

URUGUAY ROUND

OF MULTILATERAL TRADE NEGOTIATIONS

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NEW RULES ON TARIFF RENEGOTIATIONS AGREED OTHER GATT ARTICLES DECISIONS DRAFTED

Uruguay Round negotiators have agreed on the widening of negotiating rights, in favour of smaller countries, when bound tariffs are raised or withdrawn under Article XXVIII of the General Agreement.

Article XXVIII governs the conditions under which a country can modify its tariff concessions - by raising or unbinding them - as well as the rights of affected parties. Its provisions are also followed in negotiations relating to the formation or enlargement of customs unions. It currently provides that the determination of a "principal supplying right" - a right to negotiate compensation for tariff changes - is to be made on the basis of trade shares in the market of the importing country.

Rights will now also be granted on the basis of how important affected trade is for the exporting country. Accordingly, the draft agreement suggests that a principal supplying right be granted, if it does not already have one, to the country for which the product is most important, in terms of the ratio of exports affected by the concession to its total exports.

The draft agreement also provides that in future renegotiations MFN trade shall be used for the determination of contracting parties holding principal and substantial negotiating rights and that only in certain circumstances non-contractual preferential trade should be used.

Regarding cases dealing with new products, where past trade statistics provide inadequate guidance for the determination of negotiating rights, the draft agreement suggests that such determination and the calculation of compensation shall be based on a measure of future trade.

Some guidelines are also suggested for the calculation of compensation when tariff rate quotas replace unlimited tariff concessions.

Draft Decisions on Articles XXV:5, XXXV and the Protocol of Provisional Application (PPA) have also been transmitted to the Group of Negotiations on Goods and the Trade Negotiations Committee. Some participants have made it clear that their ability to accept a decision on Article XXV:5 or the PPA would depend on the results achieved in other

Negotiating Groups. On Article XXXV, several participants were still considering the legal implications of the text and two expressed a reservation pending the completion of this examination.

The Draft Decision on Article XXV:5 tightens conditions under which derogations to GATT rules, so called "waivers", can be granted. According to the proposed provisions a collective decision by the Contracting Parties to grant a waiver shall state the exceptional circumstances justifying it, the terms and conditions governing its application, and the date on which it shall terminate. For waivers granted for a period of more than one year, a review shall take place not later than one year after it was granted, and thereafter annually until the waiver terminates; Contracting Parties may, on this basis, extend, modify or terminate the waiver.

The Draft Decision further provides that waivers now in existence which do not bear an expiry date should terminate on a date which will be specified in the Draft Decision - at a later stage - unless extended in accordance with the new procedures.

The Protocol of Provisional Application, agreed at the time of the establishment of GATT, requires contracting parties to apply the provisions in Part Two of the General Agreement (Articles III to XXIII), "to the fullest extent not inconsistent with" legislation existing at the time when the acceding country becomes a contracting party. The Draft Decision states that this general derogation (the "grandfather clause") shall expire, at a date yet to be decided.

Article XXXV currently provides that a contracting party or an acceding country may decline to apply the General Agreement to the other at the time of the latter's accession and provided that they have not entered into tariff negotiations. The proposed Draft Decision on Article XXXV would allow invocation of non-application to be made after engaging in tariff negotiations. The proposed text aims at ensuring that tariff negotiations between contracting parties and a government acceding to GATT are not inhibited by unwillingness to accept an obligation to apply the General Agreement as a consequence of entry into such negotiations.

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 del 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.