

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG14/2

26 June 1987

Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on Functioning
of the GATT System

NEGOTIATING GROUP ON FUNCTIONING OF THE GATT SYSTEM

Note by the Secretariat

1. The Negotiating Group on Functioning of the GATT System held its second meeting on 23 June 1987 under the chairmanship of Mr. Julius L. Katz (United States). The Group adopted the agenda set out in GATT/AIR/2432.

Continuation of first examination of issues on the basis of proposals by participants

2. The Group continued its discussions of the various aspects of its negotiating mandate. Two proposals had been submitted by Australia at the Group's first meeting, on surveillance and ministerial involvement in the GATT (MTN.GNG/NG14/W/1 and MTN.GNG/NG14/W/2 respectively). The Group also had before it new proposals circulated by Switzerland, Japan and the United States. The Swiss proposals (MTN.GNG/NG14/W/7) primarily concerned the contribution that the GATT might make to achieving greater coherence in global economic policy making. The Japanese proposals (MTN.GNG/NG14/W/8) related to the establishment of an improved surveillance system in the GATT. The proposals by the United States (MTN.GNG/NG14/W/9) covered all three elements in the negotiating mandate, that is, enhanced surveillance, improvement of the overall effectiveness and decision-making of the GATT as an institution, and an increased contribution of the GATT to achieving greater coherence in global economic policy-making. The delegation of Canada made a statement on the work of the Group as a whole, with special reference to the question of ministerial involvement. This is being circulated in document MTN.GNG/NG14/W/10. The delegation of Jamaica also made a statement on the work of the Group as a whole which is being circulated as MTN.GNG/NG14/W/11.

3. The Group also had before it four factual background notes prepared by the secretariat at the Group's request. The first of these described the existing surveillance functions in the GATT (MTN.GNG/NG14/W/3). The second described the past involvement by Ministers in the work of the GATT (MTN.GNG/NG14/W/4). The third was a history of the Consultative Group of Eighteen (MTN.GNG/NG14/W/5). Finally, the fourth document described the mandates of the GATT, the International Monetary Fund and the World Bank, examined the institutional relationships between them, and provided information on institutional arrangements for the involvement of Ministers in the work of the IMF and the World Bank (MTN.GNG/NG14/W/6).

4. In an opening discussion on the organization of the Group's work reference was made to the possibility of attaining early results in the negotiations in this area. A view expressed by certain delegations was that any loss of credibility that the GATT system may have sustained over the years was not because rules were inadequate or the system did not function properly, but rather was the result of actions by individual contracting parties, and in particular those with major shares in world production and trade. There was, in this view, no need for new mechanisms or principles, but rather for improved adherence to existing principles. Another view was that the functioning of the GATT system would be improved if the GATT became more of a policy-oriented, decision-making institution. In addressing these issues some delegations referred to the character of GATT as a contractual arrangement. Some delegations expressed the view that it was important to maintain a balanced perspective as between what the GATT as an institution was responsible for, and where the GATT belonged in the wider context of international economic relations. The GATT should not jeopardize its credibility by seeking to provide answers to problems outside its sphere of competence.

5. The representatives of Switzerland, Japan and the United States introduced their proposals on surveillance and delegations expressed a variety of views on different aspects of the proposals. Reference was also made to the Australian document on surveillance, which had been circulated prior to the Group's first meeting. Part of the discussion also focused on the wider question of what purposes surveillance was intended to serve. It was widely agreed that effective surveillance was an important means of ensuring transparency and predictability in policy-making, but views differed on how far the essential rôle of surveillance was to monitor and ensure compliance with GATT obligations, as opposed to providing a more general overview of trends in policy-making among trading partners. One view expressed was that the surveillance system should be seen as a vehicle for reinforcing and maintaining the consensus on trade policy and the rules governing trade that would emerge from the Uruguay Round. It was also noted that an advantage of a well functioning surveillance system was that information could be made available on positive aspects of the trade policies of governments rather than being limited only to negative or contentious policy measures.

6. Differing views were expressed as to whether surveillance should be carried out on a country by country basis, or in terms of a collective assessment of developments in trade policies. Some of those preferring country by country surveillance considered that this approach would be effective in ensuring fuller adherence to GATT obligations. Those delegations expressing a preference for a collective assessment considered that this would avoid creating the impression that countries were being placed "in the dock". Surveillance should be quite distinct from the dispute settlement procedures of the GATT in that it should not involve judgements on the GATT-consistency of measures; it should be seen as a shared endeavour supportive of an open trading system. Assessments of trade policies should be of a qualitative rather than quantitative nature. It was also suggested that surveillance should include consideration of the question of structural adjustment.

Certain delegations were of the view that such a diffuse and generalized system of surveillance as that envisaged by some risked undermining the commitment of contracting parties to their GATT obligations and might even weaken the rules themselves. Another view was that it did not matter what system of surveillance was devised if governments did not have the political will to respect their GATT obligations. A number of delegations emphasized their view that whatever arrangements were made for surveillance, they should have the virtue of simplicity.

7. Some delegations referred to what they saw as an unwarranted asymmetry in existing surveillance arrangements, in that while a number of contracting parties were subject to regular surveillance of their trade policies through consultations in the Balance-of-Payments Committee or as a result of the conditions of their accession to GATT, others had no such obligations. They saw this as a problem which must be addressed in any effort to improve surveillance in the GATT.

8. In relation to the procedures for surveillance, there was some discussion as to whether it was desirable to create a standing surveillance body. While some delegations favoured this idea, others were of the view that improvement of existing arrangements should be considered before a decision was taken. Some delegations referred to the activities of the Special Council in this context. One delegation suggested that consideration might be given to arranging the secretariat documentation for the Special Councils in a country-wise fashion instead of by types of measure, as at present. A related question to that of institutional arrangements for surveillance was that of the treatment of notifications. A number of delegations supported the proposal of the United States for a central repository of all notifications relevant to GATT surveillance.

9. A number of delegations expressed the view that the primary focus of any general system of surveillance should be the trade policies and practices of the major trading countries. Differing views were expressed, however, on the Japanese proposal that approximately thirty contracting parties should be subject to regular review, while other contracting parties would be subject to review as necessary on an ad hoc basis. There was some discussion of the rôle of the secretariat in the field of surveillance. It was noted that some of the proposals being put forward either implied or required a more active rôle for the secretariat, and that this might have budgetary implications. Some delegations referred to the question of the nature of reports that would emerge from the surveillance exercise. Differing views were expressed as to whether reports should be made public or remain restricted.

10. In regard to the question of ministerial involvement in the work of GATT, there were differing views as to the form that such involvement should take. It was suggested that the GATT was unlike other comparable institutions in that it had not involved Ministers in its work on a regular basis, and that this had contributed to a relative decline in the attention paid to trade policy. It was pointed out by one delegation that meetings of Trade Ministers, which should ideally be within the GATT framework, were taking place outside it.

11. There was support in the written submissions addressing this question, and among some other delegations, for the regular participation of Ministers in the GATT's work. It was argued that this would inject a greater sense of purpose, discipline and commitment into the GATT. It was also suggested that regular ministerial involvement would help to keep expectations from rising unduly, as might be the case when Ministers were involved infrequently in the GATT's work. However, several delegations expressed reservations about the regular involvement of Ministers in GATT activities. They considered that such involvement would be in danger of becoming mere routine and could thus prevent Ministers from playing a constructive rôle in crucial situations. There was also a risk that the GATT's work would become unduly politicized through excessive ministerial involvement and that confusion would arise between the juridical and administrative aspects of the work and the political aspects. The various suggestions that were made in writing and orally for a ministerial body or steering group of limited membership were received with mixed reactions by members of the Group. Some delegations felt that such a body must be of limited size to be effective, while others felt that a restricted body would give rise to difficulties over the question of its composition and would compromise transparency, and the possibility for each contracting party to participate in decisions affecting its rights and obligations.

12. A number of delegations referred in their interventions to the question of cooperation between the GATT and other international organizations responsible for monetary and financial matters. However, the Group agreed to postpone substantial discussion of the matter until its next meeting, when this would be the first item on the agenda and participants would have been able to study the submissions made on the subject.

13. At the request of a delegation, it was noted that the secretariat would provide information on decisions and action taken by the CONTRACTING PARTIES at their Ninth Session in 1955 in regard to relations between the GATT and the International Monetary Fund, and certain organizational and functional questions.

Observer Organizations

14. In discussion of the question of inviting international organizations to be represented at meetings of the Group, a proposal was made that the Group should recommend to the GNG that such invitations should be addressed to the International Monetary Fund, the World Bank and UNCTAD. However, there was no agreement that such a recommendation should be made.

Other business, including arrangements for the next meeting of the Negotiating Group

15. It was agreed that the next meeting of the Group might be held on 6 and 8 October 1987, subject to any further consideration that might be needed. One delegation agreed these dates subject to their confirmation by the GNG.