

URUGUAY ROUND

OF MULTILATERAL TRADE NEGOTIATIONS

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URUGUAY'S ZERBINO BECOMES TNC CHAIRMAN AS NEGOTIATING BODIES BEGIN TO LOOK TOWARDS MONTREAL MEETING

Work in the Uruguay Round during 1988 was reviewed in several meetings at the end of July. While there was concern that progress was unbalanced with respect to some negotiating groups, there was some considerable satisfaction at the overall pace and intensity of the work. Considerable attention was given to the mid-term Ministerial meeting of the Trade Negotiations Committee to be held in Montreal from 5 December. It was agreed that Uruguay's Minister of Finance and Economy, Mr. Ricardo Zerbino Cavajani, would chair meetings of the TNC at Ministerial level.

Trade Negotiations Committee ... 26 July

Following the presentation of reports from the Group on Goods, the Group on Services (see separate items) and the Surveillance Body, the Committee embarked upon a general debate on progress in the negotiations and prospects for the Montreal Ministerial Meeting.

Many comments on the mid-term review in December urged the need for a positive signal to emerge from Montreal, reaffirming that a very substantial process of reform was taking place in the trading system. A sufficient degree of political will would be necessary to energize the negotiations in the months remaining before the December meeting.

Many participants drew attention to matters of particular importance to their delegations. Some stressed that the negotiations were closely interlinked with activity elsewhere in relation to money,

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finance, development and debt. A number of developing countries emphasized the necessity of the negotiations to taking adequate account of their special needs.

Several delegations referred to the importance of the political undertakings on standstill and rollback. Some considered that there had been a number of breaches of the standstill while others felt that the situation might have been far more serious without the Uruguay Round and the undertakings it entailed. There was more general concern that no rollback action had so far been undertaken despite a large number of requests and consultations.

In the context of standstill, Brazil protested at the recent decision by the United States to impose trade sanctions because of Brazil's alleged failure to grant patent protection to US pharmaceuticals. Brazil considered the US action to be contrary both to the General Agreement and to the standstill undertaking and reserved its rights under the GATT. The publication of the list of potential items against which action would be taken was likely to disrupt trade. The measures, when taken, would bar the export of the selected Brazilian products to the US market. The United States stated that it had acted to prevent the "piracy" of its firms' intellectual property through Brazil's failure to offer adequate protection and stressed that problems in this area should be negotiated on multilaterally in the GATT.

It was pointed out that while the Ministerial meeting was an important step in the conduct of the Round it was only a step, with the real deadline being at the end of 1990. It would be important to maintain a careful balance between what was achievable in December 1988 and what would be necessary at the end of the Round.

The TNC agreed that, since Mr. Enrique Iglesias was no longer Foreign Minister of Uruguay (having become President of the Inter-American Development Bank this Spring), the Minister of Economy and Finance of Uruguay, Mr. Ricardo Zerbino Cavajani, would chair the Trade Negotiations Committee at Ministerial level.

A number of practical arrangements for the mid-term Ministerial Meeting were noted by the Committee. The meeting will commence in the morning of Monday 5 December.

Group of Negotiations on Goods ... 25-26 July

The GNG held a wide-ranging debate covering many aspects of the work of the fourteen negotiating groups under its purview. Statements from a number of developing countries made clear their concerns with respect to a perceived lack of progress in certain groups of special interest to those countries. Work in the tropical products, safeguards, agriculture, textiles and clothing and other market access groups was mentioned frequently as having disappointed expectations.

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However, it was generally accepted that exactly parallel progress could not be expected in all the groups and that, overall, the pace of the negotiations had been satisfactory and impressive.

Many industrial countries considered that the fears expressed were unwarranted; their view was that in general remarkable progress was being made in the trade round, especially when compared with previous rounds. Nor did they accept the view, put forward on behalf of developing countries, that in the Group on Trade Related Aspects of Intellectual Property Rights, proposals relating to negotiations on standards for intellectual property protection went beyond the mandate in the Punta del Este Declaration and therefore jeopardized progress.

In summing up the debate, the Chairman noted that the fourteen negotiating groups had now held over 100 formal meetings involving more than 100 countries and some 500 working papers. He said that the debate had demonstrated how wide was the participation and deep the commitment to the Round. He observed a recognition by all participants of the importance of the forthcoming mid-term Ministerial Meeting in Montreal. To secure success in Montreal, it was important for participants not merely to pursue their own interests but to carefully note those of others.

It was agreed that the GNG would next meet on 16-18 November when it would consider the report to be forwarded to the Montreal TNC meeting. In the meantime, the chairmen of the negotiating groups would be invited to prepare reports on the work of the Group which would include those propositions on which Ministers would be asked to make decisions.

GATT Articles ... 27 and 30 June

The Group continued its discussion of certain GATT articles which participants had not yet examined in detail and focused on new proposals.

The Group discussed two proposals put forward by Argentina and Nicaragua concerning Article XXI on trade measures taken for reasons of national security. Delegates of these countries considered that the conditions of application of Article XXI need to be clarified, in particular as regards the concepts of "essential security interests" and "time of war or other emergency in international relations", the evaluation of which is left to the discretion of the parties invoking the provision. These countries also consider that a link should be established between security matters within the purview of the United Nations and trade measures taken under Article XXI. Various opinions were expressed regarding the extent of control that could be exercised over the introduction and maintenance of such measures.

The Group also discussed Article XXV:5, which, in exceptional circumstances, allows contracting parties to be released from their GATT obligations. Particular attention was given to the establishment

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of precise criteria defining exceptional circumstances and of specific time limits for the duration of waivers, as well as to the linkage between these two aspects. Reference was also made to the problem of bringing existing waivers into conformity with any new rules that might be elaborated.

The Group also examined Articles XII, XIV, XV and XVIII. Some delegations were of the view that the provisions of Article XVIII should be reviewed in the light of changes in the international monetary system and experience gained about the economic effects of those measures on adjustment. Other countries considered that account should be taken of unfavourable developments in the international trading system and access to markets, as well as their negative influence on serious balance-of-payments problems. Varying opinions were also expressed concerning the effectiveness of consultations in the GATT Balance-of-Payments Committee and procedures for those consultations, as well as the duration of any restrictions. Reference was made to the relationship existing between the Negotiating Group on GATT Articles and other negotiating groups, in particular the Group on the Functioning of the GATT System.

New Zealand put forward a new proposal concerning Article II:1(b) of the General Agreement, designed to introduce greater transparency, clarity and security in regard to tariff binding. Some participants considered that New Zealand's proposal provided some useful clarifications while others were of the opinion that the existing rules of Article II were sufficiently explicit.

The Negotiating Group also continued its discussion of proposals and views put forward at earlier meetings in regard to Articles XVII and XXIV.

Subsidies and Countervailing Measures ... 28-29 June

Participants returned to proposals submitted by Switzerland and the United States and continued their discussion of the fundamental objectives and concepts of Articles VI (Anti-Dumping and Countervailing Measures) and XVI (Subsidies) of the General Agreement. Canada introduced preliminary ideas for a possible negotiating framework for subsidy disciplines, parameters for the scope and application of countervail, remedies and dispute settlement.

In their examination of the Swiss proposal, participants remained sceptical about redefining existing categories and classifying subsidies on the basis of the legal effects attached to each. Some participants said they were concerned about the need to make constant amendments to take account of new subsidy practices and the possible danger involved with relabelling some subsidies in order to circumvent prohibitions or actionability. Others said the proposal should be expanded to give equal weight to disciplines regarding countervailing measures.

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In regard to the US proposal, participants expressed concern about the suggested approach which, instead of building on existing disciplines, addressed new areas which some felt went well beyond the mandate of the group. Participants said the proposal to strengthen subsidies disciplines and to apply countervailing measures to "other forms of government intervention substantially equivalent to a subsidy" could transform the Subsidies Code into a kind of general remedy for all measures which may affect international trade. Some participants supported the proposal to effectively prohibit all export subsidies regardless of the product or the level of development of the country providing the export subsidy, whereas others said export subsidies played an important role in the development policies of developing countries and that such a prohibition was, therefore, not justified. While participants generally agreed that countervailing duty issues were lacking from the US proposal, some welcomed its broad objectives and call for clear, effective and precise set of rules on subsidies. They said the lack of such disciplines was at the root of many disputes, which undermined the credibility of the multilateral trading system.

Tropical Products ... 1 July

The second round of multilateral consultations (see NUR 017) from 27 June to 1 July was marked by the submission of more export-products lists and a Japanese proposal containing negotiating guidelines aimed at the fullest liberalization of trade in this field. The proposal envisaged reducing or eliminating tariffs and non-tariff measures on the widest possible range of tropical products, and the possible implementation of tariff reductions in 1989. Japan suggested that negotiations on some tropical products which are direct substitutes for, or competitors of, temperate products (e.g. rice, vegetable oils, tea and tobacco) be pursued in the Agriculture Group. In assessing the results of the two rounds of consultations, a number of participants urged that in keeping with the special attention accorded to tropical products in the Uruguay Round, the Group should step up its pace of work. Many participants welcomed the Japanese submission as a positive step in the negotiations but several of them observed that certain details of the proposal have yet to be specified. The exclusion from the proposal of some major tropical products was also questioned.

Meeting formally on 1 July after the informal consultations, the Group approved the arrangements for the further conduct of negotiations under which participants were encouraged to continue presenting offers for trade liberalization in this area, or elaborate on previous ones, not later than mid-September 1988. After that date, participants will start a programme of consultations which will take place from September to early November. The Group will then meet to assess the results achieved and decide on further arrangements as necessary.

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Trade-Related Aspects of Intellectual Property Rights ... 5-8 July

Participants examined two new proposals: one put forward by Switzerland, the other by the European Community.

The Swiss proposal, an elaboration of considerations put to the Group late last year, proposes that any additional GATT rules in the area of intellectual property rights should build on the existing framework. The proposal suggests incorporating into the General Agreement three principles, namely the avoidance of trade distortions, the granting of national treatment and the enforcement of the observance of intellectual property rights. Indicative lists would serve as a way of defining these principles in concrete terms and would provide examples of trade-distorting effects caused by excessive or insufficient, or lack of, intellectual property rights. The Swiss proposal also calls for the establishment of a committee within GATT which would cooperate with the World Intellectual Property Organization (WIPO) to develop the international law related to intellectual property and, if need be, the international norms in this area, including specific mechanisms for the prevention and settlement of disputes and technical cooperation.

The Swiss approach was discussed in detail. Many countries asked questions about the indicative lists, and about the delimitation of activities between WIPO and GATT.

The European Community also put forward an elaboration of its proposal made last autumn regarding the enforcement of intellectual property rights. The EC suggested a set of guidelines and objectives for resolving trade problems resulting from inadequate or excessive substantive standards on the protection of intellectual property. The EC believes that an agreement in GATT should at least cover patents, trade marks, copyright, neighbouring rights, computer programmes, models and designs, geographical indications (in particular appellations of origin) and those acts which are contrary to honest commercial practices. The main objective of the EC proposal is to eliminate trade distortion.

For each of the intellectual property rights addressed, the EC proposal develops principles for their protection, especially in regard to the scope and duration of protection. Taking account of the specific needs of intellectual property protection, it provides for the application of certain general GATT principles such as most-favoured-nation treatment and national treatment, and for GATT mechanisms for surveillance and dispute settlement.

Furthermore, the EC proposes that parties to the agreement undertake efforts to adhere to the Paris and Berne conventions, and urges them to adhere to other conventions which afford protection to intellectual property. Parties to the agreement should also

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participate in the elaboration and implementation of new substantive standards in other international organizations, and, if those efforts are not successful within a reasonable period, within GATT.

Numerous and detailed questions were put to the European Community on the various elements of its proposal, in particular in regard to appellations of origin.

Referring to the Swiss and EC proposals, a number of delegates from developing countries reaffirmed their interpretation of the Uruguay Round objectives in this area, claiming that the objectives do not provide for negotiations on substantive standards for the protection of intellectual property.

The second part of the WIPO study on the existence, scope and form of the generally internationally accepted and applied standards for the protection of intellectual property, covering industrial designs and geographical indications, was submitted to the Group.

Safeguards ... 14-15 July

The Group discussed two proposals submitted at its July meeting (see NUR 017), while Switzerland introduced a further paper on its own ideas. The Swiss approach was founded on the belief that safeguard rules must deal effectively with situations of structural difficulty in order to cover circumstances in which "grey area" measures are currently employed. In other words, rules would have to be established, creating disciplines consistent with GATT philosophy in regard to both measures at the frontier and domestic measures taken to deal with structural difficulties. The rules suggested by Switzerland, dealing with the latter, laid emphasis on the responsibility of industry itself to adjust and the relatively subsidiary character of government intervention which should be taken in conformity with international obligations.

The Group went on to discuss three individual specific elements which might be components of a safeguards agreement. There was a debate, firstly, about domestic adjustment assistance measures, with some delegations taking the view that safeguards actions should only be permitted if a programme of structural adjustment measures were undertaken at a government level. Others took the view that industries themselves must remain responsible for their own adjustment which should not be dictated by governments or by an international organization. With respect to the question of compensation or retaliation for safeguard actions, views were put forward to the effect that they were effective deterrents against the use of such action but, on the other hand, that they served to drive governments, which were not prepared to pay a price for Article XIX measures, towards the use of "grey area" action. The group also discussed notification and consultation requirements.

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Dispute Settlement ... 11 July

In addition to a continued consideration of major issues under examination in the group, participants discussed two papers which had been prepared as background material for the group: one on multi-complainants procedures and intervention by third parties in GATT dispute settlement proceedings; the other on differential and more favourable treatment of developing countries in the GATT dispute settlement system.

Views differed on the need to formalize procedures in the light of the increasing number of third parties expressing strong interest in bilateral disputes between two other contracting parties. Some participants favoured formalizing procedures to safeguard the rights and interests of third parties; others felt that disputes brought before the Council or the standing committees were too different in kind, and that applying specific procedures for third parties would unnecessarily complicate dispute settlement proceedings. There was general agreement, however, that some increased level of discipline, possibly through flexible guidelines, would be beneficial.

Views also diverged on differential and more favourable treatment of developing countries in the GATT dispute settlement system. Several participants said the group's mandate did not specify changing the balance of the dispute settlement system. However, should changes be agreed to, any modifications would have to safeguard equal treatment for all contracting parties. Other delegates maintained that the current dispute settlement procedures were not adequate in meeting the needs of developing countries and proposed that special services such as training and legal assistance be made available. One delegation said it was not insisting on having a different set of obligations for developed and developing countries, but hoped that agreements to change the current dispute settlement system would include more flexibility for developing countries.

Agriculture ... 13 and 14 July

The Cairns Group¹ proposed a framework approach for initiating liberalization of international trade in agriculture, to be agreed on during the mid-term review in December, at Montreal. This approach linked short- and long-term elements, together with transitional provisions.

As first steps to long-term reform of agricultural trade, the Group proposed, inter alia, a commitment to introduce an immediate freeze on support and subsidization which distort trade and to reduce aggregate monetary level of support by 10 per cent in each of the

¹ The Cairns Group comprises Argentina, Australia, Brazil, Canada, Chile, Colombia, Hungary, Indonesia, Malaysia, New Zealand, Philippines, Thailand and Uruguay.

years 1989 and 1990, this commitment constituting a downpayment consistent with long-term multilateral agricultural reform. In addition, the first stages of such a long-term reform should focus on increasing import access opportunities, lowering of administered prices, maintaining existing production control and acreage reduction programme, and on stock disposal disciplines.

As regards transitional measures, the Cairns Group proposed that ministers should undertake to negotiate annual reductions in support and protection and to elaborate transitional rules aimed at a progressive reform of the GATT rules and disciplines. Ministers should agree at Montreal to commence negotiations in 1989 with a view to full liberalization of agricultural trade in the long term. This objective would be achieved by elaborating rules and disciplines for improving market access (elimination of tariff and non-tariff barriers, and likewise waivers and exceptional régimes for agriculture), and prohibiting the use of any subsidies and public aids having an effect on agricultural trade. Only humanitarian measures, or measures decoupled from production and marketing, could be maintained, and then subject to specific conditions.

The Cairns Group proposal also included a framework for negotiations on sanitary and phytosanitary measures. In addition, in the context of more favourable treatment, developing countries would be exempted from contributing to the first steps to long-term reform of agriculture.

Members of the Cairns Group underlined certain aspects of the proposal. Australia, for its part, presented a communication spelling out some of the concrete commitments that would have to be undertaken during the first stages of a long-term reform.

In their preliminary comments, some participants pointed out that the Cairns Group proposal was more detailed in regard to short-term measures than for long-term ones. Some of them noted that the progressive character of the approach seemed promising. Many participants expressed the view that this was a positive contribution to the negotiations; other countries voiced reservations, and many requests for further details were made.

Jamaica presented "elements for a proposal by developing countries", drafted in consultation with a number of developing countries. This paper constitutes a framework approach aimed at ensuring that developing countries can secure benefits from the negotiations on agriculture. The proposal is divided into four sections: 1) issues considered important by developing countries; 2) basic principles that should apply to trade in agriculture; 3) understandings and urgent measures to be reached or taken in 1988

in order to reduce uncertainty, imbalance and instability in world agriculture markets; 4) specific multilateral commitments, including short-term or emergency measures, transitional arrangements to be implemented in the course of 1988 and 1989, exchange of concessions as appropriate, covering tariffs, non-tariff measures (including quantitative restrictions), subsidies, sanitary and phytosanitary regulations.

A number of developing countries welcomed the proposal which, in the view of some of them, seemed to go to the root of the problems they were encountering in agricultural trade.

The Negotiating Group continued its examination of the European Community's proposal on short-term measures (see NUR 017). Some representatives underlined that it now seemed clear that short-term measures would be needed; nevertheless, some doubt was expressed regarding the limited coverage of the measures proposed by the EC. There was also discussion as to the linkage that would be needed between short-term measures and long-term ones - a linkage that some representatives saw as being only implicit in the Community proposal.

The Group also continued its discussion of the United States proposal regarding food security. Some countries indicated that they would be presenting proposals on that issue. Some others considered that the United States proposal would not suffice to ensure real food security, and that the matter was undeniably of political importance.

Non-Tariff Measures ... 18-19 July

In line with the procedures adopted in February 1988 (see NUR 015), the Group held a first examination of the suggestions tabled by various participants on measures to be covered by, and the approaches to, the negotiations. A group of 15 participants, comprised of both industrialized and developing countries, put forward a general framework for the negotiations with a view to expediting them. This submission envisaged the adoption of a number of principles to serve as guidelines in the negotiations and set out various approaches to the negotiations. It favoured multilateral and formula approaches whenever possible, and suggested that the request-and-offer procedure be used as a supplementary approach.

Japan, the United States and the European Communities also advanced proposals in which they suggested that multilateral approaches be adopted for preshipment inspection (Japan, US and EC); rules of origin (Japan and US); customs and consular formalities, and fees and other import charges (EC); and import deposit systems and port taxes (Japan). The US and the EC submissions also contained specific lists of measures maintained by individual participants which could be taken up in the negotiations.

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Textiles and Clothing ... 21 July

Participants continued their examination of techniques and modalities which would permit the eventual integration of the textiles and clothing sector into GATT. They also heard a statement by Indonesia on behalf of the nineteen members of the International Textiles and Clothing Bureau (ITCB). The statement was an elaboration of an ITCB proposal presented last May and calls for a reversal of the restrictive measures under the Multifibre Arrangement; the elimination of concepts and practices under the MFA which are incompatible with the General Agreement; the effective application of GATT principles relating to developing countries to trade in textiles and clothing, and the termination of the MFA and all associated bilateral agreements.

Participants further examined a proposal by the Nordic countries for an analysis to be carried out by the secretariat of the possible global economic and trade consequences of dismantling the MFA and other trade restrictions in this field. Some participants felt that existing statistical information was more than adequate and that the Group should now focus on examining the modalities for the possible integration of the textiles sector into GATT. Other delegations believed that such a study, which would be completed in the Spring of 1989, would provide the group with the information it needs and would give the group the necessary impetus to move ahead. The group decided to defer further considerations of this matter to its next meeting.

A number of delegations expressed concern over the slow progress being achieved in the work of the Group and urged participants to give priority attention to the textiles and clothing sector since it was one of the most important in the Uruguay Round for many participants.

Trade in Services ... 18-22 July

A number of previously-tabled papers were discussed and three new proposals were presented by Mexico, Switzerland and Australia.

The proposal by Mexico expanded on the idea that economic development be an integral part of the framework agreement and any sectoral agreements. It set out a number of general objectives which included the expansion of production, productivity, employment and exports related to the services sectors of developing countries. It then itemised ten specific measures which followed from the general objectives. Among those measures, Mexico proposed the notion of "relative" reciprocity; the inclusion in the negotiation of labour-intensive services and labour flows; preferential arrangements for developing countries and measures to speed up the transfer of technology to those countries. At the same time Mexico suggested that "right of establishment" should not be covered in the agreement and

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that laws and regulations relating to the development interests of developing countries should not be challenged.

Many developing countries supported the approach of the Mexican proposal. Industrial countries welcomed it as a contribution to the negotiation and most were in agreement with the overall objectives. Concern was expressed, however, with some of the detailed measures: for instance, the inclusion of labour mobility, the exclusion of "right of establishment", the interpretation of "relative" reciprocity and the possibility of "blank cheque" exclusions of laws and regulations regarded as being development-based.

In their new proposal, the Swiss delegation spelled out in considerable detail an approach outlined earlier in the year. This approach envisaged the use of an "optional most-favoured-nation" arrangement under which bilateral or plurilateral services agreements - negotiated with reference to some overall principles - could be extended to third parties upon request. The plan envisaged principles of open competition in services including the application of rules of the type employed in GATT on subsidies, anti-dumping measures and technical barriers to trade, as well as rules on state monopolies and on some form of safeguards. In preliminary reactions to the new Swiss proposal, some participants continued to express doubt about the practical operation of the "optional MFN" approach.

The Australian proposal was termed an "illustrative outline" of a framework agreement and, for the first time, attempted to indicate what such an agreement might look like in practice. It had three sections: objectives and scope, obligations and benefits and institutional provisions. The approach rested upon the creation of a number of strong rules of general application alongside a balance of rights and obligations and market access benefits. Such a balance would be established through an initial listing, in the form of schedules, by each individual member country, of national regulations to be excluded from the coverage of the agreement and market access undertakings. Through an "open season" procedure the schedules of exclusions would be shortened and the market access undertakings expanded through regular rounds of plurilateral negotiations.

The meeting also discussed a variety of background papers prepared by the secretariat to aid the negotiations. One, a draft glossary, sets out a number of terms used frequently in meetings of the GNS together with an attempt to describe the basic concept to which the discussion in the GNS relates. It was agreed that the glossary could be further developed so as to represent an inventory of the meanings assigned by various governments to certain concepts and principles and therefore provide a tool for identifying convergencies and divergencies. Further discussions covered questions relating to the definition of trade in services, statistics, and the eventual coverage of the framework agreement.

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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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