

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.TNC/6

17 August 1988

Special Distribution

Trade Negotiations Committee

TRADE NEGOTIATIONS COMMITTEE

Sixth meeting: 26 July 1988

1. The Trade Negotiations Committee held its sixth meeting, under the chairmanship of Mr. Arthur Dunkel.

I. Periodic evaluation of the implementation of the standstill and rollback commitments

2. The Chairman of the Surveillance Body introduced the notes on its meetings of 8 March and 21 June 1988 (MTN.SB/5 and 6). He referred the Committee to his summary of the current situation in paragraphs 29-43 of MTN.SB/6 and to two synoptic documents containing, respectively, an updated list of notifications and communications (MTN.SB/W/3/Rev.2) and a consolidation of agreed procedures (MTN.TNC/W/10). Under the standstill procedures, while there had been a serious exchange of views on the relationship between the individual measures notified and the specific commitments in the Punta del Este declaration, the bulk of the measures still remained in force. Of particular concern was the absence of any firm action towards rollback. The formal and informal consideration which was being given to this matter in the light of its importance for the purposes and objectives of the Uruguay Round encouraged the hope that participants would make their best efforts to contribute in this area in the period leading up to the December meeting of the TNC.

3. One participant expressed concern over the worsening situation facing developing countries both in the international trading environment and in the areas of money and finance. The political commitments on standstill and rollback had been entered into with the intention of fostering a climate favourable to the pursuit of the negotiations. These commitments should be respected and concrete results achieved even before the December meeting of the TNC. This was necessary not only to restore the credibility of the multilateral trading system, but also to maintain confidence, particularly among developing countries, in the negotiations. Another participant recalled his statement at the last meeting of the Surveillance Body (MTN.SB/6, paragraph 21) and underlined the need for action before, or at the latest, at the December meeting so that the meeting could be approached with optimism and realism.

GATT SECRETARIAT

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4. The Committee took note of the report of the Chairman of the Surveillance Body, of the statements made and of the fact that in the usual course of events the TNC would next take up the subject of standstill and rollback at its meeting in December 1988.

II. Group of Negotiations on Goods: Report

5. Speaking as Chairman of the GNG, the Chairman recalled that the Group had met twice since he had last reported to the TNC, on 18 February and 25-26 July 1988. The proceedings were recorded in MTN.GNG/11 and 12. The Group had engaged in substantive debate which reflected the commitment of participants to the negotiations and their appreciation that a determined effort would be required of all in the coming months, in order that the December meeting of the TNC at Ministerial level should bring to the trading community the confirmation that governments are fully engaged in carrying out the objectives they had agreed at Punta Del Este. The debate had confirmed that the balance achieved in the Punta del Este declaration between the various issues still prevailed, including the priority attached to tropical products and the central importance of safeguards. Most participants had underlined that improvement in market access remained a very important goal, and that the agriculture negotiations played a central rôle. Interest in the work of the groups on Functioning of the GATT System and Dispute Settlement was widespread. However, fundamental differences of opinion remained as to the interpretation of the mandate of the TRIPs Group. Several participants had stressed the different aspects of the concept of special and differential treatment for less-developed countries, aspects which included concern for the special problems of least-developed countries, questions concerning reciprocity, and questions relating to balance-of-payments exceptions under Article XVIII. The GNG had taken note of the present schedule of meetings of Negotiating Groups, while recognizing the need for flexibility. It had urged all Groups to make every effort in the coming months to achieve progress and suggested that the Chairpersons prepare, after consultations with members of Negotiating Groups, their reports to the GNG. These would, in principle, consist of two parts - a very brief description of the work done to date, and proposals on which the Ministerial meeting of the TNC would be called, by the intermediary of the GNG's report, to take decisions. The GNG had set aside 16-18 November 1988 to elaborate its report to the December TNC meeting and stood ready to meet earlier if necessary.

6. The Committee took note of the report of the Chairman of the GNG.

III. Group of Negotiations on Services: Report

7. The Chairman of the GNS recalled that the Group had met four times since he had last reported to the TNC, in January, March, May and July 1988. The Proceedings were recorded in MTN.GNS/13-16. This present report was made on his own responsibility. The discussions in the Group had centred

essentially on the five elements set out in the Programme for the Initial Phase of the Negotiations (MTN.GNS/5). The Group had also had before it submissions by participants relating to a possible multilateral framework for trade in services, as well as background papers by the secretariat. These included a Draft Glossary of Terms, which the Group had asked the secretariat to revise more as an inventory of concepts and principles that had been addressed in the Group, focusing to the extent possible on the convergences and differences of views expressed. The GNS had benefited from input by, and discussions with, representatives of ICAO, ITU and UNCTAD with a view to clarifying the relevance of the work of these organizations to that of the GNS. In the coming months the Group would pursue its efforts to develop and deepen its understanding of the concepts and principles before it, focusing on a number of key issues including national treatment, progressive liberalization and the expansion of trade, development objective, and movement of factors. The GNS had agreed to meet on 19-23 September and 31 October-4 November 1988 and allowed for a possible short meeting in the second half of November, if necessary, to reach agreement on the documentation for the Ministerial meeting of the TNC.

8. One participant noted the importance of the negotiations on services for the success of the Uruguay round. While encouraged by recent developments in the Group, he regretted the slow pace of the work and urged all participants to renew their efforts to achieve real progress by the December meeting towards a framework agreement in trade in services.

9. Some participants underlined the fact that the Chairman's report had been made on his own responsibility and that they did not entirely share his perception on priorities. One participant further stated that, while he was satisfied with the pace of work in the Group, the various concepts and principles in the inventory would need to be examined in the light of modalities to achieve the development objective, the reality of trade in services in terms of transactions and sectoral coverage, and the expansion of trade in services. He looked forward to concrete progress being achieved.

10. The Committee took note of the report by the Chairman of the GNS and of the statements made.

IV. Overall review of progress in the negotiations

11. The Committee heard statements by a large number of participants ranging widely over progress to date, the scope of the Ministerial meeting, expectations as to the outcome of that meeting and to the further progress of the negotiations. Statements encompassed every aspect of the negotiations, relating both to work in the negotiating groups and to overall objectives of the negotiations. A number of specific points were raised.

12. There was widespread agreement that unprecedented efforts had been made in this early part of the negotiations. Some participants underlined

their satisfaction with the pace and progress of the negotiations. Efforts should continue to be made across the board, no area being excluded and none privileged - with the generally accepted exception of tropical products, which had been designated for priority action in the Punta del Este declaration. Despite obvious deficiencies, the trading system was faring better than it would have done in the absence of the Uruguay Round. Some participants, however, emphasized that much remained to be done to fulfil the negotiating objectives and to achieve balanced progress. To this end, efforts in the coming months should be concentrated in those areas where it was proving more difficult to achieve concrete results. This period would also afford time to reflect on, reassess, and correct as necessary, the course being followed, and to reduce the areas of disagreement. Some participants felt that efforts should be directed to clarifying the limited number of issues on which Ministerial decisions or guidance would be required. However, it was generally recognized that the success of the Ministerial meeting depended on political commitment and intensive preparations. In this context some participants appealed for transparency in the conduct of the negotiations, for avoidance, to the extent possible, of overlap between meetings which made it difficult for some to participate fully, and for increased technical assistance by the secretariat supported by a standing trust fund. It was recognized that the Ministerial meeting was not an end in itself and that work in the period leading up to it should not focus on it to the exclusion of the ultimate goals and target of the negotiations. The point was made that unrealistic expectations should not be fostered, for fear of hampering further progress.

13. It was generally agreed that the Ministerial meeting would provide the opportunity to take stock at mid-term on the basis of the reports by the GNG, GNS and Surveillance Body. Several aspects were mentioned for inclusion in such a stock-taking: assessment of implementation of the general objectives and principles of the negotiations; of the degree of fairness and balance in carrying out the single political undertaking in the Punta del Este declaration; of the realization of goals of strategic interest to developing countries; of adherence to the concept of globality. The meeting should also provide not only a credible signal to the world outside, but also the political stimulus necessary for the pursuit and conclusion of the negotiations, as well as a basis and clear-cut guidelines for the further conduct of the negotiations. Some participants saw the meeting as the opportunity to create the conditions for the real negotiations to begin, the necessary decisions on approaches or frameworks already requiring concessions to be made. Differences of view were expressed as to the necessity of achieving early results. It was emphasized that if a package of results were to be achieved it must be balanced, reflect the interests of all participants and not be such as to hamper further progress. Nor should a quest for early results jeopardize the desired final outcome, one to which all could subscribe and which would create a trading system in which the same principles and rules applied to all, a multilateral system which set aside the present threats of bilateral and unilateral actions. While some participants viewed early results,

should they be achieved, as a welcome bonus to the outcome of the Ministerial meeting, others considered that results in substantive areas were essential to the success of the meeting.

14. Some participants stressed that progress was required to implement the third and fourth negotiating objectives laid down in the Punta del Este declaration: converging action was required, at national and international levels, in trade and other economic policies. In this context and with reference to the preamble to the Punta del Este declaration, some participants proposed that an examination of the problems be initiated so that modalities for the implementation of the third objective could be evolved by the time of the Ministerial meeting. It might be envisaged that indebted countries submit a list of products to which priority be granted in improving market access without violating the most-favoured-nation principle. One participant said that they would be putting forward, for consideration in whatever body was deemed appropriate, a proposal on the elaboration of modalities which would permit a real link to be established between indebtedness and trade. He suggested that the secretariat assist indebted developing countries in elaborating such modalities. Another participant noted that much had recently been done outside the GATT which contributed to improving the trading environment and were relevant to the third objective. While this objective related mainly to actions outside GATT's purview, it did urge participants on in areas for which they had a responsibility in the Uruguay Round.

15. The need for effective implementation of the commitments on standstill and rollback was repeatedly stressed. Some participants underlined the need to have results, in particular in the area of rollback, before the Ministerial meeting, in order to maintain the credibility of the negotiations and to enable progress in other areas. Some of them regretted that agreement on a specific schedule had not been possible. Other participants stated that results on rollback would be needed at the latest at the Ministerial meeting.

16. Many participants stressed the importance which they attached to results in particular negotiating groups. Among the areas in which different participants sought early results were market access, tropical products, natural resource-based products, textiles, safeguards, dispute settlement, functioning of the GATT system including cooperation between international economic institutions. Some participants, underlining the importance to them of early results in the area of agriculture, pointed to the recent proposal by a group of countries as providing an achievable framework of results for the Ministerial meeting.

17. In the area of trade in services, some participants looked to Ministers to decide on the need for the establishment of a specific framework in services. Some participants stressed the importance in the negotiations on services, as well as those on trade-related aspects of intellectual property rights and trade-related investment measures, of

providing fully for development needs, in a way that would go beyond mere differential and more favourable treatment.

18. Some participants expressed serious concern over what they saw as an attempt to renegotiate the mandate of one negotiating group. One participant felt that, faced with the impossibility of reaching agreement on the scope of the negotiations within the group itself, it would be appropriate for a judgement to be reached on the matter by the TNC at Ministerial level.

19. With reference to the Chairman's statement on the adoption of the Punta del Este declaration, one participant stated that he would be making a request for the problem of export of hazardous wastes to be addressed in the negotiations.

20. One participant recalled the separate functions and competences of the GNG, TNC and CONTRACTING PARTIES, saying that the TNC could neither by-pass the GNG nor take decisions of a contractual nature regarding the implementation of results.

21. The representative of Brazil expressed grave concern over the declared intention of the United States to impose unilateral measures intended to bar the access to its market of selected Brazilian exports on account of alleged damage to its pharmaceutical industry. Brazil's commitment to the objectives of the Uruguay Round had been clearly demonstrated by the liberalization measures recently taken. The proposed action by the United States, if implemented, would violate the most elementary principles of international law and of the General Agreement and, furthermore, would infringe the commitment formally undertaken by Ministers at Punta del Este "not to take any trade restrictive or distorting measure inconsistent with the provisions of the General Agreement". It threatened the very integrity of the negotiating process in its attempt to coerce another participant. He also pointed out that the mere publication of the list of potential items on which restrictions might be imposed represented, in itself, a trade-inhibiting factor likely to disrupt trade. If such action were conducted, it would undermine confidence in trading partners abiding by obligations still to be entered into and thus in a successful outcome of the Uruguay Round. The representative of Brazil could not accept that one trading partner had the moral or ethical authority to classify another's action as an "act of piracy", nor that it could judge such action without bringing the matter to an international forum for examination. His Government reserved its right to resort to the relevant GATT provisions in order to protect its legitimate rights and interests under the General Agreement. The representative of Brazil reaffirmed his country's determination to seek a more open and durable trading system, one in which the weaker economies are provided with adequate protection against the use of discriminatory restrictions aimed at imposing internal laws and regulations of commercial powers. A number of participants shared the concerns of the representative of Brazil and expressed their opposition to the use of coercive action against a contracting party that was abiding by

the General Agreement. The intended action appeared to violate not only the provisions of the General Agreement, but also the commitment on standstill. These participants said, furthermore, that the use of such coercive action had serious implications for the negotiations on trade-related aspects of international property rights. The representative of the United States recalled that the negotiations had been launched amid concerns, that still existed, about the trading system and the credibility of GATT. The United States' response to acts of piracy of its intellectual property had been taken in the context of these concerns, after addressing the issue for a number of years. His country's endeavours had led to strengthened patent laws in many countries and to a multilateral commitment to address the issues in the Uruguay Round. Brazil's lack of action was in stark contrast to these developments. His delegation was concerned if acts of piracy were to go unresponded to and if the response to these acts be coated with blame, when it was the act of piracy that was skewing the trading system. He hoped that participants would get on with the negotiations and multilaterally provide for an expansion in world trade, so that there would be no return to unilateral and bilateral actions which betrayed the failure of the trading system to deal with the real problems in the world of trade.

22. In summing up, the Chairman noted that the debate had clearly showed that the Uruguay Round was not an academic exercise, but closely concerned with the real problems of the trading system, and underlined that increasing efforts would need to be directed at improving the functioning of the system. He took encouragement from the presence of representatives from capitals. Participants had reaffirmed the appropriateness of holding the December meeting of the TNC at Ministerial level. The benefits of such a meeting were already making themselves felt, in that participants were renewing their efforts in the negotiations. A balance would need to be struck between the exigencies of this intermediate target and the final outcome of the Uruguay Round. While undue expectations should not be placed on the December meeting, some were nevertheless warranted in view of the job to be done. The Committee had had a debate ranging over the whole spectrum of the negotiations, and in so doing had been reminded that, as indicated in the Ministerial Declaration, work in the Uruguay Round on trade policy was related to activities in other areas of economic cooperation, such as the ones dealt with by the World Bank and the IMF. The question had to be seen from the point of view not only of the interrelationship of these areas, taking into account also that each institution had its own responsibilities, but also of the proposals by participants in respect of the more operational aspects of the question. He underlined the need to ensure that transparency and cooperation prevailed among participants in the conduct of the negotiations. A very clear consensus had emerged on the necessity to concentrate all efforts in the negotiating groups during the coming months. He had noted the individual concerns raised by participants and was encouraged that, as was essential to the success of the negotiations, these were also being taken into account by other participants.

23. The Committee took note of the statements made.

V. Arrangements for further meetings

(i) Chairmanship of the TNC at Ministerial level

24. In view of the fact that Mr. Enrique Iglesias, whom the Committee had appointed to chair its meetings at Ministerial level (MTN.TNC/1, paragraph 2(i)), had left his Ministerial post in Uruguay, the Committee agreed that the Minister of Economy and Finance of Uruguay, Mr. Ricardo Zerbino Cavajani, would chair the Trade Negotiations Committee at Ministerial level.

25. Participants had reaffirmed the appropriateness of holding the December meeting of the TNC at Ministerial level.

26. On behalf of Mr. Zerbino, the delegation of Uruguay thanked the Committee and transmitted his assurances that he would give every assistance to the negotiating process. This further contribution by Uruguay to the trade negotiations was another sign of its commitment to the multilateral trading system.

(ii) Practical arrangements for the conduct of the Montreal Ministerial Meeting

27. The Committee took note of the practical arrangements proposed for the Montreal Ministerial meeting (see Annex).

(iii) Date of next meeting

28. The Committee took note of the suggestion by one participant that the TNC meet at official level just prior to the Ministerial meeting, to ensure that Ministers could be appropriately briefed.

29. The Committee agreed to the Chairman's proposal that, in view of the need for flexibility in the period before the Ministerial meeting, it be ready to meet if and when required.

ANNEX

MONTREAL MINISTERIAL MEETING

Practical Arrangements

Opening Session¹

- The meeting begins on Monday, 5 December at 9.30 a.m.;
- A. Dunkel calls the meeting to order;
- A. Dunkel introduces the Canadian Trade Minister and invites him to take the chair;
- The Canadian Trade Minister invites the Prime Minister of Canada to address the meeting;
- The Prime Minister makes his address;
- The Trade Minister of Canada offers a vote of thanks and makes a statement referring, in conclusion, to the rôle played by Mr. Iglesias, the former Chairman of the TNC;
- Mr. Iglesias is given the floor (at the rostrum);
- The Canadian Trade Minister declares the opening ceremony closed and gives the chair to the Minister of Economy and Finance of Uruguay, Mr. Zerbino Cavajani.

Meeting of Trade Negotiations Committee at Ministerial Level

- Mr. Zerbino Cavajani thanks participants for electing him Chairman of the TNC and formally opens the TNC meeting;
- Adoption of agenda;

¹The opening and closing sessions of the Montreal Ministerial Meeting, but not the meeting of the TNC at Ministerial level, are open to the media. Extensive media facilities will be available outside the meetings.

- Three days i.e. 5, 6 and 7 December, are allocated for the TNC to carry out its work.¹ Sessions will be held from 10 a.m. - 1 p.m. and from 3 p.m. - 6 p.m.;
- Ministers will be invited to limit their statements to five minutes. Longer presentations can be circulated in writing;
- Facilities are available for formal or informal meetings outside the plenary meeting;
- At the end of the meeting of the TNC at Ministerial level, Mr. Zerbino Cavajani closes the meeting and gives the chair to the Canadian Trade Minister.

Closing Session²

- The Canadian Trade Minister chairs the closing session of the Montreal Ministerial meeting;
- During this session, an opportunity will be provided for statements from the floor.

¹In case of need the meeting could continue on 8 December.

²The opening and closing sessions of the Montreal Ministerial Meeting, but not the meeting of the TNC at Ministerial level, are open to the media. Extensive media facilities will be available outside the meetings.