

URUGUAY ROUND

OF MULTILATERAL TRADE NEGOTIATIONS

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PROCEDURES AGREED FOR PROGRESSING NON-TARIFF MEASURES NEGOTIATION

Surveillance Body receives first offer on "rollback"

The following meetings have taken place since the previous bulletin:

Trade related investment measures ... 15 February

Discussion continued on the trade effects of investment measures and on the operation of GATT Articles related to the trade restrictive and distorting effects of investment measures. Part of the meeting was devoted to the presentation by some participants of empirical studies of the trade effects of such measures and to discussion of these studies. Several participants felt the studies showed that at least some of the investment measures under consideration could have significant trade restrictive and distorting effects and felt it was important to ensure that GATT disciplines operated effectively to minimize these effects. Several other participants found the studies insufficient to alter their view that most, if not all, investment measures did not regularly cause trade restrictive or distorting effects and that it was more appropriate, therefore, to deal with them on a case-by-case basis rather than to seek to apply GATT disciplines to them across-the-board as is done with trade measures.

Participants exchanged views on the value of differentiating direct and indirect trade effects of investment measures, differentiating the effects on investors, host countries and third countries, and the approach to take in determining what effects could be considered to be trade restrictive and distorting. Several participants addressed the difficulties of determining the trade effects of combinations of investment measures and of investment measures used in conjunction with trade measures. The Group also carried forward its examination of the relationship of individual GATT Articles to the trade effects of investment measures.

Non-tariff measures ... 22-23 February

Participants agreed on practical steps, laid down in a Chairman's proposal, to move the negotiations forward. Under the approved timetable members are to submit proposals - related either to the establishment of multilateral rules, to a formula approach, or to request-and-offer "to the extent possible" by the end of June. These will be examined the following month. Specific proposals regarding procedures for the conduct of negotiations are to be tabled by the end of September. All submissions on the table will be subjected to scrutiny in October. Members of the group also discussed the Australian suggestion that offers on tariffs and non-tariff measures might be assessed using a new measurement system referred to as the "effective rate of assistance of industry (ERA). Another participant raised the need to examine pre-shipment inspection (used by a number of developing countries to assess imported goods). Although the matter was under discussion in the Committee on Customs Valuation, it was suggested that the issue more rightfully belonged to this wider forum.

Tariffs ... 24-26 February

Following discussion of an initial proposal calling for the abolition of all tariffs in the industrial sector, a participant submitted a supplementary communication proposing that developed countries should agree on the highest possible proportion of their tariffs to be eliminated. Other tariffs would be subjected to a tariff cutting formula of the kind used in the Tokyo Round. This approach would apply to industrial products, but exclude agricultural, fishery and forestry products and petroleum. Developing countries would be expected to make efforts to reduce and bind their tariffs commensurate with their stage of economic development. A further proposal envisaged the application by all participants of the tariff harmonization formula used in the Tokyo Round, but with a slightly different coefficient. The formula would be applied to bound and unbound tariffs in the industrial sector. The Chairman proposed that the Group now search for an agreement on a common negotiating basis, which would cover a tariff cutting approach, the elimination of high tariffs and tariff escalation, as well as the expansion of the degree of bindings by all participants.

Trade-related aspects of intellectual property rights ...
29 February-3 March

The Group discussed a new paper presenting the thinking of a number of delegations on: the coverage of intellectual property rights (IPRs) in the work of the Group; basic standards/norms for IPRs; mechanisms for the enforcement of IPRs; GATT commitments pertaining to IPRs; dispute settlement; technical cooperation; and the relationship between GATT commitments and the work on IPRs

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elsewhere. This paper was widely welcomed as a positive contribution to the work of the Group. The Group has also before it a series of background papers prepared by the secretariats of the Customs Cooperation Council, GATT, UNESCO and the World Intellectual Property Organization (WIPO) describing the provisions of existing international treaties and activities elsewhere relevant to matters raised in the Group. Much of the discussion at the meeting concerned possible international commitments aimed at the repression of counterfeiting and other forms of violation of intellectual property rights and at ensuring that measures and procedures for this purpose did not themselves become barriers to trade. Matters explored included the scope for obligations not only in respect of the import but also the export, transit and internal production and sale of infringing goods; the way procedures might vary according to the type of intellectual property right; the respective roles of judicial and administrative authorities; and possibilities for safeguards against misuse of procedures as barriers to legitimate trade. On the question of international norms or standards - where there are differing views about whether and, if so, to what extent, the Group should negotiate commitments - the Group agreed to request the WIPO Secretariat to prepare a background paper comparing the treatment of nine aspects of such standards/norms in (i) WIPO treaties and guidelines, (ii) current WIPO activities and (iii) commonly applied provisions of national legislations.

Dispute Settlement ... 2-3 March

Several delegations put forward suggestions for conciliation/mediation, panel procedures, arbitration and for improved surveillance of the implementation of panel reports. Delegates discussed the possible creation of an arbitration body that would function as a supplementary technique of dispute settlement. To facilitate the resolution of disputes, the group further discussed benefits and repercussions of excluding contracting parties involved in a dispute from the decision-making process of the Contracting Parties or Council on the adoption of panel reports. Issues concerning possible recourse for a party losing a dispute and time limits for the examination and implementation of panel reports were also addressed.

Safeguards ... 9 and 10 March

At their first meeting this year, participants discussed how best to determine the existence of "serious injury or threat thereof" to a domestic industry. It was generally agreed that "serious injury" to an industry depended on a broad range of factors, but was usually caused by sharp increases in imports, thereby adversely affecting domestic producers. Several delegations stressed that common objective criteria should be established for the determination of serious injury in order to avoid arbitrary use of safeguard measures. It was emphasized that the rules should be clear, transparent and stringent and that factors to define injury should be concrete and quantifiable. Several delegations discussed their national

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legislation and procedures for determining serious injury and the need to define exactly what is meant by "domestic producers" and "like or directly competitive products".

The possibility of establishing a multilateral surveillance body within the GATT was also discussed. One participant introduced a new proposal on safeguards which included a proposal that a committee on Safeguards should be established. He said the committee could help Contracting Parties consult on such matters as periodic reviews of safeguard actions, their continuation beyond an initial period, and their phase-out and future elimination.

MTN Agreements and arrangements ... 7-9 March

Members focused their attention on two Tokyo Round agreements: that on import licensing and on technical barriers to trade. On the former, detailed proposals from two major trading participants were tabled. One submission called for a more precise definition of licensing and a widening of the code coverage to include rules on export licensing. Another participant suggested that the code be amended to limit and impose more disciplines on the use of licensing. One delegation tabled two proposals regarding the Agreement on Technical Barriers to Trade. The first suggested limiting what it considered were costly, time-consuming and sometimes discriminatory procedures for product approvals. The second was to extend the code coverage (currently applying only to standards related to the actual qualities of a finished product) to standards based on processes and methods used in production. A group of countries elaborated on their previous idea of increasing transparency and discipline with regard to standardization activities carried out by local government and private bodies. The Group will meet again in early June to discuss the codes on anti-dumping, subsidies and countervailing measures, government procurement and customs valuation.

Functioning of the GATT System ... 21-24 March

In addition to receiving two proposals from Canada and the European Communities - to be discussed in May - the Group had before it a Chairman's discussion paper concerning a trade policy review mechanism and annual reporting by Contracting Parties. There was very wide agreement that a trade policy review mechanism should be set up to increase transparency and understanding of national trade policies, and on the value of regular ministerial-level meetings of the Contracting Parties. The Group discussed the periodicity and coverage of trade policy reviews and whether they should be held in capitals. Discussion continued on relationships between the GATT and international financial and monetary institutions.

Surveillance Body ... 8 March

One new communication alleging a breach of the standstill provision of the Punta del Este Declaration was presented to the

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Surveillance Body. Chile reported that its GSP benefits had been suspended by the United States on the grounds of Chile's record on worker rights. Chile considered that the action contravened the non-discrimination principles of GATT and that the US had, through this measure, improved its negotiating position in the Round contrary to the standstill criteria. The United States insisted that GSP was offered on an autonomous basis and that it was entitled to impose criteria - in a non-discriminatory manner - in making such offers.

Among 'early warning' items discussed by the Surveillance Body was a further complaint by Chile, supported by New Zealand, Argentina, Canada, Australia and the US, concerning a prior-deposit import licensing system recently imposed by the European Communities on apples. The Australian delegation drew attention to a reduction in access to the Communities' market for manufacturing beef. In its turn, the European Communities complained about new manifestations of the "Buy America" programme in the United States, including restrictions on Department of Defence procurement of super-computers; the Voice of America modernization programme; requirements on domestic paper procurement for the printing of banknotes and gilts in the US and the sourcing of administrative motor vehicles for the Department of Defence.

In the first notification of its kind, the European Communities announced an autonomous offer on rollback. The offer envisaged the elimination of over 100 quantitative restrictions covering a variety of products from the twelve EC countries. The Communities stressed that the offer would be confirmed in the light of similar contributions from other participants. The announcement was generally welcomed although some delegations were concerned that East European countries and Japan had been excluded by certain EC countries from inclusion in their lists of measures to be dismantled, thereby introducing a measure of discrimination into the offer.

The following report on the Negotiating Group on Textiles and Clothing of 9 February was accidentally omitted from the previous News of the Uruguay Round Bulletin:

Textiles and Clothing ... 9 February

Delegations started to focus on the examination of "techniques and modalities" to be submitted by participants which would, as called for in the Ministerial Declaration, permit the eventual integration of the textiles and clothing sectors into the GATT. In this connection, an exporting country tabled a programme divided into four phases. The first stage would involve the removal of the current Multifibre Arrangement (MFA) criterion of "low prices" for the invocation of import restrictions as well as the elimination of restrictions on non-apparel textile products. The second phase would limit

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restrictions on apparel products, and the third would allow the imposition of such restrictions only after a determination by the Textiles Surveillance Body. The programme envisaged the removal of all MFA-type restrictions on apparel by the fourth and last phase. A group of developing countries indicated that they were in the process of preparing proposals for the next meeting scheduled for the first week of May, while others flagged their intention to submit proposals at a later date. The view was expressed that the work of the group should also include an examination of the current situation in textiles and clothing trade in order to arrive at a convergence of views on the real difficulties encountered in this area and the possible solutions. A suggestion was made that the Group should, in examining modalities, consider a transitional phase to facilitate the passage from the MFA to GATT rules.

Note to Editors

1. Press bulletins on the Uruguay Round are issued regularly and are intended as an indication on 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 del Este Ministerial Declaration (GATT/1396 - 25 September 1986) and 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). Further copies of these documents are available from the GATT Information and Media Relations Division.

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