

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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BALANCE-OF-PAYMENTS PROVISIONS

Statement by the United States

The following statement was made by the delegation of the United States at the ninth meeting of the GATT Articles Group (on 20 September 1988), with the request that it be circulated to all participants.

Introduction

Mr. Chairman, I think we can all agree that GATT balance-of-payments provisions play a critical rôle in the trading system. Certainly we view disciplines in this area as seriously deficient, while others may want to defend the status quo. But serious and substantive negotiations of these far-reaching provisions are clearly an important, indeed essential, part of the work of this Group and the Uruguay Round.

We were encouraged by the initial substantive discussion at our last meeting. We hope to continue that discussion in the same constructive spirit today. Our intention in this statement is to explain further the United States view of the nature of the problems with current balance-of-payments disciplines.

The balance-of-payments exemption to basic GATT disciplines has existed from the beginning because no one can deny a country access to reasonable policy tools for responding to a balance-of-payments crisis. The United States does not seek elimination of that capability. But just because we need a balance-of-payments exemption, it does not follow that current GATT balance-of-payments disciplines are either adequate or appropriate. We maintain instead that thirty years of experience have demonstrated quite a different conclusion: something has gone seriously wrong with the GATT system in this area, both for the trading system as a whole and for the countries invoking these provisions.

Damage to the Trading System

At a fundamental level, the lack of balance-of-payments discipline damages the trading system because it undermines adherence to the principles on which it rests. These principles - non-discrimination, transparency, predictability, and national treatment - are embodied in the

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basic expectation that GATT members will confine trade barriers to transparent tariffs, applied on an MFN basis and reduced through negotiations. Quantitative barriers are generally banned because they are easily manipulated, often non-transparent, disruptive, and prohibitive, and sometimes discriminatory.

The purpose of the balance-of-payments exemption to the prohibition against quantitative restrictions is to allow a limited departure from these basic GATT ideals and obligations, in cases where a country's balance-of-payments situation leaves it no alternative. This limited exemption should not be viewed or used as a means to discard either the basic trade promoting goal of the GATT system or the principles which govern the operation of the system. Quite the contrary, it should represent an effective set of disciplines which guide a country back into conformity with its GATT obligations.

It is therefore fitting that the balance-of-payments provisions and their application should be judged against these well-established GATT principles.

The authors of Articles XII and XVIII and the 1979 Framework Declaration tried to integrate the balance-of-payments exemption into overall GATT objectives by establishing and reaffirming certain basic ground rules:

- the restrictions are supposed to be temporary until "alternative corrective measures" can take effect;
- they are not supposed to be used to protect individual industries from foreign competition; and
- preference is supposed to be given to the least disruptive, transparent measures, such as tariff increases.

Unfortunately, the application of the balance-of-payments provisions has not, in practice, been consistent with overall GATT objectives and goals. The reality is that the exemption has contributed to an erosion of those principles; it is an all-purpose, open-ended means to restrain the growth of trade which urgently requires the attention of this Negotiating Group.

A number of countries have applied these restrictions for decades, so that they become a means for protecting particular industries or sectors, even if that was not their original intent. And there is little evidence that the GATT preference for transparent, price-based, non-prohibitive measures has had much influence on the choice of restrictions used. Our view is that this situation is untenable - it makes no sense to have a subset of rules within the GATT which are used to frustrate GATT's basic intent.

The balance-of-payments provisions are not the only areas of the GATT which raise such issues. It can be asserted with some justification that some of the same arguments apply to safeguards and grey area measures and waivers, for example, as to the balance-of-payments provisions. The important issues, however, are under negotiation in this Round, and the United States is participating actively in this effort.

In addition to the damage done to adherence to GATT principles, the current balance-of-payments regime weakens the process of liberalisation through multilateral negotiations. The lack of GATT discipline over balance-of-payments-related trade restrictions inhibits progress in reducing barriers to all countries' exports, developed and developing alike.

The current balance-of-payments regime detracts from the exchanges of concessions which are fundamental to the GATT negotiation process in both the tariff and non-tariff areas. Historically, the successes of the GATT system have come in large part because the system created the political will to reduce import barriers by clearly identifying potential export benefits. The current open-ended balance-of-payments exemption undermines that political will.

The lax nature of the current balance-of-payments regime damages confidence that the basic value of market opening actions will not be impaired. Greater GATT discipline over balance-of-payments-related restrictions is essential to create greater confidence that forward progress on trade liberalisation will be sustained.

Damage to Imposing Countries

But lax GATT discipline in this area is not only a problem for the trading system at large; it is also a problem for countries that need to invoke these provisions.

At present, GATT rules/procedures sanction ongoing and heavy reliance on trade-restrictions, particularly quantitative restrictions, in times of balance-of-payments difficulty. Thirty years of development experience have shown that countries which use restrictions in this manner generally grow more slowly, adjust poorly to balance-of-payments problems, and have less equitable income distributions than outward-oriented countries. Nevertheless, the current GATT system fails to encourage countries to dismantle the machinery, once constructed, for administering bans, quotas, and licensing systems.

Economists have demonstrated that the effect of long-term protection of import-competing industries is to: (a) promote excessive resource flows into these product areas at the expense of exports, and (b) generate uncompetitive import-competing producers. Balance-of-payments problems are aggravated and prolonged as a result. But there is, at present, no effective means within the GATT context to counter the powerful protectionist interests that benefit from these barriers.

Let us look at the record:

- In the last 23 years, 19 countries have invoked Article XVIII:B to justify trade restrictions taken for balance-of-payments reasons. Only four countries have eliminated these restrictions during the period, with one country later reimposing restrictions. Thus, long-term use of balance-of-payments restrictions is the rule rather than the exception.
- These are not insignificant restrictions applied on the margins of countries' tariff schedules. A large share of these countries' imports are quantitatively controlled on balance-of-payments grounds through bans, quotas, or licensing systems. Based on the list of non-tariff measures notified to the GATT as of September 1987, an average of 40 per cent of invoking countries' import items are subject to quantitative restrictions (QRs) imposed for balance-of-payments reasons. For eight countries, the share is over 50 per cent. The balance-of-payments provisions are by far the most frequent justification for imposition of QRs - 85 per cent of quantitative restrictions notified to the GATT are justified under Article XVIII:B.
- Importantly, the types of items restricted for balance-of-payments reasons are generally items exported by developing countries: on average, two-thirds of QRs justified under Article XVIII:B restrict trade in items of export interest to developing countries. Thus, developed countries are not the only trading partners of invoking countries which suffer damage. In fact, other developing countries may suffer disproportionately.

What I have just described is based on only what has actually been reported to the GATT. We know that many countries fail to notify restrictions imposed for balance-of-payments reasons and escape GATT surveillance entirely.

Conclusion

Mr. Chairman, we can achieve a more balanced state of affairs than this. We can devise GATT disciplines in this area which give countries an incentive to return to the process of trade liberalisation as quickly as possible, while preserving countries' rights to use trade restrictions as a last resort.

We must not lose the opportunity provided by the Uruguay Round to move ahead in this area. The costs of GATT deficiencies that slow balance-of-payments adjustment in countries facing large debt obligations are too high.

Our guiding principle in this effort should be to develop GATT disciplines that encourage effective adjustment to balance-of-payments problems and remove the current perverse preference for trade restrictions. We are convinced that these disciplines will benefit both the country in difficulty and the global trading system.