NON-TARIFF MEASURES

The Chairman of the Group has been requested by several participants to circulate the following communication as a contribution to the work of the Group.

1. Introduction

- The liberalization of the broad range of non-tariff measures being applied is a central element to a successful outcome in the Uruguay Round.

- There is a need to demonstrate progress in the area of non-tariff measures by the time of the Montreal Ministerial meeting.

- Given the complex nature of many non-tariff measures, it is desirable to ensure that a clear framework will have been developed by the time of the Montreal Ministerial meeting which, building on the procedures agreed on in the Negotiating Group (Annex to MTN.GNG/NG2/6), will enable participants to proceed expeditiously with negotiations.

2. Principles for negotiation

- All participants should be prepared to participate in the process of notification of non-tariff measures and, in support of the agreed procedures (Annex to MTN.GNG/NG2/6), to respond to all requests for information on specific non-tariff measures.

- There should be no exclusions of non-tariff measures which could be notified to this Negotiating Group.

- Such notifications would be without prejudice as to whether participants would pursue negotiations in this Negotiating Group; participants would bear in mind the extent to which these measures are being addressed in other Negotiating Groups and take into account progress achieved.
In pursuance of the commitment that there should be no GATT concessions requested for the elimination of measures that are inconsistent with the provisions of the General Agreement or Instruments negotiated within the GATT framework or under its auspices, other participants would not have to accept the elimination of these measures as constituting concessions; where in the course of negotiations the GATT consistency/inconsistency of a particular notified measure is in dispute, a party may ask the Chairman immediately to inform the other participants in the Group, without prejudice to the position of any participant.

In order to ensure that maximum results are achieved in these negotiations and that the results are applied on an m.f.n. and non-discriminatory basis, there should be procedures to provide for full transparency to the process of negotiations;

It is recognized that, where practicable, the transformation of non-tariff measures into quantified, transparent measures would facilitate the achievement of the objectives for this area of the negotiations.

Negotiated agreements for the elimination or reduction of non-tariff measures should contain provisions for immediate implementation or for implementation within a fixed time-frame.

There should be commitments to ensure that negotiated concessions undertaken to eliminate or reduce non-tariff measures would be secured in the GATT to ensure that they are not subsequently nullified or impaired.

There needs to be the broadest possible participation in the non-tariff measure negotiations by all developed and developing participants; due account should be taken of individual development, financial and trade needs of developing participants through, for example:

(a) longer fixed time-frames for implementation of agreements to eliminate or reduce non-tariff measures;

(b) credit being given, as appropriate, to the transformation of non-tariff measures into quantified, transparent forms, even where significant liberalization might not immediately accompany such action.

It is acknowledged that, in the negotiations on non-tariff measures, individual participants will attach importance to evaluating progress made in achieving real reductions in tariff and non-tariff measures.
3. **Approaches to negotiations**

- Given the wide range of non-tariff measures which exist, a single negotiating approach is unlikely to deal satisfactorily with the full range of measures to be negotiated and it is expected that several approaches, even to deal with a specific issue, may be required.

- In order to ensure the broadest participation and results, there should be an examination of whether a notified measure may be of such a general character as to warrant a broad multilateral approach directed toward the establishment of general rules or some systematic or formula approaches for its elimination or reduction, even in those cases where a request and offer procedure had been specifically suggested in a notification pursuant to paragraph 3 of the agreed approach (Annex to MTN.GNG/NG2/6).

- It is, nevertheless, recognized that there remains scope for request and offer negotiations on non-tariff measures as a supplement to a multilateral approach or where negotiations do not easily lend themselves to a multilateral approach.

- Bearing the foregoing in mind, it is considered that:
  
  (a) where administrative procedures relating to trade are involved, these may be particularly amenable to the elaboration of commonly agreed and multilaterally applicable rules;
  
  (b) where generally applied measures of a volume- or price-restricting character are involved, these may be particularly amenable to a multilateral systematic or formula approach;
  
  (c) where product specific or *ad hoc* measures are involved, these may be particularly amenable to request and offer procedures under conditions assuring transparency.

4. **Possible procedures**

- To facilitate the work of the Negotiating Group and for subsequent review by it, the secretariat should undertake the initial sorting of notifications.

- In this work, the secretariat could draw upon the categories in the existing NTM inventory.

- Subsequently, the Negotiating Group would review the results of this secretariat work, having particular regard to Section 3 above.