

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.SB/17

19 November 1991

Special Distribution

Surveillance Body

DRAFT

MEETING OF 16 OCTOBER 1991

1. The Surveillance Body met on 16 October 1991.

Adoption of the agenda

2. The Surveillance Body adopted the agenda proposed in the convening airgram GATT/AIR/3236.

3. The Chairman noted that a draft revision of the Chairman's report to the TNC on implementation of the rollback commitment had been circulated recently (MTN.SB/14/Rev.1). It was intended to update the report prepared for the Ministerial meeting in December 1990 and incorporated factual changes since that date. The Chairman invited participants to comment on the relevant parts of the draft and to suggest adjustments.

Item (A): Standstill

- (I) Examination of standstill notifications submitted in accordance with the agreed procedures (MTN.TNC/W/10/Rev.1)

4. The Chairman recalled that the agreed procedures provided for the Surveillance Body to transmit a record of the proceedings relating to standstill notifications to the next meeting of the TNC. It would also be transmitted to the GNG for information.

5. He noted that there had been no new notifications on standstill since the last meeting on 1 July 1991.

6. The Body reverted to a notification examined at the July meeting, concerning increases in Italy's internal taxes on coffee, cocoa and their products. The record of the Body's further examination, drawn up in accordance with paragraph 3 of the agreed procedures, is annexed.

(II) Consideration of statements by participants concerning other aspects of the standstill commitment

"Early warning"

7. The representative of Canada said that, on 1 September 1991, the Government of Israel had begun implementing a new policy aimed at substituting tariffs for a number of non-tariff measures. His Government was still in the process of examining this policy and discussing it with the Israeli authorities. Issues of concern to Canada included substantial tariff increases, of up to 600 per cent, on some traditional exports to Israel and the question of how these measures were to be applied to different groups of trading partners. Israel had entered into some free trade agreements and was about to conclude others. There had been conflicting signals as regards the treatment of m.f.n. versus preferential suppliers under such agreements. Depending on the outcome of bilateral discussions with Israel, Canada would pursue this matter further in the Surveillance Body or other fora under the GATT.

Item (B): Rollback

(I) Consideration of statements concerning the rollback commitment in the light of the agreed procedures (MTN.TNC/W/10/Rev.1)

8. The Chairman noted that only one notification of autonomous trade liberalization measures had been made since the last meeting. The notification, by the European Communities, concerned motor vehicles (MTN.SB/RBN/9).

9. The representative of the European Communities called attention to a joint communication by the European Communities and Japan which provided details of the notified measures (L/6922). The initiative was aimed at the progressive and full liberalization of the EC import régime on motor vehicles, with the avoidance of market disruption. These objectives were in line with the basic principle of rollback. The notification was intended to supplement the agreed procedures on rollback and continued the EC's tradition of providing information on autonomous liberalization.

10. The representative of the United States welcomed the information now being supplied on this issue and reserved the right to revert to it later.

11. The representative of Venezuela drew attention to unilateral trade measures which Venezuela had implemented since its accession to GATT. The entire customs tariff had been bound at 50 per cent, and Venezuela was committed to reduce this ceiling to 40 per cent within two years from the date of its accession. In addition, Venezuela had bound a large number of

tariff items at lower levels. These commitments represented a significant contribution to the multilateral trading system. He noted that, apart from Venezuela and other developing countries which had joined since 1986, very few contracting parties had bound their entire tariff.

12. All quantitative restrictions would be eliminated or made GATT-consistent within a period of five years in the case of agriculture, or three years for industry. All import prohibitions and almost all prior licensing requirements had already been eliminated. The weighted average tariff had been reduced progressively from 35 per cent in 1988 to 10 per cent in 1991. At the same time, the proportion of items with duties of 20 per cent or less had risen from 44 per cent to 85 per cent. The number of items subject to quantitative restrictions had been brought down from 2,204 in 1988 to 200 in 1991. This had been achieved despite the fact that, as a result of the adoption of the Harmonized System, the total number of tariff items had increased by 758 items.

13. Venezuela had also reduced its customs services fee ahead of the negotiated timetable. This fee was now set at 1 per cent. Export subsidies or bonuses which were 35 per cent of export value in 1990, had been abolished for all industrial and agro-industrial products. In addition, all indirect subsidies for internal production had been eliminated in the course of 1991.

14. The Chairman said that this information on autonomous trade liberalization measures would be included in the Chairman's forthcoming report to the TNC.

15. Referring to the draft report to the TNC (MTN.SB/14/Rev.1), the Chairman invited participants to comment on the proposals for implementing rollback actions.

16. The representative of New Zealand considered it appropriate, in view of progress made in the Uruguay Round, to revert to the draft Decision of 10 October 1990 which had been circulated with the aim of giving effect to the rollback commitment. It would be unacceptable to his delegation to enter the final stage of the Round without having addressed this issue seriously. The time had come for consultations with interested parties in order to see if programmes and timetables could be designed for the phasing-out of all measures determined to be GATT-inconsistent by Panel rulings. In this context, the draft decision of October 1990 would be a good point of departure.

17. The representative of Australia thought that the draft decision of October 1990 provided a viable and pragmatic approach to the implementation of the rollback commitment. The decision distinguished

between actions on measures that had already been ruled GATT-inconsistent by the CONTRACTING PARTIES and on measures that should be examined on the basis of the results of the Uruguay Round. An important element was the establishment of deadlines for submission and for completion of phasing-out programmes for measures that had been ruled GATT-inconsistent.

18. Australia had consistently rejected any linkage between implementation required to meet existing GATT obligations, and Uruguay Round negotiations and timetables. There was a definite legal distinction between existing obligations and those that might arise out of the Round, and Australia would continue to press for immediate implementation action on that basis. However, from a timing and political perspective, an opportunity presented itself to remove the problem of outstanding panel implementation obligations, with the possible conclusion of the Round now in sight. Paragraph 16 of the Chairman's draft report merely invited the TNC to consider possible further action on the rollback commitment. He doubted whether this was appropriate in current circumstances where all negotiating bodies were being asked to develop ways forward on outstanding issues. A global package designed to conclude the Round would not be complete without a real contribution from the Surveillance Body, a basis which could be found in the October 1990 draft decision.

19. The representative of Argentina, endorsing this view, emphasized that a clear legal and political distinction needed to be made between measures ruled inconsistent with the GATT by panels and others which might possibly be made subject to rollback commitments as a result of the Uruguay Round. As his delegation had stressed at the last Council meeting, the sole guarantee of future compliance with GATT obligations was the guarantee of past compliance. Clear commitments to this effect were essential in order to ensure the credibility of the Surveillance Body for GATT.

20. The representative of Venezuela suggested that the Secretariat should develop some ideas, in the context of the Chairman's report to the TNC, on what could be done to ensure the implementation of the rollback commitment.

21. The representative of Switzerland expressed sympathy for a decision on rollback as proposed by New Zealand. Since the rollback commitment constituted an important element of the Ministerial Declaration of Punta del Este, such a decision should form part of a final package of the Uruguay Round. The key question would be to decide what should in future, on the basis of the results of the Round, be considered as consistent or inconsistent with the General Agreement.

22. The representative of the European Communities reminded the meeting of previous discussions on the New Zealand proposal. In the EC view, it

had merits and defects. The Communities agreed that a careful distinction should be made between measures subject to Panel rulings and others that might only be presumed by some parties to be GATT inconsistent. Since last year, however, thinking on dispute settlement procedures had evolved in the negotiations. Views on how to adopt and implement Panel findings were now much more in favour of a certain automaticity. This had an impact on the Body's current discussion and needed to be reflected in any proposals regarding rollback.

23. The representative of Uruguay expressed support for the proposal by New Zealand.

24. The representative of Hong Kong also endorsed this proposal. Her delegation was ready to participate in consultations with a view to reaching agreement on how to give due effect to the rollback commitment.

25. The representative of Uruguay associated himself with the statement by the Argentinian delegation. Any report by the Chairman of the Surveillance Body should reflect the fact that there had been little political resolve to implement the rollback commitment and, implicitly, to liberalize international trade. New Zealand's proposal was not adequate because it amounted to recognizing failure in pursuing an element of the Punta del Este Declaration. If measures which had been declared incompatible with GATT obligations were not abolished, there was no guarantee that new obligations resulting from the Round would be complied with.

26. The representative of the United States wondered whether it was still fruitful to use as a point of departure the draft decision of October 1990. Her delegation shared the European Communities' view that the draft did not take into account more recent developments in the Uruguay Round. While expressing readiness to cooperate in setting up a report to the TNC, she doubted whether agreement on a concrete decision on rollback actions could be reached.

27. The representative of Japan noted that the proposed decision had already been subject to intensive discussion at a previous meeting, as reflected in the draft report by the Chairman (MTN.SB/14, paragraph 16). He was therefore not optimistic that new consultations would lead to substantially different results.

28. The representative of Canada also expressed doubt whether further consultations would really break new ground.

29. The Chairman proposed that informal consultations be held in order to clarify what could be forwarded to the TNC as a reflection of the views of

the members of the Surveillance Body. The Body so agreed. As a result of these informal consultations, the revised Chairman's report, MTN.SB/18 was submitted to the TNC.

Item (C): Other business

30. The representative of Colombia recalled that fourteen standstill notifications were still pending. He thought it appropriate to tackle these notifications in parallel with the rollback problem so as to ensure symmetry.

31. The Chairman said that this matter could also be dealt with, as necessary, in the forthcoming informal consultations.

32. The Chairman suggested that the need for further meetings of the Surveillance Body be considered in the light of the discussions in the TNC. The Surveillance Body so agreed.

ANNEXExamination of standstill notifications (MTN.SB/SN/- series)
submitted in accordance with the agreed procedures
(MTN.TNC/W/10/Rev.1)Italy: increase in selective internal taxes on coffee,
cocoa and their products (MTN.SB/SN/22/Rev.1)

1. The representative of Honduras, on behalf of a group of coffee exporting Latin American countries, reiterated complaints raised at the last meeting about increases in Italy's internal taxes on coffee, cocoa and related products. As from 1 January 1991, the tax on green coffee had been increased by 400 per cent and that on unroasted coffee by 700 per cent. The ad valorem tax incidence had therefore risen, in the case of green coffee, from 15 per cent in 1989 to 62 per cent in 1991 and, in the case of cocoa beans, from 7 per cent to 59 per cent over the same period. The Honduran representative called again for the relevant Decree, issued on 21 December 1990 and published in the Italian Official Gazette of 31 December 1990, to be repealed.

2. He said that the measures taken by Italy were contrary to the standstill commitment under Chapter C (ii) and (iii), of the Ministerial Declaration of Punta del Este. They also infringed Part IV, Article XXXVII, of the General Agreement and ran counter to the European Communities' March 1990 offer on tropical products in the Uruguay Round. In this context, the EC had expressed readiness to reduce or eliminate internal selective taxes on coffee, cocoa and tea, provided consumption of such products increased as a result. Finally, the measures by Italy contravened the proposed harmonization of internal taxes of EC member States in the Single Market context.

3. The Government of Italy had denied that the measures were in any way inconsistent with the standstill commitment. According to the Italian Government, they had been based on the country's general legislation for the adjustment of specific taxes to changes in living costs; actual price movements would have even allowed larger adjustments. In order to gain a better understanding of the position of the Italian Government, the Honduran representative requested the European Communities to supply supporting information, including data on import values and volumes, for the periods 1 July 1989 - 30 June 1990 and 1 July 1990 - 30 June 1991. Previous requests to this effect had remained without response. In addition, he sought information, for the same periods, on developments in other EC member States and on changes in consumer prices.

4. The representative of Colombia stated that imports of green coffee into Italy had fallen by about 500,000 bags between the periods January - July 1990 and January - July 1991. This was undoubtedly due to a large extent to the increase in Italy's internal tax on coffee. The Colombian representative stressed, however, that the measures as such had violated the standstill commitment, irrespective of their effect on trade. The initiative by the Government of Italy also contravened the EC offer in the Uruguay Round concerning the elimination of such consumption taxes. Colombia therefore reserved the right to take this issue up at an appropriate time and place. In the present context, it was necessary that the Surveillance Body took action to ensure that Italy rolled back this measure.

5. The representative of Costa Rica associated himself with both the above statements and urged Italy to honour its international obligations. It was of particular concern to his delegation that the standstill commitment had been flouted at the expense of exports from developing countries. Costa Rica's coffee deliveries to Italy had declined recently. His delegation continued to await signals that the EC was willing to negotiate and act seriously on tropical products.

6. The representative of Nicaragua expressed support for the statement by the Honduran representative. Italy's measures had already affected trade flows. Nicaragua still sought a satisfactory explanation from the EC and Italy and a prompt resolution of this issue.

7. The representative of El Salvador endorsed the statements made and reiterated that the tax increase by Italy amounted to a violation of the standstill commitment of Punta del Este.

8. The representative of Venezuela said that the issue at stake was not whether markets were being affected, but rather the fact that the standstill commitment had been breached. Although Venezuelan coffee exports had actually declined, his delegation hoped that the Surveillance Body would concentrate exclusively on the latter aspect. His delegation expected the European Communities to give a signal that, at this critical moment in the Uruguay Round, the Italian Government would take remedial action.

9. The representative of Brazil shared the concerns expressed.

10. The representative of the European Communities noted that, since the Surveillance Body's last meeting, virtually no new arguments had been advanced on this issue, with the possible exception of alleged trade effects. He reiterated that the measures were not in any sense in violation of the standstill commitment, and should not have been referred

to the Surveillance Body. Italy had adjusted certain internal taxes that were being applied erga omnes. Such adjustments to tax rates, including value-added taxes, were made by many countries at different times and for different reasons. The tax increases had remained far below the general increase in living costs, and it was almost inconceivable that they could have affected coffee consumption in Italy. Notwithstanding this expectation, the EC was willing to contribute to the fullest extent to a process of statistical clarification.

11. The Chairman said that it was his understanding that the request for information, and the Communities' declared readiness to respond, would be without prejudice to the interpretation of the standstill commitment. It would be for the TNC to decide what further action, if any, should be taken in this context.