

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED
MTN.GNG/AG/W/1
24 June 1991
Special Distribution

Group of Negotiations on Goods (GATT)
Negotiating Group on Agriculture

Original: English

OPTIONS IN THE AGRICULTURE NEGOTIATIONS

NOTE BY THE CHAIRMAN

INTRODUCTION

1. This note has been prepared having in mind:
 - the Punta del Este Declaration, adopted 20 September 1986 (MIN.DEC);
 - the Mid-Term Review Agreements, adopted 21 April 1989, according to which it has been agreed that "the long-term objective of the agricultural negotiations is to establish a fair and market-oriented agricultural trading system and that a reform process should be initiated through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines" (MTN.TNC/11); and
 - the statement made at the meeting of the Trade Negotiating Committee on 26 February 1991 according to which "participants agree to conduct negotiations to achieve specific binding commitments on each of the following areas: domestic support; market access; export competition; and to reach an agreement on sanitary and phytosanitary issues" (MTN.TNC/W/69).

Its purpose is to set out options on the basis of which these commitments could be negotiated.

2. The options presented in this note will have to be seen in the light of their contribution to the long-term objectives of the agriculture negotiations. It needs also to be kept in mind that decisions in individual areas of the agriculture negotiations (i.e., domestic support; market access; export competition) should be mutually supportive. The internal coherence of the agriculture negotiations must be considered, along with the need to integrate agriculture more closely into the global trading system. The note is based on the assumption that all agricultural products will be covered in the negotiations.
3. The note also raises some options relating to the transitional measures which may be needed during the implementation period to facilitate the achievement of the long-term objectives. Non-trade concerns will also have to be considered.

4. At a later stage it may be necessary to develop procedures which may be needed for monitoring and review of the commitments taken in each of the specific areas of the negotiations. The existence of an effective monitoring system may facilitate decisions on the modalities for reform, by reducing the possibility of circumvention of intended disciplines and providing a means of coping with unexpected situations.

5. The note is put forward by the Chairman on his own responsibility. It is not designed to be exhaustive, and it is without prejudice to participants' positions on these and other issues. Most of the options set out below are closely related to the technical consultations which have been undertaken since February 1991.

I. DOMESTIC SUPPORT

6. Given the basic commitment to substantial and progressive reduction, the negotiations on domestic support essentially concern the policy coverage of that commitment, the means by which it is to be expressed and implemented, and its amount, duration and base year.

7. Key issues for early decisions are reflected in the options set out below. They include the basis for exemptions from the reduction commitment; means of expressing and implementing reduction commitments; the development of strengthened and more operationally effective rules and disciplines; and the application of special and differential treatment to commitments by developing countries.

(A) Policies Exempt from Reduction ("Green Box")

8. The underlying principle of exempting policies from reduction is usually seen to be either no, or minimal, trade distortion or effect on production. Domestic support policies responding to these principles would not be subject to the reduction commitment. Establishing the scope of the policies to be exempted (the "green box") is a key issue for decision in the domestic support chapter since it is relevant in practically any possible scenario concerning the nature of the basic commitment, and since it will provide guidelines for the development of national agricultural policies consistent with the reform commitment. It remains to be settled whether exempt policies should be subject to any ceiling commitment, e.g. as part of an overall ceiling on domestic support.

(1) Definition: amber or green?

9. The first option is whether it is the "green" (exempt) category or the "amber" category (subject to reduction) which should be defined: if the green box is defined, the residual is amber, and vice versa. The basic issues are similar in each case. The following paragraphs are written from the approach of defining the green box.

(2) Green box: list and/or criteria?

10. The basic options are to list exempt policies or to establish criteria governing admission to the green box, or a combination of these approaches. Given the limitations which have become apparent in an exclusive reliance on either list or criteria, a combination of illustrative list and criteria appears to be most appropriate from an operational point of view.

11. The illustrative list would show the policy objectives and programmes which are seen as candidates for exemption, subject to their satisfying the criteria. Some progress has already been achieved in drawing up such an illustrative list.

12. The main approaches to the formulation of criteria are:

(a) To develop one generally applicable set of criteria which would permit inclusion in the green box of all the desired policies as shown in the illustrative list yet ensure they operate in a minimally production or trade-distorting way.

(b) To sub-divide the list of prospective green policies and apply specific criteria - quantitative, qualitative or both - to each sub-category. A possible basis for such sub-division is to distinguish between policies where government expenditure is on programmes which confer some non-monetary benefit on the producer, e.g. research or pest eradication, and direct payments to producers.

(c) To combine the two approaches above and agree on a number of basic criteria which would have to be met by all prospective green policies, plus specific conditions applying to certain policies, particularly direct payments.

(3) Monitoring and review

13. The question here is what specific arrangements are needed to monitor and review compliance with the green box criteria, and assist in determining the treatment of possible future policies in the light of the criteria. A decision in principle to establish such arrangements may help in reaching agreement on criteria, since they should provide an added layer of security against circumvention of the reduction commitment.

(B) Expressing and Implementing the Reduction Commitment ("Amber Box")

14. Whatever the means of defining the policies to be subject to the reduction commitment and the magnitude of the reduction, options exist regarding the instruments by which the reform commitments will be expressed and implemented. The key options are: to make commitments on specific policies; to make commitments on an Aggregate Measurement of Support (AMS); or a combination of these approaches.

15. In considering these options it needs to be decided whether policies at both the national and sub-national level should be included, and whether policies directed at agricultural processors should be either included in full or the portion of the benefits retained by processors excluded from commitments. An option also exists concerning the possibility of adjusting the commitments to allow governments of particular countries to compensate producers for some of the effects of excessive rates of inflation under the general provisions to be developed for the monitoring and review of commitments.

(1) Specific commitments

16. Specific commitments would entail detailed schedules of all policies to be reduced and the key parameters of each policy. Such parameters could include administered prices, government outlays and revenue foregone on price support, input subsidies, and any other non-exempt policies.

(2) The AMS

17. This approach would involve taking specific commitments to reduce a form of AMS to be agreed upon. Such a commitment could be defined as a total monetary value at the level either of commodities or commodity sectors. Support which is generally available across a number of commodities could either be allocated to the commodities concerned or be totalled into one non-commodity specific AMS.

18. The AMS includes the effects of policies in three broad groups which are market price support, non-exempt direct payments and other non-exempt policies. In each of these groups options exist:

(a) Market price support: policies could be measured using a price gap between the internal price and a fixed external reference price. An option exists as to whether or not the effects of border measures, including export subsidies, should be included in the AMS.

(b) Non-exempt direct payments: those payments dependent on the difference between the world price and the internal price, e.g. deficiency payments, could either be measured using budgetary outlays, or a price difference between the internal price and a fixed external reference price.

(c) Other non-exempt policies, including policies that reduce the costs of agricultural inputs, could be measured using government budget outlays or revenue foregone.

19. An option exists as to whether or not adjustments should be made in either the AMS or the reduction commitment for those products for which effective supply controls are in operation.

20. If the AMS approach is to be taken, there is also a need to agree on the form of equivalent commitments for those products for which the calculation of an AMS is not practicable. The options retained in the

definition of the AMS will affect the extent to which this issue arises. Commitments taken should be aligned as closely as possible to the commitments taken via the AMS. The policy instruments used could include those outlined under "specific commitments" above.

(3) A combination of specific commitments and the AMS approach

21. Such an approach could entail the use of an AMS to set a target for the reforms taken during the implementation period, but the commitments themselves would be taken on either the specific policies making up the AMS, or sub-components of the AMS as outlined above.

(C) Rules and Disciplines

22. Agreement on strengthened and more operationally effective rules and disciplines is an outstanding issue in domestic support as in other areas. Defining options in a precise manner will only be possible when the nature of the reform commitment becomes clearer.

(D) Special and Differential Treatment

23. With respect to special and differential treatment, developing countries could be allowed lesser reduction commitments and/or a longer reform period than developed countries. A further option is total or partial exemption from the reduction commitment for developing country support. In this case, the question arises whether the general "green box" is sufficient to meet the needs of developing countries. If it is not, various options exist for defining additional grounds for exemption, including effect-related, quantitative and qualitative criteria.

II. MARKET ACCESS

24. Given the basic commitment to the substantial and progressive reduction of protection, negotiations leading to specific binding commitments on market access concern the treatment of two broad types of policies: border measures other than normal customs duties; and normal customs duties. The negotiations therefore require a clear definition of the modalities of specific commitments in relation to each category and of the way in which these commitments shall be implemented.

25. Key questions related to these issues are reflected in the options set out below. They include the modalities for dealing with products subject to border measures other than normal customs duties, including special safeguard provisions and current and minimum access opportunities; the modalities for dealing with products subject to normal customs duties only; rules and disciplines; and special and differential treatment for developing countries.

26. Other outstanding issues on which decisions are required at an appropriate time are the amount and duration of the reduction commitment; the amount and duration of the expansion of market access opportunities;

the period on which the conversion of border measures other than normal customs duties into tariff equivalents may be based; the base period for commencing the reduction commitments; the length of the reform period; and the possibility of binding all tariffs and tariff equivalents at each stage of the reform process.

(A) Tariffication

27. For products subject to border measures other than normal customs duties, the approach which has been developed involves the conversion of such measures into ad valorem or specific tariffs (i.e. tariffication).

28. Options exist regarding the modalities of such a conversion:

(1) Tariff equivalents are established so that, for each product, they reflect no more than the gap between the domestic market price and the world price.

(2) Alternatively, tariff equivalents are established in a way that would result in higher initial levels of protection.

29. The tariffication approach requires that the policy coverage of tariffication be clearly defined. Among the measures to be included would be: quantitative import restrictions, variable import levies, minimum import prices, non-automatic licensing, non-tariff measures maintained through State trading enterprises, voluntary export restraints and similar schemes, whether or not these measures are maintained under country specific derogations from obligations provided for by rules and disciplines.

30. Further:

(1) Tariffication of border measures other than normal customs duties could be applied in all circumstances.

(2) Alternatively, there could be scope allowed for individual countries to exempt specific products from tariffication. The exempted products would be subject to generally applicable strengthened and more operationally effective rules and disciplines on the measures maintained on these products, including those measures that may be necessary to deal more explicitly with the enforcement of effective production controls or for other non-trade concerns such as food security. In this case,

(a) Any exemption of products from tariffication in specific circumstances could be permitted only as a transitional measure, with an agreed mechanism for their eventual tariffication.

(b) Alternatively, such products could be exempted from tariffication on a permanent basis.

(B) Special Safeguard Provisions

31. To facilitate the process of reform, a special mechanism could be established to provide for emergency action, which would not require compensation, on imports of particular agricultural products subject to tariffication. Consideration should be given to the necessity of such provisions where conversion into specific tariffs is chosen.

32. Options exist as to the form of such a special safeguard:

(1) The special safeguard could be quantity-based and operate only in times of a significant surge in imports.

(2) The special safeguard could be quantity- or price-based and operate in times of a significant surge in imports and/or in the case of a significant decline in world market prices.

(3) The special safeguard could operate systematically to reduce the effects on domestic prices of world market price fluctuations, and could also provide special features such as full adjustment for exchange rate fluctuations.

33. Whatever option is finally retained, a decision should also be taken on whether the special safeguard:

(1) Should operate only during the transition period.

(2) Alternatively, whether it should operate on a permanent basis.

(C) Current and Minimum Access Opportunities

34. An option to maintain current access opportunities on terms at least equivalent to those existing would be to use tariff rate quotas, which subsequently could be expanded.

35. In addition, the commitment to improve market access may require the establishment of new minimum access opportunities on an m.f.n. basis where no significant levels of imports existed previously. Such new minimum access opportunities, which could also be provided through the use of tariff rate quotas:

(1) Could be applicable at a specific level in all such circumstances.

(2) Alternatively, the level of new access opportunities could depend on:

(a) Whether a tariff equivalent resulting from the conversion of border measures other than normal customs duties is at a prohibitive level;

(b) The form of measure maintained at the border where tariffication is not used.

(D) Products Subject to Existing Tariffs Only

36. Regarding those products which are currently subject to tariff-only protection, different approaches still exist with respect to the modalities for their liberalisation:

(1) One approach may be that these products will be negotiated using the same modalities which will be applied to the tariff negotiations.

(2) Alternatively, specific modalities for agricultural products could be established. These modalities may include a linear reduction, request/offer negotiations, harmonization or a combination of these approaches.

(E) Rules and Disciplines

37. In light of the options retained above, decisions are required on ways and means to strengthen and make more operationally effective rules and disciplines on market access:

(1) One option is to delete the specific provisions in the General Agreement for agricultural products, notably the provisions of Article XI:2(c).

(2) Another option is to clarify and reinforce the provisions of Article XI:2(c).

(3) A further option relates to whether or not food security, and other non-trade concerns, should be reflected more explicitly in existing rules and disciplines, or whether they require new rules and disciplines.

38. Once rules and disciplines are clarified and reinforced an additional point for decision is whether any such rules and disciplines:

(1) Should be of temporary application i.e. during the reform period;
or

(2) Alternatively, operate on a permanent basis.

(F) Special and Differential Treatment for Developing Countries

39. The applicability of the options outlined above to developing countries remains to be decided, including consideration of a longer reform period, lesser reduction commitments and expansion of market access commitments than developed countries.

40. Furthermore, a decision is needed as to whether or not developed countries should be required to undertake greater commitments on products of particular export interest to developing countries, in addition to the commitments already taken for tropical products.

III. EXPORT COMPETITION

41. Given that export assistance, along with other forms of support and protection, should be subject to substantial progressive reductions based on specific binding commitments, early decisions on a number of key issues are needed to delimit the parameters within which specific reduction commitments and related disciplines could be negotiated.

42. The key issues on which options are set out below involve the forms of export assistance subject to reduction; the methods or modalities to achieve reductions and express commitments; circumvention; rules and disciplines; and special and differential treatment for developing countries.

43. Major policy decisions are also needed at the appropriate stage in respect of the depth and pace of export assistance reduction commitments and the extent to which the use of agricultural export subsidies would be subject to the general rules and disciplines in the longer term.

(A) Policy Coverage of Reduction Commitments

44. The policy coverage of reduction commitments would depend on the definitional criteria to be employed. This has implications for a broader issue, namely, how export subsidies are to be defined for the purposes of the general rules and disciplines that would eventually apply to trade in agriculture.

45. In these circumstances there would appear to be two basic options:

(1) To narrow down the very broad Article XVI:3 definition to a list of export subsidy practices that would be subject to reduction;

(2) To use, as a working hypothesis, the definition of export subsidies in Article 3 and the Illustrative List annexed thereto in the draft text under discussion in the general subsidies negotiations, subject to the possible inclusion of other relevant agricultural export assistance measures for the purpose of reduction commitments.

46. In either case, a decision is needed on whether, in addition to mainly direct export subsidies, certain other forms of export assistance presently covered by the very broad Article XVI:3 definition are to be subject to reduction commitments in the export competition context.

47. One of the main issues here is whether payments to producers as opposed to exporters, such as deficiency payments and comparable practices, which are not specifically export performance related but which can in practice operate to maintain or increase exports and to insulate producers from world price movements, should be treated as export subsidies for the purpose of reduction commitments. A consideration to be taken into account is that such payments would, in principle, be subject to reduction commitments in the context of internal support.

48. Other key issues on which at least in principle decisions are needed are whether subsidised export credits and related practices, as well as producer-financed export subsidies, would be subject to reduction commitments. An option for dealing with such forms of export assistance would be to provide that such subsidies or subsidised transactions should be subject to appropriate reduction commitments unless they meet appropriate criteria to be established in terms of the rules that would govern export competition.

(B) Basis for Reduction Commitments

49. Commitments to reduce export assistance can be made on the basis of: budgetary outlays (and revenue foregone); on quantities exported with such assistance; on per unit export subsidization; or on some combination of these approaches.

50. A number of general considerations would be relevant in deciding which of these approaches is to be followed. In practice the effects which individual approaches, or combinations thereof, would have on world markets would depend on the extent to which the domestic markets of subsidised exporters are in future protected through tariffs or other border measures. Further, the scope for achieving greater long-term market orientation through the approaches under consideration is particularly relevant, including the extent to which the approach to be followed would operate in a counter-cyclical manner in response to trends in world market prices.

51. Some other considerations would include the scope for negotiating commitments on a sector-wide and/or product-related basis, as well as the efficiency of the respective approaches or combinations thereof from the point of view of the negotiating process and the subsequent implementation and verification of commitments.

(C) Circumvention

52. Most aspects of this question would be for consideration once a clearer idea emerges as to the nature of the commitments to be negotiated. Issues to be considered may include disciplines on the form in which bona fide food aid should be provided, tied aid practices, and transactions in the grey area between bona fide food aid, on the one hand, and commercial transactions on the other.

(D) Rules and Disciplines

53. Some of the main issues to be dealt with under strengthened and more operationally effective rules and disciplines include practices such as targeting, price undercutting, producer financed export subsidies, and the subsidisation of agricultural commodities incorporated in exports of processed products. Pending a decision at a later stage on whether a new or the existing framework should govern export competition in agriculture, an option would be to conduct negotiations in these areas taking into account the negotiations on generally applicable rules and disciplines on subsidies.

(E) Special and Differential Treatment for Developing Countries

54. The applicability of the options outlined above to developing countries remains to be considered.

55. Measures to deal with the possible negative effects of the reform programme on the least developed and net food-importing developing countries is a matter on which a greater focus will become necessary once decisions on the basic options have been taken. One of the options in this regard would be a decision to begin negotiations on guidelines under which the availability of basic foodstuffs to these countries would be assured.

IV. SANITARY AND PHYTOSANITARY MEASURES

56. In line with the overall objectives of the negotiations on agriculture, it was agreed from the outset that rules and disciplines would also be necessary to minimize the adverse effects that sanitary and phytosanitary measures can have on trade in agriculture, and to ensure that these are not used as unjustified barriers to trade. The negotiation of clear and specific disciplines on sanitary and phytosanitary measures has been an integral part of the agriculture negotiations.

57. Substantial progress has been made in negotiating a detailed text on sanitary and phytosanitary measures (MTN.TNC/W/35/Rev.1, pp. 163-181). It includes specific provisions on, for example, the requirement of a scientific basis for sanitary and phytosanitary measures; the objective of harmonization using internationally developed standards; the recognition of equivalency of different measures; the use of risk assessment; recognition of pest- or disease-free areas; specific notification procedures; and use of GATT dispute settlement procedures. The negotiations on sanitary and phytosanitary measures are at a stage where a text has been prepared in legal language. This draft includes specific provisions for monitoring and review of sanitary and phytosanitary measures.

58. The draft text identifies options on a few issues, such as on the scope of the agreement, disciplines on national approval systems, the conditions under which the use of measures more stringent than international standards can be justified, and disciplines with respect to sub-national obligations.