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IMPROVEMENT OF NOTIFICATION PROCEDURES

Note by the Secretariat

Introduction

1. The possibility of improving and streamlining notification procedures has been raised by several delegations in recent special meetings of the Council. At the most recent such meeting, on 15 May 1984, the Director-General, referring to the need for transparency, recalled these decisions and said that the secretariat had, at the Council's request, been thinking about this subject and expected to put forward some ideas which might usefully be considered at the next special meeting. The present note is the result.

2. In considering the improvement of notifications, it seems useful from the beginning to distinguish, as far as possible, between two broad issues. One concerns the adequacy of information available to the CONTRACTING PARTIES to help them in their surveillance of developments in the trading system. The other is whether established notification procedures can be rationalized and improved. The two issues are certainly linked, and both fall within the responsibility of the special meetings of the Council. However, it appears to the secretariat that they call for a rather different approach, and may best be dealt with separately.

Surveillance of developments in the trading system

3. The 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210) provides, with regard to notifications, in paragraph 2 that "contracting parties reaffirm their commitment to existing obligations under the General Agreement regarding publication and notification" and in paragraph 3 that "contracting parties moreover undertake, to the maximum extent possible, to notify the CONTRACTING PARTIES of their adoption of trade measures affecting operation of the General Agreement ...".

4. The provisions on surveillance in paragraph 24 of the same Understanding, call for "a regular and systematic review of developments in the trading system". These provisions gave rise in 1980 to the decision (BISD 27S/20) to hold special meetings of the Council for this purpose. Subsequently, in July 1983, the decision was taken (C/M/169) to extend the scope of the special Council meetings to include monitoring of paragraph 7(i) of the 1982 Ministerial Declaration.

5. Notifications under paragraphs 2 and 3 of the 1979 Understanding provide a major part of the information brought together by the secretariat in the documentation for the special Council sessions. The secretariat is able to supplement them through a certain number of reverse notifications provided under agreed procedures, and now also includes in the documentation a considerable amount of information on trade policy developments drawn from other official and non-official sources. However, such supplementary information, even if carefully checked by the secretariat, must in itself be less authoritative than that provided by notifications, particularly when secondary or unofficial sources have to be used. It would therefore seem worthwhile to explore possibilities of improving the quantity and quality of notified information available to the Council to assist it in meeting its responsibilities for surveillance.

6. An obvious starting-point would be to encourage all governments to fulfil agreed notification procedures. Successive reviews by the Council in its special meetings have shown that some governments take a much stricter view than others of their obligations to notify. Council sessions themselves have helped to some extent to improve performance in this respect; action to streamline procedures, discussed below, might also encourage governments to notify more regularly and completely.

7. One response to the problem, suggested by the Director-General at the special Council meeting in May 1984, would be that governments agree to notify their trade policy measures regularly, perhaps every three months. As he pointed out, an advantage of such a routine procedure would be the establishment in each administration of a focal point for notifications.

8. Reverse notifications, made by governments affected by the actions of others, can help to provide information lacking because measures have not been directly notified. They are also of value in pinpointing real trade problems. They were used with success for the inventory of non-tariff measures, but have not proved very successful in throwing light on such trade policy developments as voluntary export restraints, presumably because neither party has wished to publicize such agreements; this situation has hampered review of performance under paragraph 7(i) of the Ministerial Declaration. In practice, most reverse notifications are made only when a negotiation or dispute is developing.

9. The majority of measures that should be notified involve government decisions which are routinely announced in national official publications and often are reported in the press. The secretariat has access to many of these official and non-official publications, and collates information from them. It is thus in a position to fill some of the gaps in notifications, and in particular to help in providing greater transparency regarding grey area measures. Contracting parties have encouraged the secretariat to take a more active role in this area than in the past, and it will do so. The secretariat recognizes that it should give the government concerned the opportunity to comment on the accuracy of information derived from non-official sources before such information is used, while at the same time retaining full responsibility for its use. It has been suggested that governments might sometimes be willing to inform the secretariat unofficially of measures taken by them, even when they do not wish to notify them formally. Such information would, of course, considerably ease the task of the secretariat.

Improvement of established notification procedures

10. A separate problem from that of improving the documentation for the special Council sessions is that of streamlining notification procedures. Present notification requirements are indicated in document C/111; recent performance is summarized in the annexes to C/W/437/Rev.1. Present notification procedures cover a wide range of measures, and serve varied purposes: they therefore differ greatly. Notifications are required¹ under various Articles of the GATT or under other legal instruments, such as waivers, protocols of accession, and the MTN codes; the Committees of signatories of the latter codes, in turn, are required to make periodic reports to the CONTRACTING PARTIES. Other notifications are made under the work programme as part of particular exercises, such as those in the Committee on Trade in Agriculture and in the Group on Quantitative Restrictions and other Non-Tariff Measures, which are expected to be completed within a given time frame; their possible continuance would be a matter for decision by the Committees or groups concerned. The inventory of non-tariff measures affecting industrial products was originally established as part of the preparations for the MTNs, and is therefore based entirely on voluntary reverse notifications. In some cases, such as quantitative restrictions, the aim (and the GATT obligation) is to have full notification. In others, such as health and sanitary regulations, the approach adopted has been to leave it open to contracting parties to make reverse notifications when they believe that trade problems exist, or (in the Committee on Trade in Agriculture) to require simply that they notify, without giving details, that health or sanitary regulations affect the product in question.

11. Notifications vary greatly in comparability, depending to a great extent on whether they follow an established questionnaire or format.³ Those which are required on a regular basis² cover widely differing periods. Others are required only when actions are taken by governments (e.g. actions relevant to Part IV) and performance in fulfilling these obligations varies greatly. In some cases, the requirement appears to have become effectively a dead letter; examples are those concerning notifications on liquidation of strategic stocks and on border tax adjustments. While the secretariat is in some cases able to supplement information from other sources, and in particular from GATT documentation, many gaps remain unfilled.

12. Possibilities for improving the regular notification process seem to fall under the following headings:

- (i) avoidance of duplication in requests for, or collation of, notifications;
- (ii) more uniform periodicity of data collection;

¹It should perhaps be emphasized that these requirements are distinct from those under paragraph 3 of the 1979 Understanding. There have been some signs recently that governments have been using paragraph 3, which should serve only the Council's general surveillance responsibilities, as a substitute for more specific requirements under the General Agreement.

²Document C/111 lists in its Annex I publication and notification requirements accepted by all contracting parties. Its Annex II lists requirements relating only to certain governments.

³See C/111, Annex III.

- (iii) greater uniformity in questionnaires;
- (iv) development of a coding system for processing the information received and of a common grid for data presentation.

These points are dealt with in turn below.

13. Duplication: There has been some duplication in the past in the notification requirements for quantitative restrictions. Thus in certain instances, information requested in terms of notification obligations under Part IV may also be demanded under other GATT Articles. The present exercise in the Group on Quantitative Restrictions and other Non-Tariff Measures may offer, as far as import restrictions are concerned, an opportunity to centralize and simplify demands for information. A single data base on quantitative restrictions could be used to meet the needs of several Committees, including the Committee on Trade and Development and its sub-committees.

14. Periodicity: Some notification requirements, including some of the most important, cover specific actions which may be taken at any time, and of which the CONTRACTING PARTIES should be informed as soon as possible. Others, however, call for reporting at regular intervals. The secretariat has considered whether it would be useful to have a single reporting date (for instance, the beginning of the year) for regular annual notifications. Its tentative conclusion is that this proposal would result in an undesirable bunching of the workload on delegations and on the secretariat. Another possibility would be to issue a single annual airgramme indicating notification requirements for the coming year. In this case it appears that, although it could be useful to reach agreement in the Council on the calendar for notifications, separate airgrammes covering each regular notification requirement would still be needed to obtain the information requested. The suggestion mentioned in paragraph 7 above would be relevant to any study of possible changes in the periodicity of notifications.

15. Uniformity in questionnaires: There would be clear advantages in having greater uniformity in the format for questionnaires, to the extent that this is practicable. It could be expected to simplify the completion of questionnaires and the compilation of data, and would also help greatly if moves were to be made to computerize the information concerned. Standardization might be comparatively straightforward for a single category of notification. It would be more difficult, but also potentially more rewarding, if it could be extended to cover a number of notification requirements. While the information provided in notifications varies greatly, a few headings, at least, would appear in many questionnaires: the product description and date of entry into force are examples. It must be recognized, however, that the coverage of a questionnaire can involve important decisions of principle, since it may effectively imply the extension of contracting parties' obligations. The secretariat will study possibilities of standardizing the format of existing questionnaires, but would require guidance from delegations in carrying this exercise into new areas, such as those now under study in the work programme. It may be noted that the Committee on Subsidies and Countervailing Measures is already examining whether the questionnaire for notifications under Article XVI can be improved, and that the Group on

Quantitative Restrictions and other Non-Tariff Measures has had some discussion of the points which need to be included in notifications in order to ensure that the quality of information provided is adequate.

16. A common coding system: This issue is closely connected with that of uniformity in questionnaires. Information on the country taking a measure, the nature of the measure, its product coverage, date of entry into force, etc., can in theory easily be coded and processed. However, there are substantial practical difficulties. If the data are to be analyzed, there must be a common denominator. For product coverage, which is a key variable, the best common denominator at the moment is the Customs Cooperation Council Nomenclature. The Harmonized Commodity Description and Coding System is an elaboration of the CCC Nomenclature; to the extent that the System will be adopted by contracting parties, it offers interesting possibilities for developing a data base on measures affecting trade that could be more closely correlated with tariff data and with trade and production statistics. Even so, information about the precise product coverage, even of such apparently specific measures as quantitative restrictions, has often been difficult to obtain, and there is a real danger that if data are forced into an over-rigid coding scheme, conclusions drawn from the resulting data base will be unreliable. The issues, and the possible coverage of a computerized data base on trade measures, extend beyond the question of notifications. The secretariat is at present studying the coding of trade measures, and hopes that it will in due course be able to offer conclusions that might be helpful in applying a coding system to notifications.

17. Existence of a common coding system would also permit information to be more systematically recorded and presented for the purpose of surveillance of developments in the trading system.

Some tentative conclusions

18. As far as surveillance by the Council is concerned, most of the possible improvements outlined in paragraphs 5 to 9 appear to require little detailed study. They demand only greater efforts by individual delegations to notify actions and by the secretariat to improve the accuracy and coverage of its documentation for the special meetings. The Council might, however, wish to discuss the suggestion in paragraph 7.

19. Improvement of established notification procedures appears to require more detailed investigation. There is, prima facie, some scope for rationalization, particularly through the avoidance of duplication and the adoption, as far as possible, of more uniform formats which might even permit a degree of computerization of the information given. Any proposals to this end will, however, have to take account of the existing legal and other requirements of the General Agreement and of the MTN agreements and arrangements. This suggests that the secretariat might first carry out its own review of existing requirements, and then initiate informal consultations with interested delegations. At a later stage, the question could be brought back to the Council, which could then decide on what further consideration or action might be desirable.