

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG7/19

11 July 1990

Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on GATT Articles

NEGOTIATING GROUP ON GATT ARTICLES

Note on Meeting of 19-21 June 1990

1. The Negotiating Group on GATT Articles held its nineteenth meeting on 19-21 June 1990 under the chairmanship of Mr. John M. Weekes (Canada). The Group adopted the agenda contained in GATT/AIR/3019 with the addition under "Other Business" of Article XXXV.

2. The Chairman informed the Group that the following documents had been issued since the last meeting: (a) a draft Declaration on Trade Measures Taken For Balance-of-Payments Reasons, submitted by Canada and the United States on 15 June in document MTN.GNG/NG7/W/72, and (b) revised versions of the draft decisions on Articles XVII and XXVIII dated 8 June. The latter texts had been prepared by the secretariat and were intended to reflect informal discussions held at the time of the last meeting.

Agenda Item A: Consideration of issues arising from the examination of specific Articles

Article II (Other Duties or Charges)

3. The Chairman recalled that at the last meeting the Group had been informed of Brazil's lifting of its reservation on the decision regarding the recording of other duties or charges in schedules of concessions. The representative of Chile at that time had raised a concern about the juridical approach to be followed in a decision concerning an Article in Part I of the General Agreement, pointing out quite rightly that unanimity was required for any change in Part I. In consultations held since the meeting, the representative of Chile had informed the Chairman that he was satisfied that the position was adequately safeguarded in the draft decision, which included a footnote to the effect that the legal form of the final decision will be decided at a later stage. The Chairman expressed his appreciation to the delegations of Chile and Brazil for their assistance.

4. The Chairman further said that he would now communicate the Group's decision to the Chairman of the GNG, in line with the agreement of 9 December last (MTN.GNG/NG7/14, paragraph 8) that the decision would be transmitted to the GNG when the reservations made by certain participants

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UR-90-0395

had been lifted. His letter transmitting the text to Mr. Dunkel would make clear the Negotiating Group's understanding that the decision would remain in suspense pending the outcome of the negotiations as a whole and that its eventual legal form would be decided at a later stage, in the context of the conclusion of the Round. It was so decided.

Article II (Import fee)

5. In response to the Chairman's invitation to comment on this question the representative of the United States reiterated the points made by his delegation in previous meetings; his delegation continued to believe that the proposal that contracting parties be permitted to levy a small import fee to finance trade adjustment programmes should be approved, since it would help to build and maintain support for trade liberalisation. Each contracting party would be free to decide whether to levy such a fee; it was not intended to be compulsory.

Articles XII, XIV, XV and XVIII

6. The Chairman recalled that since the last meeting, at which delegations had had a very thorough discussion of the issues raised in connection with the balance-of-payments provisions, the Group had received a communication from the United States and Canada containing a draft Declaration on Trade Measures Taken for Balance of Payments Purposes. This communication had been circulated in document NG7/W/72 dated 15 June 1990.

7. The representative of the United States explained that the draft Declaration constituted a modification of the initial proposal by the US and Canada in the light of earlier discussion in the Group. It was intended as a basis for discussion and was not seen as the proponents as the final result. For simplicity, it followed the model earlier proposed by the EEC of a Declaration which would replace the 1979 Declaration, and in part the substance was similar; it must be emphasised, however, that the draft had not been agreed with the Community. It must also be stressed that the proposal did not seek to modify the existing Articles or to deny recourse to trade measures by countries in serious balance of payments difficulties. It was a relatively modest incremental effort to discourage abuse, not an attack on existing rights. Its essential purpose was to provide clear criteria as guidance for countries using balance of payments measures, and, by improving the procedures in the Balance of Payments Committee and the quality of the information available to the Committee, to facilitate consensus in BOP consultations.

8. Regarding specific elements of the proposal, he noted that the earlier "two-track" approach, with strict time limits, had been replaced by a more flexible approach based on indicative time frames or "standards". These were seen as desirable objectives rather than absolute requirements. With regard to the use of quantitative restrictions, which had been said to be essential in certain circumstances, it was proposed that their

inescapability should be clearly demonstrated. With respect to the role of the IMF, on which the earlier proposal had been said to infringe the prerogatives of the BOP Committee, the new text conformed with existing practice. The text had taken up the idea in the EC proposal that simplified consultation procedures could be used following the announcement of liberalisation schedules. The text also removed any doubt as to the implications of failure to agree in the BOP Committee on the GATT consistency of measures; in such cases there would be no presumption that the measures would be inconsistent - their legal status would remain open. However, if the Committee approved the measures their GATT consistency would no longer be open to challenge.

9. The representative of Canada said that the joint proposal was an attempt to improve the use of trade restrictions in situations of BOP disequilibrium and to render more effective the surveillance function of the Committee. It proposed more explicit constraints on the invocation of Article XII, which should be an important consideration for any country dependent on trade with developed countries. It also clarified some existing commitments in the 1979 Declaration: for example, it underlined the existing preference for price based measures without preventing the use of quantitative restrictions and clarified the notification requirements. The text recognised that excessive frequency of full consultations could be a burden on the consulting country. The surveillance function and the general effectiveness of the Committee would be improved, including through the provision for an explicit statement of the GATT consistency of measures where appropriate. No change was envisaged in Article XVIII:B. In general, the proposal sought to strike a balance between the accepted need for trade restrictions by certain countries and the need to minimise distortion of legitimate trade. Canada saw this as an important element in ensuring the overall success of the Round.

10. A participant suggested that it was inappropriate that a legal text should be submitted to the Group, given the lack of consensus on the need for negotiations on this subject. He said that earlier proposals had not been misunderstood; many participants were simply not persuaded of the need for change in BOP provisions or procedures, and were aware that Article XVIII:B could be subverted without any change in its text. The new proposal, in calling for more stringent disciplines, ignored the need to safeguard national development plans and the unfavourable effects of external factors. The Group's Negotiating Plan called for agreement as to the issues to be negotiated, as a precondition for negotiation. It should now be recognised that there was no such agreement and that the issue had been exhausted. It would not be possible to agree that the Chairman, the secretariat or anybody else could be mandated to produce a "compromise" that would substitute for consensus in the Group.

11. Several other participants, supporting these views, agreed that the proposals in W/72 would entail substantive rather than merely procedural changes, pointing to the strict criteria for the application of QRs and the proposed announcement of liberalisation schedules as examples. The need to safeguard national development programmes had been ignored, as had the

importance of external factors in balance-of-payments imbalances, on which the proposal contained no concrete undertakings. The Group should have addressed the question why developing countries suffer persistent payments problems and why in so many cases their situation had deteriorated since 1979. Given this situation there was a need for greater flexibility rather than greater rigidity in the use of trade measures. It was said that the proposed differentiation between developing and least developed countries was not acceptable. One participant, remarking that the existing procedures worked quite well, as witnessed by a recent disinvocation of Article XVIII:B, suggested that proposals should be addressed to perceived problems in implementing the existing procedures rather than to seeking new procedures. He added that the standards proposed were too rigid, making no allowance for possible changes in the balance-of-payments position.

12. A number of other participants welcomed the tabling of the proposal, which in their view was fully within the rights of any participant, nor did they agree that the draft shed no new light on the issues before the Group. It reflected significant re-thinking on the question of trade restrictions and on the nature of BOP Committee decisions, for example. The role envisaged for the IMF was also clarified - though one delegation made it clear that it could not necessarily go along with the proposals on this point. The draft also underlined the importance of alternative measures, such as macroeconomic adjustment, and the fact that price based measures were preferable not merely from the trade viewpoint, but also from the viewpoint of domestic efficiency and resource allocation. Some participants expressed concern about the dangerous precedent which would be set by refusal to negotiate on this subject.

13. The representative of the European Economic Communities said that although his delegation shared many of the objectives of the new proposal, their own proposal (NG7/W/68) remained firmly on the table. The two should be considered together. The concept of standards or indicative time frames for the elimination of QRs might be seen as too weak in the case of developed countries and too strong in the case of developing countries; his delegation advocated a case by case approach.

14. In resumed discussion of the balance-of-payments question, the representative of the EEC emphasised the danger of refusal to negotiate on the subject, in terms of possible repercussions on other subjects under negotiation in the Round, such as those on Tariffs, Safeguards and Textiles and on the possibility of the application of special and differential treatment in Agriculture. The suspicion with which proposals on this subject were regarded was misplaced; it was fully recognised that Article XVIII:B was directly related to the issue of development and there was no intention of questioning the right of contracting parties to have recourse to balance-of-payments measures. Nor was it intended to amend the letter or the spirit of Articles XII and XVIII. However, the perception that possible abuse of the Articles could not be addressed was weakening the multilateral system as a whole, and refusal to negotiate about it would set back the reform of the system which was an essential objective of the

Round. Article XVIII:B had not worked well for many years - hence the 1979 Declaration and subsequent efforts to improve the procedures. It had to be asked whether the 1979 Declaration, which suffered from ambiguities and differences of interpretation, was sufficient to correct the situation. Refusal to negotiate implied an excessively pessimistic view of the likely outcome and was dangerous not merely because of possible repercussions on other subjects - and the likely effects on future cooperation in the BOP Committee - but because in a negotiation which was a single global undertaking such a posture could not be sustained. In negotiation it might prove that the position of those who doubted the need for change would be upheld; in this case the result could be explained to capitals. But failure to negotiate could not be explained or justified. Since it was clear that this discussion would be pursued in other fora he hoped that the profile to be sent forward by the Chairman would provide a basis for negotiation in the Green Room or elsewhere.

15. The representative of the United States said that all participants in the Round would have to accept change as a result of it - whether it exceeded or failed. The US would have to envisage radical policy changes in agriculture and textiles, both of which were of great importance to developing country exporters, and in anti-dumping measures, apart from the further reduction of very low average tariffs. Liberalisation and trade cooperation must continue. In the Round all derogations and exceptions were being addressed, and failure to address the balance of payments exception would produce a deep philosophical split between contracting parties and would guarantee conflict in the BOP Committee. There would certainly be serious difficulties for countries seeking to use BOP measures excessively or for protectionist purposes. The US did not seek the elimination or amendment of Article XVIII:B but merely negotiations to improve procedures under it. They acknowledged that many countries faced serious BOP problems and must be in a position to deal with them; the point was to ensure that this was done with the least possible damage to trade. It was now clear that the issue would have to be raised outside the Negotiating Group, in the TNC, and for this purpose he suggested that the Chairman's profile on this subject, if no single text could be drafted, should contain all written submissions, plus the reactions to them.

16. The representative of Canada said that he was deeply concerned by the attitude that negotiation could be refused, which would block the entire Round if it were adopted elsewhere. It was difficult to conceive of a satisfactory outcome to the Round without a result on this subject. The defensive attitudes manifested by some participants were outdated, in the light of the growing perception worldwide of the benefits of open trading policies. They were also exaggerated, since the proposals on the table implied no intention to eliminate or undermine Article XVIII:B.

17. In response, a participant emphasised that to talk of blocking negotiations was inappropriate; it was agreed that negotiations in this Group took place in two stages - first the identification of commonly recognised issues and secondly negotiations on the substance of these issues. On the present subject the work was still in the first stage. The

suggested links with other subjects under negotiation in the Round were also inappropriate; balance-of-payments problems must be treated on their own merits. Developing countries did not wish this to become a North-South confrontation, but they must defend their own interests, to avoid becoming yet further disadvantaged vis-à-vis the North. The fact that some developing countries were rapidly liberalising their trading régimes made it still more necessary to retain flexibility in the balance-of-payments provisions. Since there was still no agreement on the need to negotiate on this subject it could not be agreed that the Chairman or the secretariat could be mandated to put forward a "compromise text". No doubt the question whether negotiations were necessary would arise in the TNC, and if it were so agreed negotiations would take place. But nothing useful could be achieved at the level of the Negotiating Group. The Chairman's profile should consist of a clear description of the situation in the Group.

18. Another participant pointed out that the BOP provisions were only one item on the agenda of a single Group, and one which, unlike agriculture and textiles, seemed very unlikely to pose a threat to the success of the Round. Some of the linkages which had been suggested were invalid and unfair. For example, comparison with safeguards measures was unfounded; there was no grey area of selective, discriminatory and illegal measures under Article XVIII:B. There had been no Ministerial mandate to negotiate in response to every request. The proposals had been fully discussed and considered and developing countries remained of the view that there was no need for change, either substantive or procedural. The Group should recognise that consensus was not attainable and the Chairman's profile should reflect this.

19. Other participants agreed that there had been no overall change for the better in the economic situation of developing countries and that proposals which would have the effect of restricting their rights under Article XVIII:B could not be accepted. The point was made that since 1976 efforts to forge an operational link between trade, financial and developmental objectives had consistently failed, and many developing countries would face more serious payments problems in the future than in the past. The proposals tabled contained no attractive features and would entail substantive changes in existing rights. These speakers agreed that the Chairman's profile could only provide a clear account of the situation in the Group.

20. One speaker said that none of the linkages which had been spoken of during the meeting would constitute a sufficient inducement to developing countries to enter negotiations on Article XVIII:B; perhaps, given the importance the industrialised countries clearly attached to this question, a more substantive inducement might emerge in another forum.

21. Another participant said that this issue was of the utmost importance from the viewpoint of the health of the multilateral system. All contracting parties, even those benefiting from exceptions, depended on the working of the system. Nobody underrated the BOP problem or challenged the need for Article XVIII:B, but for the sake of the Round and the GATT system a further effort must be made.

22. The Chairman said in conclusion that all participants should reflect seriously on the important statements which had been made, and on the points made in earlier discussions, as reflected in the records of meetings. He noted that some participants wished to comment further on the Canada/US proposal. He would now consider how to reflect the situation in the profile of results in this Group which he would be sending forward to the GNG, and on this he might need to consult further. Meanwhile, since reference had been made to the possibility of discussion in the Green Room, he would inform the Chairman of the GNG of the situation in the Group on this question, and warn him of the likelihood of continuing disagreement.

Article XXIV

23. The Chairman recalled that at the last meeting the Group had had a first, and very brief, discussion of the note which he had circulated on 21 May, covering a paper in which the secretariat had attempted to formulate in drafting language the proposals made by Australia, Canada and Japan regarding Article XXIV. The note also drew attention to four issues raised by India on which no specific proposals had as yet been made.

24. Some delegations recalled the surprise they had felt at the preparation of a draft decision, which seemed to them premature. The text did not appear to be a good basis for discussion as it reflected only the proposals of three delegations and not views expressed in response. In some instances the decision amounted to a rewriting of Article XXIV in a manner contrary to its original intent. It was premised on the view, to which these delegations could not subscribe, that regional agreements were in some way inherently suspect; on the contrary regional agreements had had a very positive influence on world trade. Thus, certain elements of balance, to be found in paragraphs 4 and 5 of the Article and also reflected in the fact that a majority of contracting parties was party to regional agreements in one form or another, were missing in the text. Despite these inadequacies they expressed a willingness to address the issues raised in the text, but said that any future revision of the text should incorporate the necessary balancing elements.

25. Some other delegations viewed the draft decision as serving the useful purpose of facilitating a focussed and detailed discussion of issues related to Article XXIV. There was nothing inherently wrong with regional agreements, but in the past there had been a lack of common understanding on the provisions of Article XXIV which had engendered disputes and impeded an adequate scrutiny of such agreements. Some participants said that given the likely expansion of regional agreements in the future, it was imperative that existing GATT provisions be clarified, and in particular paragraphs five, six, seven and eight of Article XXIV. It was stressed that the intention was not to alter fundamentally the Article and the balance of rights and obligations contained therein. Some participants also expressed concern about the need to address the possible adverse effects of the creation or enlargement of regional agreements on non-member countries. Some participants said that they were sensitive to the concerns of others with respect to the need for balance and would be open to suggestions on the draft decision that reflected these concerns.

26. Following the general discussion, participants addressed the individual paragraphs of the draft decision.

Paragraph 1 The question was raised whether the term "border measures" included health and safety standards. The reference to the term exportation was also questioned. A participant suggested deletion of the phrase "which have a differential impact on imported products as compared to domestic products" as it raised difficult issues related to the national treatment principle.

Paragraph 2 A participant stated that the kind of disaggregated assessment suggested in this paragraph was unacceptable to his delegation. The terms "on the whole" and "general incidence" could not be interpreted to warrant such a detailed, even product-by-product, assessment, which was in any case likely to be impracticable. Some participants agreed that the proposed assessment went too far in terms of the level of detail and disaggregation. It was said that working parties in the past had had sufficient flexibility to determine what kind of evaluation was appropriate. The problem had been the ad hoc methodology employed in the evaluation. For example, the term "general incidence" had been interpreted on some occasions as requiring the use of a methodology based on duties collected and on others one based on average tariff rates. If this matter were resolved in the Group, it would contribute positively to future assessments under Article XXIV:5. Other participants suggested that the methodology for assessment should take account of trade volumes in addition to nominal tariff rates and of effects on individual sectors in non-member countries. Another participant said that the intention of her delegation was not to require the kind of detailed assessment that was proposed but to permit it if contracting parties faced with specific instances of more restrictive access conditions consequent upon the formation or enlargement of a customs union believed this to be important to the overall assessment. This suggestion was deemed unacceptable by another participant.

Paragraph 3 Several delegations agreed that the "reasonable length of time" referred to in Article XXIV:5(c) should be decided on a case-by-case basis by the working party examining the interim agreement. Some delegations said that in addition ten years could be used as a yardstick for defining such a period, while another participant suggested that ten years should be a definitive upper limit. Another participant expressed the fear that a maximum might become in practice a minimum and said that the matter would have to be further considered.

Paragraph 4 Some delegations expressed their support for this paragraph. One participant however questioned its necessity given that the existing legal situation already required renegotiations in accordance with Article XXVIII procedures when individual bindings were intended to be breached. Referring to what in his view was the frequent abuse of Article XXIV:6, a participant called for language that stated unequivocally that no binding could be breached unless adequate compensation was paid. One participant called for the deletion of this paragraph and of paragraph 6. In his view the relationship between Articles XXIV and XXVIII had been a difficult and unresolved question over the years. Article XXVIII:2 called for the

maintenance of a general level of reciprocal and mutually advantageous concessions to trade not less favourable than existing before, but did not specify to whose trade this should apply. Unless the relationship between Articles XXIV and XXVIII was clarified his delegation could not agree to further consideration of Article XXIV:6.

Paragraph 5 Some delegations disagreed with the contents of the first alternative. It was said that there was no reason why restrictions should be placed on the provision of compensatory adjustment as long as the conditions of Article XXVIII were met. A participant said that a contracting party could not stipulate what should be taken into account in relation to compensation matters, but it did not follow that restrictions could be placed a priori on what should not be taken into account, as the first alternative appeared to suggest. Another participant supported the first alternative on the grounds that contracting parties often did not have a say in the coverage and terms of compensation. Some participants supported the second alternative, while some others questioned its usefulness especially as it appeared to preclude negotiating options currently available under the Article. The point was made that Article XXIV:6 was clear as it stood in that it obliged contracting parties to take into account reductions in tariffs on the same item by other members of the customs union.

Paragraph 6 Some participants supported this paragraph, while one called for its deletion.

Paragraph 7 Some participants said that the language in the first sentence was too permissive; it was their understanding that Article XIX action should not be applied to other members of the customs union. The absence of any reference to Article XIX in paragraph 8 supported this view, and furthermore this requirement was in the interest of non-members of the customs union. One participant proposed deletion of the first sentence. Some other participants advocated the view that it was not clear that other members of the customs union could be excluded from an Article XIX action, which was intended to protect domestic industry from injury; it was doubtful if the industry of other members of the customs union could be considered part of the "domestic industry". The absence of reference to Article XIX in Article XXIV:8 could be explained by the temporary nature of an Article XIX action. It was suggested that issues arising in connection with this paragraph were best left to the Negotiating Group on Safeguards, which was currently considering these matters. A participant considered that the language in the second sentence required further clarification.

Paragraph 8 One participant said that this paragraph could not be accepted by his delegation. Some participants said that if the definition were to be useful, the term "major sector" would have to be clarified, perhaps by specifying certain criteria, but doubted if this would be possible. A participant said that he would prefer formulation of the requirement in positive rather than negative terms which would make clear that the elimination of duties and other restrictive regulations of commerce should be comprehensive. He added that the proposed requirement would be beneficial to non-members and members of a customs union alike.

Paragraph 9 A participant expressed difficulty with the suggestion regarding the timeframe as it would be difficult to define what might be considered appropriate.

Paragraphs 10 and 11 The representative of Japan introduced an informal paper dated 20 June that contained suggestions intended to replace paragraphs 10-14 of the secretariat's draft decision. Some participants said that the mandate in paragraph 10 was unrealistically broad and doubted if examination of regional agreements such as was being called for by Japan would serve any real purpose. A participant said that examination of regional agreements could be taken up under the trade policy review mechanism. In reply, a delegation said that a free trade agreement to which her country was a party, had not been adequately examined in the context of the TPRM. With regard to paragraph 11, a participant stated that his delegation could not agree to periodic examination of regional agreements with a view to examining their GATT-consistency: once a working party had examined them, the matter should be considered as closed and any subsequent problems should be taken up under the dispute settlement procedures of the General Agreement. A participant disagreed with this statement and said that since regional agreements constituted an exception to the mfn principle they should be subject to regular surveillance to ensure their GATT consistency. Another participant said that periodic reporting should be aimed at enhancing the transparency of the working of regional agreements rather than at serving any specific dispute settlement function. A further participant drew a distinction between the review of regional agreements before and after their formulation. In regard to the former, there ought to be periodic reporting requirements which, if not already provided for, should be regularised. However, after their formation or enlargement it would be more useful to require that changes to these agreements which had an effect on international trade be reported.

Paragraphs 12-14 Some delegations were of the view that Japan's proposed mechanism for the examination inter alia of serious adverse effects appeared to be unnecessary given the existence of similar procedures under Articles XXII and XXIII. In the view of some, the proposals appeared to run counter to the spirit of Article XXIV. A participant said that he recognised the principle underlying the concern of some countries, but suggested that that was a matter on which the working party examining a regional agreement should give guidance; this question should not be left in suspense indefinitely as was being proposed, a point supported by another participant. Some participants, while endorsing the need for a mechanism short of recourse to Articles XXII and XXIII to deal with potential serious adverse effects on non-members, wondered how the Committee proposed by Japan would work in practice. Nevertheless, there needed to be a statement that, notwithstanding the provisions of Article XXIV:4, serious adverse effects on non-members in the form of their trade being diverted as a result of the formation or enlargement of a customs union or free trade area should be addressed in GATT.

27. A participant said that his delegation attached great importance to Article XXIV:12 and would be presenting ideas in this regard in the near future.

28. In conclusion, the Chairman urged delegations to come forward with any further thoughts or proposals on this Article. It was his intention to keep open the possibility of holding informal consultations prior to the next meeting. In the light of the inputs provided and of any consultations, it would be decided whether there was an adequate basis for the preparation of a revised text

Article XXVIII

29. The Chairman informed the Group that a thorough and useful discussion had been held in informal drafting session based on the draft decision dated 8 June. He suggested that delegations should come forward within a week with any further suggestions on the draft text. It was his intention to prepare a Chairman's text without square brackets in the light of discussion and of further inputs which he would commend to the Group for consideration as a possible way forward in negotiations on Article XXVIII. There would be no presumption that this text was approved by the Group.

Article XVII

30. Reporting on informal discussions, the Chairman said that he believed that the Group was close to reaching agreement on this Article. The secretariat had prepared, on the basis of discussion on Article XVII, a revised text dated 21 June which was available to all participants. It was clear that paragraph 5 of the text, and probably the preamble, would require further discussion. It was his intention to contact delegations informally within the next two weeks and produce a revised text which he hoped would be without square brackets. This text would be on the table for discussion at the next meeting.

Article XXV:5 and the Protocol of Provisional Application

31. The Chairman shared with the Group his thoughts on the nature of the profile in regard to these provisions that he intended to transmit to the GNG and the TNC. With respect to Article XXV:5 he said that it would be made clear that the ability of some participants to accept part of the decision would depend on the outcome of negotiations in other areas. Similarly, a caveat would be recorded regarding the PPA stating that agreement on the text would depend on the outcome of negotiations in other areas.

32. The representative of Australia stated for the record that her delegation's final acceptance of the draft decision on the PPA would be contingent on agreement in other areas of the negotiations that would have the effect of putting all contracting parties on an equal footing in respect of their GATT rights and obligations under the PPA and protocols of accession. This would be analogous to the caveat that the Chairman had proposed regarding transmission of the draft decision on Article XXV:5. The representative of Switzerland said that her delegation could agree to the Chairman's proposal on the understanding that the derogations referred to in the draft decision were those contained in paragraph 1(b) of the Swiss protocol of accession.

Other Business - Article XXXV

33. The representative of the United States recalled that in NG7/W/35 of 16 November 1987 his delegation had stated an interest in the review of Article XXXV, which they regarded as too narrow in that it precluded the non-application of the General Agreement to an acceding country if tariff negotiations had been initiated, however unsatisfactory the results of those negotiations. Such a limitation might have made sense in the context of a multilateral tariff cutting exercise, given the web of negotiations that eventually produced final offers; in the early days many parties acceded in the context of participation in such negotiations. However, current accession negotiations were much less complex, being conducted bilaterally with the applicant country, and did not normally include reciprocal concessions. It was therefore the view of his authorities that a contracting party should be able to request concessions from an acceding country, conduct bilateral discussions with that country, and, if agreement could not be reached, invoke Article XXXV. Some delegations had shown interest in this matter when his delegation raised it in recent meetings of the Council. His delegation would come back to this matter at the next meeting of the Group.

34. One participant referring to the draft Decision on Article II:1(b) expressed concern over the way the Group's decision had been reported in the international press; it had not been made sufficiently clear that the decision was to be kept in suspense pending the outcome of the Round as a whole. It was his expectation that any misunderstanding on this point would be corrected.

Dates of future meetings

35. The Group agreed that the next meeting would be held on 17-19 July and that the period of 3-5 September would be reserved for its following meeting.