

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED

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Group of Negotiations on Goods (GATT)
Negotiating Group on Functioning
of the GATT System

NOTIFICATION PROCEDURES IN GATT

Note by the Secretariat

Introduction

At the meeting of the Negotiating Group held on 25-28 January 1988, the Secretariat was requested, in the context of the discussion of a possible trade policy review mechanism, to provide a list of the current notification requirements existing in GATT.

The following list describes the notification obligations required under the Articles of the General Agreement, Understandings and Decisions adopted under the Tokyo Round, the 1982 GATT Work Programme, the MTN Agreements and Arrangements, and the Arrangement regarding International Trade in Textiles, as currently applied.

Previous discussions in GATT

The question of possible improvement and streamlining of notification procedures has been raised at various times in the Council and was also discussed in the Senior Officials' Group and Preparatory Committee. A proposal on Notification and Surveillance was made by the Director-General in 1980 (C/111); a factual note on notifications required from contracting parties was annexed. Further notes were circulated in 1984 (C/W/446) and 1985 (C/W/471) for discussion in the special meetings of the Council (see also C/M/182 and 189). The subject was again taken up in the Senior Officials' Group (SR.SOG/10 and 11) and in the Preparatory Committee (PREP.COM(86)SR/4, SR/6 and SR/7). A note circulated by the Secretariat in PREP.COM(86)W/31/Add.1 included a tabular presentation covering periodic and ad hoc notifications required from all contracting parties, notification requirements under the MTN Codes and the MFA and notification requirements under the 1979 Understanding and the 1982 Work Programme.

A. Notifications required under specific Articles or provisions of GATT

1. Tariffs

(a) Article II:6(a) - Adjustment of specific duties

A contracting party wishing to adjust its specific duties under the provisions of Article II:6(a) is required to seek the concurrence of the CONTRACTING PARTIES. Under current procedures the communication from the contracting party concerned is submitted to the Council for consideration. This procedure was invoked by six contracting parties between 1950 and 1965 (Benelux, Finland, Greece, Israel, Turkey and Uruguay).

Notifications were circulated in the L/- series of documents.

(b) Article XVIII:A (Modification of concessions)

A developing contracting party wishing to modify or withdraw a concession pursuant to Article XVIII:7(a), for the establishment of particular industries (or, since 1979, for "the development of new or the modification or extension of existing production structures ...") is required to notify the CONTRACTING PARTIES and enter into negotiations with other relevant contracting parties.

These procedures have been invoked by Sri Lanka, Greece, Benelux on behalf of Surinam, Korea and Indonesia.

(c) Article XXV:5 (Waivers of obligations)

Article XXV:5 permits the CONTRACTING PARTIES, by a two-thirds majority of votes cast and by vote of more than half of the contracting parties to waive particular obligations of individual contracting parties. Contracting parties are required to notify the measures for which a waiver is requested. Such notifications are made in the L/- series. Since 1953¹ waivers from Article II obligations have been applied on many occasions; however, relatively few waivers are currently in force. The principal individual waivers currently existing cover the renegotiation of the schedule of Pakistan, the Turkish stamp duty, the United States' Agricultural Adjustment Act, import surcharges applied by Uruguay, and waivers for Israel, Malaysia, Thailand and Yugoslavia in connection with the application of the Harmonized System.

¹See Analytical Index for details.

(d) Article XXVIII (Modification of schedules)

(i) Article XXVIII:1 ("Open season")

A contracting party wishing to utilize the provisions of Article XXVIII:1 for the renegotiation or withdrawal of certain concessions in its schedule is required to notify the CONTRACTING PARTIES not earlier than six months nor later than three months before the termination date of a preceding three-year period as referred to in Article XXVIII:1.

No notifications have been received for the last period (July-October 1987).

(ii) Article XXVIII:4

A contracting party intending to seek the CONTRACTING PARTIES authorization to enter into negotiations for the modification or withdrawal of a concession under these provisions should submit its request for consideration by the Council. These provisions have been invoked by only two contracting parties (Portugal and Korea) in the past five years.

(iii) Article XXVIII:5

Any contracting party wishing to reserve the right for the duration of the three-year period envisaged in Article XXVIII:1 to modify its schedule is required to notify the CONTRACTING PARTIES before the end of the previous three-year period. Notifications are circulated in the TAR/- series. Currently 28 contracting parties have invoked this provision for the three-year period beginning 1 January 1988.

2. Quantitative restrictions and other non-tariff measures

(a) Article XII and XVIII:B: balance-of-payments procedures

Under Articles XII:4 and XVIII:12, as interpreted by the 1979 Declaration on Trade Measures Taken for Balance-of-payments Purposes, contracting parties are obliged to notify "the introduction or intensification of all restrictive import measures taken for balance-of-payments purposes" (1979 Declaration, paragraph 3). Such notifications are circulated in the L/- series.

Consultations under Articles XII:4 and XVIII:12 cover "all measures taken for balance-of-payments purposes"; hence notifications made under Paragraph 3 of the 1979 Declaration may cover measures other than Quantitative Restrictions (e.g. import surcharges, deposits, etc.).

In recent years, ten countries consulting under Balance-of-Payments provisions have submitted notifications of such measures in the L/- series (Argentina, Brazil, Colombia, Greece, Israel, Korea, Nigeria, Peru, Tunisia and Yugoslavia).

Consulting countries are required to submit a basic document in the BOP/- series for full consultations or a written statement for simplified consultations. Five countries have submitted notifications of trade measures as part of these basic documents (Bangladesh, Ghana, Nigeria, Philippines and Tunisia).

Other consulting countries (Bangladesh, India, Pakistan, Turkey) have submitted information used for Balance-of-Payments purposes to the NTM Group or in response to the Questionnaire on Import Licensing (see below).

(b) Import licensing procedures

Since the twenty-eighth CONTRACTING PARTIES' Session in November 1982 regular updating has been made of replies to the Questionnaire on Import Licensing Procedures. Originally circulated under the codes COM.INF/W/55 - COM.AG/W/72, these notifications are currently circulated in the series L/5640 and Addenda. Thirty-seven contracting parties have replied to the current series of questionnaires.

(c) Quantitative restrictions

Since 1984, on a recommendation by the Group on Quantitative Restrictions and Other Non-Tariff Measures adopted by the CONTRACTING PARTIES at their Fortieth Session (BISD 31S/12) contracting parties have been requested to notify details of changes in the quantitative restrictions that they maintain as and when these changes occur and to make complete notifications of their quantitative restrictions once every two years. The notifications should include an indication of the grounds and GATT justification for the measures maintained (BISD 31S/222).

Information on quantitative restrictions has been supplied by 48 contracting parties, counting the EC as one. Data are circulated by the Technical Group on Quantitative Restrictions and other Non-Tariff Measures in the NTM/W/- series of documents.

(d) Other non-tariff measures

Procedures for notification to the Inventory of Non-Tariff Measures following the Tokyo Round were established in 1980 (BISD 27S/18). Further recommendations for improvement of the format for notifications were adopted by the Group on Quantitative Restrictions and Other Non-Tariff Measures in 1985 (BISD 32S/93). Contracting parties notify measures maintained by others, which affect their trade. Comments are invited from the contracting party against which a notification is made. Notifications should contain an indication of the precise nature of the measure, a full

description of the products affected including the corresponding CCCN heading, a statement on the effects of the measure and a reference to relevant GATT provisions. The present inventory contains 713 entries notified by 26 contracting parties against 72 (including the EC as one).

3. Subsidies (Article XVI)

Contracting parties are required under Article XVI:1 to notify information on any subsidy, as defined in that paragraph. A questionnaire was established to this end in 1960 (BISD 9S/193). Full notifications are to be made every three years, with annual supplements giving details of changes (BISD 11S/59). In 1987, the first year of the present three-year period, twenty-two notifications were provided in L/6111/Add.1-22.

4. State-trading (Article XVII)

Under Article XVII:4, contracting parties are required to notify the products imported into or exported from their territories by state-trading enterprises or other enterprises which enjoy exclusive or special privileges. Procedures for notifications were established in 1957 and modified in 1960 (BISD 6S/23 and 9S/184). Under a decision taken in 1962 (BISD 11S/58) full replies are invited to a questionnaire every three years and annual notifications of changes in intervening years. Currently around ten contracting parties are replying in the present series of notifications, circulated in the L/- series.

5. Governmental assistance to economic development
(Article XVIII:C and D)

A less-developed contracting party wishing to have recourse to the provisions of Article XVIII, section C (as modified by the Decision of 28 November 1979 on Safeguard Action for Development Purposes) is required to notify the special difficulties which it meets in achieving the objectives of the section and indicate the specific measure which it proposes to introduce in order to remedy these difficulties. Similarly, under Article XVIII, section D, a contracting party falling under the provisions of Article XVIII:4(b) may apply to the CONTRACTING PARTIES for approval of a measure otherwise inconsistent with the General Agreement in respect of the establishment of a particular industry. A questionnaire for guidance was established in 1958 (BISD 7S/85).

Up to 1966 releases for specific products under Article XVIII:C were given to four contracting parties (Cuba, Haiti, India and Sri Lanka). More recently, Greece, Indonesia and Malaysia have notified certain import regulations taken for development purposes under section C of Article XVIII. A number of other contracting parties have included Article XVIII:C in their justifications notified to the Quantitative Restrictions Group. Article XVIII:D has never been invoked.

6. Emergency action (Article XIX)

Article XIX:2 requires any contracting party, before taking emergency action pursuant to the provisions of Article XIX:1, to give notice in writing to the CONTRACTING PARTIES as far in advance as may be practicable. However, in critical circumstances action may be taken provisionally without prior consultation. In virtually all cases it has been this latter provision which has been applied. Notifications are made in the L/- series.

7. Consultation (Article XXII)

Procedures under Article XXII on questions affecting the interests of a number of contracting parties were adopted in 1958 (BISD, 7S/24). Under these procedures any contracting party seeking such a consultation under Article XXII is required to inform the Director-General for the information of all contracting parties, so as to enable any other contracting party to express its desire to be joined in the consultation. Notifications are circulated in the L/- series.

8. Customs unions and free-trade areas; regional agreements
(Article XXIV)

(a) Notifications

Article XXIV:7(a) requires that any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the CONTRACTING PARTIES.

At its meeting in October 1972 the Council established procedures for the examination of such agreements. The Council decided, without prejudice to the legal obligation to notify in pursuance of Article XXIV, to invite contracting parties that sign an agreement falling within the terms of Article XXIV, paragraphs 5-8, to inscribe the item on the agenda for the first meeting of the Council following such signature. This should allow the Council to determine the procedures for examination of the agreement (BISD, 19S/13). Notifications are made in the L/- series.

(b) Progress reports

At their Twenty-seventh Session the CONTRACTING PARTIES discussed the question of periodic reports on progress under customs unions and free-trade areas notified under Article XXIV. The CONTRACTING PARTIES instructed the Council to establish a calendar fixing dates for the examination, every two years, of reports on developments under regional agreements submitted by the parties to the agreements (see SR.27/12, page 167). However, as noted in NG7/W/13, disagreement exists as to whether the biennial reporting requirement should continue to apply when a customs union or free-trade area has been fully completed, partly because of the

difficulty of agreeing on whether such a situation prevails (NG7/W/13, paragraph 26).

9. Part IV

At the time of establishment of the Committee on Trade and Development, reporting procedures relating to Part IV of the General Agreement, and notification procedures under Article XXXVII, paragraphs 2(a) and (b) were established (BISD 13S/78 and 79) (see also section B.2 and 3 below).

B. Notifications pursuant to Understandings and Decisions adopted under the Tokyo Round

1. The Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance

Under Paragraph 2 of the Understanding, contracting parties reaffirmed their commitment to existing obligations regarding publication and notification.

Under Paragraph 3, contracting parties undertake, to the maximum extent possible, to notify the CONTRACTING PARTIES of their adoption of trade measures affecting the operation of the General Agreement, it being understood that such notification would be without prejudice to views on the consistency of measures or with their relevance to rights and obligations under the General Agreement.

Notifications [circulated under the L/- series] are collected by the Secretariat and compiled in the semi-annual survey of developments in international trade established pursuant to Paragraph 24 of the Understanding.

2. The Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (Enabling Clause)

Under Paragraph 4 of the Decision, any contracting party taking action to introduce, modify or withdraw differential and more favourable treatment specified in the Decision is required to notify the CONTRACTING PARTIES and furnish them with all the information they may deem appropriate relating to such action. Such notifications (circulated in the L/- or COM.TD/- series) include, inter alia, notifications concerning changes in GSP schemes.

3. Decision on Examination of Protective Measures Affecting Imports from Developing Countries

The Sub-Committee on Protective Measures set up under the Decision agreed that there were three possible sources of information for its work,

namely, notifications by contracting parties applying new protective measures affecting imports from developing countries; "reverse" notifications by developing countries with technical assistance from the Secretariat if required; and information on other relevant protective measures to be provided by the Secretariat on the basis of data available from official sources and as necessary checked with the delegations concerned to ensure accuracy.

Notifications are circulated in the SCPM/- series.

C. Notification requirements pursuant to the 1982 GATT Work Programme²

1. GATT Rules and Activities Relating to Developing Countries

Under Paragraph 1 of the Annex to the Decision on GATT Rules and Activities Relating to Developing Countries (BISD 29S/22), and paragraph 1 of the Annex to the Ministerial Declaration (BISD 29S/13) 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 was agreed. These consultations were held on the basis of information supplied by the consulting countries supplemented by additional factual material prepared by the Secretariat. In 1983 it was agreed that these consultations would form part of the regular annual reviews of the implementation of Part IV by the Committee on Trade and Development.

2. Export of domestically prohibited goods

Contracting parties shall, to the maximum extent feasible, notify GATT of any goods produced and exported by them but banned by their national authorities for sale on their domestic markets on grounds of human health and safety. Notifications are made in the DPG/NOTIF/- series. To date ... contracting parties have notified under this procedure.

3. Agriculture

Under the programme of work adopted by the Committee on Trade in Agriculture in March 1983 (BISD 30S/102) contracting parties were requested to supply information on trade measures maintained on agricultural products. Such information is circulated in the AG/FOR/- series according to an agreed format. Forty contracting parties have complied with this request. Following the provisions of the Punta del Este Ministerial Declaration the notification requirement was expanded to cover "measures and policies affecting trade in Agriculture". A new format was circulated for information to be provided in the AG/FOR/REV/- series. Currently

²See also references above under A.2(c).

eighteen contracting parties (including the EC) have submitted information under the revised format.

D. Notification requirements under MTN Agreements and Arrangements
(Documentation restricted in circulation to members of and observers to the relevant Agreements or Arrangements)

1. Agreement on Technical Barriers to Trade

Article 2.5.2 requires parties to notify other parties through the GATT Secretariat of the products to be covered by proposed technical regulations or standards whose technical content is not substantially the same as that of international standards. Article 2.6.2 requires parties to notify other parties immediately through the GATT Secretariat when technical regulations or standards are adopted for urgent reasons of safety, health, environmental protection or national security. Article 7.3.2 and 7.4.1 lay down similar requirements for certification systems. Article 15.7 requires parties to inform the Committee of measures in existence or taken to ensure the implementation and administration of the Agreement, and to notify any subsequent changes to such measures.

Notifications under Articles 2 and 7 are circulated to the members of the Committee in the TBT/NOTIF/- series: those under Article 15:7 in the TBT/- series. All information collected is summarized in the annual review undertaken by the Committee.

2. Agreement on Government Procurement

Under Article VI:10, parties are required to provide to the Committee on Government Procurement annual statistics on their purchases. Under Article IX:4 parties are required to inform the Committee of any changes in their laws and regulations relevant to the Agreement and in the administration of such laws and regulations. Rectifications or modifications pursuant to Article IX:5 are also to be notified to the Committee. Notifications are circulated in the GPR/- series.

3. Agreement on Interpretation and Application of Articles VI, XVI and XXII (Subsidies Code)

Article 2.16 requires signatories to report without delay to the Committee on Subsidies and Countervailing Measures all preliminary or final actions taken with respect to countervailing duties. Such notifications are circulated in the SCM/W/- series. Signatories are also required to submit, according to a standard format (SCM/79), semi-annual reports or any countervailing duty actions taken within the preceding six months. These are issued in the SCM/- series. Article 19.5(b) required signatories to notify any changes in laws or regulations (SCM/1 and Addenda).

4. Arrangement Regarding Bovine Meat

In Article III:1 participants agree to provide regularly and promptly to the International Meat Council (IMC) the information which will permit it to monitor and assess the overall situation of the world market for meat and the situation of the world market for each specific meat. This information shall include data on past performance and current situation and an assessment of the outlook regarding production (including the evolution of the composition of herds), consumption, prices, stocks and trade in products covered by the Arrangement and any other information deemed necessary by the Council, in particular on competing products (at the IMC's tenth meeting, participants agreed to also provide regularly to the Council, information on competing meats). Participants shall also provide information on their domestic policies and trade measures including bilateral and plurilateral commitments in the bovine sector. This information is circulated in the IMC/STAT/- and IMC/INV/- series.

5. International Dairy Arrangement

In Article III:1 the participants agree to provide regularly and promptly to the Council the information required to permit it to monitor and assess the overall situation of the world market for dairy products and the world market situation for each individual dairy product. Article III:3 specifies that this information shall include data on past performance, current situation and outlook regarding production, consumption, prices, stocks and trade, including transactions other than normal commercial transactions. Participants shall also provide information on their domestic policies and trade measures, and on their bilateral, plurilateral or multilateral commitments in the dairy sector. This information is circulated in the DPC/STAT/- and DPC/INV/- series to the participants as restricted information.

6. Agreement on Implementation of Article VII (Customs Valuation Code)

Article 25 requires each party to inform the Committee of any changes in its laws and regulations relevant to the Agreement and in the administration of such laws and regulations.

The Decisions by the Committee of 26 April 1984 and 24 September 1984 concerning, respectively, treatment of interest charges in the customs value of imported goods and the valuation of software require parties applying the relevant decisions to notify the Committee of the dates of application.

Notifications are circulated in the VAL/- series.

7. Agreement on Import Licensing Procedures

Under Article 5.4(b) of the Agreement, parties are required to inform the Committee on Import Licensing of any changes in their relevant laws and

regulations and in the administration of such laws and regulations. Notifications are circulated in LIC/1 and Addenda.

In April 1980 the Committee agreed that delegations should indicate the way in which public notice is given concerning quotas allocated by share, pursuant to Article 3(d) of the Agreement. Such information has been circulated in LIC/4 and Revisions.

8. Agreement on Trade in Civil Aircraft

Under Article 1 of the Agreement, all signatories are required to notify national entities operating military aircraft. Under Article 2.2, each signatory is required to notify the procedures of its end-use system of customs administration. Article 8.6 requires signatories to notify the Committee in case of initiation of an investigation of alleged subsidies. In application of Article 8.8, signatories are requested to notify the names of individuals available to serve on dispute settlement panels. Article 9.4.2 requires each signatory to inform the Committee of any changes in its relevant laws and regulations and in their administration. Documentation is circulated in the AIR/- series.

9. Agreement on Implementation of Article VI (Anti-dumping Code)

Article 14.4 of the Agreement requires parties to report without delay to the Committee on Anti-dumping Practices all preliminary or final anti-dumping actions taken (ADP/W/- series) and to submit, under a standard format (ADP/31) semi-annual reports of any anti-dumping actions taken within the previous six months (ADP/- series).

Article 16.6 requires parties to notify any changes in their relevant laws and regulations and in their administration (ADP/1 and Addenda).

E. Notification requirements under the Arrangement Regarding International Trade in Textiles (MFA)

The principal notification obligations contained in the MFA are those relating to restrictions maintained on acceptance of the MFA (Article 2:1); unilateral actions (Article 3), bilateral agreements with participants (Article 4.4) and those with non-participants (Articles 7 and 8) and annual reports by all participants on status of restrictions maintained by them, including restrictions maintained under GATT (Article 11). Notifications reviewed by the Textiles Surveillance Body are circulated to all members of the Textiles Committee in the COM.TEX/SB/- series.