

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED
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Group of Negotiations on Goods (GATT)

Negotiating Group on the Functioning
of the GATT System

SUMMARY OF POINTS MADE IN THE GROUP CONCERNING "SURVEILLANCE"

Note by the Secretariat

Revision

1. Attached is a revised summary tabulation of the principal points made by delegations, either in written proposals or statements or orally in the meetings, on Point (i) of the Negotiating Objectives. This updates the summary previously issued in MTN.GNG/NG14/W/14/Rev.1 and incorporates points made up to the sixth meeting of the Negotiating Group.
2. The aim of the paper is to reflect the operational proposals and statements which have been made in the meetings of the Negotiating Group held to date.
3. Section A of the tables covers points made in written proposals by delegations: Section B contains points made during the Group meetings and reflected in the notes of the meetings.

FUNCTIONING OF THE GATT SYSTEM**Summary of Proposals**

Negotiations (i) "to enhance the surveillance in the GATT to enable regular monitoring of trade policies and practices of contracting parties and their impact on the functioning of the multilateral trading system;"

A. Written proposals submitted by participants in the negotiations

<u>Proposal</u>	<u>Notification requirements and nature of surveillance</u> (1)	<u>Institutional arrangements for surveillance</u> (2)	Further arrangements (3)	Review of arrangements (4)
Australia NG14/W/1 31 March 1987	<p>(a) All contracting parties to make annual assessments of protective effects of their trade policies (paragraph 9). Reports compiled by Secretariat (paragraph 10). Proposed format for country reports (Annex).</p> <p>(b) Provision of material by larger contracting parties (all developed and some developing countries) for more extensive review of their trade policies on a rotational periodic basis (paragraph 11). Reports compiled by the Secretariat (paragraph 12).</p>	<p>(a) Reports under (1)(a) would be received by annual special Council meetings devoted to review of developments in the trading system (paragraph 10).</p> <p>(b) Reports under (1)(b) would be examined on behalf of the Council by a small group of contracting parties with the assistance of the Secretariat (paragraph 11).</p>		Establishment of a Trade Policy Committee to monitor trade policies of contracting parties and to conduct a general exchange of views at least once a year on trade policy trends in a global economic context (paragraph 11).
Switzerland NG14/W/7 16 June 1987	Reference to Australian proposals in MTN.GNG/NG14/W/1 (paragraph 4(ii)).			

<u>Proposal</u>	<u>Notification requirements and nature of surveillance</u> <u>(1)</u>	<u>Institutional arrangements for surveillance</u> <u>(2)</u>	<u>Further arrangements</u> <u>(3)</u>	<u>Review of arrangements</u> <u>(4)</u>
Japan NGI4/W/8 22 June 1987	<p>(a) For each contracting party subject to review, information to be supplied on trade measures, domestic situation and current trade performance (paragraph 2).</p> <p>(b) About 30 contracting parties (and developed and major developing countries) to be subject to review on rotational basis and other contracting parties as necessary on a <u>ad hoc</u> basis (paragraph 1).</p> <p>(c) Format of review to be agreed through negotiation prior to initiation of review. Need to avoid duplication with other organizations (e.g. OECD, IMF). No judgement to be made on GATT legality.</p>	<p>(a) Review of trade policies to be conducted by two or three contracting parties selected on a rotational basis (paragraph 3).</p> <p>(b) Review based on report drafted by reviewers with assistance of Secretariat; report to be submitted to special Council meetings for final review (paragraph 5).</p> <p>(c) Review to be conducted every three to four years for each contracting party (paragraph 4).</p>	<p>Final report by reviewing contracting parties with assistance from Secretariat.</p> <p>Final report not public, but press release issued (paragraph 6).</p>	System to be reviewed after three or four years.
United States NGI4/W/9 22 June 1987	<p>(a) All notifications by contracting parties of measures subject to GATT surveillance to be made to a central repository.</p> <p>(b) Surveillance should be for multilateral monitoring of trade policies, not for judgement on GATT obligations.</p>	<p>(a) Reviews by the Secretariat of trade policies and practices of individual contracting parties.</p> <p>(b) Surveillance on a regular basis possibly by senior trade officials from capitals, of the trade régimes of contracting parties. Surveillance could be based on Secretariat reviews.</p>		Enhanced economic analysis and research in the GATT to provide an adequate basis for improved surveillance.

<u>Proposal</u>	<u>Notification requirements and nature of surveillance</u> (1)	<u>Institutional arrangements for surveillance</u> (2)	<u>Further arrangements</u> (3)	<u>Review of arrangements</u> (4)
Canada NG14/W/10 2 July 1987	Member countries' trade policies need to be subject to closer surveillance; endorse expansion and improvement in GATT's responsibilities, entailing Secretariat-initiated reviews.	Need for strengthening of the Secretariat e.g. in its capacity to analyze world economic trends and implications for trade policy.	Relationship of trade policy surveillance with GATT rights and obligations and the rôle of dispute settlement would need to be examined.	Need to assess what the follow-up to such surveillance might be - e.g. conclusions or recommendations?

Jamaica
NG14/W/11
8 July 1987

Existing GATT surveillance mechanisms should be rationalized.

<u>Proposal</u>	<u>Notification requirements and nature of surveillance</u> <u>(1)</u>	<u>Institutional arrangements for surveillance</u> <u>(2)</u>	<u>Further arrangements</u> <u>(3)</u>	<u>Review of arrangements</u> <u>(4)</u>
New Zealand NG14/W/13 25 September 1987	<p>(a) Supports Australian proposals for comprehensive country reviews based on standard format (NG14/W/1): to be concentrated on contracting parties with dominant share of world trade.</p> <p>(b) Notifications to different GATT Committees to be simplified and standardized. Each contracting party to make an annual notification conveying the essentials of its trade policy: GATT Secretariat to ensure and assist this.</p>	Annual assessments by an appropriate body or bodies, possibly a single annual special Council meeting.	The Group should develop criteria which could assist contracting parties to establish domestic surveillance bodies with the aim of encouraging better monitoring of all measures affecting international trade, evaluation of domestic trade measures on the basis of economy-wide considerations, public debate on trade policy and a greater understanding of the consistency of measures with international obligations.	

<u>Proposal</u>	<u>Notification requirements and nature of surveillance</u> <u>(1)</u>	<u>Institutional arrangements for surveillance</u> <u>(2)</u>	<u>Further arrangements</u> <u>(3)</u>	<u>Review of arrangements</u> <u>(4)</u>
Nordic Countries NG14/W/17 28 January 1988	<p>Aim of enhanced surveillance is to increase transparency and understanding of contracting parties' trade policies and practices; however an important aim is to improve the adherence to agreed rules. While all contracting parties have the same legal obligations, violations by major trading partners have a more harmful effect on the multilateral trading system than those by small countries.</p> <p>Annual reports by all contracting parties are necessary for transparency; but need to agree on a format.</p> <p>Reviews should be placed in a general economic domestic and external policy context, and comprehensive in the sense that they cover all trade policies and practices. They should be legally distinct from all existing GATT legal mechanisms. Any grounds for complaints emerging from the reviews should be taken up under normal consultation and panel procedures. Reporting would not relieve contracting parties from other GATT notification obligations.</p>	<p>All contracting parties should be reviewed. Core-group should be reviewed more frequently than others. Share of world trade should be the indicator for deciding frequency. A small number of major trading entities should be reviewed at least every 18 months.</p> <p>Reviews should be carried out in Geneva in order to give all contracting parties the possibility to participate. It may be practicable to designate some 3-5 contracting parties as examiners, who together with the review team could prepare appropriate questions to be submitted in advance to the country under review.</p>	<p>Reports on which reviews are based should be written by teams of trade policy experts chosen from a roster of outside experts and/or GATT staff members. Review team should base itself on annual reports to the CONTRACTING PARTIES, a factual background paper by Secretariat and other relevant information they deem important.</p> <p>Review team may visit the countries concerned.</p>	<p>Reports resulting from reviews should be taken note of by the Council. Reports and statements made at the time of discussion should be made public on the responsibility of the Secretariat. The Secretariat should make periodic assessments of trends and tendencies in trade policies based on the reviews.</p> <p>These assessments could provide background to general discussions in the annual Sessions of the CONTRACTING PARTIES.</p>

<u>Proposal</u>	<u>Institutional arrangements for surveillance</u> <u>(1)</u>	<u>Institutional arrangements for surveillance</u> <u>(2)</u>	<u>Further arrangements</u> <u>(3)</u>	<u>Review of arrangements</u> <u>(4)</u>
EEEC ENG 4/W/20 March 1988	<p>(a) <u>Notification</u> Should be broad general obligation to notify new trade measures, whether liberalizing or protective. This could be complemented by an illustrative list of practices subject to notification. Should be common format for notifications, indicating minimum information to be provided with each notification. Notifications should be sent to a central repository. Countries would be requested, through the Secretariat, to notify measures for inclusion in the central repository. Compliance with notification requirements should be subject to regular monitoring in GATT.</p> <p>(b) <u>Trade policy review</u> Objective - Improve transparency, better understanding of countries' policies, collective evaluation. Not a form of passing judgement on countries' policies or a mechanism for enforcement of rights and obligations.</p> <p>Need for rationalization of notification and surveillance mechanisms: to improve compliance, avoid duplication or creating new layers of bureaucracy, maintain overall coherence of system.</p>	<p>Annual agenda of reviews, drawn up on basis of four criteria - time elapsed since last review; need to establish geographically and economically balanced programme of reviews; presence of major developments in trade policy or the trading environment (urgent reviews); and avoidance of review in same session in which other major consultations are to take place.</p>	<p>"Horizontal" examination of trends in the Special Council. Secretariat could prepare analysis of trade policy developments on the basis of all reports. This could serve as a focus for discussion in a single annual special session of the Council which would replace present biannual review sessions.</p>	<p>Preparation of reviews could involve visits to capitals, but reviews should be conducted in Geneva and be open to all contracting parties. Possible institutional structure could be special sessions of the Council. Reports and comments should be made public.</p>

<u>Proposal</u>	<u>Notification requirements and nature of surveillance</u> (1)	<u>Institutional arrangements for surveillance</u> (2)	<u>Further arrangements</u> (3)	<u>Review of arrangements</u> (4)
EC (continued) NG14/W/20 March 1988	Annual country reports should be made by all contracting parties. The EC should be counted as a single entity. The common format for reports must focus on the objectives pursued, difficulties faced (internal or external) and overall future direction of trade policy. Reports should include significant proposals or impending measures, in order to provide early warning. Review should be open; all contracting parties should have the opportunity to participate.	Avoid proliferation of specialized GATT bodies. However, country reviews would be different in nature from BOP consultations which relate to specific requirements of a major GATT exception.		

B. Views expressed in meetings of the Negotiating Group

<u>Notification requirements:</u> <u>Nature of surveillance</u>	<u>Institutional arrangements for surveillance</u> (2)	<u>Further arrangements</u> (3)
1. <u>Notifications</u>		
	<p>(a) Proper system of notifications and full transparency would partly obviate the need for surveillance (NG14/1, paragraph 4).</p> <p>(b) A central repository of all notifications relevant to GATT obligations should be established (NG14/2, paragraph 8).</p> <p>(c) Accountability available through surveillance cannot be ensured by notifications/transparency alone (NG14/1, paragraph 4).</p>	<p>(a) The asymmetry of existing surveillance arrangements (e.g. consultation obligations under balance-of-payments provisions as against others) should be addressed (NG14/1, paragraph 6; NG14/2, paragraph 7).</p> <p>(b) Different levels of surveillance reflect the relationships between different contracting parties' trade policies and their GATT obligations (NG14/1, paragraph 6).</p> <p>(c) Primary focus should be on trade policies and practices of major trading countries; although not all participants agreed with Japanese proposals in NG14/W/8 (see page 2, col.1(b)) (NG14/2, paragraph 9).</p> <p>(d) A standing surveillance body should be created (NG14/2, paragraph 8).</p> <p>(e) Existing arrangements could first be improved; e.g. Special Council documentation could be classified by country rather than by measure (NG14/2, paragraph 8).</p>

<u>Notification requirements:</u>	<u>Institutional arrangements for surveillance</u>	<u>Further arrangements</u>
<u>Nature of surveillance</u>	(1)	(2)
2. Surveillance		
(a) Preventive surveillance as "early warning system" (NG14/1, paragraph 4).	(a) All contracting parties should report regularly and be subject to periodic review: the frequency of individual reviews should be related to indicators such as importance in international trade. Avoid duplication where contracting parties already consulting under specific GATT provisions. Least developed contracting parties might be excluded (NG14/4, paragraph 5).	(a) Rôle of Secretariat, financial and staffing implications need further elaboration (NG14/4, paragraph 7).
(b) Surveillance should be used to ensure compliance with contractual obligations (paragraph 4). Country-by-country surveillance would ensure fuller adherence to GATT obligations (NG14/2, paragraph 6).	(b) Contracting parties whose policies have a greater impact on trading system should be reviewed more frequently than others. Core group of twenty trading entities sufficient. Not felt that four major trading entities should be reviewed more frequently than other core countries. Need to define how EC and member states would be treated (NG14/6, paragraph 4).	(b) Some participants saw a need to strengthen the rôles of Director-General and Secretariat, to provide the GATT with an independent review capacity and a stronger influence in the field of trade policies and practices (NG14/6, paragraph 5).
(c) Surveillance should be evaluation, not judgement. No additional contractual commitments should be implied (NG14/1, paragraph 5). Collective assessment would avoid giving impression of countries "in the dock" and recognize shared responsibility for contractual arrangement. Assessment of trade policies should be qualitative, not quantitative and should include consideration of structural adjustment. Surveillance should be distinct from GATT dispute-settlement process (NG14/2, paragraph 6).	(c) Annual reports to be based on an agreed format with full reports in review years and updated information in intervening years on major trade policy decisions (NG14/4, paragraph 6).	(c) Some delegations felt it useful to supplement basic country documents with Secretariat background papers (NG14/4, paragraph 7).
(d) Generalized system of surveillance might undermine contracting parties' commitments to GATT obligations (NG14/2, paragraph 6).	(d) Some said that Secretariat should furnish review teams to visit capitals for discussions with national authorities and write basic consultation reports: others noted no consensus on this question as yet (NG14/6, paragraph 7).	(d) Possibility of appointing a small group of reviewers. On the other hand, important to conduct reviews in open-ended body. Possibly where limited number of delegates might prepare and conduct discussion (NG14/4, paragraph 7).
(e) Arrangements for surveillance should be simple (NG14/2, paragraph 6). Concern about cumulative burden of reporting obligations for small developing countries. No proliferation of surveillance mechanisms (NG14/6, paragraph 3).		

<u>Notification requirements:</u>	<u>Institutional arrangements for surveillance</u>	<u>Further arrangements</u>
<u>Nature of surveillance</u>	(1)	(2)
	(3)	
(f) Review process should promote greater transparency in and understanding of contracting parties' trade policies. It should contribute to the collective management of the trading system by the CONTRACTING PARTIES. While not aiming to examine the conformity of particular measures with GATT obligations, it should lead to greater adherence to and acceptance of the principles and objectives of GATT (NG14/4, paragraph 4; NG14/5, paragraph 11).	(e) Reviews should be conducted by an open-ended body (e.g. special meetings of GATT Council) (NG14/6, paragraph 6). (f) Part IV consultations might serve as a model (NG14/6, paragraph 6).	(e) Some participants felt that Secretariat should actively prepare materials and questions for reviews and formulate assessment of impact of a contracting party's trade policies. Others thought Secretariat's role should be more limited (NG14/4, paragraph 8).
(g) More consideration should be given to the relationship between proposed country reviews and other GATT surveillance procedures (NG14/4, paragraph 10).	(g) Nature of review body's reports: Whether or not contain conclusions; how such conclusions should relate to existing GATT rights and obligations (NG14/4, paragraph 9).	(h) What would be the appropriate body to consider reports: Trade Policy Committee/GATT Council/ CONTRACTING PARTIES? (NG14/4, paragraph 9).
(h) Reviews should be set against a clear yardstick of GATT obligations including any new rights and obligations resulting from the Uruguay Round. The review process should correct an existing asymmetry in GATT surveillance and review mechanisms (NG14/6, paragraph 3).		(i) Publication of reports (NG14/4, paragraph 9).