

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Trade Negotiations Committee

TRADE NEGOTIATIONS COMMITTEE

Thirty-Second Meeting: 10 November 1993

1. The Trade Negotiations Committee (TNC) held its thirty-second meeting at official level under the Chairmanship of Mr. Peter D. Sutherland.
2. The Chairman said that at the last meeting of the TNC there had been a substantial number of interventions which seemed to some extent or other to repeat other statements and which did not add to the debate. He therefore urged all participants to observe rigidly the rules of engagement they had all accepted for an effective functioning of TNC meetings.
3. He reminded the Committee that only thirty-five days remained within which to conclude the Uruguay Round. Over the past few months, virtually all the Ministers he had met in a wide range of countries throughout the world had been mystified at the inability of the TNC to reach agreement in the negotiations; it had been his impression that all of them wanted an agreement urgently and believed that very few issues remained to be resolved, albeit that some of these were serious ones. In contrast, the negotiations in Geneva occasionally seemed in danger of getting bogged down in obscure technical debate. He was therefore encouraged that there was a growing perception that the overall interest in reaching a conclusion to the Round outweighed in importance the remaining difficulties, in view of the irrefutable economic evidence on the benefits to be gained by concluding it and the serious losses if it failed, as most recently exemplified by the latest OECD report. Even if it was possible to foresee solutions to all of the remaining issues, there was, nevertheless, still a risk of losing the Round by mistake, or by omission, through hanging on stubbornly to unrealistic positions and expecting movement from others first. He warned against the dangers of postponing all movement until the last two weeks, which neither conformed to the Committee's agreed process nor to the exigencies of reaching a satisfactory conclusion, or even any conclusion at all.
4. For these reasons, he believed all should be increasingly impatient at wasting time in negotiating groups on arcane technical points of doubtful importance, or on issues that were capable of ready resolution. In this regard, he had found it necessary to urge delegations attending the Informal Group on Institutional Issues to contribute more positively and constructively to the negotiations since it had been reported that not all delegations were necessarily helping to ensure that their representatives contributed positively at this stage. He recognized, of course, that there might be issues that remained at the end of any discussion.
5. He recalled that at the TNC meeting on 1 November, he had requested Heads of Delegations to redouble their efforts to resolve outstanding issues under discussion in the various informal groups, to eliminate issues of lesser priority, and to be prepared to focus efforts on a small number of the most important outstanding issues. The aim was to gradually whittle down the list of outstanding issues,

leaving a manageable number for final negotiation in the phase between 15 November and the deadline of 15 December.

6. While he agreed with the concern that the negotiating process should be so calculated as to result in transparent debate and the resolution of textual issues — since participation by all concerned was necessary for true consensus — it was not apparently always recognized that the avoidance of last resort Chairman-arbitrated texts could only be achieved by compromise or concession following constructive discussion.

7. With respect to the management of the negotiating process during the final phase leading to 15 December, he said that following extensive consultations with delegations, he intended to organize the work during the remaining weeks as follows:

- The TNC would remain on call in permanent session and would meet at least once a week in order to monitor and steer the final phase of the negotiations. This would, in particular, ensure transparency so that all delegations would be kept current on all outstanding issues.
- He intended to hold very frequent informal open-ended meetings of the Heads of Delegations of the TNC under his Chairmanship. He would seek to bring together on a global basis all outstanding issues and focus discussion on blockages that needed to be lifted to enable a final agreement. Whilst these meetings would be open-ended, he believed that it would clearly help the negotiating process if only those delegations primarily concerned with the issues being considered, or who had particular points of view to contribute, would feel the need to be represented, since specific issues would often not be of relevance to all participants. He hoped that all would work to a clear agenda and suggested that all requests for discussing issues should be brought to him. The first such meeting would take place on 16 November.
- In order to assist him during the final phase he intended to call on the services of "Friends of the Chair" — which would include the three Chairmen of the existing negotiating Groups — to facilitate consideration of specific individual issues on which further consultations might be required.
- Throughout the process he and his Deputy Directors-General would intensify bilateral consultations with delegations — and capitals if necessary — in order to encourage greater flexibility for reaching agreement on the outstanding questions.

8. He believed that this combination of activities — meetings of the TNC and open-ended informal meetings of Heads of Delegation, the continued use of "Friends of the Chair", and intensified consultations by himself and his deputies — would offer a flexible way to deal with outstanding issues and at the same time ensure globality and transparency. He warned, however, that his proposed work process, which might need fine tuning, would not work unless bilateral and plurilateral engagement by the main participants took place.

9. He explained how this process would relate to the work already under way and how it would address other areas on which final agreement was necessary.

10. In the area of Market Access and the related textual issues in agriculture and textiles, progress continued to be made and there were prospects of further tariff reductions. He underlined, however,

that greater efforts, especially by the Quad countries, were urgently needed in order to achieve substantial results by 15 November. He reiterated his request to all participants who had yet to submit their latest revised market-access Schedules to do so as soon as possible, and at the very latest in the week beginning 15 November. In this regard, there had been recent and positive developments from some quarters which he hoped to see also reflected in the area of market access, particularly by the major participants. Revised market-access Schedules were necessary since the information contained therein constituted an essential component to carry the negotiations forward, as well as to conduct a serious and relevant evaluation exercise in accordance with the Punta del Este Declaration. He also expected that the Chairman of the Group of Negotiations on Market Access would accelerate his work on the outstanding market-access related textual issues, and report on the progress in his Group by 15 November. Based on this report, he himself would assess, at the next TNC meeting, the state of play on market access and how to handle any unresolved questions.

11. On Services, the work by the Chairman of the Group of Negotiations on Services (GNS) on textual issues was close to completion. He requested the participants who had yet to furnish the Secretariat with their draft Schedules of initial commitments to do so as soon as possible and urged the delegations concerned to give prompt attention to this task. He recalled that the agreed date for the submission of final Schedules was 26 November and he asked delegations intending to request MFN exemptions to table their lists immediately. He would discuss with the GNS Chairman, in his capacity as a "Friend of the Chair", the best way to address and resolve the small number of major outstanding services issues and report at an appropriate time to the group of Heads of Delegations.

12. As envisaged, he expected the work of the Informal Group on Institutional Issues to be finished on 15 November, by which date he would have received from the Group's Chairman new revised texts of the Agreement establishing the Multilateral Trade Organization and the Understanding on Rules and Procedures Governing the Settlement of Disputes. If there were unresolved issues, he would discuss with the Group's Chairman, in his capacity as a "Friend of the Chair", the best way to address them and report at an appropriate time to the group of Heads of Delegations.

13. He pointed out that the work carried out by the Chairmen of the three Groups covered all areas of negotiations except Rules and TRIPs. His consultations had indicated that all delegations believed that the issues in these two areas had to be contained as narrowly as possible, which was consistent with the working premise established by the TNC last August, namely that any delegation seeking changes to the Draft Final Act (DFA) would have to carry the burden of seeking sufficient support for the proposed solution to its difficulties. This premise had become even more valid with the severe time constraints of the negotiations. Therefore, those seeking changes had the clear responsibility of either obtaining widespread support for their demands or of reviewing their position in order to move the process forward.

14. He informed the Committee that with the aim of eliminating as many of the remaining difficulties as possible, he had already begun to consult with individual delegations who had indicated difficulties in the past. He had been encouraged by his discussions to date and would continue these consultations, if necessary with the assistance of a "Friend of the Chair" who had particular experience in the area concerned.

15. As he had been requested by a number of delegations in his consultations and hopefully to also help to avoid any misunderstandings, he clarified the basis on which the negotiations would be concluded by 15 December. Once the Chairmen of the Informal Groups had submitted their reports, including the revised texts in the areas under discussion, Heads of Delegations would be engaged fully in the global process. At that stage, the broad parameters of the final agreement would be known to

delegations and capitals, subject to resolution of the substance of major outstanding issues through intensive negotiations by 15 December, when each negotiator would record the result of the negotiations and submit the substance of the entire package for his or her Government's approval in accordance with relevant domestic procedures. After 15 December, apart from the drafting of a Declaration for a Ministerial TNC in April 1994, the only work he foresaw was of a strictly technical or legal nature, such as certification of Schedules and, where necessary, legal fine-tuning of the Final Act.

16. The representative of Argentina said that although his country shared the concerns that had been constantly expressed in the TNC, he agreed with the Chairman that the best way to successfully conclude the Uruguay Round was through efficient organization of this last phase of the negotiations, leaving it up to historians to identify those responsible for any possible failure. He pointed out that there were certain participants who had replaced their lack of political decisions with very clever public relations campaigns in order to delay submission of constructive market-access offers and necessary response to outstanding problems in the Rules area.

17. Consistent with the Chairman's approach, Argentina wanted to submit two groups of ideas for consideration. The first concerned market access. Argentina had completed a zero-for-zero draft proposal to eliminate protection and distortion in the oilseeds sector. This was the only formal official proposal that had so far been submitted to participants for negotiating improved market access in this sector by the elimination of multilateral control mechanisms which at present restricted the expansion of trade. This initial proposal would be distributed shortly, on the understanding that Argentina was open to counter proposals. He believed it would be useful if such counter proposals indicated the type of modifications that each participant would be required to make and included the reasons for such proposed changes. On the basis of these comments, he invited all participants, as from 15 November, to sit down at the negotiating table and conclude a satisfactory agreement.

18. As to the second group of ideas, he thought that the time had come to clarify with the greatest detail possible the following points. Firstly, he asked about the manner in which the outstanding substantive issues would be reduced and their number, as well as the dates on which the rules to emerge from this Round would be considered as concluded, albeit conditionally; it was no longer possible to continue to work with the tacit idea that depending on the strength of each participant, some would have to obey a strict agenda, while others followed an open and unlimited agenda, thereby condemning some participants to wait because, as the saying went, "that is GATT" which some dreamed of maintaining, as a closed club of few participants with last-minute surprises. For the Rio Group, the Cairns Group and other participants, the situation was much simpler. Despite their reservations, these Groups of countries could live with the DFA, which to date had been the only realistic basis for closing the negotiations. Secondly, it was necessary to define the requirements that had to be met by participants before they proposed amendments, since it was neither logical nor acceptable that minority or isolated participants sought to force last-minute consensus arguing that non-acceptance of their terms of agreement would block the Round. Participants who wanted to follow such a path were playing with fire, or perhaps did not wish to see the Round conclude successfully. Thirdly, it was necessary to have a clear idea as to the way in which work would be organized, so that aside from having the material time to reach agreements, there would also be sufficient transparency which up to the present had been lacking in many aspects of the negotiations. Argentina, as had been the case over the past seven years, was always willing to fulfil its responsibilities.

19. The representative of Honduras said that his delegation was pleased to announce that Honduras would improve the services offer which it had handed to the Secretariat on 25 October 1991, by broadening the sectoral coverage as well as the scope of the commitments therein. This new revised and improved offer would be submitted to the Secretariat before the agreed deadline for the submission

of such offers. Furthermore, Honduras wished to confirm the Declaration of the Working Party on the Accession of Honduras to the GATT (L/7299), in which it was clearly stipulated that "the commitments undertaken in the framework of its accession regarding tariff concessions, constitute the Honduran contribution to the Uruguay Round market access negotiations". In overall terms it could be said that the commitments made by Honduras thus far in its bilateral tariff negotiations were greater than those contained in its 1991 offer, both with regard to levels of bindings as well as the time-limits for implementation. Indeed, the new offer was broader, since it covered a larger number of tariff lines below the general level of bindings. It also contained lower tariffs than those offered previously in the agricultural and industrial goods sectors, and the tariff-cutting period was far shorter than that which had been previously offered. He hoped that participants in the Round would duly appreciate Honduras' efforts in its contributions towards the success of the Round which in fact went beyond what could normally be expected from a country at that level of development. He reiterated Honduras' wish to conclude the accession process in the course of the next few days, so that the draft Decision and the draft Protocol of Accession could be adopted by the GATT Council at its meeting on 17 December.

20. The representative of Malaysia, speaking on behalf of the Informal Group of Developing Countries, said that the Chairman's proposals for the negotiating process and the organization of work were very reasonable since they appeared to meet the necessary time constraints and, more particularly, the question of maximum participation and transparency in the multilateral process in which matters would be discussed. Following on the Chairman's stimulating statement which was supported by the recent report of the OECD on the benefits of the Round, the developing countries were therefore willing to participate in the most constructive way in the process towards 15 December. With time fast running out and the already limited resources of developing countries, which had made and revised their offers in good faith, he hoped that the developed countries, nevertheless, would appreciate their countries' contributions. They were concerned, indeed, that their offers were always being treated as inadequate. He hoped, therefore, that at the present stage of the negotiations, the developing countries' market-access and services offers would be looked at in the context of their affordability and their levels of development. A reasonable attitude on the part of the developed countries would enable all to proceed with the other issues which needed attention, i.e., those that could make a difference between a positive or negative result on 15 December. Their countries were very encouraged by the fact that the Chairman was extricating these problems from outside the orbit of Geneva and bringing them for open discussion in this forum so that they could be resolved as early as possible. This very important process was one in which all wished to participate. The developing countries hoped that in the next few days the Chairman would be able to bring those outstanding issues for consideration with the "Friends of the Chair", with the object of finding solutions. In Rules, for instance, these outstanding issues were so important that they could make the difference between an apparent market access and a real one. The developing countries were interested in the commercial values of their offers and requests, and were ready to be as constructive as possible in the forthcoming discussions.

21. The representative of the United States supported the process outlined by the Chairman which he considered to be reasonable and realistic. Commenting on how the United States planned to proceed on the issue of Rules — in light of the Chairman's statement that those seeking alternatives to the DFA should generate consensus and support for such alternatives, and the great interest in transparency in that whole process — he emphasized that from the United States' perspective at least, he did not anticipate any surprises in that area by raising any issues that the United States had not previously indicated as presenting problems for it. In those areas of general interest, particularly issues relating to the Anti-Dumping Agreement, the United States planned to circulate — to all participants — its suggestions for changes in that text, and to spend as much time as possible in explaining what warranted those changes and what the consequences of the particular proposed language would be. This would

be done in individual meetings with participants, or through a series of smaller meetings for relatively small groups thereof. There would be opportunity for interchange in a fully transparent process in terms of what was being sought in that particular area, with no surprises and no secrets. The United States wanted to put out on the table what it sought, and to have the opportunity to explain to all participants why those particular changes were warranted.

22. With regard to the need to achieve consensus, he thought it was important to remember that in areas where the DFA was not a negotiated text, and where consensus had not yet been achieved among the participants, that need remained, as did the burden thereof. It was possible that consensus would be achieved around the particular language in the DFA; it was also possible that consensus would be achieved around an alternative formulation. In either event, the burden of achieving consensus had not yet been satisfied and therefore remained. All participants had to recognize that during the final weeks they would have to undertake to satisfy that burden of achieving a text on which there would be a consensus.

23. With regard to oft-made observations to the effect that DFA changes should be kept to an absolute minimum, while all agreed with that in the abstract, he found that having listened to individual requests for changes, and having added them up, they amounted to quite a lot. They included, *inter alia*, suggestions for changes in the agricultural text to provide for some deferral in tariffication, in the services text to deal specially with certain sectors, or in the subsidies text to deal differently with certain governmental structures. He thought that participants should really try to solve all these problems. While, obviously, the United States did not intend to help solve everybody else's problems and not solve its own, what was needed was an exercise in mutual problem-solving in the Rules issues. If undertaken in that spirit, he thought it was possible to achieve a positive result which would allow the Round to be concluded on 15 December.

24. The representative of Austria took note of the Chairman's proposed work programme. While the DFA, as amended by a duly multilateralized Blair House Agreement, remained the basis for concluding the negotiations, each participant needed to have an equal opportunity in this multilateralization process. The final package as it was taking shape would place a considerable restructuring burden on Austria's agriculture. Its problems with the DFA and with the Blair House Agreement were known to both the GMA and the TNC Chairmen. Political sensitivities in Austria were as important as in any other country, large or small. His government was not shying away from its responsibility for an overall satisfactory package but, referring to the exchange of views which had taken place on consensus, he warned that if texts were opened up and modified to any significant extent, Austria, too, would have to insist that particular problems be taken care of.

25. Austria's revised and improved market-access Schedules would be presented around 15 November. With some technical modifications and rectifications, the agricultural list would remain substantially unchanged; the non-agricultural draft final list would be revised and improved, but would remain conditional on an overall satisfactory balance of concessions. In addition, specific conditions would be attached to certain tariff items. Austria's offers for these items depended on the willingness of a major overseas trading partner to make a real effort in granting relevant concessions. This trading partner, while arriving at a good average tariff-reduction percentage, withheld any significant offer in those areas where tariffs really affected Austria's exports. The only way, therefore, to improve the situation of totally imbalanced access opportunities was to single out some possible concessions for conditional withdrawal. As to the other major overseas trading partners, he wished them well, particularly on 17 November, and hoped that shortly thereafter, rapid solutions would be found in Geneva on outstanding issues such as more substantial cuts in peak tariffs. He thought that the negotiations on a Multilateral Steel Agreement (MSA) and on an enlarged and reinforced Government Procurement

Code would be finalized in parallel with the Round. He also thought that the MSA should contain protection against trade harassment by unjustified anti-dumping and countervailing-duty complaints.

26. As regards the services negotiations, like many others, his delegation appreciated the completion of the Framework Agreement carried out by the GNS. Some recent developments, however, had given rise to concern. He believed that neither blanket exemption for some internal measures nor a two-tier approach were appropriate means to achieve the aims expressed at the Montreal Mid-Term Review, since other participants might be led to extend their MFN exemption list which could result in an unbalanced and fairly opaque overall package. He concluded that if the rule of law in international commercial relations was to be achieved, a strong MTO and an efficient integrated dispute-settlement procedure, as well as a clear signal for further GATT work on the environment-trade interface, were indispensable parts of that final package.

27. The representative of Japan said that he could accept the Chairman's proposal on the organization of work for the remaining 35 days of negotiations and, in that connection, considered it very important that any proposed amendments to the DFA were kept to a minimum because if many questions were re-opened, the negotiations would never be concluded by 15 December. On market access, he had noticed that recently there had been an increasing tendency among some negotiating partners to justify their positions by criticizing others' positions. He said the time was not for mutual criticism but for all to be engaged in intensive bilateral and plurilateral negotiations in a constructive, flexible and realistic manner so that an agreement on a package on market access could be reached by 15 November. In making requests, it was appropriate for each party to reflect on its own offer, as it was customary in GATT negotiations for requests to be matched by offers. While he knew that it was very important for all to expand their existing packages of offers without backtracking, Japan's proposed offer, which already amounted to about 60 per cent reduction of tariffs in the industrial sector, left little room for further improvement. Nevertheless, Japan was engaged in intensive bilateral and sometimes plurilateral negotiations on the remaining few areas in order to further enlarge its package. An expanded and revised schedule containing as many agreed positions as possible would be presented the following week.

28. With respect to agriculture, he repeated that despite severe difficulties, Japan was engaged in intensive negotiations with its partners in order to find a mutually-satisfactory solution. On services, Japan had submitted its MFN exemption list to the Secretariat on 5 November, which he thought had been the deadline. He understood that only a few countries had submitted exemption lists; if that meant that other countries were not seeking exemptions, Japan was more than pleased. Japan had limited its exemptions to the minimum, i.e., only two sub-sectors within one sector — maritime cabotage and international freight-forwarding services. Finally, on the institutional issues, he paid tribute to the Informal Group's Chairman, but understood that there were still difficulties in resolving outstanding questions. In this respect, he thought that flexibility and self-restraint regarding demands were very important, and hoped that the Group's Chairman would submit his texts to the TNC by 15 November, reflecting as much consensus as possible.

29. The representative of Chile said that he fully agreed with the Chairman's working proposal and, in particular, welcomed that the agenda would be open-ended allowing each participant to decide when it would participate rather than letting others take such decisions. He agreed with the Chairman that much effort was required in the area of market access. Chile had met the previous week with Japan, the United States and the European Communities, but the tariff-cut offers had not, in fact, reached the commitments entered into in Punta del Este. The meeting with Japan had been extremely constructive, but tariff-cut offers still fell below 30 per cent, being around 28.5 per cent. He added that Japan had indeed offered to reduce its tariff by virtually 60 per cent, but mainly with regard to industrial products which were traded principally by the developed countries. For fisheries, which

represented one-third of the most important products of export interest to Chile, a cut of only 25 per cent had been offered, as cuts of the same order for other agricultural products. It was in this area, and in particular in tariff escalation aspects and in the natural resource-based products, that greater effort was required over the next few days. This was one of the Punta del Este commitments which had been reiterated in Montreal.

30. The Chairman thanked all for their constructive and positive contributions not merely to the debate, but also to the process. With regard to the concerns about the transparency and the openness of the process, he hoped that some of the fears expressed by countries at the present meeting or in the past, had been to some extent allayed insofar as he could allay them as Chairman. At the end of the day, such arguments as delegations wished to put on the table had to be articulated by those delegations. He reiterated the concern regarding raising new issues and underlined that the basis of work was the DFA and the terms that he had set out in his introductory statement. While he understood the position taken by the United States in terms of the process, it had to be equally recognized — as it had been by the United States — that there was a heavy onus on those who wished to advance arguments — albeit arguments which were already on the table — or to reactivate past discussions on those issues to provide them with a level of transparency which avoided any suggestion that the debate was being conducted in a smaller group. He did not have the slightest reason to believe that this in fact was happening. He felt that it was his responsibility to ensure that the debate was conducted with transparency, but also to underline the fact reiterated by many participants that the agenda was not open-ended. Every argument had already been advanced several times and it was necessary to reduce the issues to manageable proportions. In the remaining 35 days all participants had to play a constructive rôle, the example of which he hoped, in this regard, to receive from the Quad at the earliest possible date.

31. The Committee took note of the statements.