

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Trade Negotiations Committee

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STATEMENT BY THE REPRESENTATIVE
OF THE PHILIPPINES

At the meeting of the Trade Negotiations Committee held on 26 November 1990, the representative of the Philippines, on behalf of the ASEAN contracting parties, made the following statement.

Mr. Chairman, I speak on behalf of the ASEAN contracting parties - Indonesia, Malaysia, Philippines, Singapore and Thailand, and at the outset, would like to request that this statement be issued as an official green-band document to be forwarded to Ministers in Brussels.

When we met at the TNC last July, ASEAN gave a frank assessment of developments thus far in the Round. In essence, ASEAN then said that it was very much disappointed that there had been little progress in the negotiations, and feared that the chances that the Round would not conclude successfully in Brussels grew more real every day.

Today, as we prepare to go to Brussels, we meet again to assess the situation. You have, Mr. Chairman, categorized the status of negotiations in to three levels, indicating we have indeed made some progress since July. Unfortunately, this is not enough to prevent what we feared would happen last July. We now no longer have illusions of formally concluding the Round in Brussels. What we are now hoping is that by the final hours of the 7 December 1990, we would have the basis to proceed in assembling the sequential and technical decisions needed to wrap up the Uruguay Round package.

Permit me therefore Mr. Chairman to express ASEAN's view of what an acceptable basis would be for a Uruguay Round package.

Market Access

Market access would be high on our list, Mr. Chairman. We have said that meaningful results in market access is crucial in our final evaluation of a balanced outcome for the Round. For ASEAN a successful outcome in market access is only possible if the following are achieved: one, the

inclusion of key products of interest to us, especially in tropical products, which are still being excluded from the offers by some major trading partners; two, the elimination of tariff escalation and peaks; and three, the firming up of offers which continue to be attached with specific conditions or linked to the outcome of other negotiating groups.

As we committed last July, ASEAN has made positive and significant contributions in accordance with its trade, financial and development needs. We have revised and improved on our initial offers. Our contributions thus far, in terms of reductions or bindings, are significant and unprecedented in the ASEAN experience in GATT. But we are prepared to consider further improvements depending on concessions others will make, and on the balance in the Round.

We call on our partners now to be more forthcoming in meeting our requests. We call upon them to cease making demands for full reciprocity in specific sectors and the binding of the totality of our tariffs, for these are not consistent with the principles governing the negotiations. And we call upon them to extend to us credit and recognition for all autonomous liberalization moves we have undertaken, from which they have benefited. We stand ready to continue intensive bilateral discussions now and in Brussels.

Textiles

Although a Chairman's paper for textiles and clothing will be forwarded to Brussels, ASEAN registers its concerns on certain aspects of that paper. A political decision must be made on the numbers for the rate of integration process and growth rates. Whatever these numbers will eventually be, ASEAN will only accept ones that are credible.

The economic provisions for the integration process as they stand in the text lack predictability and certainty because the products to be integrated will be entirely chosen by each importing country at the beginning of each stage. Moreover the integration process will not have a significant impact on the liberalization of textiles and clothing trade as most of the products under restraint would be expected to be left unintegrated in the last phase of the transition period. All these must be rectified.

ASEAN reiterates its position that for a transition period to be credible, it would have to end by around the year 2000. Furthermore, transitional safeguards must be fair, more precise and not open to abuse.

While we recognize the need to strengthen GATT rules and disciplines in the context of the entire Uruguay Round, we remain steadfast in our view that concepts put forth by a major participant, such as "surveillance" and "adjustments of the content of the agreement," are totally unacceptable. These concepts impair instead of facilitate the integration process.

On product coverage, we are of the view that only products relevant for the process of integration and the phase-out of restrictions should be included. Not all textiles products should necessarily appear in the annexes.

We note that there has been some movement in the negotiations. The decisions that remain to be taken are political ones. We can only view our work ahead with guarded optimism.

Agriculture

ASEAN regrets that, due to the lack of political will and economic resolve in a few trading partners, particularly the EC, it is not possible to forward to our Ministers in Brussels a text on agriculture, one based on the text of Mr. Art de Zeeuw. We understand that the alternative approach you have taken, Mr. Chairman, is the most practicable one at this late stage.

Our primary concern in Brussels is to get Ministers to resolve the difficult key issues in the negotiations, but in a manner that fulfils the objectives we set out in Punta del Este and reaffirmed at the Mid-Term Review. In this regard, ASEAN wants to see the following decisions:

- (1) that specific and separate reduction commitments on internal support, border protection and export subsidies will be made, and that such commitments shall be substantial and progressive.
- (2) that the percentage reductions in the three areas above, the instruments for implementing reductions in the case of internal support, and the base dates and duration for such commitments, will be clearly stated.
- (3) that tariffication, without conditions, will be implemented in line with the objective of liberalizing world agricultural trade, with tightly defined transitional arrangements, special safeguards, and the modalities for increases in tariff quotas.
- (4) that since rebalancing only increases trade barriers and is contrary to the objectives of the negotiations, it has no place in any agreement.
- (5) that there will be specific commitments for reductions in export subsidies. And,
- (6) that special and differential treatment to developing countries will be given effect, in recognition of the fact that agricultural support and protection are integral to their rural and agricultural development programmes.

We reiterate the decision of ASEAN Ministers in their meeting in Bali, Indonesia, last month that without a substantial agricultural package, the Uruguay Round cannot conclude successfully.

Anti-Dumping

Again, we regret that a text on anti-dumping practices cannot be submitted to Ministers in Brussels. But for as long as a text will not be able to strike a fair balance between the interests of exporting and importing countries, which includes ensuring that anti-dumping rules are not used for disguised protectionism, there can be no acceptable paper on this subject.

In Brussels, key decisions must be made if only to introduce improvements in the Code needed by the world trading environment. In this light, we reiterate our positions on a number of vital issues.

- (1) Greater disciplines are needed in the methodology for the calculation of constructed values and the circumstances under which such calculations are to be made.
- (2) We see the need for more precision in the determination of injury, particularly on the causal link between injury and dumping.
- (3) We object to the cumulation of dumped imports, but are willing to consider cumulation under fair and tightly circumscribed conditions. A meaningful provision for de minimis market share and margin of dumping is crucial.
- (4) The procedures regarding the initiation of anti-dumping cases, including the assessment of the standing of petitioners, have to be strengthened in order to preclude trade harassment and protectionism. And,
- (5) We object to the inclusion of specific provisions on anti-circumvention in the Code. Should it be determined by Ministers in Brussels that provisions on anti-circumvention will be made in the Code, this can only be done so provided that circumstances are narrowly defined and that such provisions are not anti-development or anti-investment.

For ASEAN, anti-dumping is a very important element of the whole Uruguay Round package. We must work towards a decision at Brussels which would allow a text to be negotiated to cover our concerns.

Subsidies and Countervailing Measures

ASEAN is prepared to continue negotiations on the basis of the text that will be transmitted to our Ministers In Brussels. However, ASEAN wishes to stress that this text should in no way prejudice the position of ASEAN.

To begin with, we are disturbed that disciplines are expected of us in the area of industrial subsidies when others refuse to undertake disciplines in the area of agricultural subsidies.

ASEAN is concerned that a number of major issues remain unresolved, and that a number of our concerns are not reflected in the text. For the record, we would like to highlight some of these.

- (1) We cannot accept the prohibition of domestic subsidies contingent in fact on export performance and the use of local goods. These could include most development programmes in our countries. As we said last July, major distortions in world trade are not caused by the measures taken by developing countries to promote investments and industrialization.
- (2) We cannot accept the use of quantitative criteria as a presumption of serious prejudice. The extent of import penetration, and not the level of subsidization, is the one that should be linked to adverse effects. Furthermore, due to variable yearly profit and sales performance, it will be almost impossible to predict subsidy levels.
- (3) Disciplines on subsidies should apply to all levels of government, that is, at the state, provincial and local levels.
- (4) We have serious difficulty in accepting the introduction of country graduation for developing countries. We want a meaningful provision on the treatment for developing countries which will take into account their economic, social and development objectives, and one that is not based on a country graduation approach. And,
- (5) in the area of countervailing duties, it is fundamental for us that rules are strengthened to prevent their abuse and to ensure that they are not used as an instrument of protectionism and harassment.

Balance-of-Payments

ASEAN notes with serious concern that there have been attempts to once more reopen the issue of whether or not the BOP provisions should be negotiated. We maintain the position that there is no need to clarify these provisions as there is nothing fundamentally inadequate with them.

Safeguards

The issue of safeguards and unconditional m.f.n. has beset us in this Round, as well as in previous ones. ASEAN reiterates its position that safeguard action should only be taken under the principle of unconditional and non-discriminatory m.f.n.

TRIPs

In the area of TRIPs, ASEAN notes that a text has been prepared and submitted by the Chairman on his own responsibility for Ministers' consideration in Brussels. The text is peppered with square brackets. But this cannot be avoided for the issues involved are sensitive ones, especially for developing countries who will be required to make most of the adjustments.

Setting aside the issue of where to implement the agreement, which will be one of the major political decisions of Ministers, ASEAN agrees that there is a need to curb the unilateral interpretation of what constitutes effective intellectual property rights protection. ASEAN sees multilateral resolution of disputes as the only alternative. But we are strongly opposed to any provision that disregards public interest, that undermines the integrity of our domestic legal systems, and that impose unreasonable and extremely burdensome demands on enforcement measures.

We would also like to further make known to everyone here our position on two other issues. One, there shall not be any dilution or exemption from the m.f.n. principle in the obligations to be agreed upon in TRIPs. And two, the transitional period and arrangements, and the extent of obligations for developing countries, shall take into full account their trade, finance, and development needs, and their administrative capacity to implement this agreement.

TRIMs

On the subject of TRIMs, we note that there is recognition that a wide divergence in basic views continues to exist and that all texts so far produced will not be able to bridge this gap. We support the commentary approach, and note that the questions posed therein adequately reflect the areas of difficulties.

On the question of coverage, ASEAN is of the view that a wide coverage will greatly restrict the flexibilities we need in our investment and development programmes. This is why we cannot accept the expansion of the coverage into investment incentives.

Finally, we reiterate our position that we cannot accept the prohibition of TRIMs based on their presumed trade effects.

Services

The issues in services are complex. This is manifested in the multitude of brackets in the draft framework agreement and the sectoral annexes. Unless the key issues are resolved, it would be difficult to achieve real progress in finalizing the text.

Our views on this subject are as follows:

- (1) M.f.n. should be a general obligation. Reducing m.f.n. to a Part III obligation will render a Services Agreement meaningless.
- (2) No sector should be excluded from the coverage.
- (3) Any derogation from m.f.n. in any service sector should be temporary in nature.
- (4) Exceptions from the general obligations of the Framework agreement should be allowed to safeguard a party's national security and public order.

The Final Act

In conclusion, I wish to refer to the draft Final Act which was circulated a few days ago. We have taken the view that we should only consider this matter when the appropriate time comes, and conditional upon the satisfactory outcome of the entire Round.