

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED

MTN.GNG/NG4/18
23 February 1990

Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on Textiles and Clothing

MEETING OF 5-7 FEBRUARY 1990

Note by the Secretariat

1. The draft agenda, set out GATT/AIR/2911 of 17 January 1990, was adopted.

Introduction

2. The acting Chairman, Mr. M. G. Mathur, referred the Group to document MTN.GNG/NG4/17, a note by the Secretariat containing the main points raised at the last meeting. He also referred to the following new proposals before the Group: MTN.GNG/NG4/W/35 by Japan and MTN.GNG/NG4/W/37 by the United States. He drew attention to a communication from the European Community in MTN.GNG/NG4/W/36 containing a submission to the Negotiating Group on Subsidies and Countervailing Measures.

General comments

3. The spokesman for the group of developing countries, members of the ITCB, said that the proposals and communications before the Group pointed to a convergence of views among a large number of participants on an MFA-based approach as the point of departure for evolving modalities for the phase out of the existing restrictions. He expressed concern that globalization or tariffication would involve an increase in restrictiveness at the outset; would be contrary to the commitment to further liberalization; and, if applied only to imports from developing countries, would be inconsistent with GATT and imply a worsening of the discriminatory aspect. He suggested that the Group undertake, as a major priority, an examination of the phase out of MFA restrictions and, in due course, address other restrictions not consistent with GATT rules and disciplines. Such other restrictions, he said, could be identified through notifications by participants. He saw considerable merit in the solution to this problem as suggested by the United States that "at the end of any integration process adopted during the Uruguay Round no contracting party will undertake or maintain any measures affecting trade in textiles or clothing which have not been justified under the General Agreement". Referring to the aspect of strengthening GATT rules and disciplines, he noted the general acceptance by the Group that this process would be undertaken in the various groups concerned with such matters and would be borne in mind

by participants in the work of this Group. Noting recent anti-dumping and countervailing duty measures involving textile trade, he said that these procedures should not be used for protectionist purposes and that liberalization in this sector should not be nullified by such actions.

4. The spokesman for the Nordic countries commented, without reference to any particular communication, that the globalization options would imply a transformation of existing restrictions to another form, with negative implications resulting from the extended coverage, unless accompanied by a considerable reduction in the existing levels of restrictions. He said that the tariffication option would amount to a more permanent form of restrictions and could lead to prohibitive tariff levels in countries currently maintaining high tariffs. In addition, assessment of the burden sharing among importing countries would be complicated since some participants currently base their protection on tariffs alone. He noted that tariffication could also have an impact on the general tariff negotiations. He further commented that a flexible approach, allowing participants to choose between different possibilities, would be difficult to monitor.

Proposal by Japan (MTN.GNG/NG4/W/35)

5. The representative of Japan, in introducing their proposal, said that the MFA as well as the restrictions thereunder should be terminated by 31 July 1991; the bilateral agreements based thereon may remain in force until the end of 1991. This would be followed by a transitional period during which special measures, different from MFA rules and separate from the general GATT safeguards, would be required to deal with import surges. Full integration should be achieved by the end of 1999 at the latest. The coverage and duration of such measures should be strict and limited and should not be applicable, for example, to LLDCs, new entrants, small suppliers, products not produced domestically and under-utilized quotas, and that no aggregate or group limits should be introduced. To ensure that the transitional measures were limited to emergency situations, he proposed that five principles govern their application: namely, objectivity and strict procedures, limited application, limited duration, automatic phase-out mechanism and equity. For invoking the transitional measures, which would become more stringent year-by-year, he emphasized the need for: standardized and quantifiable criteria; prior examination by a multilateral surveillance body; and progressive increases in growth and flexibility.

6. A large number of participants provided comments on Japan's proposal, describing it as a very positive contribution. Several participants observed that the broad lines of this proposal were complementary to a number of others, being based on an MFA-type approach with priority being given to the phase out of MFA restrictions. Referring to part II(1), scope of integration, agreement was expressed with the view that restrictions not consistent with GATT rules and disciplines should be dealt with in other negotiating groups, with this Group limiting itself to following the progress in such other groups. In respect of part II(2), elimination of MFA restrictions, several participants noted a consensus that the transitional process should begin on 31 July 1991, upon the expiry of the

current Protocol. Commenting on part II(4), time span, while noting the proposed termination of the integration process on 31 December 1999, it was observed that the actual length of any transitional process would, of necessity, flow from the modalities established for the phase out.

7. A number of participants expressed support for the five principles suggested to govern the transitional measure, as listed in part III of Japan's proposal. While agreeing with the need for such strict multilateral procedures during the transition, one participant was of the view that some of the measures being proposed in Part III were complex and should be simplified in some places. Referring to Part III(1)(b), it was pointed out that the transitional measures should be developed in such a way to ensure that the implementation did not result in an unmanageable flood of cases to the surveillance body. With regard to Part III(2)(b), limited application, some participants suggested that, in addition to LLDCs, new entrants and small suppliers, transitional measures should also not be invoked against cotton products from cotton producing developing countries and wool products from wool producing developing countries. Noting the growth rates proposed for the automatic phase-out mechanism in part III(2)(d), it was reiterated that a growth rate modality by itself would not achieve the objective of the phase out of restrictions; rather, a combination of complementary modalities would be required. Some participants indicated that they would have further comments on this proposal after detailed examination and reflection while others posed questions on specific aspects thereof.

8. In response to participants' comments and questions on their proposal, the representative of Japan provided further clarification on a number of points. In respect of the submission of data to the surveillance body, referred to in part III(1)(b), he said that such procedures should not be limited only to participants currently taking MFA measures. With respect to the possibility of a large number of cases facing the multilateral surveillance body prior to 1 August 1991 (part III(1)(d)), he considered that such a situation would be manageable if simple and objective criteria for such measures were to be adopted. As regards the criteria for the determination of market disruption, in part III(2)(a), he was of the view that prices would be one of the elements to be considered. As to the duration of measures taken during the transitional period (part III(2)(b)), he considered that they should be as short as possible, with the maximum time period to be decided during the current negotiations. He explained that the responsibility for ensuring equity among exporting countries in the application of the transitional measures as mentioned in part III(2)(e) would be one of the functions of the surveillance body and he added in this regard that the principle of equity would only be applicable to participants subject to the transitional measures, thereby excluding LLDCs, new entrants and small suppliers.

Proposal by the United States (MTN.GNG/NG4/W/37)

9. The representative of the United States introduced their proposal for a multilaterally-agreed global-type quota system and a tariff rate quota system and reiterated their overall objectives; namely, the eventual integration of the textiles and clothing sector into GATT on the basis of

strengthened GATT rules and disciplines; such process of integration contributing to further liberalization of trade; and with the negotiations covering the MFA and other relevant trade measures affecting this sector. He explained, with regard to the duration of the transitional process, that they envisaged a minimum ten-year period to allow time for adjustment in both importing and exporting countries. He stressed that an important factor in their choice of modalities was that the transitional mechanism should move trade patterns toward market forces at an early date and to the maximum extent possible. He was of the view that a global-type quota system or a tariff rate quota system would offer significant advantages, particularly through a gradual shift from selective restrictions to an MFN-based system with transparency, equity and greater certainty.

10. The United States representative, in reviewing the principle features of the two proposed systems, said that the the global-type quota system would comprise quotas by product category, divided among specific country allocations and a non-selective global basket open to all participants. The gradual expansion of the global basket through annual transfers of one tenth of the country allocations, along with a growth factor, would create opportunities for exporters to gain market shares based on their comparative advantage and ability to compete. He explained that the tariff rate quota system would employ the same quantitative limits and development over the ten-year transition, as in the global-type quota system. However, under the tariff rate quota system, while imports within the overall limit would be subject to applicable duty rates, further imports would be possible at substantially higher penalty tariff rates, thereby allowing the possibility for additional trade, depending on market forces. He added that this proposal would contribute to liberalization through the narrowing and elimination of certain of the current MFA product categories. Ultimately, after the end of the transitional period, i.e., 1 January 2002, there would be no more global quotas and no restrictions on textiles and clothing trade other than those permitted by normal GATT rules and disciplines. In conclusion, he said that a number of provisions in the proposal such as duration and growth of rates were subjects for negotiation in the Group and he added that they remained open-minded as to the possibility of developing the flexible approach set out in the Swiss proposal.

11. Several participants expressed their appreciation for the written elaboration of the United States proposal; provided their preliminary comments; and posed a number of questions. Some participants subscribed to the need for a sufficient period of time for the necessary adjustment to be made in trade and in the domestic process; to the importance attached to the strengthening of GATT rules and disciplines; and to the key importance of a credible termination date. However, several participants were of the view that the proposed approaches would not achieve the ultimate objectives of this Group as they were not feasible or simple and would not lead to further liberalization of trade. Furthermore, concern was expressed that global quotas would extend the scope of existing measures to cover trade not currently restrained and, being a fundamental and radical change from the existing régime, would bring uncertainty, unpredictability and disruption to textiles trade. Consequently, it was considered that the goal of an equitable expansion of trade among all

suppliers could not be achieved through these means. It was also observed that, if the global quotas were to be applied in a selective manner or if trading partners operating under a free trade agreement were to be excluded from either global or tariff rate quotas, such measures would not be GATT-consistent. A further objection to tariff rate quotas concerned the possibility of bound tariff rates being increased without participants complying with the obligations of GATT Article XXVIII.

12. Commenting further on the United States proposal, it was pointed out that it made no reference to structural adjustment being taken nor to the need for demonstration of injury or other justification for the maintenance of restrictions. Expanding on this latter point, it was observed that small suppliers in particular should not be required to face quotas for such a lengthy period of time in the absence of market disruption. Furthermore, the proposal contained no provisions to take into account the particular problems of these small suppliers as they would face sharply increased competition with the larger suppliers within the limited bounds of the global quotas. Some participants were of the view that global quotas lacked balance in their impact on importing and exporting markets, in that they increased competition among the exporting countries while allowing the domestic industries in the importing countries to continue to operate under protected conditions. It was also stated that the imposition of new restrictions under a global system would be incompatible with the progressive nature of the process agreed to in the April TNC Decision; would be perceived as a protectionist signal by the industries in the importing countries; and would discourage those sectors of industry which were willing to move towards liberalization thereby hindering further market opening. It was also pointed out that these approaches would present a dangerous model of managed trade to other sectors outside textiles. Some participants were of the view that a ten-year timespan was far too long and questioned how, at the end of this period it could be expected that the entire quota structure could be dismantled overnight. Others noted the lack of details in a number of the key elements of the proposal, including country and product coverage, quota base levels, and growth factors. The opinion was expressed that, in view of the current economic and political environment, and recognizing the preference shown in a number of proposals before the Group, the only appropriate starting point for the integration process was the existing system, that is, an MFA-based approach. Furthermore, it was considered that many of the objectives being sought through the global approaches could be taken into account in elaborating modalities on an MFA-based approach.

13. In response to questions posed during the examination of the United States proposal, their representative provided a number of clarifications. Concerning the criteria for both the country and product coverage of the global quota, he said that this aspect needed to be explored further in the Group and would be part of the negotiation process. As to the effects of the proposed measures on the various categories of suppliers, he commented that either a global-type quota system or tariff rate quota system would be advantageous to those new entrants, small suppliers and cotton and wool producers which were competitive as the system moved towards market forces since they could compete for the entire global basket. Concerning the basis to be used for country allocations, he

said that this could be done on the basis of MFA restraint levels or actual trade over a representative time period and in this regard, he noted that a consolidation of the product category system was envisaged in which case it might be more practical to look at trade levels in determining country allocations. On the method of calculating the global "basket", he said that this would include trade levels determined over a negotiated period of time, possibly the average of the previous three years, comprising trade with unrestricted countries and would be increased by a certain factor, to be negotiated.

14. Concerning the administration of the quotas, the United States representative said that he foresaw the country allocations being administered by the exporting countries and the global basket being allocated by the importing countries; this however remained to be negotiated. With respect to flexibility provisions in the proposed systems, he said that it was not anticipated that flexibility provisions would continue in either a global quota or tariff rate quota system. As to the process of structural adjustment in the importing countries, he felt that, as the quotas moved to a more MFN basis, domestic industries would face greater import competition, thereby requiring them to undertake adjustment measures. He felt that the key point in this regard was that the United States was prepared to commit to the date on which textiles and clothing trade would be fully integrated into GATT. Concerning the possible need for a safeguard mechanism, he said that under a global quota system, there would be no safeguard mechanism; however, under a tariff rate quota system there were two situations: first, in respect of non-market economies, a special mechanism would be required, as explained on page 3, paragraph 4 of their proposal; the second referred to the situation when the penalty tariff, possibly being reduced over time, would have very little effect in the later years. In such cases some type of safeguard mechanism might be considered necessary. As to the status of the quotas at the end of the transitional period, he said that the transition would end on a specific date, the current proposal being 31 December 2001, and thereafter there would be no restrictions on textiles and clothing trade beyond those permitted by normal GATT rules.

Statement by Canada

15. The representative of Canada stated that they had developed an approach to achieve the Group's objective which they considered to be (a) as close to normal GATT rules as practical; (b) simple, transparent and predictable for both importers and exporters; and (c) which would lead to further trade liberalization. Accordingly, he outlined a proposal whereby, with effect from the expiry of the current MFA Protocol on 31 July 1991, all measures inconsistent with the GATT, including those maintained under the MFA, would be terminated. Throughout the subsequent transitional period trade in textiles and clothing, as defined in the Harmonized System, would be governed by a special safeguard measures patterned on GATT Article XIX, as amended. These measures would contain two temporary, but significant derogations from Article XIX, the first being access to a special safeguard mechanism which would be governed by the concept of market disruption, or real risk thereof, and second, no compensation would be required for measures taken under this mechanism.

All other rights, obligations and procedures under the GATT would also apply.

16. The representative of Canada said that liberalization of trade in this sector would be ensured by an agreement to negotiate multilaterally a schedule of permanent removal of some products from coverage. Once products were permanently removed from coverage, safeguard action could only be taken using GATT Article XIX, as amended. At any point during the transition period products which had not been permanently removed from coverage could have access to the special safeguard measure, if they met the market disruption test. Any global quotas established under these special safeguards would be subject to previously agreed growth rates. He further observed that some other measures, though GATT consistent, continued to distort trade in this sector and these must be liberalized through the process of strengthening GATT rules and disciplines. In conclusion, he expressed the view that this proposal was very close to current GATT practices; contained none of the discriminatory elements of the MFA; and would allow suppliers to capitalize on their natural advantages.

17. Some participants provided their initial comments on the Canadian statement, while pointing out that more detailed examination and discussion would follow its presentation in written form. Noting that this proposal envisaged two derogations from Article XIX, that is, the application of the concept of market disruption or real risk thereof, and no compensation to be required for measures taken, it was said that such an approach would be an inappropriate means of achieving this Group's mandate. It was also stated that any extension of restrictions to additional countries and products would be incompatible with the progressive process agreed in the April TNC Decision. A number of participants considered that the concept of globalization should not be pursued; rather a consensus should be sought on an MFA-based phase-out approach within which Canada's objectives could be taken into account.

Other proposals on modalities

18. In addressing the ITCB and other proposals presented by exporting countries, the supporters of these proposals recalled that three broad principles should guide the assessment of the proposals on phase out; namely, their simplicity, feasibility and further liberalization of trade.

19. They noted that the general framework for a phase-out modality proposed by several participants comprised a number of complementary steps which should permit the evolution of a common approach: (a) immediate removal of certain restrictions at the beginning of the integration process; (b) elimination of other restrictions at an early stage; and (c) and progressive elimination of remaining restrictions possibly defined in terms of fibre or degree of processing, through uplifts in base levels and progressive increases in growth and flexibility provisions. In this process, priority attention would be given to certain categories such as LLDCs, small suppliers, new entrants and wool and cotton producing developing countries. In this regard, it was also suggested that the progressive elimination of remaining restrictions could be achieved by removing 20 per cent of the restrictions each year during the phase-out

process. It was further stated that there should be no restrictions imposed as from the start of the phase-out programme, beyond those provided in the General Agreement, and price criterion should have no place in any phase-out process.

Future work

20. At the conclusion of the meeting, the Chairman noted that, at the present meeting, the Group had carried out an essentially issue-oriented discussion which had focused principally on techniques and modalities for the phasing out of restrictions with a view to integrating textiles and clothing into the GATT. In this context, he suggested that consideration should also be given to the various aspects of the transitional process such as time frames, rôle of a surveillance or monitoring body and the need for a transitional safeguard mechanism.

Future meetings

21. The following dates have been set for future meetings: 5-7 March; 4-6 April; 14, 15 and 17 May; 12, 13 and 15 June; 10, 12 and 13 July.