

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)
Negotiating Group on GATT Articles

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COMMUNICATION FROM THE UNITED STATES

The following communication, dated 19 May 1987, has been received from the delegation of the United States with the request that it be circulated to members of the Group.

Negotiating Group on GATT Articles

The agreed negotiating plan for this Group calls on interested contracting parties to submit requests for review of GATT Articles, provisions and disciplines, indicating why they consider that these should be the subject of negotiations. Bearing this in mind, and without prejudice to the possibility of suggesting additional Articles for review at a later date, the United States delegation requests a review of the GATT Articles relating to trade restrictions taken for balance of payments purposes, specifically Articles XII, XIV, XV, and XVIII. The United States delegation also requests that the infant industry provisions of Article XVIII be reviewed.

The main reasons why we consider that these four Articles should be the subject of negotiations follow. We expect that additional reasons will surface during the review of these Articles.

- Changes in the International Monetary System in Relation to Original GATT Articles: The international monetary system has changed significantly since the GATT Articles were written and subsequently revised in 1955. Major developments include the creation of an international monetary unit comprised of five currencies as opposed to the gold or dollar standard, the changeover from a fixed to floating exchange rate regime, and the creation by the International Monetary Fund of short and medium-term programs to support countries' balance of payments adjustment programs.

The GATT Articles, however, have remained relatively the same during this time period. The most significant changes have included broadening the types of trade restrictions that can be used for balance of payments reasons and loosening the surveillance procedures. These Articles need to be reviewed in light of the changes which have taken place in the international monetary system to determine whether they are still relevant or need to be revised to reflect the current international monetary situation.

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- GATT Rules Lead to Permanent Trade Restrictive Measures: While Article XII is cast in terms of cyclical factors affecting balance of payments restrictions by industrial countries, Article XVIII:(B) is cast in structural terms which results in trade restrictions being made permanent. In addition, some countries use Article XVIII:(B) to apply restrictive measures selectively, such as discretionary licensing, which gives them the ability to protect specific industries at the same time they safeguard their overall balance of payments. Finally, it appears that some countries use Article XVIII:(B) instead of the infant industry provisions of Article XVIII:(C) and (D) or instead of a safeguard action, thus avoiding the possibility of compensation or retaliatory withdrawals of concessions provided for under Article XVIII:(C) or Article XIX. These Articles need to be reviewed to assess whether the remedies they offer are appropriate to solve balance of payments problems, to clarify the conditions under which they are to be used, and to determine whether they need to be revised to ensure that they are used for the appropriate reasons.
- Procedural Problems: The current GATT rules for the most part have not been adhered to. For example, many countries do not notify restrictions they are taking for balance of payments reasons to the GATT; consultations are often delayed; and the Balance-of-Payments Committee appears to have limited authority to pressure the elimination or phasing out of trade restrictions. The procedural provisions of these Articles need to be reviewed to assess their adequacy and identify areas for improvement.
- Articles XIV and XV: A review of Articles XIV and XV, relating to balance of payments restrictions and the involvement of the International Monetary Fund (IMF) in this area should be included in the review for the same reasons enumerated above. Dealing with import restrictions under GATT rules involves a complicated cooperative relationship between the GATT and IMF. In the context of reviewing Articles XII and XVIII, it is also necessary to review the functioning of this relationship in the current environment.

Article XVIII:(C) and (D): The United States delegation's request for review of Article XVIII is not focused exclusively on the balance of payments provisions. We are also concerned that Sections (C) and (D) of this Article involving infant industry procedures seem to be ignored widely. Indeed, they have been rarely invoked since the mid-1960's, yet we often hear arguments that certain trade restrictive measures can be justified as protecting "infant industries". A review of Sections (C) and (D) of Article XVIII should examine the reasons why these sections of this Article are rarely invoked, whether its provisions need to be clarified or strengthened, and whether the ease of obtaining approvals under Article XVIII:(B) has contributed to the virtual non-use of the infant industry provisions.