

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG12/20

27 September 1990

Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on Trade-Related
Investment Measures

MEETING OF 10-14 SEPTEMBER 1990

Note by the Secretariat

1. The Group held its twentieth meeting on 10-14 September 1990 under the Chairmanship of Ambassador T. Kobayashi. The agenda contained in GATT/AIR/3072 was adopted.

Agenda Item A

2. The representative of the Philippines, speaking on behalf of the five ASEAN contracting parties, said that it had to be recognized that investment measures were important policy instruments employed by governments, particularly of developing countries, for the development of their economies. Any accord on trade-related investment measures had to provide explicit recognition of, and outline specific provisions for, the development needs of developing countries. ASEAN could not agree to the discipline of outright prohibition of investment measures, but ASEAN was prepared to address the adverse and distortive effects on trade of investments measures. However, such adverse trade effects should only be addressed on a case-to-case basis i.e., upon proof of material injury and casual link between the material injury and the TRIMs. Also, incentives contingent upon investment measures should be outside the scope of the TRIMs negotiations and, conversely, investment measures should not be subject to negotiations in the other negotiating groups with the intent of pursuing prohibition of these measures.

3. She added that ASEAN had been for many decades a prime destination of foreign investments. This long and profitable relationship between the ASEAN host countries and foreign investors had been grounded on clearly defined measures which ensured mutual benefits. Any adverse trade effects of these measures were often only incidental and overwhelmed by the development objectives of the measures. Therefore, ASEAN was seriously concerned about any attempts to establish an investment régime within GATT through the outright prohibition of TRIMs on the mere presumption that they were trade distorting, and in utter disregard of the development considerations of developing countries other than a period of transition.

4. The representative of the United States said that the TRIMs negotiations were an important part of the Uruguay Round. In a fundamental

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sense, TRIMs such as local content and export performance requirements were incompatible with an open market system and with reducing trade barriers, and effective disciplines were needed to avoid the adverse trade effects of TRIMs.

5. The representative of Korea said that his government considered the "A" text contained in NG12/W/27 to be realistic and well-balanced and in line with the Group's mandate, and it supported the use of that text as a basis for further negotiation.

6. Following a series of informal meetings open to all participants in the Group, the Chairman said that it was his intention to revise his own draft text (the "A" text contained in NG12/W/27) in the light of the informal discussions and to circulate a new informal working paper to participants. The working paper would not be given any official status for the time being, and he emphasized that it should not be considered to be a replacement for document NG12/W/27.

7. The representative of Chile said that, following the informal discussions that had taken place, his delegation considered that a group of countries was attempting to work out a new kind of system governing investment by means of regulating investment measures. That went beyond the Group's terms of reference. Chile did not maintain any TRIMs in its investment system, because that was considered to be the best way to attract foreign capital into the country. However, that did not mean that Chile considered necessary the international consolidation of a scheme governing investments. The identification of certain significant and direct negative trade effects of TRIMs would depend on the circumstances in each case, and called for a case-by-case approach. No serious agreement should contain limitations on policies or instruments which would be aimed at reaching objectives other than foreign investment, such as foreign exchange policy or economic and technological development. Chile believed that the regulation of international investment should not be an obstacle to development, and it felt therefore that a TRIMs agreement should contain provisions such as those found in paragraphs C6., C7. and C8. of NG12/W/27. The objective of greater capital mobility should lead to an equilibrium with standards which would ensure a greater degree of competence in all fields, and in this regard Chile associated itself with the contents of paragraph C2. of NG12/W/27. He emphasized that Chile was willing to co-operate constructively in efforts to work out arrangements that would obviate the negative trade effects of TRIMs.

Other Business

8. The Chairman announced that the next meetings of the Negotiating Group were scheduled for 8-12 October, 29-30 October, 5-6 November and 9 November 1990.