

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG10/24
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Special Distribution

Group of Negotiations on Goods (GATT)
Negotiating Group on Subsidies
and Countervailing Measures

MEETING OF 6 NOVEMBER 1990

Note by the Secretariat

1. The Group met on 6 November 1990 under the chairmanship of Mr. Michael D. Cartland (Hong Kong). The Group had before it the third revision of a draft text on subsidies and countervailing measures (MTN.GNG/NG10/W/38/Rev.3).
2. The Chairman said that the Group had reached the stage where it seemed to have exhausted the possibilities for further progress at the technical working level. It was clear that the remaining difficulties in the text could only be dealt with at the political level. The text had been before the Group for six months. It had been produced on the Chairman's responsibility at the request of the Group and had been used as the basis for negotiations in the Group. It had become clear now that the negotiations had to continue elsewhere in a way that would enable everyone to continue to pursue its interests. A number of delegations expressed their thanks to the Chairman for the rôle he had played in the negotiations and praised his sense of fairness and balance. Several delegations stressed their support for the text in MTN.GNG/NG10/W/38/Rev.3.
3. Participants made a number of comments on several provisions in the text. It was understood that these comments were not exhaustive and that participants would pursue their interests at an appropriate level.
Article 1: Several participants indicated that the term "financial contribution" should be clarified to mean a cost to the government or a charge on the public account. They also considered that the term "benefit" in Article 1.1(b) should mean a cash benefit. It was proposed to delete the reference to the purchase of goods or services in Article 1.1(a)(1)(iii). It was also proposed to delete Article 1(a).
Article 2: It was proposed to clarify that specificity may exist only within the territory of a signatory. Some delegations proposed to delete paragraph 2.1(d) while some others stressed the need to maintain it. Several amendments were proposed to Article 2.1(b) and (c) and to Article 2.2.
Article 3: It was proposed to delete the reference to de facto export subsidies as well as Article 3.1(b). It was also proposed to delete footnote 4.
Articles 4 and 7: Several delegations proposed to

align Articles 4 and 7 on GATT dispute settlement provisions and to establish a clear link between countermeasures and the degree and nature of adverse effects found to exist. Article 6: Several participants expressed their difficulty with the concept of quantitative threshold resulting in a presumption of serious prejudice. Some participants would prefer to delete Article 6.1 or to put a double-digit number within the square brackets. Some others said that they were prepared to seriously contemplate the disciplines in 6.1 and that the acceptable figure in 6.1(a) would largely depend on the resolution of other elements in the text. A number of suggestions were made on other paragraphs of Article 6 with a view to establishing a clearer causal relationship between the subsidy and serious prejudice resulting therefrom. There were also suggestions going in the opposite direction, i.e. based on the premise that the necessary and sufficient evidence was that the subsidized product had been displacing the other like product. Article 8: Several comments were made concerning figures in square brackets in various provisions of this Article, mostly in the sense of deleting or substantially increasing various percentage ceilings. While several participants considered that the so-called green category should be strengthened, a view was expressed that it was going too far. Some delegations proposed the deletion of Article 8.5. Several participants indicated that Article 8, as presently drafted, was of little importance to developing countries. Part V: A number of comments were made emphasizing the need to ensure that countervailing measures rules would be strengthened to prevent their abuse or their use as a protectionist instrument. It was pointed out that for the provisions of Article 11.7 to be meaningful and useful, the figures for [X] should be high. It was also suggested that under the definition of domestic industry the figure for major proportion should be more than 50 per cent, both for determining the standing of petitioners and for injury determination. Sunset clause and lesser duty rule were also mentioned for further strengthening in the text. Article 27: Concern was expressed about the approach taken to establish what could be perceived as different categories of developing countries. It was pointed out that this concept would have far-reaching political and economic implications in other international fora. Several participants reserved their position on the proposed reduction by some developing countries of export subsidies in certain specific sectors provided that these countries had achieved export competitiveness in these sectors according to certain criteria. Some other participants welcomed the approach set forth in Article 27 but reserved their position on a number of technical aspects and on the criteria proposed therein. A view was expressed that programmes used by developing countries for supply, for the export sector, of raw-materials, components, intermediate inputs and capital goods from domestic sources at international prices should not be countervailable under any circumstances. Article 28: It was suggested that the transitional period must be at least 5 years with flexibility to go to 10 years, if necessary, and that the notification date in (i) would need to be a date after the entry into force of the new Agreement. Article 29: A view was expressed that this Article, as drafted, did not meet the concerns of some participants in the transition period to a market economy and that a more adequate language would be proposed in the further negotiations. Annex I: It was suggested

that the physical incorporation test contained in items (h) and (i) should be applicable to all inputs, whether physically incorporated or not. It was also suggested that item (k) should be replaced by a self-contained provision on official export credits, containing such elements as minimum rates and amortization periods. Pending this solution, the OECD arrangements on export credits should be notified to GATT and be examined and approved. Furthermore it was proposed that export credits granted at rates which were not below the cost of funds to the institution providing such credits should not be considered as a subsidy.

4. The Chairman said that the Group had taken note of the comments made and that the suggested amendments had already been proposed by some and rejected by some others on several occasions. It was clear that the Group was not in a position to reach final agreement on the text and no-one would be asked to do so at this stage. The Chairman proposed that the Group agree that the negotiations should continue at the higher level on the basis of this text¹, it being understood that participants may pursue their interests at that level. It was so agreed. The Chairman concluded the meeting by saying that the Group had thus completed its work.

¹Circulated as MTN.GNG/NG10/23.