

# URUGUAY ROUND

## OF MULTILATERAL TRADE NEGOTIATIONS

NUR 017

30 June 1988

### NEW PROPOSAL FROM SEVEN COUNTRIES BOOSTS TARIFF NEGOTIATION

The Tariffs Negotiating Group received a major push forward at its last meeting (24 June) when a group of seven countries tabled a comprehensive proposal. The group, which included industrial and developing countries, proposed a tariff-cutting formula, an approach to removing or reducing low tariffs as well as increased levels of tariff bindings for both developed and developing countries.

(See page 9)

The following meetings have taken place since the previous bulletin.

### GATT Articles ... 25-27 May

The discussions in this meeting centred mainly on Articles XVII and XXIV.

One participant maintained that the Uruguay Round presented a vital opportunity to improve Article XVII and other provisions related to state trading, which had largely lost their effectiveness. The weakness of these disciplines sprang, in the first place, from the lack of a clear understanding as to the definition of enterprises covered by them. There should also be a common understanding about the obligations themselves, including in particular whether the primary obligation to operate on a non-discriminatory basis should incorporate the most-favoured-nation obligation of Article I and the national treatment obligation of Article III, as well as the requirement that these enterprises should conduct their activities solely in accordance with commercial considerations. The use of countertrade, particularly when it is government-mandated, should also be addressed.

A number of participants expressed similar views, while others believed that a wholesale revision was not necessary; proper

compliance with the notification requirements would improve the observance of the non-discrimination and "commercial considerations" obligation. It was also said that the great changes in this area in the past forty years had rendered this Article inadequate. Some delegations expressed interest in discussing countertrade in the context of Article XVII; others doubted the relevance of countertrade to this Article - because most countertrade was undertaken by private enterprises.

On Article XXIV, one delegation said that stricter disciplines and more effective review were needed to preserve market access for third countries and prevent the creation of a system of economic blocs. Other participants thought that the proliferation of regional agreements and the failure to agree on the GATT consistency of most of them constituted another pressing reason for re-examination of the Article. Some other delegations saw Article XXIV not as a derogation from the MFN principle but as a way of promoting increased trade liberalization. The need to clarify various concepts<sup>1</sup> in Article XXIV was also discussed. The Group had also a short exchange of views on Article XXVIII, which had been already extensively discussed in previous meetings.

#### Safeguards ... 30 May-1 June

Several participants at the outset of the meeting reiterated the importance of negotiations in this area and called for results in time for the TNC Ministerial meeting in December. There was general agreement, in the discussion of specific elements that might comprise a safeguards agreement, on the imposition of a definite time-limit on safeguard actions and on "degressivity" (the winding down of a safeguard measure as the domestic industry concerned recovers).

In one of the two new proposals tabled, a group of countries proposed focussing negotiations on the drawing up of rules and disciplines covering the withdrawal of GATT concessions in an emergency situation stipulated by the current Article XIX. In suggesting specific elements of a safeguards agreement, they said that coming to terms with "grey-area" measures was the fundamental challenge facing the Group. The other submission emphasized the need to establish either a surveillance body or a safeguards committee to view safeguard actions. This proposed body could authorize, once a safeguard action had exceeded a certain time-limit, Article XXVIII negotiations or an industrial restructuring under Article XIX. The Group agreed that, at the next meeting, it will discuss other elements (e.g. measures taken at the border and structural adjustment), and hold a collective stocktaking exercise in advance of the TNC Ministerial meeting.

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<sup>1</sup> See information published on GATT Articles in the Uruguay Round File (GATT FOCUS No. 55).

Subsidies and Countervailing Measures ... 1-2 June

Discussion continued on the fundamental objectives and concepts of Articles VI (Anti-Dumping and Countervailing Measures) and XVI (Subsidies) of the General Agreement and the relationship between these two articles. Participants examined a communication from Switzerland which suggested redefining existing categories and introducing three different classes of subsidies on the basis of the legal effects attached to each; namely prohibited subsidies, actionable subsidies and non-actionable subsidies. Several delegates questioned the method of subsidy classification and others said the proposal lacked sufficient mention of special and differential treatment of the needs of developing countries.

Delegates also discussed a communication submitted by the United States calling for "clear and precise GATT disciplines over all trade-related subsidies and other substantially equivalent forms of government assistance." The submission also calls for disciplines to be backed by effective dispute settlement remedies to ensure compliance. The paper addresses export and domestic subsidies, "industrial targeting", agricultural and natural resource subsidies, and proposes that the Group examine problems of certain "diversionary practices" in the countervailing duty area. Participants said they needed more time to examine the new submission. Others, whose interests in this group relate especially to excessive or abusive utilization of countervailing measures, found the communication to be unbalanced because of its strong focus on strengthening the Subsidies Code.

Tropical Products ... 3 June

During the first round of multilateral consultations held from 30 May to 3 June, delegations, which included many officials and experts from capitals, reviewed the indicative lists (export product lists, offers or negotiating approaches) submitted by a total of 34 countries (see NUR 016). They examined in detail the tariff and non-tariff situation of the developed country markets in the seven categories of tropical products selected as a basis for negotiations. Many producers stated their case for reduction or elimination of tariffs and non-tariff measures on individual products. There was a frank exchange of views on how different negotiating approaches might affect trade in the product areas under consideration.

Reassembling for a formal assessment of the results on 3 June, many delegations had found the exercise useful. However, several participants observed there was still uncertainty as to the techniques and modalities to be adopted in the negotiations. Several other participants emphasized the need for ensuring a truly multilateral process of negotiations. Some concern was also expressed about the position taken by one participant that progress in the area of

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tropical products should be linked with that made in the Negotiating Group on Agriculture and that another major trading country had not yet given any indications as to its offer. On the other hand, Australia announced a number of trade liberalization measures to be implemented over a period of four years starting 1 July 1988, which would also cover tropical products.

The second round of multilateral consultations is scheduled for the week beginning 27 June. It will be followed by a formal meeting (6-8 July), during which the Group is expected to assess the results of the two rounds of multilateral consultations and make the necessary arrangements for the further conduct of negotiations with a view to achieving concrete results before the end of 1988.

#### MTN Agreements and Arrangements ... 6-7 June

Participants discussed the anti-dumping, government procurement and customs valuation codes. In regard to the Anti-Dumping Code, several participants agreed the code might be improved if it incorporated certain recommendations made by the Committee on Anti-Dumping practices such as transparency, on-the-spot investigations, time-limits for responding to anti-dumping questionnaires and threat of material injury.

A communication submitted by the European Communities suggested reinforcing certain disciplines in the Code that have led to divergent enforcement policies amongst several signatories. These included conditions for accepting price undertakings, the level of anti-dumping duties and the duration of anti-dumping measures. Many delegations favoured such ideas. However, several participants raised questions about the EC's ideas on adapting the Code to new developments taking place in international business such as assembly operations, the transfer of activities to legally separate sales companies, and massive imports in anticipation of anti-dumping measures. Different views were also held on ideas presented earlier by the United States for increased disciplines in respect of repeated dumping by a single company and specific diversionary dumping practices, e.g. import dumping.

Japan introduced additional material on its proposal on the Anti-Dumping Code which addresses, among other areas, the launching of anti-dumping investigations, the clarification of "like products" in respect to price comparison and injury determination, anti-circumvention measures, and definitions of what is meant by "related company" and treatment of sales. Several delegations addressed other topics including using additional safeguards to prevent abuse of the Code, the role which inflation plays in the determination of dumping and the question of whether price differentiation could be regarded as an unfair practice in today's competitive environment.

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Natural Resource-Based Products ... 8 June

Two new submissions were tabled. Australia introduced a comprehensive proposal relating to subsidies and non-tariff support programmes affecting market access in this field. It called for more operationally effective rules on the use of subsidies, reductions in existing production subsidies and other government support practices, and improved transparency and measurement of the impact of support practices adopted by some countries.

The United States paper focussed on the issue of two-tier pricing, particularly on energy resources (it defined "two-tier pricing" as any government programme or action which establishes domestic prices for natural resources at some level below the natural market value), and submitted that this practice distorts trade, particularly in the field of natural resource-based products. The Group agreed to meet again before the end of September to take stock of developments in other relevant Negotiating Groups and to make any arrangements as appropriate to establish a common negotiating basis for natural resource-based products.

Agriculture ... 9 and 10 June

The Group held a preliminary exchange of views on two communications, one from the European Community and the other from the United States.

The EC presented a proposal on short-term measures (other than immediate measures) to be taken in the framework of the negotiations. This communication supplemented the one it presented last February on emergency measures (see NUR 013); both being aimed at aiding the restoration of healthy market conditions. The EC recalled that these measures would constitute the first stage in a gradual reduction of the negative effects of support on international markets, and that it should be followed by a second stage comprising longer-term measures, the whole forming a single package.

These short-term undertakings would concern the cereals, rice, sugar, oilseeds, dairy products and beef/veal sectors, where the problems remain serious, despite recent improvements in the state of markets. They should be agreed upon in 1988 and implemented in the first half of 1989 at the latest, so as to advance the agricultural negotiations. The EC proposed that participants should undertake to freeze their support for the six sectors at the 1984 levels until a final agreement is reached. The year 1984 had coincided with agricultural policy reforms in a number of countries. The EC considered that the Producer Subsidy Equivalent (PSE) measure, developed by the OECD, could be used provisionally, with a limited number of modifications, without prejudging the shape of the final measurement unit that might be established in the negotiations.

In its communication, the United States developed the food security aspects outlined in its comprehensive negotiating proposal. It drew a distinction between food security and self-sufficiency, arguing that the former did not require the latter. In fact, a liberalized trading system would effectively contribute to food security; elimination of restrictions on trade in food products would allow better supply, better allocation of resources and more stable prices. Maintaining stocks at a sufficient level to cover short-term needs would make it possible to make up for small variations in agricultural production of the kind experienced over the last twenty-five years.

In addition, the United States proposed removing from GATT Article XI:2(a) which permits contracting parties to restrict or prohibit exports of agricultural food products to relieve critical shortage.

#### Textiles and Clothing ... 13-14 June

In both formal and informal sessions, delegates continued their examination of "techniques and modalities" which would permit the eventual integration of the textiles and clothing sector into the GATT. The Group discussed a paper presented by the European Communities, which proposed a common diagnosis of the problems affecting the sector and underlined the importance of taking into account the liberalization efforts made to date as well as the progress achieved in other negotiating groups. In turn, several delegations questioned the rationale behind undertaking a diagnosis of the problems, as well as reaching common understanding based upon it in the context of the specific objectives set for the Group. They re-emphasized that the Group has to concentrate on achieving the specific task as set out in its negotiating objective, and should avoid making linkages, at this juncture, between the work in the Group and progress made in other groups.

The Group also had a preliminary discussion on a proposal by the Nordic countries that a factual study be prepared by the secretariat of the possible global economic and trade consequences of dismantling the MFA and other trade restrictions in this field.

#### Trade-Related Investment Measures ... 13,14,17 June

Three major proposals were tabled. The Japanese submission stated that the Group had reached the point at which the question of what disciplines should be established to avoid restrictive and distorting effects of investment measures on trade could be tackled. It presented a methodology which sought to facilitate the examination of the effects of trade-related investment measures (TRIMS) by classifying them into those which are clearly inconsistent with GATT and those which are not but which are, nevertheless, relevant to its



provisions. The submission went on to employ this methodology with respect to a series of seven TRIMS already discussed in the Group. The European Communities presented a list of eight TRIMS which they considered harm trade and should therefore be subject to appropriate disciplines.

Using a broader brush, the United States suggested that some GATT concepts like non-discrimination, transparency and dispute settlement were applicable to TRIMS. It called for additional GATT provisions to ensure that the harmful trade effects of TRIMS are avoided. The ensuing debate reaffirmed the point that at issue were trade restrictive and distorting effects of the measures, and not the investment policies per se. Some delegations felt the work had progressed to the point where the Group could start considering possible disciplines on the damaging trade effects of TRIMS; others viewed this as being premature.

#### Surveillance Body ... 21 June

The Body considered an unusually large number of notifications of alleged breaches of the standstill commitment.

Argentina challenged export refunds offered to Venezuela by the EC on boned beef. The Communities said that the refunds had met special circumstances related to the loss, for sanitary reasons, of a previous shipment to Venezuela.

The United States notified the addition of ice-cream, yogurt and other milk products to those already covered by restrictions under Canada's Dairy Import Control List. Canada claimed that the new measures were consistent with the GATT and were necessary for the enforcement of its national supply management programme for manufacturing milk.

A United States complaint against Greece became the first notification to be withdrawn following an announcement that the Greek import ban on almonds had been lifted.

South Africa notified quota restrictions imposed by Canada on imports of worsted wool fabric and clothing from South Africa.

Both Chile and the United States complained about the European Communities' apple import quota system. It was recognized that this matter is now the subject of an Article XXIII dispute settlement panel established by the GATT Council. The US was concerned at the possible diversion of trade into the American market at a time of record harvests and low prices.

The United States raised a new Canadian production subsidy on white pea beans which, it said, would lead to unfair competition in the Canadian and other traditional US markets. Canada disputed US

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comments concerning both the nature of the programme and its relevance to standstill.

Canada, in its turn, notified the EC ban on the use of artificial hormones for the breeding of farm animals. It considered the ban to be inconsistent with the GATT and with the Agreement on Technical Barriers to Trade. The EC disputed this and pointed to evidence - challenged by Canada and others - that there was a genuine danger to human health involved.

The United States raised a price support programme announced by the Government of Switzerland for the production of soya beans. While the US charged that the support price was 750 per cent above the world market price, the representative of Switzerland emphasized that the measure was aimed at very small-scale and experimental production.

The Surveillance Body also had a general debate about progress in the area of "rollback" where, apart from a conditional offer made by the European Communities, a considerable number of consultations on specific requests have not led, so far, to any actual rollback undertakings. An attempt was made to impose a fairly tight timetable on the process. While it was not successful, the Chairman remarked that the debate had reflected widespread concern at the lack of rollback undertakings and a need for the process to provide some convincing achievements in time for the mid-term review Ministerial meeting of the Trade Negotiations Committee.

#### Functioning of the GATT System ... 20 and 22 June

There was a wide ranging discussion of the need both to achieve greater coherence of trade, financial, monetary and development policies and to ensure that GATT, through the improvement of its own mechanisms and its relations with other relevant international institutions, made a positive contribution to this process.

Participants discussed the question of greater Ministerial involvement in the GATT. While considerable agreement has been reached on the idea that the Contracting Parties should meet at Ministerial level every two or three years - or even annually in the view of some participants - there are still questions on the nature and role of a smaller representative Ministerial body, which has also been proposed. In the view of some participants, such a limited body, though having no executive powers, could be an invaluable source of guidance to the contracting parties - and would offer a less rigid forum for discussion of policy issues, similar to the informal trade Ministers' meetings which generally take place twice a year outside the GATT. It was proposed that the Negotiating Group should concentrate on criteria for establishing the "legitimacy" of such a Ministerial body - in terms of its status and relationship to other GATT bodies - before moving on to discuss its objectives, functions and participation. However, some delegations still considered that participation was a substantial problem. They saw a selective membership detracting from traditional democratic and open practices in the GATT.

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Some suggestions regarding the future rôle of the Director-General were considered.

Participants also discussed a communication from Jamaica, which was an elaboration of views submitted last year on the group's three negotiating objectives, and a paper from India on behalf of the developing countries. The latter addressed surveillance in the GATT and the regular monitoring of trade policies and practices of the contracting parties, and issues related to the scope, frequency, format and procedures for such a surveillance mechanism.

#### Dispute Settlement ... 23-24 June

Discussion regarding the strengthening of the rules and procedures for GATT's dispute settlement mechanism focussed primarily on panel reports and procedures, mediation and conciliation, surveillance and selection of panelists. Participants also discussed a new submission by Mexico. The paper, which incorporates much of the group's concerns to date, also considered how special and differential treatment for developing countries could be incorporated into an eventual agreement on dispute settlement. Several delegations praised the report, while others, citing special provisions in the paper for developing countries in areas including specialized legal assistance, supplementary training courses and post-consultation reviews by the Contracting Parties, believed such special provisions should be applied also for the benefit of smaller industrialized countries.

At the request of several participants, the Group also discussed the need for further clarification of procedures when disputes involve several complainants or where third contracting parties wish to intervene in a panel proceeding. Several delegations emphasized the need for expanding third party access to information. Others believed that a wider participation by third parties in disputes brought before the Council could promote greater compliance with the recommendations of adopted reports. Still others believed such a practice would complicate and prolong the settlement of a dispute.

#### Tariffs ... 24 June

A big contribution to the work of the Group was provided by a comprehensive proposal tabled by Australia, Canada, Hong Kong, Hungary, the Republic of Korea, New Zealand and Switzerland. The proposal emphasized that tariff liberalization remains a central element of the Round and stressed the need to demonstrate progress in this area by the time of the Ministerial TNC meeting.

The submission tackled the major issues facing the Group, including: base rates (MFN bound rate or applicable MFN rate as of 1 January 1988), negotiating approach (basically a tariff-cutting formula similar to that used in the Tokyo Round which would also reduce or eliminate low duties and deal with tariff escalation), bindings (the objective is to bind all negotiated tariff reductions

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together with an increase in the level of developing-country bindings), and participation (all developed and developing participants but taking into account the individual economic needs of the latter).

During the meeting, many participants expressed strong support for various elements of the proposal, in particular the use of a tariff-cutting formula. Some delegations, however, sought clarification of certain points. Two participants announced forthcoming tariff reductions: Australia reported a phased tariff-liberalization programme, while Brazil disclosed that recent changes in its customs system will lead to a significant reduction of its tariff average.

#### 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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