

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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

SECURITY OF CONCESSIONS

Communication from Australia

The following communication, dated 9 May 1990, has been received from the Australian Permanent Mission with the request that it be circulated to the members of the Negotiating Group.

At the meeting of the Non-Tariff Measures Negotiating Group on 1 May, the Australian Delegation outlined some suggestions on how the question of the security of concessions negotiated on non-tariff measures might be approached. As foreshadowed during that discussion the Australian Delegation has now prepared the attached draft of a possible decision by CONTRACTING PARTIES relating to non-tariff measure concessions.

The draft is circulated solely with a view to assisting consideration of this issue.

URUGUAY ROUND

OUTCOME OF NEGOTIATIONS ON NON-TARIFF MEASURES

PREAMBLE

Recalling

- that the preamble to the General Agreement records the intention of contracting parties to contribute to the GATT's objectives "by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade ..."
- the agreement of Ministers at Punta del Este that Uruguay Round negotiations should aim to reduce or eliminate non-tariff measures including quantitative restrictions;
- the further agreement of Ministers at the Mid-Term Review of the Uruguay Round that results from negotiations on non-tariff measures should be substantial and to the objective of ensuring that concessions to reduce or eliminate non-tariff measures are not subsequently nullified or impaired,

it is agreed as follows

OUTCOME OF NEGOTIATIONS

The outcome of the negotiations on non-tariff measures is set out in the schedules annexed hereto.

GENERAL PROVISIONS

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Committee on Non-Tariff Measures: A Committee on Non-Tariff Measures Concessions will be established to oversee the operation of this Agreement. Membership of the Committee will be open to all GATT Contracting Parties. For the purposes of making rulings referred to below the Committee will delegate responsibility to the Chairman of the Committee assisted by two members of the Committee.

Rights of consultation: If any contracting party being the initial negotiator, principal supplier or substantial supplier in respect of any of the items contained in the attached schedules considers the benefits of this agreement are being nullified or impaired as a result of the intensification or adjustment of existing, or the introduction of any new, non-tariff measure, or the reimposition of measures included in the agreement, it shall have the right to request consultations on the measure(s) concerned.

The contracting party applying the measure(s) shall agree to hold the consultations within 30 days.

If the affected contracting party considers the outcome of those consultations unsatisfactory, it may request a ruling from the Committee on

- (i) whether the measure(s) at issue has been intensified, adjusted or reimposed or has been introduced, subsequent to the conclusion of this agreement, and if so
- (ii) whether the measure(s) nullifies or impairs the benefits arising from this agreement.

If the findings under both (i) and (ii) are in the affirmative the contracting party applying the measures will report to the Committee within (x) months as to the action it is prepared to take to remove the nullification or impairment.

If no action is proposed, or the affected contracting party considers the action proposed to be unsatisfactory, there should be further consultations between the contracting parties concerned to reach a mutually acceptable solution which restores the balance of concessions.

If such a solution is not achieved within (x) months, the affected contracting party may so advise the Committee. Following such advice the affected contracting party would be free to withdraw substantially equivalent concessions. It being understood that the withdrawal of such concessions may involve tariff and/or non-tariff measures concessions.

Contracting parties may at any time seek to modify or withdraw the concessions contained in the schedules in which case the provisions of GATT Article XXVIII will apply.

This Agreement is without prejudice to the GATT-consistency of non-tariff measures and does not affect the GATT rights and obligations of contracting parties.