

WORLD TRADE ORGANIZATION

RESTRICTED

S/WPGR/M/7

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Working Party on GATS Rules

REPORT OF THE MEETING OF 29 JULY 1996

Note by the Secretariat

1. The seventh meeting of the Working Party on GATS Rules was chaired by Mr. Stuart Carre of Canada. The agenda consisted of six items: negotiations on subsidies under Article XV of the GATS; negotiations on government procurement under Article XIII of the GATS; negotiations on safeguards under Article X of the GATS; work of the Working Party in relation to the Singapore Ministerial Meeting; date of the next meeting of the Working Party; and other business.

Negotiations on subsidies under Article XV of GATS

2. The Chairman noted that a particular theme in earlier discussions had been how to define subsidies in order to be able to proceed with the information exchange called for in paragraph 1 of Article XV. Several delegations had suggested that a starting point should be the experience gained under the Agreement on Subsidies and Countervailing Measures. The Chairman posed the question whether the definitions employed in Article 1 and Article 2 of this Agreement would be suitable as a basis for the information exchange on subsidies relating to trade in services. He noted that the basic thrust of the definition in Article 1 involved an actual or potential charge on the government account, or any income or price support, that conferred a benefit. Article 2 defined specificity. Thus, the notification requirements under the Agreement on Subsidies and Countervailing Measures concerned specific subsidies that conferred a benefit and involved an actual or potential charge on the government account (including revenue foregone) or any form of income or price support. The Chairman reminded Members that the present exercise did not involve a notification requirement, but merely an information exchange. Given the exploratory nature of the exercise, perhaps it should be kept as simple as possible in the first instance. Moreover, there was no sense in which information provided would be subject to legal interpretation. Several delegations reiterated the latter point, emphasizing that all the negotiating mandate called for was an exchange of information.

3. A number of delegations doubted the appropriateness of a questionnaire approach to the information exchange exercise. Others indicated that they saw little alternative to an approach based on a questionnaire. It was generally agreed that it would be helpful to develop a set of relevant questions, but it was important not to insist upon excessive uniformity, as this would militate against the provision of useful information. The approach should be sufficiently flexible to allow Members to describe their subsidy policies in the manner they regarded as most useful for the work of the Working Party. It was also noted that if necessary, additional information could be solicited from Members at a later stage. One delegation stated that the approach adopted, including in relation to the definition of subsidy, should take adequate account of developing country considerations. Another delegation expressed the view that it would be more useful to focus upon the kinds of subsidies employed by Members, rather than upon the trade effects of such measures, since it would frequently be difficult to judge the trade effects of subsidies in a services context.

4. All delegations who spoke on the matter agreed that it was necessary to have a working definition of subsidies for the purpose of the information exchange. However, several delegations were of the view that the definitional element contained in Article 2 of the Agreement on Subsidies and Countervailing Measures was unsuitable for the present purposes. If the information exchange exercise related only to specific subsidies as defined in Article 2, this would truncate discussion in the Working Party and frustrate transparency. The suggestion was made that the working definition should be based on Article 1 of the Agreement, and that Members could then indicate additional definitional elements if they so wished. This approach was endorsed by the Working Party and the Chairman indicated that the Secretariat would draft a set of possible questions to be addressed in the information exchange exercise. The Working Party would consider the proposed questions at its next meeting.

Negotiations on government procurement under Article XIII of GATS

5. The Chairman referred to the discussions regarding government procurement that were taking place in the context of preparations for the Singapore Ministerial Meeting, and said that it was important to stay abreast of those discussions, as they may have implications for the Working Party's consideration of its negotiating mandate in this area. A number of delegations agreed with the Chairman, and one said that a proliferation of duplicative negotiating mandates and processes should be avoided. The representative of the United States said that his authorities had put forward a proposal in the heads of delegation preparatory process for Singapore. He said his government favoured a horizontal focus, believing that a single instrument covering all procurement was desirable, even if some specificities relating to services might have to be dealt with separately. Another delegation said that it should be borne in mind that a negotiating mandate already existed in services, whereas the comprehensive approach was still only a proposal.

6. The Chairman also reminded delegations that the Working Party had agreed to a voluntary exchange of information regarding national procurement regimes. So far, answers to the procurement questionnaire agreed by the Working Party (S/WPGR/W/11) had only been received from Norway (S/WPGR/W/11/Add.1) and Switzerland (S/WPGR/W/11/Add.2). A number of delegations indicated that answers to the questionnaire were under preparation in capitals and would be submitted shortly.

Negotiations on safeguards under Article X of GATS

7. The Chairman recalled that the Working Party had agreed at its March meeting to hold informal discussions on safeguards, and that it would be useful if delegations were to put forward some of their ideas on the question of an emergency safeguards mechanism in GATS. Although no additional submissions had been made to those of Australia (S/WPGR/W/5) and Thailand (S/WPGR/W/6), the Chairman proposed that the Working Party should hold an informal meeting prior to its next formal session. This proposal was supported by the Working Party. The Chairman expressed the hope that an informal setting would provide the opportunity to push the discussion forward both on substance and procedural questions. He noted that the deadline for completing the safeguards negotiations was 31 December 1997, which was less than a year and a half away, and that much work remained to be done.

8. The delegations of Egypt, India, Malaysia, Pakistan, Peru, Thailand and Venezuela submitted an informal note at the meeting which listed six points for discussion. These were definitional issues, criteria for determining serious threat of injury in trade in services, examination of emergency safeguard measures in other documents, the objectives of emergency safeguard measures in GATS, examination of possible emergency safeguard measures for different modes of supply, and special needs for developing countries. Eleven other delegations expressed their support for this proposal. Three other delegations voiced doubts about the merits of the case for emergency safeguards in GATS, but welcomed the informal

note and agreed that the discussion needed to be advanced. Several delegations emphasized that many of the issues involved in this discussion were technically complex and in need of careful attention.

Consideration of the work of the Working Party in relation to the Singapore Ministerial Meeting

9. The Chairman raised the question whether the Ministerial Meeting in Singapore provided an opportunity to push forward the work of the Working Party on any front. It was for consideration whether there were any areas where new instructions from Ministers might be useful. Delegations indicated that these matters would be discussed in due course, including in the context of the heads of delegation process and the Council on Trade in Services.

Date of the next meeting of the Working Party

10. The Working Party agreed to hold its next meeting on the afternoon of Tuesday, 8 October 1996, immediately following an informal meeting that would take up the issue of safeguards.

Other business

11. No matters were raised under other business.