

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

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

COMMUNICATION FROM THE DELEGATION OF JAMAICA

1. A. Introduction

The Permanent Mission of Jamaica has circulated its views to the Negotiating Group on 8 July 1987 (MTN.GNG/NG14/W/11). This is the background against which these elements are being put forward for consideration.

2. B. "Understandings" (a) the objective is to, inter alia, "enhance surveillance in the GATT" (emphasis added), for regular monitoring of trade policies and practices of contracting parties" and their "impact on the functioning of the Multilateral Trading System".

3. To develop specific understandings in the GATT sense could imply undertaking obligations, namely, the obligation to improve notifications. Since the objective of "enhanced surveillance" is to enable monitoring of trade policies and practices and their impact, it does not explicitly require any new obligations in these respects. This was the understanding when the Ministerial Declaration was adopted and Section E - Functioning of the GATT System was included distinct from Section D - Subjects for Negotiations.

4. (b) The objective also aims "to improve overall effectiveness and decision-making of the GATT as an institution including inter alia through involvement of Ministers". The decision-making of the GATT is essentially through Article XXV - Joint Action by the CONTRACTING PARTIES which in paragraph 3 provides for one vote for each contracting party at all meetings of the contracting parties and in paragraph 4, that "except as otherwise provided for in this Agreement decisions of the Contracting Parties shall be taken by a majority of the votes cast". The practice based on tradition has been decision-making by consensus. This should continue unchanged, leaving it open for recourse to the rule on decision-making by majority vote.

5. The adoption of panel reports other than by consensus is the subject of negotiations in the Negotiating Group on Dispute Settlement, and is closely related to other aspects of the GATT system.

6. The issue is whether the involvement of Ministers increases the overall effectiveness and decision-making of the GATT in respect of the consensus practice and the majority rule. This does not seem likely since

each contracting party will take its decision in the light of its trade interests whether reflected by Ministers or not. The approach then to this objective is to seek to improve "overall effectiveness of the GATT through involvement of Ministers" in some consultative or advisory capacity. In what ways can Ministers increase the overall effectiveness? A number of proposals have been put forward and include the need for Ministers "to meet regularly to provide political guidance and initiative for the work of the GATT; to monitor trends in international trade; to provide a forum for discussion on trade issues for a common concern etc.". These objectives with a likely reservation on the "political guidance" to an essentially legal contractual balance of rights and obligations reflect the intention of the establishment of the Consultative Group of 18 (CG18).

7. There is no need for any formal decisions to be taken for Ministers to meet. This can be done merely by a simple agreement in the Council and contracting parties.

8. The proposal that there should be a limited or restricted group of Ministers runs counter to the sound practice and valuable experience of the GATT in implementing the principle of transparency. The Chairman's Discussion Paper - Greater Ministerial Participation, 16 February 1988, sets out what may be too cumbersome a set of arrangements. These arrangements may very well move in a direction which would impair rights of contracting parties. Great care will therefore need to be taken to ensure that what appears to be practical arrangements do not in fact, impinge on the balance of rights and obligations in the GATT and consequently, change its essential character.

9. (c) The objective additionally aims to develop understandings "to increase the contribution of the GATT to achieving greater coherence in global economic policy-making". This would be done "through strengthening its relationship with other international organizations responsible for monetary and financial matters". This is perhaps the most substantive aspect of the negotiating objectives aimed at strengthening the rôle of GATT, improving the multilateral trading system based on the principles and the rules of GATT to increase the responsiveness of the GATT system to the evolving international economic environment (taken from the Ministerial Declaration, Section A - Objectives).

10. The development of any understandings which would lead to changes in the GATT rules will need to be carefully examined. However, since these are the subject of discussions in the Negotiating Group on GATT Articles, they may only be alluded to at this point. In this respect, the secretariat's Note - The 1954-55 Review Session (MTN.GNG/NG14/W/12) is instructive on attempts by the GATT in respect of monetary and financial matters. The Note draws attention to the establishment of the arrangements for transmission to the GATT secretariat of certain IMF documentation especially in connection with consultations under Articles XII and XVIII:B (paragraph 8). Any understandings relating to the coherence between the application of GATT's rules, and commitments entered into with the IMF or

the World Bank will therefore require the most careful scrutiny so as not to upset the balance of rights and obligations within the GATT trading system. At the same time, any discussion of the need for coherence between trade policy measures (micro-economic) and monetary and financial matters (macro-economic) should be given high priority if only to identify key issues which should be addressed in the appropriate forums and be consistent with the mandates of the respective institutions. This should come prior to any decisions on institutional arrangements.

11. Some of the substantive issues are inter alia, (a) the competence of the institutions especially in the field of trade and exchange controls; (b) the importance of exchange rates on trade (balance of payments, tariff concessions, quantitative restrictions); (c) the responsibility of countries running structural trade surpluses; (d) concessions to be extended by developed contracting parties in response to trade liberalization policies and measures implemented autonomously by less-developed contracting parties, and (e) the institutional arrangements for intergovernmental and secretariat co-operation. Each of these will require fuller elaboration and discussion including, with the institutions directly concerned. In this exercise, the GATT, IMF, (and the G-5/G/10), the World Bank, UNCTAD and on an ad hoc basis, the OECD should be included. [See Annex for additional views on this objective].

12. C. "Arrangements" - the objective is to develop arrangements covering the areas identified above. With respect to "enhanced surveillance in the GATT" proposals have been made for (a) Country Reports and (b) a Trade Policy Review Mechanism.

13. The secretariat has prepared a draft - Outline Format for Country Reports under Trade Policy Review Mechanism, 27 April 1988. This Note omits a number of issues which will be suggested for consideration and possible inclusion should it be agreed to have Country Reports.

14. The Chairman's discussion paper - Trade Policy Review Mechanism, 25 April 1988, contains a number of suggestions. This discussion paper focusses on the procedures for reporting and the composition of the review body. It would appear that both the Outline Format and Review Mechanism do not imply new obligations for contracting parties since the Country Reports are merely to "provide a factual basis for the review process" and the review is not intended to serve "as a basis for the enforcement of specific GATT obligations or for dispute settlement procedures."

Summary

15. From the above, it will be noted that a distinction has been made between "Understandings" and "Arrangements" - "Understandings" which might imply new commitments or obligations, and "Arrangements" which would imply new commitments but not obligations in the GATT sense. As pointed out in an earlier Communication from Jamaica (W/11), great care should be taken (a) not to "politicize" the GATT, (b) not to create new mechanisms without first of all establishing the need and without rationalizing the

approximately fifty (50) mechanisms currently existing in the GATT and (c) not to attempt to seek solutions to problems manifested in the trade field but which in reality are created by imbalances in the monetary and financial fields.

16. The Uruguay Round provides a useful opportunity for a review of the institutional framework of the GATT. In this respect, the Interim Committee of the International Trade Organization (ICITO), which performs certain functions on behalf of contracting parties individually and collectively should be the subject of examination. The Director-General of GATT should be requested to prepare a Note for consideration in the Group, with any suggestions he feels are appropriate to put GATT on a firmer footing.

ANNEXFunctioning of the GATT System

1. The issues in Functioning of the GATT System (FOG) are intimately related to developments of the Group on GATT Articles, Dispute Settlement and on the important subject of Trade and Finance (which has so far not received any attention in the Round).
2. In light of the major substantive issues raised in the proposals for Fund/GATT collaboration, it is proposed that decisions on institutional measures should await further clarification and elaboration of the content of Fund/GATT collaboration on macro-economic, monetary and financial issues and trade policy. So far the focus has been on trade policy aspects to which the Fund may subscribe, including the strengthening of its already existing mandates for overseeing exchange restrictions.
3. The Fund has developed considerable influence on the policies pursued by developing countries in balance-of-payments difficulties and who are seeking the use of the Fund's resources. It attaches conditions for the use of its resources.
4. The GATT balance-of-payments provisions are being questioned. Until some of these issues are clarified it would seem premature to give the Fund much greater influence on the trade policies of less-developed contracting parties. The proposals being advanced suggest that an objective is to increase the influence of GATT in the Fund's exercise of its mandate. An unintended consequence of the proposals advanced, however, could be a diminished rather than an enhanced rôle for GATT as it does not have the financial resources of the IMF. It should be recalled that both the Fund (IMF) and the Bank (IBRD) as lending institutions have been the key multilateral Secretariats/agencies engaged in providing policy advice to developing countries in the context of adjustment programmes.
5. In light of this it is proposed that the Fund, Bank and UNCTAD representatives be invited to make written submissions covering substantive areas related to the attainment of the Objectives of the Uruguay Round of multilateral trade negotiations:
 - (i) multilateral surveillance - its procedures and disciplines;
 - (ii) monetary and financial issues supportive of trade liberalization and expansion and the development of developing countries;
 - (iii) relations with member countries - the effectiveness of their collaboration with governments in promoting growth and development, including trade policy reforms;
 - (iv) the development of developing countries, inter alia, special, differential and more favourable treatment within their mandates.