

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Trade Negotiations Committee

TRADE NEGOTIATIONS COMMITTEE

Tenth meeting: 20 December 1989

1. The Trade Negotiations Committee held its tenth meeting under the chairmanship of Mr. Arthur Dunkel.
2. The Chairman suggested that, while specific points might be made under items II-IV, more general statements and discussions should be made under item V "Overall Review of Progress in the Negotiations". He also drew attention to the fact that some participants wished statements which they had made in the GNG to be taken into account under item V (see page 5 below).

I. Participation of Venezuela

3. The Chairman recalled that, at its last meeting, the TNC had discussed Venezuela's request to participate in the Uruguay Round (MTN.TNC/12, paragraph 33). Members of the Committee were aware that the Government of Venezuela had expressed a strong interest in participating in the Uruguay Round of Trade Negotiations whilst negotiating its accession to the GATT and that he had been conducting consultations with a view to giving the Government of Venezuela a practical response to its request. In this respect, Venezuela had expressed a commitment to seek to conclude its process of GATT accession as early as possible in 1990. Venezuela would of course be a participant in the Uruguay Round as soon as it had become a contracting party to GATT. There was a widespread desire among participants to expedite that process. On the basis of his consultations and in order to permit Venezuela to participate effectively in the negotiations when it became a contracting party, he was in a position to inform the TNC that, since the Working Party on Venezuela's accession to the GATT had met to examine Venezuela's foreign trade régime, the opportunity would be provided to Venezuela to follow the work under way in the negotiating structure of the Uruguay Round of Trade Negotiations.

4. The Committee agreed with the statement and, accordingly, invited the representative of Venezuela to attend this meeting in his personal capacity.

II. Evaluation of the implementation of the standstill and rollback commitments

5. The Chairman recalled that, at its last meeting, the TNC had agreed that when it reverted to the implementation of the standstill and rollback

commitments at the present meeting, it should have before it proposals from the Surveillance Body for appropriate TNC action in accordance with paragraph (h) of the Mid-term Review decision (MTN.TNC/12, paragraph 6).

6. The Chairman of the Surveillance Body introduced the note on its meeting of 29 November 1989 (MTN.SB/11). In reporting on the past six months, he noted some positive steps. At the last meeting of the Surveillance Body, the European Communities had announced in pursuance and modification of an earlier rollback offer made on an autonomous basis, the unconditional elimination of a range of quantitative restrictions. Although many participants had wanted to study the EEC's offer carefully before commenting on it, the offer had been generally welcomed. Participants had also welcomed the approval by the United States Congress of a bill to amend the US Superfund Tax on imported petroleum and petroleum products, thereby complying with a GATT panel recommendation and disposing of a matter which had long been subject to a standstill notification. A formal communication notifying the US action had since been made available to the Surveillance Body. There were no other positive actions to report. As to the suggestion made by the TNC in July that the Surveillance Body should make proposals to the TNC for appropriate action in accordance with paragraph (h) of the Mid-term Review decision, he indicated that the issue had been discussed at the Body's last meeting (MTN.SB/11), part II) and in informal consultations prior to that meeting. He recalled that in July 1989, Australia and New Zealand had put forward proposals in the Surveillance Body concerning ways of ensuring compliance with the rollback commitment. The record of the discussion of the Body's last meeting showed that while there had been some support for the proposals, no consensus had been reached as to specific suggestions that might be made at this stage to the TNC. It had been agreed that the proposals be kept on the table. Therefore, there were no formal proposals from the Surveillance Body to the TNC on this matter at this stage. However, a number of participants had emphasized the need to make progress through practical rollback measures. Speaking in his personal capacity, he stated that the TNC might wish to recall that the Punta del Este Declaration called for progressive implementation of the rollback commitment and for measures to be phased out or brought into conformity within an agreed timeframe not later than the date of the formal completion of the negotiations. In taking note of the indications given at the Surveillance Body meeting, the TNC might wish to urge participants to report to the Body any progress in meeting the objectives laid down in the Punta del Este Declaration, so that the TNC could review the situation appropriately.

7. Some participants expressed concern over the lack of progress in the implementation of the standstill and rollback commitments. There could not be a successful outcome of the Uruguay Round if these commitments were not fulfilled. If the surveillance mechanism was to be meaningful, it should not be allowed to lapse into a forum where complaints were routinely examined and debated away procedurally.

8. The representative of Singapore was particularly concerned over the ongoing United States countervailing duty investigation involving

computer-aided software engineering tools from Singapore. Her delegation disagreed with the United States categorization of software as merchandise; and even if it had been merchandise, the United States had initiated a countervailing duty investigation in a manner which was inconsistent with its GATT obligations. Despite the fact that software as information was not in the United States tariff schedules and that the United States had submitted to the GATT Valuation Committee in 1983 that software was non-dutiable, the Department of Commerce had concluded that the software under investigation was dutiable. On a non-dutiable item, Article VI of the General Agreement required an affirmative injury determination. In this case there had been neither such determination nor allegation of injury by the petitioner. The initiation of the investigation thus constituted a violation of Article VI of the GATT and of the standstill commitment. Her delegation therefore urged the United States to terminate the investigation and reserved its right to resort to the relevant GATT provisions in order to protect its legitimate rights and interests under the General Agreement.

9. The representative of New Zealand referred to his delegation's proposal for evaluating the implementation of the rollback commitment. He noted that there seemed to be movement toward recognizing implementation of panel reports as an integral part of the rollback process and he therefore hoped that it would be possible to reach a consensus on or around the elements included in his delegation's proposal.

10. The Committee took note of the report of the Chairman of the Surveillance Body and of the statements made. It agreed that participants should report to the Surveillance Body any progress in meeting the objectives laid down in the Punta del Este Declaration and that further reports of the Surveillance Body should be such as to assist the Committee in further evaluation of the standstill and rollback commitments.

III. Group of Negotiations on Goods: Report

11. Speaking as Chairman of the GNG, the Chairman said that the GNG had met immediately before the TNC (MTN.GNG/21). He said that the Group's substantive and useful discussion reflected a general feeling that the crucial stage in the Round - the stage of negotiations proper - was about to begin. It would therefore be increasingly necessary to consider the negotiating process in global terms, which was the special responsibility of the GNG, and it would be his responsibility as its Chairman, to keep a close watch on the relative pace of work in different Groups. Taking account of concerns expressed about lack of progress in some areas, he would also be ready to convene the Group, formally or informally, if at any time it should appear necessary to take a close look at any particular set of interrelated problems. Despite the shortcomings identified in a number of areas the general view of participants appeared to be that the objectives informally agreed in July had largely been achieved. There were however some concerns about the overall balance of the negotiations; many speakers had referred to the need to maintain such balance as between

countries of different size and stages of development, and to take full account of what had been called the development dimension and of the serious economic and financial difficulties facing a number of countries. Reference had also been made to the need to preserve transparency at all stages, and although in this respect the current Round would generally be thought to be better than its predecessors, the Chairpersons of Negotiating Groups would be reminded of this preoccupation. The Group's overall view appeared to be that while there was no ground for complacency there was no need for pessimism; the commitment of all participants to a successful conclusion was not in doubt. We must now bring the phase of intensive negotiations to a successful conclusion in July in order to permit careful preparation for the Ministerial Meeting in Brussels in December 1990.

12. The Chairman of the Negotiating Group on GATT Articles indicated that he hoped to be able to confirm in the near future that a provisional agreement had been reached with respect to Article II:1(b), on the recording of other duties and charges in the schedules of concessions.

13. The Committee decided that UNESCO be invited to participate in the Negotiating Group on TRIPs on the same terms as other organizations (MTN.TNC/3, paragraph 16 and Annex). It also decided that the Chairman carry out consultations on UNESCO's request to participate in the work of the Trade Negotiations Committee on the same basis as other international organizations, and that it would revert to this request at its next meeting.

IV. Group of Negotiations on Services: Report

14. The Chairman of the GNS recalled that, since the Mid-term Review meetings of the TNC, the Group had met seven times (MTN.GNS/22 to 27 and 29). The present report was made on his own responsibility. Following the decisions taken as a result of the Mid-term Review (MTN.TNC/11) and at the Group's April meeting, the Group had examined the implications and applicability of concepts, principles and rules for particular sectors and specific transactions, the sectors having been selected from a reference list prepared by the secretariat (MTN.GNS/W/50). The sectors tested had been: (a) telecommunications services and construction services; (b) transportation and tourism; and (c) professional services and financial services including insurance. The secretariat had prepared background papers on each of these sectors. Representatives of the International Telecommunications Union, the International Civil Aviation Organization and the World Tourism Organization had participated in the relevant discussions. The sectoral examination had elucidated the relevance of particular concepts and principles to specific transactions and activities in the industrial sectors concerned. In parallel with the examination of sectors, the Group had continued work on matters covered by paragraphs 4, 5, 7 and 10(d) of the Mid-term Review. Paragraph 11 of Part II of the Mid-term Review decision had instructed the GNS to endeavour, by the end of 1989, "to assemble the necessary elements for a draft which would permit negotiations to take place for the completion of all parts of the

multilateral framework and its entry into force by the end of the Uruguay Round". During its last three meetings, the GNS had focused its attention specifically on this task, bearing in mind its earlier discussions. A draft document (MTN.GNS/28) was now before the TNC and represented "elements for a draft which would permit negotiations to take place for the completion of all parts of the multilateral framework". He stressed that many square brackets remained. These did not all reflect disagreements. Some simply pointed to issues that needed to be negotiated further and indicated the work that still remained to be done. That work would take place on the basis of the elements assembled in the document with a view to completing all parts of the multilateral framework by the end of the Uruguay Round. Attention would also have to be paid to matters mentioned in paragraph 10(d) of the Mid-term Review decision, namely international disciplines and arrangements, statistics and definition.

15. The representative of Japan welcomed the GNS's draft document. Although there remained a large number of square brackets, the GNS had apparently met the deadline envisaged in the Mid-term Review. He noted that his delegation had always maintained that the concept of "effective market access" was subjective, implied a result-oriented approach and could not be included as a legal term in the framework agreement. He wished to seek a confirmation that the EEC did not view this concept as having anything to do with a result-oriented approach. The representative of the EEC responded that his position was duly reflected in the GNS paper and that there was nothing to add or withdraw.

16. The Committee took note of the report and the statements made.

V. Overall progress in the negotiations

17. Some participants wished their statements in the meeting of the GNG immediately preceding this meeting of the TNC to be taken into account in the present review. These statements are reflected in the note on the GNG meeting (MTN.GNG/21) which should, therefore, be read in conjunction with the present note.

18. Many participants reiterated their commitment to the success of the Uruguay Round and to the multilateral trading system. Some noted that even where negotiating strategies differed, large groups of participants shared the same objectives. Some participants felt that it was urgent to reaffirm that only maximum results would meet the challenges faced by the multilateral system; the urgency derived both from the persistence of protectionist trends and from the needs both of developing countries and of Eastern European countries currently undergoing change. Some participants cautioned that although the external environment had been favourable to the pursuit of the negotiations, there were also dangers, in that a number of countries were still hesitating to assume even the most elementary obligations and in that second-best solutions were gaining credibility. Some noted the interdependence not only of the economies of the individual

countries participating in the negotiations but also of the different areas of trade, money and finance, and indebtedness. Some feared that the benefits of autonomous structural adjustment programmes adopted by a number of developing countries would be lost without help from the multilateral trading system. Some participants also drew attention to the reforms and adjustments that their economies were undergoing; they hoped that the process of trade liberalization that this entailed would receive due recognition in the context of the Round.

19. In general, participants expressed satisfaction with the spirit in which the negotiations were being carried out and that, with a few exceptions, the goal for this phase of the negotiations had been met. Participation in the negotiations remained broad. As foreseen in the timetable outlined at the last meeting of the TNC, an important number of submissions, outlining the respective positions of individual participants, had been made. Results in some areas of the negotiations were already operational, while in others, including some sensitive areas, progress was being made. In detail, however, participants' perceptions of the current state of the negotiations varied according to their own particular interests.

20. Participants repeatedly stressed the need for a balanced outcome to the negotiations, which, in accordance with the objectives of the Punta del Este Declaration, would reflect the interests of all participants and contribute to the growth of all trading partners and the development of developing countries. Some participants pointed, on the one hand, to the different pace of progress as between different areas of the negotiations, and, on the other, to a lack of balance in the degree of attention paid to the different interests of individual participants. They saw the more traditional areas as lagging, while rule-making and the new areas had been the subject of considerably greater efforts and showed commensurate progress. Some participants, however, thought that this was only natural, given the very different levels from which the negotiations in different areas had begun. Some participants warned against the implications for the credibility of the Round and for a successful outcome to the negotiations of failure to progress in any one area. In particular, some were concerned that the principle of special and differential treatment for developing countries, as embodied in the Punta del Este Declaration, was repeatedly being diluted and that progress in areas of special interest to less developed countries, such as tropical products, natural resource-based products and textiles, was lagging; greater emphasis had to be placed on the development needs of developing countries if they were to play a more significant role in the international economy and particularly in international trade. It was stated that overall balance was also necessary to ensure the broadest possible participation both in the negotiations themselves and in the final outcome. In this context the need for transparency in the negotiations was also stressed. Some participants noted that the developing nations were no longer on the margins and must be integrated into the Uruguay Round and its results; they pledged to work to this end. Some noted that imbalances were not all to the detriment of the same group of countries and hoped that such arguments would not be used to impede the negotiating process.

21. Some participants drew attention to the lack of progress in the area of market access. Some noted the importance to less developed countries not only of securing access to new markets but also of maintaining existing markets and not eroding preferential margins. Particular concern was expressed by many participants about continued failure, in the Negotiating Group on Tariffs, to meet the objective set in the mid-term Ministerial decision to establish detailed procedures, approaches and methods so that substantive negotiations could begin by 1 July 1989. Some felt that this delay jeopardized not only the chances of success in this particular area and in the whole area of market access, but also the chances of reaching a balanced outcome to the negotiations as a whole. Some noted that, while maybe not all the requirements of the mid-term Ministerial decision had been met with respect to the tariff negotiations, all participants subscribed to the principles of the Punta del Este Declaration and the important thing now was to commence negotiating. Some participants stated their determination not to allow procedural matters to override substantive progress and some already stood prepared to enter into detailed negotiations. Some announced that they would, at the beginning of 1990, be illustrating in concrete terms their formula approach. Others stressed the need for a truly multilateral method, that would enable all to participate effectively in the tariff negotiations, and for a more precise definition of criteria and objectives. To some it seemed inconceivable to start a multilateral round of tariff negotiations without clear procedures, dealing amongst others with size of cut, coverage and transparency. Some believed that a generally accepted harmonization formula, be it as a benchmark, should be the basic concept of a truly multilateral approach. With respect to the textiles and clothing sector, some participants underlined the importance of bringing this sector back into the GATT and providing the strengthened rules and disciplines that would enable it to remain there. Some could not contemplate a successful outcome to the Round without an irrevocable plan for phasing out the MFA within a reasonable timeframe and hoped that major partners who had not already done so would soon table their proposals so that negotiations on modalities could begin in earnest. With respect to agriculture, some participants noted with satisfaction that it would now be possible to review the detailed negotiating proposals for a market-oriented agriculture and looked forward to the beginning of intensive negotiations on the various elements of market access, domestic support, export competition, and sanitary and phyto-sanitary measures. Some stated the importance of integrating this sector into GATT through enhanced rules and disciplines, but felt that these should reflect this sector's crucial importance to the development of small and less developed countries. Some urged that the Negotiating Group address the issues of compensation for net food-importing developing countries to enable them to cope with the effects of trade liberalization. One participant recalled that he had given proof of his credibility by stating, in the Negotiating Group on Agriculture, his willingness to negotiate; this contrasted with some of the unrealistic positions adopted by others; he was a demandeur in this area, but would be a tough negotiator. Some participants deplored the lack of progress in other traditional areas of particular interest to developing countries, notably tropical and natural-resource-based products; it was recalled that the Punta del Este Declaration had foreseen early results in the former area.

22. Some participants were encouraged by the serious efforts made towards strengthening GATT rules and disciplines and noted that it was now clear that many of the issues were interrelated. Others stated that rules of interest to developed countries were receiving most attention, and that some proposals went contrary to established GATT rules and procedures. Thus they felt that some proposals in the areas of GATT Articles and of subsidies ignored the development needs of less developed participants. Some participants voiced concern at the increasing use of anti-dumping and countervailing actions as a protectionist tool. They stated that, whereas GATT rules in this area needed to be improved to prevent such measures being used as a disguised form of protection, in particular against new competitors, it appeared that attempts were being made to modify the Anti-dumping Code for use against normal and fair trade rather than predatory pricing. In the area of safeguards, some participants welcomed the progress made but stressed the importance of reaching a comprehensive agreement based on general GATT principles, including the principle of MFN.

23. In the area of TRIPS some participants felt that the Negotiating Group had assembled all the material needed to construct an agreement, but noted that differences were as wide here as in the areas of textiles or agriculture. With respect to both TRIPS and TRIMS, some stressed that more attention needed to be given to the development, technological and public policy objectives of less developed countries. In the area of services, some participants felt that the Negotiating Group had gone beyond the mandate set out in the mid-term Ministerial decision, while others stated that the draft text fell short of their expectations. Some noted that a lot of work remained to be done, notably on the structure of the framework, which needed to be established before governments could properly formulate market access commitments, and on participation of developing countries. In this latter context it was stressed that rights, obligations and exemptions must be framed in a clear and operational manner, with no loopholes or escape clauses. Others noted that all elements of interest to developing countries remained in square brackets in the draft text and some stated that an agreement on trade in services should enable progressive liberalization as a function of economic growth and ensure speedier development of less developed countries.

24. Some participants recalled that the Punta del Este Declaration called for special attention to the problems of the least developed countries and drew attention to the concrete proposals made, in this context, to 11 negotiating groups and the GNG. The spokesman for the group of least developed countries, recalling his statement in the preceding meeting of the GNG (MTN.GNG/21), asked that serious and urgent consideration be given to these proposals; he noted that, in order that the measures agreed upon by the participants in the Uruguay Round in favour of the least developed countries could be integrated in the outcome of the second United Nations Conference on Least Developed Countries to be held in September 1990, early action was imperative.

25. Some participants deplored the lack of progress in implementing the political commitment to standstill and rollback. Some were concerned that its applicability to certain areas, such as textiles, seemed to be brought

into question. Some stated that it was not adequate to suggest that normal GATT procedures could substitute for what Ministers had envisaged as a token of the will of all participants to fulfil the ambitious goals of the Uruguay Round.

26. Many participants reiterated the importance of a successful conclusion to the Round for the future of GATT and of the multilateral trading system. Some noted that so far the easy tasks had been accomplished and the more difficult ones lay ahead; progress would rely on the negotiations being carried on in good faith, on constructive and imaginative thinking, flexibility, the will to compromise, and on commitment to a successful outcome. Some felt that the benefits that all participants would be able to reap from a successful outcome would justify the required concessions. Some thought that success depended on seeking comprehensive agreements in all areas, so as to develop the necessary domestic and international support for sweeping reforms in the trading system. Some noted the importance of completing work in as many areas as possible by the summer of 1990. Some participants thought that the trading system that would emerge from the Round must be backed by a sound macro-economic and financial environment and urged that further attention be given to the link between trade and finance. Some expressed their optimism as to a successful outcome and their commitment to meeting the deadline set for the conclusion of the Round. In the face of unprecedented historical change, they restated their faith in the multilateral trading system. Some participants stressed the need to ensure, before the formal completion of the Round, adequate time for a joint assessment of the results. One participant urged that attention be paid to the legal form that would be given to the final outcome of the negotiations.

27. Concluding discussions on this agenda item, the Chairman noted that the latest series of meetings had allowed all participants to make their positions known. No participant would leave this meeting without knowing what each participating government expected from the negotiations. The main objective of this phase of the negotiations, which had been to ensure that positions were on the table by the end of the year, had therefore been achieved. He remarked, however, that few delegations had said what they would be prepared to give in the negotiations. In the next phase, delegations should be prepared, not only to defend their own positions, but also to see how the interests of others could be accommodated. The aim in this next phase should be to take action to reinforce the multilateral system, which could only be done effectively by ensuring that all participants had good reason to support and to participate in the system. Many speakers had pointed out that while much work had been done, a great deal still remained to be done. He had, however, been encouraged because he had noted a collective will to bring the Round to a successful conclusion in the time allotted to the negotiators. Some participants had spoken of the clear link that existed between the conduct of external economic relations and internal economic policies. This was illustrated by the relationship of international trade with economic reform in a number of countries, with the adjustment process in some countries, with the problem of external debt, with growth and, of course, with development, The

Uruguay Round was, therefore, of paramount importance for economic evolution at large. Many speakers had analysed developments in terms of three categories: market access, rule-making and new areas. As agriculture raised problems of access to markets and of rule-making and was, in a certain sense, also a new area, he preferred not to refer to it as a separate category, as one speaker had done. The Chairman agreed that there appeared to be a lack of progress in the areas of market access, of which tariffs was an important, but not the only, part. There had perhaps been a tendency to presume that the negotiations would proceed automatically in this area, since it was a traditional GATT area. He also noted, however, that in some areas in which the aim was to draw up new rules and in the new areas much work remained to be done. He agreed that the question of the legal form to be given to the results of the negotiations was an important one, but he had always taken the view that this question should be addressed when more clarity had been obtained on substance. At the last meeting of the TNC he had insisted on the three remaining phases of the negotiations and on the fact that by July 1990 the Committee should have before it a clear picture of what would be in the final package, because adequate time would be needed thereafter to give legal form to these results. The Committee should, therefore, reaffirm its collective will to respect the July 1990 target.

28. The Committee took note of the statements made.

VI. Other business, including arrangements for future meetings

(a) Final meeting of the Uruguay Round at Ministerial level

29. The representative of the EEC, speaking also on behalf of the representative of Belgium, recalled the agreement reached at the last meeting of the TNC (MTN.TNC/12, paragraph 30) and suggested that the meeting be held on 3-7 December 1990 in the International Conference Centre in Brussels. Arrangements were being made to receive participants from 30 November 1990. The authorities of the EEC and of Belgium looked forward to hosting this meeting, to which they wished every success.

30. On behalf of the Committee, the Chairman thanked the EEC, and through it the Kingdom of Belgium, for the invitation and the preparations being made. The Committee agreed that the final meeting of the Uruguay Round, at Ministerial level, would be held on 3-7 December 1990 in the International Conference Centre, Brussels (Belgium).

(b) Date of next meeting

31. The Committee agreed to hold its next meeting in the period of 9-11 April 1990 to take stock of progress and noted that it could meet earlier, formally or informally, if necessary. The Chairman indicated that the TNC would also meet at the end of July.

32. The Chairman noted that the three-phase timetable he had proposed at the last meeting of the TNC (MTN.TNC/12, paragraph 11) did not imply that individual negotiating groups would cease to meet after July 1990. The aim was, as nearly as possible, that negotiating groups be in a position by then to announce agreements in their own areas of responsibility. But a certain number of tasks would remain to be done, and it might be expected that, in some areas, the substantive work could not be completed by that date.

(c) Japan: tariff reduction measures

33. The representative of Japan announced the decision of his authorities to reduce or eliminate applied tariffs on 1008 industrial items (including elimination on 1004 items) as of April 1990, subject to approval by the Diet. This autonomous action was intended as an indication of Japan's commitment to free trade and of the importance it attached to the negotiations, and in particular to improving market access. Also for implementation in April 1990, subject to the approval of the Diet, his authorities had decided to introduce a comprehensive tax incentive scheme to promote imports of manufactured products. As this scheme applied principally to zero-rated items, its scope would be widened by the tariff-elimination scheme. He stated his willingness to make further details available to participants on request.

34. The Committee took note of the statement.