

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.TNC/LD/2
18 February 1992
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Trade Negotiations Committee
Legal Drafting Group

MEETING OF 5-7 FEBRUARY 1992

Note by the Secretariat

1. The Legal Drafting Group held its second meeting on 5-7 February 1992 under the Chairmanship of Mr. M.G. Mathur.
2. The Chairman drew attention to the list of errors and omissions for correction in the text of the Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations (MTN.TNC/W/FA). He noted that the corrections listed were in principle entirely technical and had the sole purpose of putting document MTN.TNC/W/FA into the form intended for it when it was issued on 20 December 1991.
3. The Group took note of the informal note by the secretariat on corrections and its supplement, and noted that an omission in the text relating to the Services Agreement would be circulated in a supplement to the list. It agreed to the suggestion by the Chairman that any further proposals for corrections would be made when the Group discussed the relevant sections of the document.
4. The Chairman also drew attention to an illustrative list of points for possible consideration in the Legal Drafting Group, circulated in an informal note by the secretariat, which suggested the following agenda for the Group's work: (i) review of the Agreement establishing the Multilateral Trade Organization (MTO); (ii) relationship between the MTO Agreement and other agreed texts in the Draft Final Act; (iii) integrated dispute settlement procedures; (iv) other points common to a number of texts ("cross-cutting issues"); and (v) review of each individual text; and (vi) the Final Act. He said that the purpose of guidelines set out in the note was to assist the Group in ensuring that it covered all the points necessary to carry out its mandate and that they could be altered in the light of future discussions.
5. The Group took note of suggestions by several participants concerning further items to be added to the illustrative list of points. One participant emphasized the need to ensure consistency and clarity on points of terminology within and amongst the individual texts. Another participant noted that the Group's objective should not be to achieve complete harmonization between the provisions of various agreements. Certain of these differences in provisions had been negotiated with a specific intention. The Chairman said that in ensuring consistency between the various texts in the draft Final Act, it was important to determine

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whether the differences in the provisions were related to the particular needs and requirements of the texts in question.

6. Some participants pointed out that the draft Final Act contained provisions which had been included on their own responsibility by the Chairmen of the respective Negotiating Groups. There was need to reach a multilateral understanding on some of the relevant provisions. The Chairman invited participants to seek clarification during the course of the discussion of the individual texts on any provisions that were not entirely clear in their meaning, so that the Group could decide whether points of substance were involved or not; in the former case, the Trade Negotiations Committee would be the more appropriate forum to address such issues. The point was also raised that the legal status of some of the texts in the draft Final Act remained ambiguous and needed to be clarified.

7. The Chairman concluded the discussion on the illustrative list of points by noting that the Group would take note of any suggestions for additional specific points for examination that could be put forward by participants in the course of its review of individual texts in document MTN.TNC/W/FA. He further stated that the Group's task would be to propose revised language that would aim to resolve the difficulties identified in addressing questions of consistency and clarity within and between individual texts. If conflicts of substantive provisions were encountered at some stage, the appropriate course would be for the Group to take note of these points, and refer them to the Trade Negotiations Committee.

8. The Chairman invited the Group to begin the review of the texts in the Draft Final Act by the examination of the Agreement Establishing the Multilateral Trade Organization (Annex IV of MTN.TNC/W/FA) because of the impact this text would have on the legal form and content of many other texts. One participant stated that the negotiating mandate specified in the Punta del Este Declaration did not include the establishment of a MTO Agreement. His authorities were of the view that the MTO Agreement and the Uruguay Round results were legally distinct. The participation of his delegation in the discussion of this Group did not signify the acceptance by his authorities of the MTO Agreement.

9. The Group had a first exchange of views on the text of the draft MTO Agreement. Points arising from the statements made, together with comments and suggestions by the secretariat on specific Articles, were circulated subsequently in an informal note.

10. The Chairman suggested that at its next meeting the Group should address points on the relationship between the MTO Agreement and other agreed texts. To facilitate the discussion of the Group on this item, the secretariat would prepare informal notes on: (i) a tentative listing of instruments to be attached to the Annexes of the Agreement Establishing the MTO; (ii) final provisions in the Draft Final Act; (iii) institutional issues in the Draft Final Act; (iv) legal form of texts in the Draft Final Act. It was so agreed.

10. The next meeting of the Group was scheduled for 19-21 February 1992.