

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)  
Negotiating Group on Market Access

CONCESSIONS ON NON-TARIFF MEASURES

Communication from Japan

The following comments on concessions on non-tariff measures, dated 21 June 1991, have been received from the Permanent Mission of Japan with a request that they be circulated to participants in the market access negotiations for their consideration.

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Comments on Concessions of Non-Tariff Measures

Following points should be discussed further in the Group on Market Access. These comments are made without prejudice to the final position of Japan. Therefore Japan reserves the right to make further comments on these issues.

(a) Scope of NTM Concessions

The scope of non-tariff measures (NTMs) to be covered by the Schedule is not fully discussed yet. The question is whether it is appropriate to set a limit on the scope of such measures, and if so under what criteria. (It may be argued, for example, that measures outside the scope of the GATT (e.g. trade in services, government procurement, etc.) should naturally be excluded. Also, it should be examined whether special consideration may be given to the measures that are subject to MTN Agreements (e.g. licences, standards, etc.).)

(b) Applicability of Article XXVIII

As a general rule, Article XXVIII is applicable to the modification or withdrawal of NTM concessions. In applying its procedure, however, the difference between the nature of tariffs and that of NTMs should be duly taken into account. In some cases like the one shown in (c) below, provisions of Article XXVIII cannot or should not be applied to NTM concessions in the same way as applied to tariff concessions.

(c) Article XX (and Article XXI)

Article XX (and Article XXI) allows a contracting party to deviate from its obligations under the other provisions of the GATT subject to certain conditions. This raises a question as to whether Article XXVIII should be applied, and if so in what manner it should be applied, to a measure which is taken in conformity with Article XX and which at the same time constitutes a modification or withdrawal of concessions. The question also includes whether compensatory adjustment would be necessary in such a case. For example, special consideration should be given to such measures as would be taken for the protection of human, animal or plant life or health as provided for in Article XX(b).