages in the comparison of export price and normal value

- NG8/W/11, p.3 (Japan)
- NG8/W/30, pp.8-9 (Japan)
- NG8/W/48, p.5 (Japan)

14. Margins of dumping and exchange rate fluctuations

- NG8/W/11, p.3 (Japan)
- NG8/W/30, pp.9-10 (Japan)
- NG8/W/48, p.5 (Japan)

15. Price comparability and inflation

- NG8/7, para.14 (Brazil)

16. Determination of the normal value in situations referred to in the Second Supplementary Provision to paragraph 1 of Article VI in Annex I to the General Agreement (Article 2:7)

- NG8/W/15, p.5 (Nordic countries)

17. Input dumping

- NG8/W/11, p.4 (Japan)
- NG8/W/15, p.5 (Nordic countries)
- NG8/W/22, p.3 (United States)
- NG8/W/30, pp.14-16 (Japan)
- NG8/W/40, p.3 (Korea)
- NG8/W/40/Add.1, p.1 (Korea)

II. Determination of the existence of material injury

1. Price undercutting (Article 3:2) and alignments of prices to prices of competitors

- NG8/W/3, p.4 (Korea)
- NG8/W/10, p.7 (Korea)
- NG8/W/12, pp.1-2 (Nordic countries)
- NG8/W/15, pp.3-4 (Nordic countries)
- NG8/W/40, p.7 (Korea)
- NG8/W/40/Add.1, p.3 (Korea)
- NG8/W/46, p.9 (Hong Kong)

2. Comparison of dumping margin and level of price undercutting (Articles 3:2 and 3:4)

- NG8/W/3, p.4 (Korea)
- NG8/W/10, p.7 (Korea)
- NG8/W/40, p.7 (Korea)
- NG8/W/40/Add.1, p.3 (Korea)

3. Minimum percentage of market penetration below which no affirmative injury determination could be made (Articles 3:2 and 5:3)

- NG8/W/3, p.3 (Korea)
- NG8/W/9, p.3 (India)
- NG8/W/40, p.7 (Korea)
- NG8/W/40/Add.1, p.3 (Korea)
- NG8/W/51, p.4 (Hong Kong)

4. Cumulative injury assessment

- NG8/W/3, p.3 (Korea)
- NG8/W/9, p.3 (India)
- NG8/W/15, pp.2-3 (Nordic countries)
- NG8/W/40, p.8 (Korea)
- NG8/W/40/Add.1, p.3 (Korea)
- NG8/W/46, p.9 (Hong Kong)
- NG8/W/51, p.4 (Hong Kong)

5. The concept of "material" injury and the causal relationship between "material injury" and dumping (Article 3:4)

- NG8/W/46, pp.8-9 (Hong Kong)

6. Determination of the existence of a threat of material injury
(Article 3:6)

- NG8/W/3, p.3 (Korea)
- NG8/W/11, p.5 (Japan)
- NG8/W/15, p.5 (Japan)
- NG8/W/28, p.2 (EEC)
- NG8/W/48, p.8 (Japan)

7. Definition of the term "domestic industry" in Article 4:1

- NG8/W/3, p.4 (Korea)
- NG8/W/10, pp.7-8 (Korea)
- NG8/W/22, p.3 (United States)
- NG8/W/40, p.8 (Korea)
- NG8/W/40/Add.1, p.4 (Korea)
- NG8/W/51, p.3 (Hong Kong)

8. Definition of the term "related" in Article 4:1(i)

- NG8/W/11, p.5 (Japan)
- NG8/W/15, p.5 (Nordic countries)

III. Initiation and conduct of anti-dumping duty investigations

1. Definition of the term "domestic industry" in Article 4:1

- NG8/W/3, p.4 (Korea)
- NG8/W/10, pp.7-8 (Korea)
- NG8/W/22, p.3 (United States)
- NG8/W/40, p.8 (Korea)
- NG8/W/40/Add.1, p.4 (Korea)
- NG8/W/51, p.3 (Hong Kong)

2. Procedures to verify whether a petition has been filed on behalf of
the affected industry (Article 5:1)

- NG8/W/3, p.4 (Korea)
- NG8/W/10, p.8 (Korea)
- NG8/W/40, p.9 (Korea)
- NG8/W/40/Add.1, p.4 (Korea)
- NG8/W/51, pp.3-4 (Hong Kong)

3. Meaning of the expression "special circumstances" in Article 5:1

- NG8/W/51, p.4 (Hong Kong)

4. Interpretation of the expression "introduced into the commerce of
another country" in the context of the initiation of anti-dumping duty
investigations

- NG8/W/3, p.2 (Korea)
- NG8/W/10, p.2 (Korea)

- NG8/W/11, p.2 (Japan)
 - NG8/W/15, pp.1-2 (Nordic countries)
 - NG8/W/15/Corr.1 (Nordic countries)
 - NG8/W/30, pp.2-3 (Japan)
 - NG8/W/40, p.2 (Korea)
 - NG8/W/40/Add.1, p.1 (Korea)
 - NG8/W/48, p.1 (Japan)
5. Evidence required for the opening of an anti-dumping duty investigation (Article 5:1)
- NG8/W/11, p.3 (Japan)
 - NG8/W/30, p.10 (Japan)
 - NG8/W/48, p.5 (Japan)
 - NG8/W/51, p.3 (Hong Kong)
6. Definition of the term "interested parties" in Article 6:1
- NG8/W/51, pp.4-5 (Hong Kong)
7. Explanation of preliminary and final determinations (Article 6:2)
- NG8/W/51, p.5 (Hong Kong)
8. Explanation of how factors other than dumped imports have been considered in the examination of the causal relationship between material injury and dumped imports (Article 8:5)
- NG8/W/48, pp.6-7 (Japan)
9. Determinations made on the basis of the facts available (Article 6:8)
- NG8/W/3, p.4 (Korea)
 - NG8/W/10, p.9 (Korea)
 - NG8/W/11, p.5 (Japan)
 - NG8/W/15, p.5 (Nordic countries)
 - NG8/W/28, p.2 (EEC)
 - NG8/W/40, p.10 and 13-14 (Korea)
 - NG8/W/40/Add.1, p.4 (Korea)
 - NG8/W/48, p.8 (Japan)
10. Procedures for on-the-spot investigations (Article 6:5)
- NG8/W/11, p.5 (Japan)
 - NG8/W/15, p.5 (Nordic countries)
 - NG8/W/28, p.2 (EEC)
 - NG8/W/48, p.8 (Japan)
11. Transparency of anti-dumping proceedings (Articles 5, 6 and 8)
- NG8/W/11, p.5 (Japan)
 - NG8/W/15, p.5 (Nordic countries)
 - NG8/W/28, p.2 (EEC)
 - NG8/W/48, p.8 (Japan)

12. Time-limits given to respondents to anti-dumping questionnaires
(Article 6)

- NG8/W/11, p.5 (Japan)
- NG8/W/15, p.5 (Nordic countries)
- NG8/W/28, p.2 (EEC)
- NG8/W/48, p.8 (Japan)

IV. Price undertakings

1. Criteria and time limits for the acceptance of offers of price undertakings (Article 7)

- NG8/W/3, p.5 (Korea)
- NG8/W/10, p.9 (Korea)
- NG8/W/11, p.3 (Japan)
- NG8/W/28, p.3 (EEC)
- NG8/W/30, p.11 (Japan)
- NG8/W/40, p.10 (Korea)
- NG8/W/40/Add.1, p.4 (Korea)

2. Revision and termination of price undertakings (Articles 7:5, 7:6 and 9)

- NG8/W/15, p.5 (Nordic countries)

3. Level of price increase under a price undertaking (Article 7:1)

- NG8/W/51, p.5 (Hong Kong)

4. Price undertakings in anti-dumping duty investigations involving imports from developing countries (Articles 7 and 13)

- NG8/W/15, p.6 (Nordic countries)

V. Imposition and collection of anti-dumping duties

1. Imposition of anti-dumping duties less than the full margin of dumping if such lesser duties are adequate to remove the injury to the domestic industry (Article 8:1)

- NG8/W/28, p.3 (EEC)
- NG8/W/51, p.5 (Hong Kong)

2. Extension of the application of anti-dumping duties on imports of finished products to imports of parts and components of such products or to newly developed products

- NG8/W/11, p.4 (Japan)
- NG8/W/30, p.14 (Japan)
- NG8/W/40, p.2 (Korea)
- NG8/W/40/Add.1, p.1 (Korea)

3. Imposition of anti-dumping duties on exporters who have not been investigated

- NG8/W/46, pp.7-8 (Hong Kong)
- NG8/W/48, p.6 (Japan)
- NG8/W/48/Corr.1 (Japan)

4. Consideration of the public interest in the decision to apply anti-dumping measures

- NG8/W/46, pp.5-7
- NG8/W/51, p.2 (Hong Kong)

5. Criteria for the reimbursement of excessive anti-dumping duties (Article 8:3)

- NG8/W/11, p.3 (Japan)
- NG8/W/30, pp.11-12 (Japan)

6. Duration of provisional measures (Article 10)

- NG8/W/28, p.5 (EEC)

7. Retroactive application of anti-dumping duties (Article 11)

- NG8/W/28, p.5 (EEC)

VI. Duration, review and termination of anti-dumping measures

1. "Sunset" clause (Article 9:1)

- NG8/W/3, p.5 (Korea)
- NG8/W/10, p.10 (Korea)
- NG8/W/11, pp.3-4 (Japan)
- NG8/W/15, p.4 (Nordic countries)
- NG8/W/28, pp.3-4 (EEC)
- NG8/W/30, pp.12-13 (Japan)
- NG8/W/40, p.11 (Korea)
- NG8/W/40/Add.1, p.5 (Korea)
- NG8/W/48, p.7 (Japan)

2. Mandatory review of anti-dumping measures after a certain period of time (Article 9:2)

- NG8/W/3, p.5 (Korea)
- NG8/W/10, p.10 (Korea)
- NG8/W/15, p.4 (Nordic countries)
- NG8/W/40, pp.11-12 (Korea)
- NG8/W/40/Add.1, pp.5-6 (Korea)

VII. Anti-dumping action on behalf of a third country (Article 12)

- NG8/4, para.8 (New Zealand)

VIII. Repeated dumping

- NG8/W/22, p.2 (United States)

IX. Circumvention of Anti-Dumping Measures

- NG8/W/11, p.4 (Japan)
- NG8/W/22, p.3 (United States)
- NG8/W/28, p.4 (EEC)
- NG8/W/30, pp.13-14 (Japan)

X. Indemnization of exporters following multilateral dispute settlement (Article 15)

- NG8/W/51, p.6 (Hong Kong)

B. AGREEMENT ON INTERPRETATION AND APPLICATION OF ARTICLES VI, XVI AND XXIII OF THE GENERAL AGREEMENT
("Subsidies Code")

I. Interpretation and application of Article 14:5 of the Agreement

- NG8/W/5 (Colombia)

C. AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT
("Customs Valuation Code")

I. Burden of proof regarding transaction value (Articles 1 and 17, and Paragraph I:17 of the Protocol)

- NG8/W/9 and 54 (India):
 - (a) When the price is less than that noticed in a series of transactions immediately preceding the relevant one; and
 - (b) when the price is less than that noticed for transactions involving identical goods imported directly from the country of manufacture.

D. AGREEMENT ON GOVERNMENT PROCUREMENT

I. Special and differential treatment for developing countries

1. Implementation of the provisions for special and differential treatment in the context of entity negotiations (Article III and IX:1(b); proposed new Article IX:1(e))

- NG8/W/9 (India)
- NG8/W/39 (Korea)

II. Accession of contracting parties

1. The requirement that consent of all Parties is needed in terms of accession, and the procedures adopted by the Committee concerning accession (Article IX:1(b); and Article IX:9)).

- NG8/W/9 (India)

2. Shares of above-threshold procurement and commitment to a gradual expansion of entity list as criteria to be considered (proposed new Article IX:1(e))

- NG8/W/39 (Korea)

3. Guidelines for a transitional membership.

- NG8/W/47 (EEC)

III. Tendering procedures

1. The process of, and the time required in, pre-qualification procedures (Article V:2(c)).

- NG8/W/21 (Korea)

2. Bid deadlines (proposed new Article V:11(g))

- NG8/W/39 (Korea)

IV. Information and review

1. More detailed breakdown of product categories, statistical analyses and improved means of comparing statistical presentations (Article VI:10).

- NG8/W/21 (Korea)

E. AGREEMENT ON IMPORT LICENSING PROCEDURES

I. Improvement of the Agreement

1. Proposal by Hong Kong and the United States (NG8/W/53)

II. Clarification of the language of the Agreement

1. Incorporation of recommendations adopted by the Committee on Import Licensing in May 1987 (LIC/12). (NG8/W/20).
2. Clarification of Article 1.1 including definitions used (NG8/W/17 (EEC)).

III. Expansion of the Agreement

1. Export Licensing (NG8/W/17(EEC)).

F. AGREEMENT ON TECHNICAL BARRIERS TO TRADE
("Standards Code")

I. Testing, Inspection and Product Approval Procedures

1. Testing and inspection procedures
(MTN.GNG/NG8/W/50 - Nordic countries)
2. Product approval procedures
(MTN.GNG/NG8/W/52 - United States)

II. Improving the Provisions of the Agreement on Transparency

1. Improving Transparency
(MTN.GNG/NG8/W/43/Rev.1 - Nordic countries)
2. Languages for exchange of documents
(MTN.GNG/NG8/W/44 - India)
3. Improved Transparency in bilateral standards-related agreements.
(MTN.GNG/NG8/W/34 and Rev.1 - United States)
4. Transparency in the drafting process of technical regulations, standards and certification systems by central government bodies
(MTN.GNG/NG8/W/37 - Japan)
5. Transparency of the operation of certification systems by central government bodies
(MTN.GNG/NG8/W/36 - Japan)

III. Activities of Non - Governmental Standardizing Bodies

1. Code of good practice for non-governmental standardizing bodies
(MTN.GNG/NG8/W/49 - European Economic Community)
2. Improved transparency in regional standards activities
(GNG/NG8/W/35 - United States)

IV. Voluntary Standards

1. Voluntary draft standards and their status
(MTN.GNG/NG8/W/45 - India)
2. Establishing a method of ensuring compatibility of standards issued by recognized national bodies and other standardizing bodies within the Parties
(MTN.GNG/NG8/W/9 - India)
3. Information about voluntary standards being made mandatory by legislation.
(MTN.GNG/NG8/W/9 - India)

V. Processes and Production Methods

(MTN.GNG/NG8/W/24 - United States)