

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED

MTN.TNC/W/10/Rev.1

MTN.SB/W/4/Rev.1

23 June 1989

Special Distribution

Trade Negotiations Committee

Surveillance Body

URUGUAY ROUND - MECHANISM FOR SURVEILLANCE
OF STANDSTILL AND ROLLBACK

Consolidated Text of Ministerial Commitments
and Agreed Procedures

Revision

This document contains a revision of MTN.TNC/W/10 which incorporates the decision adopted by the Trade Negotiations Committee at its mid-term review (MTN.TNC/11) and sets out, in a single text, the Ministerial commitments and the agreed procedures for the Uruguay Round Surveillance Mechanism.

STANDSTILL

Ministerial Commitments

"Commencing immediately and continuing until the formal completion of the negotiations, each participant agrees to apply the following commitments:

Standstill

- (i) not to take any trade restrictive or distorting measure inconsistent with the provisions of the General Agreement or the Instruments negotiated within the framework of GATT or under its auspices;
- (ii) not to take any trade restrictive or distorting measure in the legitimate exercise of its GATT rights, that would go beyond that which is necessary to remedy specific situations, as provided for in the General Agreement and the Instruments referred to in (i) above;
- (iii) not to take any trade measures in such a manner as to improve its negotiating positions"

Source: Section C of Punta del Este Ministerial Declaration (MIN.DEC).

Agreed Procedures

Surveillance

"1. Any participant may bring to the attention of the Surveillance Body, open to all participants, through the GATT secretariat, any action or measure taken by itself or another participant, which it believes relevant to the fulfilment of the standstill commitments. Any such notification will be deemed to have been submitted to the Surveillance Body upon its receipt by the secretariat.

2. The secretariat shall circulate promptly to all participants, and in no case later than 10 working days after receipt, a copy of all notifications addressed to the Surveillance Body. When notifications relate to actions by other participants (reverse notifications), the secretariat shall promptly inform the country to which they relate. Any comments¹ and any other relevant factual material received within the above period of 10 working days will be circulated together with the notification. If any comments or further information become available subsequently, they will be circulated promptly.

¹"The absence of comments by a country subject to a reverse notification shall not be deemed to constitute an admission that the measure is subject to the standstill commitment."

3. The Surveillance Body will examine the relationship between the actions or measures notified and paragraphs (i), (ii) and (iii) of the standstill commitment contained in Section C of Part I of the Ministerial Declaration at its first meeting following the 10 working day period referred to in paragraph 2 above. The Surveillance Body will transmit a record of its proceedings to the next meeting of the TNC. (This record will be transmitted to the GNG for its information.)"

Source: Decision on the Mechanism for Surveillance of Standstill and Rollback adopted by the Trade Negotiations Committee on 28 January 1987 (MTN.TNC/2).

Agreements by the Surveillance Body on practical arrangements for surveillance of standstill

- Coverage of notifications and further relevant information from the secretariat

The Surveillance Body, at its meeting on 26 February 1987, agreed that it would facilitate work if notifying participants could provide a precise indication of: the measure taken; the product headings or tariff lines involved; the country or countries to which the measure applied; and why the measure was considered relevant to the fulfilment of the standstill commitment. The secretariat could supply further relevant information about any action or measure covered by a notification such as, for example, its trade or country coverage, and such information could be circulated to all participants.

Source: MTN.SB/1, paragraph 21.

- Standard format for notifications on standstill

In order to facilitate the task of delegations and of the Surveillance Body, the secretariat circulated (at the Body's meeting on 18 June 1987) a possible standard format for standstill notifications and suggested that, to the extent that delegations found it practical to do so, they should use the format for future notifications.

Source: MTN.SB/2, paragraph 20.

- Deadline for notifications on standstill

At its meeting on 18 June 1987, the Surveillance Body agreed, bearing in mind the need for notifications on standstill to be circulated sufficiently ahead of time to permit adequate consideration being given to them at meetings of the Surveillance Body, that the notifications be circulated 10 days before the Body's next meeting. This would, of course, have implications for the date by which the initial notification must be sent to the secretariat, since the agreed procedures provided for 10 working days for comments on reverse notifications.

MTN.TNC/W/10/Rev.1

MTN.SB/W/4/Rev.1

Page 4

(Note by the secretariat: This agreement means that any notification on standstill must be received by the secretariat at least 24 calendar days before the Body's next meeting, if it is to be examined at that meeting.)

Source: MTN.SB/2, paragraph 21.

ROLLBACK

Ministerial Commitments

"Commencing immediately and continuing until the formal completion of the negotiations, each participant agrees to apply the following commitments:

Rollback

- (i) that all trade restrictive or distorting measures inconsistent with the provisions of the General Agreement or Instruments negotiated within the framework of GATT or under its auspices, shall be phased out or brought into conformity within an agreed time-frame not later than by the date of the formal completion of the negotiations, taking into account multilateral agreements, undertakings and understandings, including strengthened rules and disciplines, reached in pursuance of the Objectives of the Negotiations;
- (ii) there shall be progressive implementation of this commitment on an equitable basis in consultations among participants concerned, including all affected participants. This commitment shall take account of the concerns expressed by any participant about measures directly affecting its trade interests;
- (iii) there shall be no GATT concessions requested for the elimination of these measures."

Source: Section C of Punta del Este Ministerial Declaration (MIN.DEC).

Agreed Procedures

Surveillance

"4. Any participant may bring to the attention of other participants, through the GATT secretariat, measures which it is applying or measures applied by another participant, which it believes should be subject to the rollback commitment. It will be open to any participant to notify to the Surveillance Body any omission by another participant which it believes to be relevant to the fulfilment of the rollback commitment.

5. Participants concerned shall consult in order to arrive at rollback undertakings. Timely notice of such consultations shall be sent to the secretariat for the information of all participants so that any affected participants may also take part in consultations if they so wish. Participants shall notify any undertakings resulting from these consultations to the Surveillance Body.

6. The Surveillance Body shall monitor the implementation of the undertakings resulting from the consultations referred to in paragraph 5 above and report to the TNC. (This report will be transmitted to the GNG for its information.)"

Source: Decision on the Mechanism for Surveillance of Standstill and Rollback, adopted by the Trade Negotiations Committee on 28 February 1987 (MTN.TNC/2).

TNC Chairman's Understanding on the Surveillance Mechanism Concerning Rollback Undertakings

"It is my understanding that participants maintaining measures that may be subject to the rollback commitment shall inform the Surveillance Body by 31 December 1987 of rollback undertakings resulting from the first round of consultations under paragraph 5 [of the agreed procedures in MTN.TNC/2]."

Source: MTN.TNC/2, Annex.

Agreements by the Surveillance Body on practical arrangements for surveillance of rollback

- Circulation and coverage of communications on rollback

At its meeting on 26 February 1987, the Surveillance Body agreed, concerning paragraph 5 of the agreed procedures (requiring participants to send to the secretariat timely notice of any consultations on rollback for the information of all participants) that such information should be sent on a restricted basis to each participant individually, instead of being put out for circulation in a Surveillance Body document.

Source: MTN.SB/1, paragraph 21.

At its meeting on 18 June 1987, the Surveillance Body agreed that it might be useful if communications on rollback gave information on: the country maintaining the measure; the products and measures concerned; and the grounds for belief that the measures should be subject to rollback. This would enable delegations to decide whether they really needed to involve themselves in the process of consultations. The Chairman also suggested it was logical that if (under paragraph 5 of the agreed procedures) the notices of consultations on rollback were to be circulated to all participants, then (under paragraph 4) the initial communications should also be sent to all participants.

Source: MTN.SB/2, paragraph 22.

Standard formats for documents on rollback

The secretariat has circulated to all participants some standard formats for communications, notices of consultations and notifications on rollback. Further copies can be obtained from Office 1065.

Further relevant information concerning rollback communications

At its meeting on 9 December 1987, the Surveillance Body agreed that if any participant had data to offer which would help the other participants in their consideration of rollback communications, it should be open for them to do so. Likewise, if any participant needed factual information on specific points, the secretariat could be requested to provide such information. However, the secretariat would not provide such information on rollback communications routinely in the same way that it did for standstill notifications.

Source: MTN.SB/4, paragraph 31.

Beginning of consultations on rollback

At its meeting on 8 March 1988, the Surveillance Body agreed that it expected consultations on rollback to begin within a reasonable period and took note that a period of 30 days (following circulation of a communication) had been suggested as appropriate. It was understood that a first consultation held within the above 30-day period may be simply a meeting to clarify facts and to set a date, as may be needed, for a subsequent consultation.

Source: MTN.SB/5, paragraph 53.

MECHANISM FOR SURVEILLANCE OF STANDSTILL AND ROLLBACK

Ministerial Commitment

"Surveillance of standstill and rollback"

Each participant agrees that the implementation of these commitments on standstill and rollback shall be subject to multilateral surveillance so as to ensure that these commitments are being met. The Trade Negotiations Committee will decide on the appropriate mechanisms to carry out the surveillance, including periodic reviews and evaluations. Any participant may bring to the attention of the appropriate surveillance mechanism any actions or omissions it believes to be relevant to the fulfilment of these commitments. These notifications should be addressed to the GATT secretariat which may also provide further relevant information."

Source: Section C of Punta del Este Ministerial Declaration (MIN.DEC).

Establishment of the Mechanism for Surveillance

At its meeting on 28 January 1987, the Trade Negotiations Committee adopted the Decision on the Mechanism for Surveillance of Standstill and Rollback (Annex of MTN.TNC/2) on which the present document is partly based.

Agreed Procedures

Meetings of the Surveillance Body and of the Trade Negotiations Committee

In the above mentioned decision, the TNC agreed that:

"7. In order to carry out its functions, the Surveillance Body will meet at least three times a year. It may also meet at the request of any participant, in accordance with the usual GATT practices.

8. The TNC will meet at least every six months to carry out, on the basis of the records and reports transmitted to it by the Surveillance Body, a periodic evaluation of the implementation of the standstill and rollback commitments, and of its impact on the process of multilateral trade negotiations and in relation to the interests of individual participants."

TNC Chairman's Understanding Regarding Paragraph 7 of Surveillance Text

"It is the understanding of the Chairman that the relevant GATT practice is the one followed by the GATT Council. The Council meets at periodic intervals, but if a contracting party considers that a matter cannot wait for the next regular meeting of the Council and requires urgent consideration, it may request a meeting for this purpose. When such requests have been made, they have normally been met, once the Chairman has consulted with interested parties."

Source: MTN.TNC/2, Annex.

DECISION TAKEN BY THE TRADE NEGOTIATIONS COMMITTEE
AT ITS MID-TERM REVIEW

SURVEILLANCE OF STANDSTILL AND ROLLBACK

Ministers, noting the political importance of the standstill and rollback undertaking:

- (a) affirm their determination to ensure that the standstill and rollback commitments are met;
- (b) emphasize the need to take appropriate action to ensure withdrawal of all measures contrary to the standstill commitment, taking into account that there are a number of measures which have been ruled GATT-inconsistent by panel reports adopted by the CONTRACTING PARTIES;
- (c) recognize the importance of regular discussions in the Surveillance Body of trade measures, including those not yet in force, which may have an effect on the standstill commitment;
- (d) emphasize the need for timely action on rollback, and prompt response to rollback requests, so as to ensure progressive implementation of the rollback commitment on an equitable basis;
- (e) urge participants, without prejudice to the existing procedures, to indicate to the Surveillance Body how and when they intend to proceed to rollback measures covered by the commitment, taking into account the fact that there are a number of measures which have been ruled GATT-inconsistent by panel reports adopted by the CONTRACTING PARTIES;
- (f) invite participants to examine carefully measures which they maintain, whether or not these have been notified, in order to determine what actions they should take to progressively implement their rollback commitments. Such actions could be self-initiated, could result from requests and consultations, and should be taken on a GATT-consistent basis;
- (g) agree that participants should communicate the conclusions of their consideration to the Surveillance Body promptly; and
- (h) agree that at its meeting in July 1989 the Trade Negotiations Committee should carry out a substantive evaluation of the implementation of the standstill and rollback commitments (including evaluation of avoidance of disruptive effects on the trade of less-developed contracting parties) and its impact on the process of multilateral trade negotiations and in relation to the interests of individual participants, with a view to taking such procedural or other action as may be appropriate.

Source: MTN.TNC/11