

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

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Group of Negotiations on Goods (GATT)  
Negotiating Group on Non-Tariff Measures

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PRESHIPMENT INSPECTION

Statement by Switzerland

The following statement, made at the meeting of the Negotiating Group on 21 March 1990, is circulated to members of the Group at the request of the delegation of Switzerland.

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1. In line with the discussions that have taken place for several years in a number of multilateral fora with regard to preshipment inspection, several countries have identified this issue as one that could be the subject of a multilateral approach within the Negotiating Group on Non-Tariff Measures. For Switzerland, whose exports to a number of countries are subject to preshipment inspection imposed by the government of the importing country, these discussions are of particular relevance.
  2. Taking into account the concern expressed by participants whose exporters face difficulties raised by implementation of preshipment inspection programmes, on the one hand, and the importance of such programmes for countries that utilize them, on the other, Switzerland recognizes the need to draw up a multilateral framework of rules and disciplines governing implementation of preshipment inspection programmes. However, before contemplating the establishment of such a framework within GATT, Switzerland considers that it is necessary to define further the objectives to be pursued.
  3. Switzerland has studied carefully the communications submitted to date by Zaire (MTN.GNG/NG2/W/50), the United States (MTN.GNG/NG2/W/53) and Austria (MTN.GNG/NG2/W/57). It considers that they contain elements that will help the discussions to progress and that they can constitute a basis for concretizing the Group's work in this area, without prejudice to submissions that might be presented subsequently.
  4. At this stage in the discussion, Switzerland wishes to make a number of comments on issues raised in these communications and in the discussion within the Group:

I. General Remarks

5. To the extent that a country does not possess the appropriate infrastructure to carry out itself the inspection it deems necessary when goods are imported, Switzerland understands the need for such countries to have recourse to preshipment inspection. Any GATT multilateral framework should therefore not hinder the continuation of such an activity provided that it does not lead to a disruption of international trade.

6. Furthermore, Switzerland considers that it is the responsibility of each State to control the activities of private companies mandated by foreign governments to carry out preshipment inspection on its territory. Independence in legislation on the authorization and supervision of preshipment inspection should not, therefore, be jeopardized by international commitments.

7. Switzerland considers that any multilateral framework for preshipment inspection should therefore take into account the following:

- recognition of the right of participants, particularly developing countries, to employ preshipment inspection programmes when they do not possess the appropriate technical infrastructure and/or they are facing important financial problems;
- the establishment of principles and rules aimed at preventing preshipment inspection carried out at the behest of governments of importing countries from creating an unnecessary burden for trade procedures and hence disrupting international trade;
- establishment by importing countries, independently of dispute-settlement under the General Agreement, of a procedure for rapid and effective settlement of disputes of a technical nature that might arise between an exporter and the government of an importing country, or the company mandated by the latter to carry out preshipment inspection in the exporting country.

II. Elements for inclusion in a multilateral framework

(a) Scope

8. The multilateral framework should apply to all preshipment inspection prescribed by the government of the importing country, whether carried out directly or through a private company. The aim of such inspections shall be verification before shipment of the quality and quantity of the goods or services as to their conformity with the contractual commitments agreed between a private exporter and importer.

9. The multilateral framework should also contain provisions on criteria for price verification so as to avoid over-invoicing/under-invoicing of goods or services or to establish the customs value of imported goods.

10. On the other hand, the multilateral framework should not be applicable to inspections freely agreed in a contract between a private exporter and importer.

(b) Obligations for parties using preshipment programmes

- Non-discrimination: the objectives and criteria for carrying out preshipment inspection shall be applicable to all exporters in a non-discriminatory manner.
- Transparency: governments using preshipment inspection shall notify the GATT secretariat of all the laws, regulations and administrative practices governing activities in this area as well as any changes thereto. In addition, they shall ensure that exporters have all necessary information to allow them to conform to the regulations and administrative procedures concerning the government's preshipment inspection programmes in the importing country.
- Protection of confidential business information: governments of importing countries shall ensure that confidential business information provided by exporters either directly or through preshipment inspection companies is adequately safeguarded. Such information shall under no circumstances be disclosed to third parties. Moreover, they may not require exporters to provide them with information concerning the following:
  - patented, licensed or undisclosed manufacturing processes;
  - technical data other than testing data necessary to demonstrate compliance with technical standards;
  - manufacturing costs;
  - profit levels;
  - the terms of contracts between exporters and their suppliers.
- Price verification: governments of importing countries shall ensure that price verification is carried out before shipping the goods subject to inspection. Price verification shall be carried out on the basis of available information concerning prices changed by the exporter. Subject to protection of confidential business information, such information shall include, but shall not be restricted to, invoices and/or tenders for similar products.
- Customs valuation: governments of importing countries agree to follow the guidelines set out in the preceding paragraph as well as the principles of Article VII of the General Agreement when valuing goods for the purposes of calculating customs duties and other charges, or for the application of restrictions on importation and exportation based upon or regulated by value. In addition, governments of these countries shall agree to the GATT Customs Valuation Code or to implement obligations equivalent to those incumbent upon a signatory to the Code.

- Simplification of inspection procedures: so as to facilitate and accelerate inspection procedures, governments of importing countries shall refrain from inspecting each shipment by an exporter who has received a certain number of Clean Reports of Findings. Systematic inspection shall be replaced by inspection of a representative sample for as long as such special inspection results in the granting of a Clean Report of Finding.
  
- (c) Obligations of parties affected by preshipment inspection activities
  - Transparency: the parties agree to notify the GATT secretariat of laws and regulations they have in place relating to preshipment inspection as well as any changes thereto.
  
  - Technical assistance: governments of exporting countries affected by preshipment inspection activities have the obligation to provide technical assistance, as requested, to governments of importing countries on mutually agreed terms. Technical assistance could be provided, case by case, on a bilateral basis and/or under the auspices of an international organization, such as the Customs Co-operation Council.
  
- (d) Appeals procedure: governments of importing countries or private companies mandated by them and exporters should endeavour to seek a mutual solution to disputes. In the absence of a mutually satisfactory solution, the exporter may bring the dispute before an independent appeals body. Countries using preshipment inspection programmes should agree to set up such an appeals body so as to ensure rapid, inexpensive and equitable settlement of technical disputes.
  
- (e) Settlement of disputes: the provisions of Articles XXII and XXIII of the General Agreement (as revised by the Negotiating Group on dispute settlement) shall also apply to disputes between governments relating to implementation of the agreement.