

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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Trade Negotiations Committee

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SUBSIDIES AND COUNTERVAILING MEASURES

Communication from the Permanent Delegation of Mexico

The following communication has been received from the Permanent Delegation of Mexico.

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This communication is aimed at clarifying Mexico's position in regard to the draft text by the Chairman of the Negotiating Group on Subsidies and Countervailing Measures (hereinafter referred to as "the Chairman's draft"), set forth in document MTN.GNG/NG10/23.

Mexico dissociates itself from document NG10/23 because the latter includes and affects matters that are clearly outside the terms of reference of the Negotiating Group. Mexico is prepared to negotiate on subsidies and countervailing measures. The issue that is giving us concern, however, and which is described below, goes far beyond those matters by referring to domestic pricing policies in respect of natural resources, to security of international supplies of those products in the terms on which they are offered to domestic industry (national or "guest"), and ultimately to access to those resources. These issues do not fall in the least within the agreed terms of reference for this negotiation.

According to the Chairman's draft (see Articles 14(e) and 2.1), the prices to which we are referring must not be discriminatory. This is reasonable, and Mexico supports it: there must be no discrimination between enterprises nor between industries. But the draft does not contain a fundamental clarification that must be made, namely that this requirement of **non-discrimination** must refer to - and only to - production facilities located in the national territory of the signatory country.

In the absence of such a clarification, the condition as set forth in the Chairman's draft means directly that countries endowed with natural resources renounce their comparative advantages, or otherwise that they be exposed to the application of countervailing measures in their export markets. This means that **National Treatment** is applied beyond the territory of contracting parties, which is fundamentally inconsistent with this basic GATT concept.

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In order to resolve this anomaly, it is required that Articles 2.1 and 14(e) of the Chairman's draft specify that the provisions in question are limited to the territory of the contracting party, as follows (the addition requested is underlined):

Article 2.1

"In order to determine whether a subsidy, as defined in Article 1.1 above is specific to an enterprise or industry or group of enterprises or industries (hereinafter referred to as "certain enterprises"), and as such confers a benefit on certain enterprises over those available to other enterprises or industries within the territory of a signatory, the following shall apply: ...".

Article 14(e)

"When the government is the sole provider or purchaser of the good or service in question, the provision or purchase of such good or service shall not be considered as conferring a benefit, unless the government discriminates within its territory among users or providers of the good or service. Discrimination ...".

It should be pointed out that these additions are not only indispensable for abiding by the terms of reference of the Negotiating Group and the principle of National Treatment, but furthermore are perfectly consistent with, and a natural complement to, the provisions of Article 1 (paragraph 1.1(a)(1) of the Chairman's draft which, in defining subsidies, stipulates that the latter occur "within the territory of a signatory".

Once this situation is clarified in a satisfactory manner, Mexico is prepared to continue negotiations on the basis of the Chairman's draft.