

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED
MTN.TNC/38
2 December 1993
Special Distribution

(UR-93-0154)

Trade Negotiations Committee

TRADE NEGOTIATIONS COMMITTEE

Thirty-Fourth Meeting: 26 November 1993

1. The Trade Negotiations Committee (TNC) held its thirty-fourth meeting at official level under the Chairmanship of Mr. Peter D. Sutherland.
2. The Chairman said that only 19 days remained in which to conclude the Uruguay Round negotiations. Since the TNC meeting of 19 November, the Asia-Pacific Economic Cooperation (APEC) group of countries, at their meeting in Seattle, had added their voice to those calling for a conclusion to the Round by the deadline of 15 December. While he was encouraged by the increasing focus virtually all participants had been giving to resolution of outstanding issues, he believed that greater urgency on the part of the European Community and the United States was needed to bring a further decisive contribution to the table. While the meeting between them in Washington in the past week had been constructive and had made progress, constructive meetings were no substitute for concrete results. He urged the Community and the United States not to make the dangerous mistake of leaving everything until the last minute. They had to bear in mind that other participants also had to be engaged in the multilateral process, which was being hindered by their delay. He recalled that since the Tokyo Summit in July, the TNC at every meeting had urged them to complete and table their offers for the market-access package. They should, therefore, at their meeting in Brussels the following week, reach a substantive result and place a decisive contribution on the table in Geneva, since many offers and Schedules from other participants depended on that contribution. He warned them that time had become as important a factor as the remaining issues of substance, and that further delay could jeopardize the Round.
3. With regard to Market Access, he said that the process guided by the Chairman of the Group of Negotiations on Market Access (GMA) was moving into its final stages. The GMA Chairman intended to complete his consultations by the end of the following week and subsequently to table revised texts on the market-access related issues in the Draft Final Act (DFA). It was crucial, therefore, in order to maintain momentum and the agreed timetable, that all participants, and in particular the major trading partners, did not delay further the conclusion of the market-access package. He had requested the GMA Chairman also to focus on the issue of completion of final offers and Schedules, since the drafting of schedules should not be left until the last moment.
4. With regard to Services, he said that at the meeting of Heads of Delegations held the day before, discussion had focused on the few outstanding textual issues and on the remaining problems in maritime transport, audiovisual services and, in particular, financial services. Apart from the substance of these problems, all participants had been conscious of the overwhelming pressure of time; therefore, however complex the substance might be, further delay would make its solution more difficult, and not easier, because all solutions had to be multilateral. The time factor had become particularly evident because of the agreed deadline of 26 November for the submission of draft final Schedules and final lists of

m.f.n. exemptions to the Group of Negotiations on Services (GNS). While revised Schedules and exemption lists were being submitted and circulated every day, many of these continued to be heavily conditional, often for understandable reasons. There were also far too many submissions outstanding. Participants needed to bear in mind the logistical problems of circulating Schedules that were submitted late, and of having them examined in capitals. At his request, the GNS Chairman would focus on these questions at the meeting of the GNS that afternoon.

5. With regard to the process, he informed the Committee that he intended to fold the meeting of the Group of Negotiations on Goods (GNG) on evaluation of the Uruguay Round results, as required by the Punta del Este Declaration, into the TNC meeting that would be held on 3 December. He believed that this would enable participants in those meetings to cover all aspects of the results of the Round to date.

6. For the sake of transparency, he outlined the process, already known to Heads of Delegations, that was envisaged for finalizing the Final Act. He recalled that following the presentation to the TNC of the DFA 1991, the Legal Drafting Group had carried out some work, including rectifications to the text, from the point of view of legal conformity and consistency. The Group had also listed points which required further attention, most of which were drafting matters and not significant matters of substance. Furthermore, as a result of the invaluable work carried out by the Informal Group on Institutional Issues regarding the Multilateral Trade Organization and the Understanding on Rules and Procedures Governing the Settlement of Disputes, consequential revisions to several DFA texts had become necessary. In the areas of subsidies, countervailing measures and anti-dumping, it had long been the intention to harmonize relevant language in the two agreements, and some delegations had been developing proposals to achieve this objective. The Secretariat also had been working on the list of issues drawn up by the Legal Drafting Group. Accordingly, he had requested the "Friends of the Chair" to take this work in hand in relation to all the agreements under their responsibility, and to produce revised draft texts in consultation, as necessary, with delegations. As and when this work was completed, the revised texts would be circulated to Heads of Delegations in the Informal Group that he chaired, beginning 30 November. Heads of Delegations would thus have all the textual elements in good time to enable them to provide to their authorities a detailed and up-to-date overview of the state of the negotiations.

7. The ensuing period would be devoted to completing the negotiations on the short list of remaining issues, with intensive meetings of Heads of Delegations, as necessary. He proposed to hold the TNC meeting that would approve the Uruguay Round results on 15 December. Bearing in mind the desirability of giving delegations adequate time — at least 24 hours — to advise capitals of any final amendments that might result from these intensive meetings, and the time needed for logistical production of the consolidated text in all three languages, negotiations would have to be effectively closed at the very latest on 13 December.

8. The representative of the European Communities approved and welcomed the calendar proposed by the Chairman. The Community was, of course, aware of the importance of the time factor and, despite its internal difficulties, would cooperate fully with the Chairman in his endeavour to reconcile successfully the time with political sensitivities. Time should not be dissuasive but rather used as an element for progressive success. With respect to the rôle of the United States and the Community, he said that although they shouldered particular and important responsibilities, the time factor applied to the whole multilateral process. He assured participants of the Community's assistance to safeguard the multilateral character of the negotiations, because the two major participants could not between them shoulder all the responsibilities of the Round and resolve all the problems of world trade. With respect to the "Friends of the Chair" process, he highlighted the sensitive area of Rules. He underlined

the importance of transparency and said that in the Rules negotiations, the Chair or his "Friends" would have to bear in mind the sensitivities of all participants. For success in this area he, therefore, proposed early multilateral consultations to avoid difficult situations for participants.

9. The representative of Malaysia, speaking on behalf of developing countries, hoped that the consultations between the Community and the United States would soon bear positive results and be brought to Geneva for further deliberations. He hoped that the Community and the United States would exercise a leadership rôle and refrain from bringing new elements and amendments to the process, which was already sufficiently complicated, and bear in mind that developing country delegations in Geneva had limited resources. He believed that such restraint regarding new amendments, plus improved market-access offers for developing countries, would demonstrate leadership and advance progress and goodwill to achieve the 15 December deadline. He drew attention to certain recent developments which he believed could have very serious implications on the on-going process as well as on the achievements to date. The first concerned the proposed amendments on anti-dumping, which could disturb a delicate balance within the overall DFA text and have an adverse impact on the future by negating gains or potential gains for developing countries under the Round in the goods and services sectors. He hoped that in seeking solutions to their internal problems, participants would exercise caution so as not to upset the balance achieved thus far. The second development related to the proposals regarding domestic taxation and a two-tier approach in the services area, and he hoped once again that all efforts to find solutions would be handled cautiously and that all could proceed in the little time available to conclude the Round successfully by 15 December. A two-tier approach to m.f.n. exceptions was not a promising concept and would erode whatever possibilities there were for developing countries in the years ahead in respect of financial services. He once again urged the two major trading partners to be constructive and positive in helping all to achieve the 15 December deadline.

10. The representative of Japan extended his full cooperation to the Chair and his "Friends" with a view to ensuring the successful conclusion of the negotiations by 15 December. With respect to Services, he noted that the deadline for submission of revised Schedules, as well as lists of m.f.n. exemptions was that day. Japan, for its part, intended to submit its third revised Schedule and hoped that other delegations would abide by the agreed deadline. Japan's m.f.n. exemptions had been kept to the minimum, limited to cabotage and freight-forwarding services in the maritime transport area. He considered this point relevant because of the serious concerns expressed by Japan and other delegations regarding the United States' position on financial services and direct taxation. Japan hoped, therefore, that the United States would come forward with a reconsidered position on these issues. In the area of Rules, he expressed concern over the attempts by some participants — and particularly by one — to present several amendments at this late stage in the negotiations. He reiterated that any amendments to the DFA should be kept to the minimum. Furthermore, as the Chairman himself had stressed, any participant that sought changes or amendments should obtain overwhelming support therefor.

11. The representative of Switzerland said that while he endorsed the Community's statement on the importance of having a transparent and multilateral procedure, he would not give the Chairman advice on how to guide the negotiations forward. Indeed, it was his impression that the Chairman had been doing very well, and that the negotiating process under the latter's guidance was making progress. Switzerland would be making its contribution to this process. He informed the Committee that Switzerland's draft Schedules on services and tariffs would be forthcoming at the beginning of the following week. As to the work on the DFA texts Switzerland attached importance to the following points in this final stage: on institutional questions, cases of non-violation, and the issue of trade and the environment; on Rules, the question of intellectual property; on Services, Article V and aspects linked to financial and audiovisual services; and, on Agriculture, the various questions relating to the four aspects of the market-access negotiations currently under discussion in the GMA.

12. The representative of Korea said that Korea would submit its updated information on Agriculture that day. Korea was ready to reduce the scope of tariffication exceptions to the very minimum, and to provide a tariffication Schedule for 11 of the 15 basic agricultural products in respect of which it had made no proposal in its draft submitted in April 1992. This should be interpreted as a genuine effort on Korea's part to do its share for the success of the Round despite enormous difficulties. Korea maintained the position that exceptionally sensitive items, including basic foodstuffs, should not be subject to tariffication, and that this matter constituted the core of Korea's interests in the Round. In this respect, Korea welcomed the inclusion of tariffication issues, together with the Blair House Agreement, in the agenda of Agricultural market-access consultations in the GMA. He hoped that Korea's interests would be given due consideration during those consultations. In the area of industrial goods, Korea had in the past week submitted updated information which had substantially improved its earlier offers. Korea's additional participation in tariff elimination and harmonization proposals had brought down its tariffs by an average of 41 per cent, a figure that far surpassed the target set by Ministers at the Mid-Term Review meeting in Montreal.

13. With regard to the DFA text on anti-dumping, this was the product of painstaking efforts by all participating countries, which reflected the balanced interests of both exporting and importing countries in a delicate, if not fully satisfactory, manner. If any country tried to change the substantive elements of the current text, it would lead inevitably to the reopening of negotiations thereon. At this crucial stage of the Round, however, it was important for all to bear in mind that time was not on their side to restart these negotiations. He would make a similar appeal to delegations wishing to re-open the DFA texts on other subjects in the Rules area.

14. With regard to Services, the situation now had to be assessed rather differently in the light of certain new developments which, when combined with the continued failure to resolve outstanding differences, had created uncertainties over the prospects for the successful conclusion of the Services negotiations. The present day was the deadline for all participants to submit their final Schedules and m.f.n. exemption lists. However, faced with such uncertainties, it appeared that not many Governments were ready to do so, and, therefore, yet another deadline would pass. The two-tier approach in financial services that one participant was reportedly considering, would, if pushed through, have the effect of invalidating any achievement made thus far because it would undermine the fundamental m.f.n. principle. Also, the freedom being sought by one participant with respect to its domestic taxation policy constituted another serious threat to the success of the Services negotiations, because such a freedom would render a Services agreement devoid of any significance. As regards maritime and audiovisual issues, he urged the participants concerned to resolve them as promptly as possible.

15. The representatives of Argentina, Bangladesh on behalf of the Least-Developed Countries, Egypt on behalf of the African countries, Colombia, Uruguay, and Costa Rica supported Malaysia's statement on behalf of the developing countries.

16. The representative of Argentina welcomed the efforts by the two major trading partners to reconcile their positions. Argentina, for its part, had been making efforts towards greater flexibility and achieving a true compromise, and would continue to make every effort to achieve the success that all hoped for. Argentina was disappointed with regard to the initiative for a zero-for-zero proposal in the oilseeds sector. Following intensive negotiations on this matter, important private sectors had reached almost complete agreement, which Argentina would like to see endorsed. However, those that had been calling themselves the promoters of this offer were now ignoring it or saying that they could not accept it and, in a sense, wanted to abort it. As all were aware, Argentina had made the only official written proposal on this subject, and it believed that this development constituted a step backward and an impoverishment of the whole market-access package in the negotiations. He urged

that greater thought be given to this matter, and indicated Argentina's readiness to participate in a zero-for-zero agreement in this field. With regard to Services, Argentina was submitting that day its third offer in this area, which provided for greater liberalization and was considered to be one of the best offers in the Round. However, Argentina had not yet received any reply to its own very modest requests concerning commitments in Services. Regarding other matters, Argentina would submit, the following week, improved offers on agriculture and on industrial products. Argentina was also ready to join in the zero-for-zero initiative for beer, as long as it included malt and barley, and also for steel and wood. It would also join in the harmonization of tariffs for chemical products. Finally, Argentina urged all to show political understanding at this stage when one was working under time constraints, and not to present amendments beyond what was strictly necessary or to try to push through those that could not count upon majority support. One was engaged in multilateral negotiations in which the interests of all had to be authentically reflected, and not by means of force at the last moment. In this connection, Argentina strongly supported Japan's statement.

17. The representative of Australia said that although the Uruguay Round was a multilateral negotiation, the major trading partners, and particularly the United States and the Community, had a particular responsibility at this stage of the negotiations. The unfortunate reality was that the Quad countries not only were each other's major trading partners, but were — either individually or collectively — major trading partners of most of the other participants in the Round. This meant that the multilateral negotiation could not be concluded until the majors, and particularly the United States and the Community, had agreed on a market-access package. Australia was disappointed that, with such a short time left, greater progress in this regard had not been made at meetings between the United States and the Community in Washington in the past week. The world would be waiting for a reaction from them to building a market-access package the following week in Brussels.

18. The representative of Bangladesh, speaking on behalf of the Least-Developed Countries (LLDCs), said that the LLDCs were making efforts to join the consensus, but had to be able to justify the results of the negotiations to their people. They therefore hoped that serious consideration would be given by all participants to their proposals.

19. The representative of the United States said that the United States' specific proposals for changes to the current draft text in the anti-dumping area were being circulated that morning, and would be made available to any delegation that wished to receive them. The United States was in the process of arranging meetings to discuss its proposals with various delegations, and if any delegation which had not yet been contacted wished to hold such a meeting, the United States would be prepared to do that. The United States was interested in giving the widest possible circulation to its proposals and in having the greatest possible opportunity to discuss them with delegations. Noting the statements by previous speakers that all should exercise restraint and try to keep changes to a minimum, he said that the United States had approached this matter — which was of enormous importance to it — in that spirit. While he recognized that anti-dumping was a contentious and difficult subject, he hoped that other participants would try to approach it with an open-mind rather than on the basis of preconceived positions, and with an attitude of trying to solve a problem which had to be solved if the Uruguay Round was to be successful.

20. The representative of New Zealand said that participants were seeing more proposals for technical changes and for changes to texts already negotiated — some of which quite recently — than they were on market access. The former was a development on which particular caution should be exercised if one was to continue to make progress. As Australia had stated, to lift the tempo in the negotiations one would have to know the nature of the agreement between the majors because that would set the parameters for the other participants. Work was continuing nonetheless between delegations, although

New Zealand was beginning to find in some quarters a certain reluctance to negotiate, which it hoped would not persist. He believed that more meetings between the United States and the Community were in prospect after 1 December, and expressed the hope that they would not, in that event, hold everything between them until the last moment. Although he could understand the negotiating reasons for which they might wish to do so, there were other imperatives, including that of the clock, which meant that other participants had to know what was in prospect between the two majors on market access.

21. The representative of Sweden, speaking on behalf of the Nordic countries, welcomed the negotiating efforts now being made by the two majors. A precondition for all in the multilateral process was to come to grips with the still outstanding and difficult issues, and he agreed with New Zealand that the race against the clock had now started. He reiterated the Nordic countries' continued concerns in the area of Services in respect of taxes, and maritime and financial services. The Nordic countries also advised against any re-opening of the DFA texts, in particular in the area of anti-dumping, and were fully supportive of the negotiating process outlined by the Chairman.

22. The representative of Egypt, speaking on behalf of the African countries, said that they would cooperate with the Chairman and others in trying to accelerate the negotiating process and to meet the deadline of 15 December in accordance with the process proposed by the Chairman. He expressed their countries' interest in knowing the outcome of the negotiations between the major trading partners concerning agriculture, and reiterated their concern that their interests as net food-importing countries should be duly taken into consideration in the final agreement. He urged restraint on the part of those that intended to introduce new amendments and proposals, and hoped that these would not delay the process, as their countries were keen to respect the deadline. As for the evaluation proposed by the Chairman on 3 December, they hoped that it would be global and not limited to goods.

23. The representative of Colombia said that his country fully supported the time frame proposed by the Chairman. While it would put all under stress, it would also mean that the Round could be completed on schedule. As for Colombia's Schedule of initial commitments in Services and list of m.f.n. exemptions, he indicated that a draft would be submitted that day, and that the final content thereof would depend on what Colombia was able to obtain in the areas of goods, services and rules. As regards the evaluation provided for in the Punta del Este Declaration, he urged that this be undertaken under the auspices of the TNC. As to substantive revisions of any texts, be it on agriculture, textiles or rules, he stressed, as had the Community, that this should be carried out under the leadership of one of the "Friends of the Chair", and on a multilateral and transparent basis. Finally, Colombia agreed with those that called for visible progress on market access, because it was imperative for all to see what was going to be offered in this area. Colombia was in the process of revising its offer on non-agricultural products, which would be submitted for circulation that day.

24. The representative of Uruguay said that Uruguay had unfortunately not thus far received any significant offers in respect of its priority export products. Under the circumstances, therefore, Uruguay was not in a position to improve its contribution to the Round for the time being. Nevertheless, it was still hopeful that the circumstances would change, and that it would be able to improve its offers in the various areas of the negotiations. Specifically, Uruguay hoped to be able to make some contributions regarding access in the sectoral negotiations on Services. It hoped, therefore, that it would soon see some clear signs as to the positions of its major trading partners since, as others had stated, there was not much time left.

25. The representative of Costa Rica expressed Costa Rica's concern at the limited results achieved in the area of market access and at the danger of movement backwards as compared with the previous scope attained. Costa Rica urged the major trading partners to make every effort to enable a global

and balanced outcome to be achieved in market access. In this regard, he drew attention to the absence of a satisfactory result on bananas in the Community. This was one of the outstanding problems which still awaited settlement in the Round, and was of great concern to his Government. The final results of the Round should be balanced, so as to enable all participating countries to enjoy the benefits of liberalized trade. No other outcome was conceivable, for no government could accept an outcome in which it was a net loser. Such an outcome would also be contrary to the commitments undertaken by Ministers at Punta del Este and Montreal, and reflected in the DFA. The Round therefore could not be concluded without resolving the banana issue. For this reason, Costa Rica urged the Community to take the measures necessary to respect the principles and objectives of the Round. Otherwise, it would become even more difficult for the negotiations to be concluded and could cause serious and irreparable damage to the system. Finally, Costa Rica supported the work programme proposed by the Chairman, as also the evaluation exercise, which it hoped would be global.

26. The Chairman, responding to comments by some delegations, said that the process that was being engaged was very simple, very transparent, and entirely in accordance with the views of delegations. Under the process, those that had changes to propose on Rules would have to seek consent to those changes and to initiate discussions thereon. Mr. Michael Cartland, a "Friend of the Chair", would have responsibility for any discussions on this matter. Responding to the Community, he said that it was his intention to have as transparent a process as possible, in this as in all other areas. However, it was the responsibility of those parties that had any issues to raise on Rules to make their point of view known, to engage initially in dialogue with regard to their position, and then to allow the multilateralization of the process. Otherwise, one could not proceed. The process, therefore, would be transparent insofar as one could keep it transparent.

27. The Committee took note of the statements.