NEGOTIATING GROUP ON NATURAL RESOURCE-BASED PRODUCTS

Meeting of 8 June 1988

Note by the Secretariat

1. The Group, chaired by Mr. L. Duthie (Australia), met on 8 June 1988.

2. The Group adopted the agenda proposed in the convening airgram (GATT/AIR/2606).

3. The Group had before it a submission by Australia on subsidies and other non-tariff support programmes affecting market access in world minerals, metals and energy trade (circulated in document NG3/W/12) and a further submission by the United States on two-tier pricing in NRBPs trade (circulated in document NG3/W/13).

4. In introducing NG3/W/12, the delegate of Australia recalled that it was the third paper submitted to the Group by his authorities. This underlined the importance that Australia attached to the natural resources issues being addressed effectively in the Uruguay Round. NG3/W/12 argued that subsidies and other non-tariff support measures substantially inhibited and distorted world trade in NRBPs to the cost of both exporting and importing countries, that the measures maintained shared many common characteristics and were often interlinked (i.e., countries generally applied a combination of support measures), and that there was a considerable lack of transparency in support arrangements which obscured the real costs of these measures to both the importing countries and their leading partners. In the face of this situation, Australia advocated solutions in the Uruguay Round along the following lines: (i) more operationally effective rules on the use of subsidies which impacted on NRBP trade; (ii) negotiated reductions in existing production subsidies and other support practices such as tariffs, subsidies and other NTMs; (iii) improved transparency and measurement of the impact of NRBP support practices.

5. He said that for some industries problems caused by the level of subsidy distortions had reached such magnitude that they were badly hurting, if not destroying, even the most cost-effective and competitive industries such as the Australian coal industry. Although it could be desirable to move to a trading world free of all subsidies, Australia recognized that such a world might not be obtainable, for a whole host of
reasons and certainly not within the life of the Uruguay Round. However, scope existed for greater definition of those subsidy practices which should be proscribed to minimize trade distortions and achieve real trade liberalization. He offered a number of suggestions as a starting point for considering this issue.

6. Apart from achieving better rules on the use of subsidies, he stressed that an important outcome of this Round was to ensure that existing production subsidies and other support measures were phased down over an agreed period of time which should allow the necessary social and economic adjustments to take place at a politically acceptable pace.

7. He further said that Australia was not proposing to negotiate separate rules on NRBP subsidies but rather that full account should be taken in the Round, in this Group or in other relevant Negotiating Groups, of the particular problems and distortions in NRBP trade caused by these subsidies.

8. In addition to improved rules, he indicated that Australia was seeking effective negotiations to reduce and eliminate over time existing subsidies and other distortions. A rule-based approach could not deal effectively with existing subsidy practices. For this reason Australia considered that the reduction in existing subsidy practices should be an integral part of market access negotiations and it might be addressed initially by NG3. However, Australia remained flexible as to whether it was more appropriate to address these issues in other Groups dealing with market access issues.

9. Finally, he noted that the paper put forward by his authorities gave recognition to the special interests of developing countries and considered that the relevant provisions of the Declaration of Punta del Este should apply to negotiations on support practices affecting NRBP.

10. The delegate of the United States said that the purpose of the paper submitted by his authorities and circulated as NG3/W/13 was to call attention to one of the problem areas, two-tier pricing or dual-pricing, which tended to occur especially in international trade in natural resources and natural resource-based products, particularly energy products. Some examples of this practice were illustrated in the paper.

11. He indicated that various GATT Articles, namely Articles III, XI, XVII and XX, and provisions of the Subsidies Code as well as some of the new areas under negotiation in the Round did have a bearing on this issue. However, present interpretations of these provisions did not address the problem effectively and he indicated some of the deficiencies which, in the United States view, were embodied in the existing GATT disciplines. He recalled that the issue was also being addressed by other relevant Negotiating Groups. Finally, he noted that the United States had a broad range of interests in NRBP trade and indicated that his authorities would submit further ideas on these practices or other related subjects as the work of the Group progressed.
12. The Group had a preliminary exchange of views on the Australian submission and expressed its intention to revert to it and to the United States submission at its next meeting.

13. A number of participants welcomed the Australian submission as a very substantial contribution to the work of the Group. One participant said that the Australian paper, by clarifying the negotiating interests of a key participant in NRBP trade, enhanced negotiating possibilities in this area as these should be based on a sound understanding of the reciprocal interests of every participant in the Group. He noted that an implementation of the ideas contained in that paper would require a modification of existing GATT obligations, notably by limiting contracting parties' sovereignty in the field of the management of domestic policies on natural resource products. To be acceptable, this would in turn require a balance of benefits for every participant in the negotiation.

14. Another participant shared many of the concerns expressed in the Australian paper relating to trade-distorting effects of subsidies in NRBP trade. He recalled that his authorities had recently presented in another Negotiating Group a paper (NG10/W/20) which suggested, inter alia, a number of approaches for solving this problem, basically by establishing an appropriate level of GATT disciplines on subsidies and creating an effective dispute settlement system for the enforcement of these disciplines. He considered it to be useful to discuss many of the ideas raised by the Australian paper in this Group as well as in parallel with work in other Negotiating Groups.

15. The view was expressed that the Australian paper was very useful as it helped to bring up excellent objectives to be achieved in the Round and to foster a general commitment to redress trade distortions generated by subsidies. The paper was useful also because it illustrated with concrete examples a point in case which was the subject, it was recalled, of more general discussion in other Negotiating Groups as well. However, in identifying these objectives one should remain mindful of how they could be more effectively tackled in the negotiations, especially if what was required was a more coherent set of multilateral disciplines in subsidies.

16. Concern was also expressed that undue emphasis on the subsidies issue could result in an attempt to limit trade flows from developing countries by applying unjustified countervailing duties to their exports. The basic objective of the Group's work, it was recalled, was to permit the fullest and most rapid liberalization of market access for NRBP, and in particular for those originally examined by the Working Party on Natural Resource Products with the inclusion of paper.

17. The delegate of Poland shared Australia's view that given the importance of NRBP to all countries, it was essential that progress be made towards the liberalization of international trade in these products during the Uruguay Round. This objective should be achieved through the reduction or elimination of tariffs and non-tariff measures, including tariff escalation. The work on NRBP should be carried out in accordance with the Negotiating Plan. He made some preliminary comments in relation to some of the elements contained in the Australian submission, mainly those which
concerned world trade in steel products. In this regard, he illustrated changes in technical, economic and social factors which had influenced trade in steel and metallurgical products in the present decade. These changes had resulted, *inter alia*, in a relative decrease in demand for these products in developed countries and in an increasing surplus of production capacities in steel industries, while the consequent drop in profits had led to the closure of unprofitable enterprises, thus causing serious social problems. This, in turn, had provoked a significant rise in non-tariff barriers, limiting access to the markets of these countries, as well as in the increase of subsidy expenditures. Moreover, important changes had also taken place in the character of non-tariff measures which were implemented with respect to steel and metallurgical products. Instead of having recourse to safeguard measures, these countries increasingly reverted to so-called "new negotiated import restrictions" like "voluntary export restraints" (VERs) and "orderly marketing arrangements" (OMAs). The negative consequences of these measures were well-known. For exporters it meant, *inter alia*, idle production capacities and uncertainty concerning the development of particular segments of the market, for importers, higher prices and weakening innovation and dynamism of uncompetitive enterprises. He considered, therefore, that this Group was well placed to consider ways for bringing the measures applied to steel and metallurgical products under GATT disciplines. This work should be carried out in parallel with that of other relevant Negotiating Groups.

18. Another participant shared the views contained in the Australian paper that trade in NRBPs should take place without distortions. He noted, however, that these products were often essential for the process of development in many countries and therefore a longer period of adjustment to open market conditions would be required in the case of developing countries. He further noted that, in some cases, government ownership in and management of natural resource-based industries was an integral part of national laws. He was aware that these industries were often less responsive to market signals but suggested they could become more and more competitive especially when the private sector was also allowed to take part in the industry.

19. The Group then exchanged views on a communication by the EEC submitted at the previous meeting of NG3 and circulated as NG3/W/11.

20. The EC communication was generally welcomed as a useful contribution to the work of the Group. It was important, it was noted, to underline the need for more market-oriented approaches in NRBP trade and to identify principles which could be relevant for that purpose. This could be, it was stated, a promising venue for organizing further work of the Group. Some participants reiterated their views that the issue of access to fishery resources was not a GATT matter but rather a question which should be exclusively addressed in the context of the LOS Convention. One participant asked for clarification, *inter alia*, on some arguments advanced by the EC with respect to Articles XX(g) and (i).

21. The delegate of the EC said that NG3/W/11 was based on very simple ideas as well as on GATT principles, first of all the principle of non-discrimination. He considered that a future task for the Group should be to address these
principles through thematic discussions. Reference to products could be useful as a way of better clarifying and identifying concrete aspects of problems discussed. Regarding EC views on Article XX(g) and (j), he said that what his delegation had in mind in raising the issue was not so much whether or not these Articles were insufficient as they stood, but rather to stress the fact that the General Agreement required compliance with the non-discrimination principle even in the case of exceptions. In other words, although a country could legitimately invoke exceptions under the GATT, it should respect the principle of non-discrimination in administering these exceptions.

22. The Chairman recalled that at the Group's meeting in February 1988 (NG3/6, paragraph 6 refers), he had proposed to arrange informal consultations as to what additional information should be provided by the secretariat for the use of the Group. In light of these consultations, he was in a position to make the following proposal:

"Pending a decision by the Group on which products should be regarded as NRBPs for the purpose of the negotiations, and without prejudice to that decision, the secretariat is invited to undertake further work of a factual nature on the products listed in paragraph 14 of NG3/W/8/Rev.1, with the inclusion of cement and paper. Factual data on the products already examined by the Working Party on Certain Natural Resource Products would be updated as appropriate."

23. The Group agreed with the proposal. Although not blocking consensus on the agreed proposal, the delegates of the Nordic countries, the EC and Switzerland expressed reservations on the appropriateness of undertaking factual studies on products for which there was no agreement for inclusion in the work of the Group, notably paper. The delegate of Mexico associated himself with these reservations and reiterated his authorities' position that before deciding on what additional products should be studied, the Group should start negotiating on those products examined in the past and for which data were already available. The delegate of Chile stated that his country reserved its position on additional product coverage by the Group for as long as other participants reserved their own position on the inclusion of paper. The Group took note of these statements.

24. Finally, the Chairman made the following proposal regarding the future work of NG3:

"In order to establish a common negotiating basis for natural resource-based products:

- without prejudice to any arrangements it may wish to make, the Group would take into account at the earliest opportunity any developments regarding negotiating techniques and modalities which could be agreed upon in other Negotiating Groups;

- this with a view to determining whether these techniques and modalities would appropriately meet the negotiating objectives for NG3 of whether, on the basis thereof, further elaborations are required to meet these negotiating objectives fully;
- the next meeting of the Group would be convened by the Chairman following consultations with participants in the light of developments in relevant Negotiating Groups. In any event, the Group would meet before the end of September to take stock of these developments and to make any arrangements as appropriate. It would be the expectation of the Chairman that a further meeting of the Group would take place before the Mid-Term Review."

25. The Group agreed with the proposal.