

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG14/W/3

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Special Distribution

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Group of Negotiations on Goods (GATT)

Negotiating Group on Functioning  
of the GATT System

EXISTING SURVEILLANCE FUNCTIONS IN THE GATT

Note by the Secretariat

1. At its meeting on 7 April 1987, the Negotiating Group on Functioning of the GATT system agreed that for the Group's next meeting the secretariat would provide information on existing surveillance functions in the GATT (MTN.GNG/NG14/1, page 4).

2. Almost all GATT bodies could be said to have a surveillance function, using the term in a broad sense. This paper deals with the main bodies which regularly review contracting parties' trade policies and measures in the light of their obligations under GATT or under specific agreements or arrangements negotiated under GATT auspices. It does not cover bodies which examine the measures taken by particular contracting parties under protocols of accession, waivers, etc.

Uruguay Round

3. The Surveillance Body was established on 28 January 1987 as part of the mechanism for surveillance of the standstill and rollback commitments in the Punta del Este Ministerial Declaration.

4. The surveillance is carried out on the basis of notifications to the Surveillance Body, through the secretariat, of any action or measure which participants believe are subject to the standstill and rollback commitments. The detailed procedures for the Body are set out in MTN.TNC/2 and MTN.GNG/5.

5. The Body will meet at least three times a year, and may also meet at the request of any participant. The Trade Negotiations Committee will meet at least every six months to carry out, on the basis of the records and reports transmitted to it by the Surveillance Body, a periodic evaluation of the implementation of the standstill and rollback commitments, and of its impact on the process of multilateral trade negotiations and in relation to the interests of individual participants.

Special meetings of the Council

6. The special meetings of the Council, held twice a year since 1980, were introduced initially to carry out reviews, in accordance with the Understanding Regarding Notification, Consultation, Dispute Settlement and

Surveillance (BISD 26S/210), of developments in the trading system. Paragraph 24 of the Understanding reads "The CONTRACTING PARTIES agree to conduct a regular and systematic review of developments in the trading system. Particular attention would be paid to developments which affect rights and obligations under the GATT, to matters affecting the interests of less-developed contracting parties, to trade measures notified in accordance with this understanding and to measures which have been subject to consultation, conciliation or dispute settlement procedures laid down in this understanding".

7. From 1983 onwards, the scope of the special Council meetings was extended to include monitoring of paragraph 7(i) of the 1982 Ministerial Declaration (BISD 29S/11), in which contracting parties undertook "to make determined efforts to ensure that trade policies and measures are consistent with GATT principles and rules and to resist protectionist pressures in the formulation and implementation of national trade policy and in proposing legislation; and also to refrain from taking or maintaining any measures inconsistent with GATT and to make determined efforts to avoid measures which would limit or distort international trade".

8. The main documentation for the special Council meetings is a secretariat note which surveys developments in trade policies and related matters over the most recent six-month period. The document is comprehensive in its coverage, and draws both on notified and non-notified material. It includes an introductory "overview" and other analysis, although it deliberately refrains from suggesting that particular actions conform, or fail to conform, with GATT obligations, on the ground that such judgements are reserved to the CONTRACTING PARTIES.

#### Committee on Trade and Development

9. According to its terms of reference, the Committee on Trade and Development (CTD) keeps under continuous review the implementation of Part IV of the General Agreement. The Committee also has primary responsibility for supervising implementation of the Enabling Clause adopted in 1979 (BISD 26S/203). Such reviews are based on notifications by governments on measures relevant to the implementation of Part IV and to the operation of the Enabling Clause. Following the 1982 Ministerial Declaration, the Committee's review activities acquired a new dimension through the adoption of a programme of consultations with contracting parties individually or collectively, as appropriate, "to examine how individual contracting parties have responded to the requirements of Part IV". The programme was launched in 1983 and in 1986 a first round of consultations with developed countries was completed. In addition, the Committee has held consultations with developing countries in Latin America (members of ALADI) and with Hungary. These consultations were based on a document submitted by the consulting country indicating how its trade policies have responded to the requirements of Part IV. This information was supplemented by factual background documentation prepared by the secretariat describing the

country's trade policies and actions. The discussions held under this consultation procedure were recorded in the Committee's report. No formal conclusions were reached. The experience so far obtained, and the information exchanged under this procedure, have been found useful, and in 1985 the Committee recommended to the CONTRACTING PARTIES that these consultations be continued as an element of the Committee's review and surveillance procedures concerning implementation of Part IV (L/5913). However, no decision has yet been taken.

10. The Sub-Committee on Protective Measures was established in 1979 "to examine any case of future protective action by developed countries against imports from developing countries in the light of the relevant provisions of the GATT, particularly Part IV thereof" (L/4899). The examination of protective measures was based on notifications by developed countries applying such measures, on reverse notifications by developing countries, and on information provided by the secretariat drawn from official sources. The Sub-Committee's work formed an integral part of the regular annual review of the implementation of Part IV and the Enabling Clause by the CTD itself. The Sub-Committee held its most recent (eighth) meeting in October 1985. At its session in November 1986, the CTD agreed that during the Uruguay Round the Sub-Committee should remain on call, to be activated as and when the Committee should deem it useful or necessary (L/6092).

11. The Sub-Committee on Trade of Least-Developed Countries regularly reviews trade policy developments of particular interest to those countries. The Sub-Committee has also held ad hoc consultations between interested least-developed countries and their trading partners on issues related to their development and export interests, including an examination of barriers to their trade and other relevant commercial policy matters.

#### Committee on Balance-of-Payments Restrictions

12. The Committee on Balance-of-Payments Restrictions is responsible for multilateral surveillance of all restrictive measures taken for balance-of-payments purposes under the provisions of Articles XII and XVIII:B and the Declaration on Trade Measures Taken for Balance-of-Payments Purposes (BISD 26S/205). Developed countries subject to consultations consult annually, and developing countries every two years. Documentation for the consultations consists of a basic document supplied by the consulting country, information on recent economic developments provided by the IMF, and a GATT secretariat background paper.

13. Full consultations are conducted under procedures approved by the Council in 1970 (BISD 18S/48). They cover in detail the nature of balance-of-payments difficulties, alternative corrective measures which may be available, systems and methods of import restrictions, and the possible effects of these restrictions on other countries' trade. All internal and external features affecting the balance of payments are to be taken into consideration. Simplified consultations for developing countries give the Committee the opportunity to assess whether full consultations will be

necessary: this assessment is based on a number of factors including the time which has elapsed since the most recent full consultations, changes in trade measures taken by the country concerned, and the evolution of its balance of payments. The simplified procedures were adopted by the Council in 1972 (BISD 20S/47).

#### MTN codes

14. Surveillance requirements and procedures under the MTN codes vary, reflecting their subject matter. Some generalizations are however possible. The broad aims of surveillance are to achieve maximum transparency regarding government policies and measures applied in the area covered by the code, and to determine the extent to which the signatories of the code are living up to their obligations. Documentation is provided by direct notifications, usually based on a standard questionnaire, by the signatories (and, under the Subsidy Code, by reverse notifications), from data bases or inventories established and analyzed by the secretariat, and from discussion in the code Committees or Councils themselves. This material is examined periodically, the intervals varying between four times a year and once every two years. The conclusions drawn may be simply a determination of the facts of a market situation (meat, for example), conclusions on the consistency of national actions taken with the provisions of the code concerned, and rulings or recommendations. When rulings or recommendations are made, there are usually procedures for follow-up, consultation and dispute settlement. Documentation generally remains restricted to signatories and observers in the code Committees and Councils and, in some sensitive cases, to governments which have signed the code concerned. The CONTRACTING PARTIES themselves in turn exercise some surveillance over the codes. Although membership in the code Committees or Councils is restricted to their signatories, each body reports regularly to the CONTRACTING PARTIES, which may request additional reports on any aspect of its work (BISD 26S/201).

#### Textiles Surveillance Body

15. The Textiles Surveillance Body (TSB), set up under the Multifibre Arrangement (MFA), is a standing body with a small but geographically representative membership, meeting as often as necessary. The TSB's purpose is to ensure that the textile trade policy actions of MFA signatories conform with the requirements of the Arrangement. To this end, it reviews all bilateral agreements and unilateral actions of signatories under the MFA, receives annual notifications of all textile restrictions maintained by signatories and also helps to resolve disputes arising between signatories. Provided by the specific and full reporting requirements of the MFA, which the TSB has further clarified by establishing a checklist and procedures for reports, it may also seek information itself from participants or other sources. The TSB's meetings are confidential, but the agreed records of its findings, recommendations,

observations and decisions are circulated to all MFA signatories, and it reports annually to the Textiles Committee. Follow-up of cases exists; countries which do not follow its recommendations must report why; persisting problems can be referred to the Textiles Committee or to the Council. The TSB functions by consensus, not vote, but in dispute settlement cases it is agreed that a member who is a national of a party to the dispute will not block final consensus. Although the TSB adopts a case-by-case approach, a body of precedent has been built up in its work.

16. Under the Protocol (BISD 28S/3) by which the MFA was extended in 1981, the Textiles Committee set up a Sub-Committee on Adjustment whose responsibilities include periodic review of policies and measures adopted to facilitate adjustment. Material and information for its work is provided by MFA participants, and it reports periodically to the Textiles Committee.