PRESSURE ON NEGOTIATIONS STEPPED UP AS JULY SET FOR SECURING PROFILE OF FINAL PACKAGE

A significant increase of pace in the conduct of the negotiations and a willingness to move from entrenched national positions will be necessary during the April-July period leading to the development of a complete profile of the final Uruguay Round package by the next meeting of the Trade Negotiations Committee in the week of 23 July. This objective was agreed at the April meeting of the TNC which also decided to appoint Dr. Hector Gros Espiell, Uruguay's Foreign Minister, as chairman of the Committee at Ministerial level.

The following meetings have taken place since the last bulletin.

Trade Negotiations Committee ... 10-11 April

The meeting began with reports from the Group of Negotiations on Goods (see below), the Chairman of the Surveillance Body and the Chairman of the Group of Negotiations on Services.

The Surveillance Body Chairman drew attention to the absence of substantial results from the rollback commitments and expressed the view that significant effort would be necessary to see the undertaking honoured by the end of the Round. He was supported by several delegations although the European Community reminded the meeting that it had itself made a number of offers.

The Chairman of the Group of Negotiations on Services (see also later items) reported that although definitive conclusions had not yet been drawn on any of the items included in its agenda agreed in January, there had in a number of instances been a useful narrowing of...
focus in those areas where important decisions will have to be taken. These relate to such matters as initial commitments by participating countries, options for progressive liberalization and means of implementing such liberalization, the objective of increasing participation of developing countries, and the practical expression that may be given to it in the framework.

A statement on behalf of developing countries called both for agreement on fundamental issues by July in order to permit the successful conclusion of the Round. At the same time, the statement called for greater effort to ensure the interest of developing countries were adequately reflected throughout the negotiation and in line with the Punta del Este Declaration. The special difficulties of Africa were highlighted in a statement by a group of African delegations which called for proper attention to the continent's particular structural handicaps and to the vulnerability of their economies to the external environment.

In summing up the debate, the Chairman noted some major themes. First, there had been a very strong collective plea in favour of multilateralism. A number of delegations had stated that one of the main elements necessary to make a multilateral system work was a strong, reliable and implemented dispute settlement mechanism. Second, there had been a very clear indication of the wish of the participants to keep to the ambitious objectives defined in the Punta del Este Declaration. Third, there had been a general perception that since the launching of the Uruguay Round, the political and economic map of the world had changed dramatically and in a direction which made a strong multilateral trading system even more indispensable than had been envisaged three years ago. Fourth, the relevance of the Uruguay Round for the present and future cooperation in the economic and trade field had increased dramatically because of this evolution.

The Chairman expressed concern at the fact that it was very difficult for him to identify areas of real convergence in respect of substantive issues in different negotiating areas. This fact would in itself have been a serious source of worry had it not been balanced by a number of statements expressing a readiness to negotiate. More importantly, it had been generally recognized that the work carried out until now had established the parameters for true and effective negotiations. He noted that the great majority of the participants had recognized that the July deadline was crucial for the success of the Round because there was a wide-spread awareness that if, by that time, it was not possible to draw up the profile of a package, the rendez-vous of Brussels would be in great jeopardy.

He concluded by saying that while there was no room for satisfaction, neither was there room for pessimism. The challenges were very well defined. Delegations knew that Ministers could not be expected to go into the details of a large number of specific texts but would have important decisions to take in Brussels which related
not only to the substance of each of the negotiating subjects, but also how to ensure the implementation of the results in political, administrative and institutional terms.

The Committee agreed that its chairman at future ministerial level meetings should be Dr. Hector Gros Espiell, Uruguay's new Minister of Foreign Affairs.

Group of Negotiations on Goods ... 9 April

A one-day meeting of the Group was devoted largely to discussion of specific aspects of the work of the 14 negotiating groups for which it is responsible.

Nevertheless, some participants took the opportunity to make general points in setting the negotiations in context. In particular, several representatives pointed to the link between their own autonomous efforts at economic restructuring and trade reform and the need for a successful outcome to the Uruguay Round. This was the case as much with centrally-planned economies moving to introduce a market economy structure as with indebted developing countries turning to liberal market solutions to their own long-standing difficulties. Indeed, many of these countries felt that the liberalization of their economies had already led to a contribution to the multilateral trading system which deserved recognition and a response from others. It was widely asserted that the economic changes taking place worldwide had made the Round far more relevant than ever.

With regard to specific negotiating areas, concern was expressed in several areas. It was widely felt that attempts to introduce selectivity into the safeguards system were misguided and could only undermine the principles of GATT. The failure so far to agree a modality for the reintegration of the textiles and clothing sector into GATT was also widely criticized as was a perceived lack of progress in the agricultural negotiations. Some participants remarked that tariff and tropical product offers so far tabled in the market access negotiations were disappointing. Concern was also directed at what was viewed by some as an imbalance between the progress being made in some of the new areas and the slowness with which groups covering traditional subjects were moving.

Several delegations considered misplaced proposals to negotiate on the balance-of-payments articles of the GATT, especially Article XVIII:B which applies to developing countries. However, an alternative view was that there need to guard against abuse of these provisions which could lead to an imbalance in the rights and obligations of contracting parties.

On the other hand, there was a general acceptance of the urgency with which the next stage of the Round should be pursued. Some participants felt that the elements for a successful deal in December were emerging. The Chairman’s proposal that the profile of the final
package - whether completed agreements or framework agreements at an advanced stage - should be visible by the end of July was widely supported.

Functioning of the GATT System ... 19 February

The Group continued its discussion on the joint submission from Australia, Canada, Hong Kong and New Zealand concerning domestic transparency, in the formulation of national trade policies.

All delegations affirmed their support for the principle of transparency. Many echoed the submission's acknowledgement that in practical terms domestic transparency could not be imposed on contracting parties, but still felt that it was worth making efforts within the Group to translate the concept into operational terms. The idea that domestic transparency would be a voluntary process was acknowledged by some delegations as an important element in the proposal, although one delegation felt that this reduced the proposal to a declaration of intent.

The EC put forward a paper concerning the pursuit of greater coherence between trade, monetary and financial policies, through a political commitment by governments and a framework for cooperation among institutions. The paper was presented as the Community's contribution to the continuing discussions within the Group on how the GATT could achieve greater coherence in global economic policy-making through strengthening its relationship with other international organizations responsible for monetary and financial matters.

The paper noted that trade policy inevitably interacts with the international monetary system and financial policies linked to development. It proposed a joint declaration on policy coherence, to be adopted at the ministerial level by the GATT, the IMF and the World Bank, which would also establish a formal agreement on institutional cooperation between GATT and the other two institutions. The proposal also suggested that the three institutions should produce a regular joint report on coherence which would bring to ministerial attention major issues arising from the interaction of the trade, monetary and financial systems.

The delegation of Switzerland presented its proposal on domestic implementation of trade rules and enforcement of governmental decisions related to international trade. This paper had also been submitted to the Negotiating Groups on MTN Agreements and Arrangements, and on Dispute Settlement (see NUR 034).
dispute settlement matters and treatment for least developed countries.

**MTN Agreements and Arrangements ... 21-22 March**

In the area of anti-dumping the Group further discussed issues relating to new concepts such as "circumvention, recurrent injurious dumping, repeat corporate dumping". It was agreed that work had to follow a more informal approach at this stage of the negotiations. Informal discussions had already begun already on 23 March, chaired by the Secretariat.

On Customs Valuation, there was an exchange of views about improving technical cooperation and exchange of information among customs administrations in order to help developing countries. The proposals of India and Brazil about the problem of over-valuation of goods, which is an important issue for some developing countries, and their request that in cases of fraud the burden of proof should be shifted to importers were discussed on an informal basis. There was also a preliminary discussion of a proposal by Kenya on behalf of the PTA countries, concerning customs valuation problems.

Some clarification was sought about the European Community's proposal to introduce a "transitional membership" provision in the Code on Government Procurement. This might help countries wishing to accede to this Code to better assess the benefits they could draw from their membership as well as the obligations they would have to fulfill. More generally, the question of how accession of new members could be made easier was discussed.

On Import licensing procedures, clarifications were given on the various proposals, in particular a revised proposal by the USA and Hong Kong about improving notifications and establishing a review mechanism.

**Subsidies and Countervailing Measures ... 20-21 February**

Korea and the United States put forward detailed proposals. Korea highlighted the types of subsidies which it believed should not be subject to countervailing action. It proposed that domestic subsidies should not be included in the category of prohibited subsidies. Under the non-prohibited but countervailable subsidies, Korea suggested that three conditions must first be met before any countermeasure could be taken: financial contribution by government, sector specificity, and adverse effects on trade. It said that the following government subsidies with socio-economic objectives should not be viewed as unfair trade practices: structural adjustment assistance, expenditures for establishing social overhead capital (e.g. harbour facilities), research and development, regional assistance, prevention of environmental pollution, and subsidies which do not give specific enterprises or industries any particular benefit or advantage.
Functioning of the GATT System ... 2 April

The Group completed the elements of the Trade Policy Review Mechanism, in effect since mid-1989, by reaching agreement on the reporting requirements to be applied in reviews of the policies of least-developed countries.

The Group continued its discussion of the joint proposal from Australia, Canada, Hong Kong and New Zealand concerning domestic transparency. Many delegations said that they could support the proposal if it was made clear that it would involve a voluntary undertaking on the part of contracting parties. The Chairman invited the co-sponsors to submit a modified proposal, explicitly stating that the undertaking would be voluntary, to enable the Group to arrive at a preliminary conclusion on the substance of the proposal and to begin consideration of the context in which it should be placed in the final outcome of the Round. The Group also discussed improvement of GATT notification procedures.

The Group continued its examination of ways to increase GATT's contribution to achieving greater coherence in global economic policy-making.

At the invitation of the Chairman, the IMF representative explained the views of the Fund on institutional arrangements for enhanced cooperation between the three bodies. She expressed the Fund's preference for an informal approach to cooperation with the GATT, and noted that a joint declaration, as proposed by the EC, between the Fund, the Bank and the GATT would be logistically difficult to achieve, although its desirability was a matter for governments to decide.

The representative of the World Bank, invited to present his agency's views, said that the Bank welcomed the efforts for increasing coherence and supported further strengthening of the Bank's relationship with the GATT. The Bank believed that cooperation should be kept on an informal basis and that ministerial involvement should remain flexible.

MTN Agreements and Arrangements ... 19-20 February

The Group focused on the Anti-Dumping Code. It completed its discussion of the specific issues listed by the Chairman in its framework agenda, which was initiated in January-February.

These issues related to anti-dumping measures-application of provisional measures, undertakings on prices, definitive anti-dumping duties and their duration - as well as to the situations in which circumvention of anti-dumping measures can occur, recurrent or repeat dumping, and procedures to be followed at any stage of an anti-dumping determination. The Group also discussed the possibility of anti-dumping action on behalf of a third country, judicial reviews,
The United States proposed an updating of the Subsidies Code to prevent circumvention of countervailing duties. It defined three categories of circumvention: when parts and components of the product in question are shipped to the importing country for assembly; when parts and components are assembled in a third country; and when a product is altered to place it technically outside the scope of the original countervailing measure. The United States called for greater transparency in countervailing duty proceedings and the establishment of clearer guidelines for the administration of multilateral rules on subsidies.

The Group continued examining the main issues in the framework for the negotiations including remedies related to actionable subsidies, special and differential treatment for developing countries, and notification and surveillance.

**Subsidies and Countervailing Measures ... 27-28 March**

The Group discussed four issues proposed by participants: prohibited subsidies (United States), net-subsidy concept (Canada), non-actionable subsidies (Japan) and treatment of developing countries (European Community).

The United States called for the prohibition of subsidies to export-oriented firms and to companies whose proportion of exports in their total output exceed a certain percentage. Canada suggested that in countervailing duty investigations, the amount of subsidy should be based on the difference between the subsidy on imports and the subsidy on domestic production of like products. Japan reiterated that two types of subsidies should be exempted from any countervailing action: generally available subsidies (when the programme is open to all companies) and specific subsidies with significant social or economic policy objectives (e.g. measures on structural adjustment, research and development, regional assistance). The Community urged that developing countries which have attained a high level of economic development shoulder full obligations under the new Code. Other developing countries, according to the EC, should subscribe to disciplines in sectors where they have become internationally competitive.

**GATT Articles ... 27-28 February-1 March**

Switzerland submitted a new proposal aimed at improving the functioning of Article XXVIII. Noting that negotiating rights are concentrated on an ever-smaller number of contracting parties, it proposes that an additional consultation might be granted on the basis of a formula that takes account of the importance of the affected product for the exporter and the relative weight of its export sector.

Switzerland also addressed in its proposal the question of compensation in the context of products for which adequate import statistics are not available, and of tariff rate quotas.
Finally, Switzerland proposes the adoption of an interpretative note to Article XXVIII:3 explicitly authorizing contracting parties, where the parties have been unable to reach agreement on compensation, to take retaliatory action on a bilateral basis against the contracting party which initially withdrew its concession. Switzerland considers that the present system of retaliation erga omnes harms small trading partners and third parties that have nothing to do with the dispute, and places them at a disadvantage.

The European Community recalled that it had already, in two previous communications, indicated its support for a review of balance-of-payments Articles XII and XVIII:B. It was now proposing to clarify the criteria applying, under those provisions, to restrictive trade measures taken for balance-of-payments reasons, and to reinforce multilateral surveillance of those measures. The Community considered that countries invoking balance-of-payments measures should give preference to uniformly applied price-based measures rather than quantitative restrictions. A more forward-looking role should be given to the Balance-of-Payments Committee, through the discussion of trade liberalization plans and the encouragement of consensual solutions. At the same time, it stressed that the facilities currently available to developing countries under Article XVIII:C for promoting domestic industry had been little used; it therefore proposed a relaxation of some of the criteria for the application of Article XVIII:C, notably as regards the application of countermeasures and tariff action, while ensuring proper multilateral surveillance. In doing so, the balance among the interests of all contracting parties would be maintained.

Japan presented a submission to improve Article XXIV on customs unions and free-trade areas. It was necessary to ensure that such arrangements truly contributed to expanding the liberalization and volume of world trade. It was equally necessary to minimize their adverse effects on non-members by setting up a new mechanism to redress any serious injury caused to the industry of a third country by the establishment or enlargement of regional arrangements through compensation and/or a liberalization of market access on an m.f.n. basis. GATT's involvement in the form of a strengthened review mechanism should be increased; a clear interpretation of certain provisions of Article XXIV should be elaborated, in particular as regard the calculation of compensation and the general incidence of duties.

Japan moreover considered that it was very important to establish predictable, transparent, and objective rules of origin, and to make headway on this subject in the Negotiating Group on Non-Tariff Measures. International disciplines governing technical regulations and standards should be effectively applied to the member countries of regional arrangements. Japan also made the point that Article XXIV should not be automatically applied to regional arrangements if the General Agreement were expanded to new areas.
The European Community proposed that the contracting parties agree to apply a number of principles when granting waivers under Article XXV:5, such as a maximum time-limit, economic justification, and the phasing out of existing waivers. It also proposed to phase out over a short period the derogation in paragraph 1(b) of the protocol of provision Application and of Accession Protocols.

GATT Articles ... 29-30 March

The Group discussed two draft decisions circulated by the Chairman under his own responsibility. They concerned Articles XVII and XXVIII respectively, and put forward several variants of amendments to the Articles. In the case of State-trading enterprises, governed by Article XVII, the draft defines them more clearly, states that all governmental measures, whether they concern private enterprises or State-trading enterprises, are covered by GATT disciplines, and enhances transparency so as to provide a better idea of the way in which such enterprises operate and the effects of their activities on international trade. In the case of Article XXVIII, the amendments are aimed at broadening negotiating rights in the case of an increase in bound tariffs. The draft agreement suggests a number of criteria, taking into account the importance of the product or products in question for the supplier and not only for the importing country, as is the case at present. The draft also lays down the procedure to be followed by injured suppliers and proposes methods of calculating compensation. The discussion of these drafts clarified the areas of agreement and disagreement, and allowed some options to be ruled out.

The Group instructed its Chairman to prepare similar draft texts for waivers and protocols of provisional application.

The joint proposal by the United States and Canada and the proposal by the European Community, which call for a strengthening of disciplines on trade measures taken for balance-of-payment reasons, were further discussed. A large number of developing countries repeated that any amendment of Article XVIII:B was unjustified in their opinion, since its functioning had not given rise to any abuse, while the trading environment in which developing countries had to operate had in fact deteriorated. The United States specified how the existing situation would be altered if its proposal was accepted. There would be a larger number of in-depth consultations, greater certainty as to the criteria for judging whether or not balance-of-payments measures were justified, and greater clarity in the conclusions drawn by the Balance-of-Payments Committee. In the event of abuse, trading partners injured by such action would have possibilities of redress. The United States stressed that these changes did not constitute any kind of revolution, but rather a number of improvements in the operation of the rules, which reflected developments in ideas about which trade policies were most likely to promote development.
Textiles and Clothing ... 5-7 March

At the March meeting, Canada submitted a proposal which it had outlined orally at the previous meeting (NUR 034) suggesting elimination of the MFA on its expiry followed by recourse to a special safeguard measure based on GATT Article XIX, but with two derogations, market disruption criteria rather than injury and no compensation required. The Canadian representative pointed to three devices in the proposal to liberalise trade: progressive reduction of coverage; growth rates; and special treatment for least-developed countries. He said that the principal attractions of the proposal were the immediate switch to GATT jurisdiction following the expiry of the MFA; transparency; sharing of the burden among all importers and exporters; and that it was based on market forces governed by rules applicable to all participants.

The representative of Indonesia, speaking on behalf of the International Textiles and Clothing Bureau (ITCB) - which comprises twenty-three developing countries - reaffirmed its view that a system of progressive phasing out of the MFA itself was strongly preferred to the proposals for the use of global quotas.

At the March meeting, the Group also agreed that its work at the upcoming meetings would be devoted to reaching a draft framework agreement by July 1990.

Textiles and Clothing ... 4-5 April

At the opening of the April meeting, the Group adopted the Chairman's proposed schedule of work which set out four issues for discussion at this meeting:

i) Modality for the phasing out of MFA restrictions;
ii) Modality for the phasing out of other restrictions not consistent with GATT rules and disciplines;
iii) Safeguard mechanism during the transition period;
iv) Surveillance mechanism.

During wide-ranging discussion on modalities for the phasing out of MFA restrictions, several delegates pointed to the need for an early decision on the specific modality to be adopted from among the options currently on the table since this would be a prerequisite for the settlement of a number of other issues. A large number of delegations reiterated their strong preference for a progressive phase-out process starting from the current MFA regime, while Canada and the United States continued to support a global quota approach. Turning to the question of the modality for phasing out non-MFA restrictions, several delegates considered that it would first be necessary to identify such restrictions. As an alternative approach, the United States delegate recalled their proposal that participants would undertake not to maintain measures affecting textiles trade.

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which had not been justified pursuant to a GATT provision and notified to the appropriate body.

Concerning a specific transitional safeguard mechanism, the exporting countries restated their position that any products not subject to restriction at the beginning of the phase-out process and those products de-restricted during the process should be subject only to the normal GATT safeguards. For other restrictions, a special transitional safeguard mechanism might be developed.

Japan proposed an MFA-type selective mechanism with tighter and more objective criteria, prior approval by a multilateral surveillance body and built-in provisions for automatic phase-out. Canada stated that their global quotas proposal embodied an MFN non-discriminatory safeguard mechanism.

The EC reiterated its position that the transitional safeguard mechanism should draw upon the experience gained in the operation of the MFA and provide for emergency actions as well as bilaterally agreed selective restrictive measures.

On the surveillance mechanism, there was a wide acceptance that a surveillance body would be required to oversee the integration process and participants outlined the aspects to be considered including its location in within the GATT framework, composition, size, functions and procedures. Discussion on these and other items will continue at the Group's next meeting in May.

Trade-Related Aspects of Intellectual Property Rights ... 6 and 9 March

The Group discussed the applicability of the basic principles of the General Agreement and of the international agreements and conventions relating to intellectual property. The World Intellectual Property Organization provided information on the way in which the treaties it administered defined beneficiaries of national treatment and exceptions to that principle. M.f.n. treatment and non-discrimination, as well as transparency, were also discussed. Besides these principles, which are universally recognized as fundamental, some participants considered that there were others which were equally important, such as the balance between rights and obligations, general interest, non-reciprocity, special and differential treatment, and the freedom of each country to determine the scope and level of protection. The relationship between the negotiations underway in GATT and other initiatives in other forums was also discussed.

Trade-Related Aspects of Intellectual Property Rights... 2, 4 and 5 April

The European Community put before the Group its draft agreement on trade-related aspects of intellectual property rights. It is the first document presenting an agreement in legal form. The EEC proposes that contracting parties agree, at the outcome of the
negotiations, to introduce an Article IX bis into the General Agreement. Article IX bis would stipulate that:

- contracting parties provide effective and adequate protection of intellectual property rights in order to ensure the reduction of distortions and impediments to international trade;
- that the protection of intellectual property rights should not itself create barriers to legitimate trade;
- and that such protection be provided under the domestic laws and practices of contracting parties, in conformity with rules and disciplines set out in an Annex to the General Agreement.

The Annex requires the contracting parties to comply with the substantive provisions of, and adhere to, the Paris Convention for the Protection of Intellectual Property and to the Berne Convention for the Protection of Literary and Artistic Works, as well as to provisions the proposed agreement itself spells out. It affirms the principles of national treatment and most favoured nation treatment/non-discrimination, with exceptions for customs unions and free trade areas. Minimum standards on copyright and related rights including computer programs, trademarks, geographical indications including appellations of origin, industrial designs and models, patents, lay-out designs of integrated circuits and acts contrary to honest commercial practices including protection of undisclosed information are proposed. In some respects the EC has significantly modified its previous proposals on those matters. Enforcement of these rights has to be ensured by means of civil or criminal or administrative law or a combination of them. Effective procedures should be provided at the border and internally, applied in such a manner as to avoid the creation of obstacles to legitimate trade. The Annex outlines general requirements concerning enforcement procedures, including in regard to securing evidence of proof and ensuring that they are fair and equitable. It also contains general requirements or remedies that should be available, including damages, injunctions, criminal penalties and, in cases of abuse of enforcement procedures, indemnification of the defendant. Provisional measures are also specified. Special requirements are established for border measures taken for the suspension by customs authorities of release of suspected infringing goods.

The EC proposes to establish a committee on trade-related intellectual property rights to monitor the operation of the Annex and compliance by contracting parties with their obligations. Disputes on TRIPS matters between contracting parties would be subject to the normal dispute settlement procedure contained in the General Agreement. Contracting parties would commit themselves not to have recourse to unilaterally decided economic measures of any kind and to modify domestic legislation where necessary in order to ensure conformity with this commitment.

Contracting parties should take all necessary steps to ensure the conformity of their laws, regulations and practices with the
obligations spelled out, within a timeframe to be determined. However, the proposed Committee on Trade Related Intellectual Property Rights may decide that developing countries which face problems in the preparation and implementation of intellectual laws dispose of an additional period of time. Technical assistance would be available to them.

In commenting on the proposal, most industrialised countries as well as a few developing countries, while having difficulties on specific points, considered that the EC paper could constitute, in whole or in part, a basis for further negotiation. Some other delegations indicated more extensive difficulties on specific points, for example in relation to patents and computer programs and the amount of detail in the proposed commitments on enforcement, but found much that they could support in the proposal. Some other delegations had more profound difficulties, doubting that much of the proposal dealt with trade-related aspects and considering that the proposed level of protection was unsuitable for developing countries and that developmental and many other public policy consideration had been insufficiently taken into account. There were also differing views expressed on the desirability of incorporating the results of the TRIPS negotiations in the General Agreement and on the merits of the technique proposed by the EC for achieving this.

The Group also had an extensive discussion of developmental aspects, with particular reference to principles that developing countries believed should be fully taken into account, such as special and differential treatment, the need for the rights of IPR owners to be balanced by obligations to society and the need for LDCs to have flexibility to adjust IPR protection in line with their stage of development and technological and public interest needs. Many LDCs emphasised that time-limited transitional arrangements would not give them sufficient flexibility and that LDCs should only be obliged to accept higher obligations when their stage of development warranted it. In response, industrialised countries maintained that acceptance of their suggestions would promote development, by encouraging R&D, foreign investment and the transfer of technology. They believed that their proposals already reflected a proper balance between private rights and the public interest. Some said that they would, however, consider specific proposals for S&D presented by developing country participants.

Safeguards ... 12, 13, 15 March

The Group continued its paragraph-by-paragraph examination of the draft text of a comprehensive agreement in safeguards prepared by the Chairman (see previous NUR bulletins). All aspects of the draft have now been considered in detail with many amendments now before the Group.

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Natural Resource-Based Products ... 21 March

After lengthy consultations, the Group agreed on procedures for the negotiations. Participants may submit to the Secretariat by 20 April specific proposals in respect of one or more countries. They should also notify the Secretariat of proposals, offers or requests they have made in other negotiating groups which they consider relevant to negotiations in this Group. The proposals and notifications would then be distributed by the Secretariat to all participants who have made either submissions or notifications, or who are the subject of submissions. Participants will endeavour to submit by 21 May to the other participants involved, and simultaneously to the Secretariat, responses to these notifications and submissions.

The Group will meet on 7 May and periodically thereafter to discuss issues, submissions and notifications and to ensure the following: the transparency of the negotiations; the application of the most-favoured-nation principle; that the progress of the negotiations is consistent with progress in the other related negotiating areas; and that the objectives of the negotiations in natural resource-based products established at Punta del Este are met. Concessions made in other negotiations groups will be taken fully into account in assessing a participant's contribution. The Group reaffirmed that the principles of negotiations contained in the Punta del Este Declaration (Part I.B) apply to the negotiations in natural resource-based products.

The European Community said it was prepared to examine the possibility of negotiating problems concerning trade in all forms of energy products - on the understanding that work on this subject should take place only in this Group. Australia and the United States welcomed the EC decision to extend the product coverage of the negotiations. Peru and Chile stressed that, in their view, the Uruguay Round mandate and competence of the GATT circumscribed the procedures for the negotiations. Supporting this view, Mexico said that on product coverage, there was general agreement on only three areas: fisheries, forestry and non-ferrous metals and minerals.

Non-Tariff Measures ... 21 March

The Chairman noted that work on two subjects proposed for new multilateral rules - pre-shipment inspection (PSI) and rules of origin - has progressed to the point where the Group might start preparing common negotiating texts.

The European Community and Zaire both tabled draft legal texts on pre-shipment inspection. Emphasizing that PSI should not give rise to unnecessary trade obstacles, the EC proposed that certain cases should be exempted from PSI. It cited as examples low value shipments and prices resulting from open tendering procedures, commodities subject to wide or frequent price changes, shipments forming part of a
turnkey contract, and instances where regular exporters have proven themselves to be trustworthy. It urged that efforts towards a PSI agreement be accompanied by adherence of GATT members to existing GATT agreements on customs valuation and import licensing. It stressed that GATT members should have the right to regulate PSI activities within their borders.

Zaïre's proposal stressed that PSI was not a non-tariff barrier and could facilitate trade by deterring over-invoicing and under-invoicing, thereby minimizing opportunities for capital flight, fraud, discriminatory pricing, and evasion of tax and customs duty. However, it agreed that PSI programmes should not give rise to unnecessary delays, and that the principles of non-discrimination and transparency should be observed by the user countries. For their part, exporting countries should not hamper the operation of PSI programmes.

The Chairman proposed, and the Group agreed, to establish an informal drafting body which would draw up a draft text of a possible PSI agreement, which would be the basis of negotiations.

Participants had a second round of discussion on the EC proposal regarding rules of origin. The Community made clear it supported speedy work on the harmonization of various national rules of origin. The United States and Japan reiterated that the Group should aim, at the minimum, to establish, by the end of the Round, basic principles of a future agreement on rules of origin and initiate the necessary technical work in the Customs Cooperation Council. The Chairman said he would consult with participants on ways of establishing a common negotiating text on rules of origin.

The Chairman reported that, so far, eleven participants had submitted initial request lists under the negotiating arrangements agreed in February. These were: the European Community, Canada, Czechoslovakia, Hungary, Nigeria, Sri Lanka, Peru, Thailand, New Zealand and Indonesia. The following countries indicated they would be tabling their lists soon: Egypt, Pakistan, United States, Poland, Norway, Switzerland, Philippines, Mexico, Japan, Sweden, Morocco, Uruguay and Yugoslavia. Chile and Senegal indicated that the same request lists already presented by them in the Natural Resource-Based Products Group should be considered as having also been submitted in the Negotiating Group on Non-Tariff Measures.

Trade-Related Investment Measures ... 29 March

The Group completed the first part of the work programme suggested by the Chairman at the January meeting by examining how developmental aspects can be integrated into the negotiations, and how adequately the GATT Articles ensure that the adverse trade effects of investment measures are avoided.

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The Group was assisted in this work by the presentation of a communication sponsored by thirteen developing country participants. The communication stressed the need for the Group to address the trade effects of investment measures (not the measures themselves), the developmental aspects of investment measures, and the relationship of GATT Articles to the adverse trade effects of the measures. The communication concluded, among other things, that the negotiated outcome should facilitate a movement of investment across international frontiers, especially with a view to serving developmental aspirations of developing countries.

Many other developing country participants supported the thrust of the communication. Among the views put forward were that adverse trade effects should be direct and significant to warrant consideration by the Group; that proposals to prohibit investment measures themselves were disproportionate to the magnitude of the problem such measures cause, and that existing GATT remedies in the event of nullification or impairment of benefits appeared sufficient to deal with alleged adverse effects of some of the investment measures cited in the Group so far.

Most of the developed country participants, while also welcoming the communication and agreeing on the need to take development considerations into account in the negotiations, reiterated their view that further provisions were necessary in order to avoid adverse trade effects.

**Dispute Settlement … 5 April**

Hong Kong, Hungary, Singapore and Switzerland submitted a paper on third-party rights which served primarily as a written record of the oral proposal Hong Kong made at the last meeting (NUR 034).

The representatives of the United States and the European Community individually raised various issues concerning, *inter alia*, the composition of panels selected from a roster of trade experts; a process for review of panel reports; mechanism to allow speedier adoption of panel reports and a timetable for implementation; compensation and retaliation provisions in the event that the losing party should fail to implement in a timely fashion.

The EC spokesman also stated that if one of the parties to the dispute felt that the panel's findings were erroneous or incomplete, it should have the option of taking its case to an appeals body comprising eminent experts and assisted by a small team independent from the GATT Secretariat.

Both the United States and the EC undertook to submit, before the next meeting in June of the Group, detailed proposals based on the preliminary suggestions made at this meeting.
A new proposal, submitted by Canada and aimed at clarifying recourse to Article XI of the General Agreement, was presented to the Negotiating Group. Canada pointed out that difficulties had arisen in the implementation of Article XI:2(c)(i). That Article authorized a contracting party, under certain conditions, to apply import restrictions on agricultural or fishery products when such restrictions were necessary to the enforcement of governmental measures operating to restrict domestic production or marketing of similar or substitutable agricultural products. These difficulties had led GATT members to resort to exceptional arrangements or measures not provided for by the General Agreement. Canada suggested that the interpretative notes to this provision be amended, on the grounds that a strengthening of the disciplines governing recourse to Article XI:2(c)(i) would foster liberalization and predictability of trade and thus be in line with the Punta del Este objectives.

Canada proposed that criteria should be set out for verifying the effectiveness of governmental measures to control supply, the scope of import restrictions and their implementation. In particular, the application of import restriction, and hence the level of quotas and any changes that could be made in them in line with developments in the supply situation, should reflect a reasonable and foreseeable balance between the interests of exporters and those of the country or sector concerned, and should guarantee a minimum level of access. Countries applying quantitative import restrictions should be subject to export disciplines for the same products.

Canada's proposal met with a variety of responses. Some viewed it as one of the measures that would help to restore order in trade in agricultural products on a realistic basis, while others expressed the fear that it would not foster greater liberalization of trade in such products, while yet others reserved their comments for a later stage. Many requests for further details were addressed to Canada, in particular concerning the link between the strengthening of Article XI and the Cairns Group's support for tariffication, i.e. the transformation into tariffs of all non-tariff barriers.

Honduras, El Salvador and Guatemala, signatory countries of the Central American Treaty of Economic Integration, said that while endorsing the overall lines of other participants' proposals concerning the granting of special and more favourable treatment for developing countries, they were requesting that the specific interests of certain Central American countries should also be taken into consideration. For them, agriculture represented between 15 and 30 per cent of GDP, and the bulk of their agricultural exports consisted of a few traditional commodities. They therefore wished to be able to ensure the smooth development of their production together with diversification of their agricultural exports towards non-traditional products. They submitted to the Group a proposal spelling out the measures they wished to obtain from the negotiations,
in particular compensation for the erosion, as a result of the negotiations, of the preferential access hitherto granted to their exports.

Surveillance Body ... 14 March

Under the standstill commitment, the Surveillance Body received a notification from Argentina regarding the European Community's programme of increased subsidy for the production of high-quality flint-maize.

Under the early warning procedure, the European Community and Australia expressed concern at the new farm bill in the United States which was currently going through the legislative process and was likely to lead to a new Farm Act before the conclusion of the Uruguay Round. According to the EC, this could improve the negotiating position of the United States, as well as constitute a considerable threat to the standstill commitment by providing deficiency payments for a wider product coverage than was the case so far.

The US emphasized that since many provisions of the 1985 Farm Act were due to expire before the end of the Round, it was necessary to pass legislation now. He added that the Farm Bill proposals were a continuation of the 1985 Act and entailed no new system of agricultural policies.

The representative of Australia also expressed concern at the possibility that the United States Export Enhancement Programme could be extended to meat sales to the Soviet Union, which was an important market for Australia's exports.

The representative of the United States referred to the European Community's regulatory approval process for biotechnology products. He said that the basis for authorizing products should be a thorough scientific appraisal against the three traditional criteria of safety, quality and efficacy. The EC was now considering whether a new biotechnology product known as BST should also be reviewed on the basis of social and economic implications. According to the United States, such a political criterion could set a very dangerous precedent and would be contrary to the standstill commitment.

Several delegations welcomed the rollback notification from Argentina, commending it on its liberalization efforts. The representative of Argentina stressed that these measures were part of an overall policy which aimed at adjusting and liberalizing the foreign trade sector.
Services ... 26 February - 2 March

Formal sessions of the Group focused on statistics, the role of other international arrangements and disciplines and the "structure" of the framework.

Several participants considered that the current availability of statistics concerning trade in services was inadequate despite recent efforts at improvement. Some delegations felt that a lack of reliable statistics diminished their ability to negotiate effectively, in particular with respect to an exchange of concessions, the binding of concessions or the operation of a freeze. Others were concerned that inadequate statistics may be used as an excuse not to negotiate.

The Chairman of the GNS suggested the group consider whether a general provision in the framework agreement should deal with existing international arrangements and disciplines or whether they would be covered in sectoral negotiations and, if necessary, sectoral annotations. It was stated that complementarity between the provisions of the services framework agreement and existing sectoral arrangements and disciplines should be the objective. Some participants considered that the specific questions relating to existing arrangements and disciplines could best be answered when the sectoral coverage of the agreement was clear.

Much of the meeting (both formal and informal sessions) was concerned with structure - that is, the nature of initial commitments and the mechanics of trade liberalization. A detailed proposal was presented by eleven developing country, members of the Latin American Economic System (SELA).

The SELA submission is a legal text containing a preamble and 34 articles. The framework would cover all traded services and be based on the principles of transparency, non-discrimination/unconditional most-favoured-nation treatment, progressive liberalization and the increasing participation of developing countries in international trade in services. It stresses the need to take account of development needs in a number of respects, for instance:

- the principle of relative reciprocity would apply, meaning that developing countries would not be expected to make market access contributions out-of-line with their individual development, trade and financial needs;

- individual developing countries would have flexibility for opening fewer sectors or liberalising fewer types of transactions;

- priority to be given to liberalization measures of particular interest to developing countries;

- developing countries to maintain the right to provide incentives to domestic service providers;
access granted by developing countries may be subject to particular obligations aimed at promoting the supply capacity of their own service industries;

- provision of technical assistance and financial resources for the development of service sector infrastructure in developing countries;

- and special consideration for the least-developed countries;

The framework also emphasised the need for parties to have the right to regulate the provision of services domestically in order to implement national policy objectives.

The new proposal was widely welcomed, particularly by other developing countries, and it was agreed that a detailed examination should take place at the following meeting.

Services ... 26-30 March

The major subject of discussion in the formal sessions of the GNS was the promotion of developing countries' services sectors and services exports. Many participants took the opportunity to react in detail to the SELA draft framework agreement (see previous item above). Some developed countries commented that the approach seemed to envisage few commitments by developing countries. While the special needs of those countries were recognised it was suggested that largely excluding them from commitments under the agreement would not assist the development of vigorous and competitive service sectors in these countries. Some participants were also of the view that development objectives should be dealt with under the framework, in the form of preambular language or guidelines rather than the form of legal obligations to be undertaken only by industrial countries.

Nevertheless, several developing countries re-emphasised the very special and disadvantaged situations in which their emerging service firms found themselves and the consequent need for positive measures to encourage domestic growth and export performance. They insisted, however, that there was no question of developing countries seeking a "free ride".

A further discussion on definitional questions covered both establishment and movement of labour. Some participants considered that while the framework should cover cross-border movement of the service and cross border movement of consumers, cross border movement of factors of production should be limited both in terms of purpose and duration. Others considered that establishment must at least be negotiable, as the provision of services (involving, for instance, the transfer of technology) could be difficult if not impossible without establishment.
In the same context, it was suggested that movement of labour should be given the same emphasis in the framework as the movement of other factors of production. This view was countered by those who considered it futile to attempt to seek major changes in immigration laws in the context of a services agreement.

Discussion of the "structure" of the agreement was largely considered during informal sessions. While it was clear that some participants had evolved detailed and sophisticated approaches to issues like the nature of initial commitments, general obligations, sector-specific commitments, reservations, national schedules, sectoral annotations and the mechanics of liberalization, the Group was still some way from finding a consensus on these items. As an example of how a sectoral annotation might appear, the United States tabled a draft annex on the telecommunications sector. The purpose of the annex would be to obligate parties to provide access to public telecommunications transport networks.

Note to Editors

1. Press bulletins on the Uruguay Round are issued regularly and are intended as an indication of the subject areas under discussion rather than as detailed accounts of negotiating positions. Journalists seeking further background information are invited to contact the GATT Information and Media Relations Division.

2. These accounts of negotiating meetings should be read in conjunction with the text of the Punta des Este Ministerial Declaration (GATT/1396 - 25 September 1986), the decisions taken on 28 January 1987 regarding the negotiating structure, the negotiating plans and the surveillance of standstill and rollback (GATT/1405 - 5 February 1987) and the TNC Mid-Term Review decisions (NUR 027 - 24 April 1989). Further copies of these documents are available from the GATT Information and Media Relations Division.