

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNG/NG14/12
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Group of Negotiations on Goods (GATT)

Negotiating Group on Functioning
of the GATT System

MEETING OF 19-20 JUNE 1989

Note by the Secretariat

1. The Negotiating Group met on 19 and 20 June 1989 under the chairmanship of Ambassador J.A. Lacarte-Muro (Uruguay). The Agenda contained in GATT/AIR/2793 was adopted.
2. The Chairman introduced a communication he had received from the Chairman of the GNG calling the attention of the Group to proposals concerning the Uruguay Round and the least-developed countries contained in MTN.GNG/W/14/Rev.1, together with statements made in the GNG and the related communication contained in MTN.GNG/W/15, and requesting the Group to consider them in the light of its particular responsibilities. He encouraged participants to reflect on this matter so that the Group could respond to the request.
- A. Format for Country Reports under the Trade Policy Review Mechanism
 3. The Group received a report from Mr. M. G. Mathur, Chairman of the Technical Group on the Format, on consultations that had been carried out since the previous meeting of the Negotiating Group; Mr Mathur introduced a draft text that had been developed through these consultations. Following informal discussions, and a number of formal statements, the Group adopted the text of the Format for country reports under the Trade Policy Review Mechanism (TPRM) and agreed to submit it to the Council for approval. The adopted text is reproduced in an attachment to this Note. The formal statements are recorded below. The Chairman stated that the question of a simplified format for reports by the least-developed countries would be put on the agenda for the next meeting.
 4. One participant expressed disappointment that it had not proved possible to accept a specific reference in Part A(iv)(a) of the Format to domestic policy measures directly affecting trade. His authorities had always considered such a reference to be important in ensuring the achievement of greater transparency and understanding which was an aim of the TPRM. However, they understood the concerns of some other participants that such a reference might be construed as an opportunity to examine macroeconomic and other policies. His authorities had taken note of the view expressed that many of the non-border measures which they were interested in were already included in the measures listed in the Annex to the Format, either explicitly or by implication. Other participants had

also expressed the view that Part B(i) of the Format encapsulated the concern of his authorities that domestic policies could have a significant impact on trade. He hoped that other participants would be able to confirm formally that the concerns of his authorities were already addressed in the Format.

5. Another participant stated that the mandate for the TPRM had already been agreed on by the TNC and the Format for country reports was only a secondary aspect of the exercise. The TPRM should allow for a collective assessment of each country's trade policies and practices, but it should not be mixed up with a formal exercise of surveillance that would deal with the rights and obligations of each contracting party. The Format would permit all countries to exercise a normal and acceptable degree of discretion in drawing up their individual reports for the TPRM. It should be considered indicative, and provisions existed for it to be reviewed and improved on in the future if necessary. He expressed understanding that developing countries' trade policies and practices would not become transparent overnight, but stated that no country should consider itself exempt from the TPRM exercise on the basis of what was or was not contained in the Format. He stressed the bearing that both domestic macroeconomic policies and the external environment could have on an individual country's trade policy-making and stated that his delegation would be vigilant in questioning the coherence of individual country's domestic policies where these were relevant.

6. Another participant stated that the provision of comprehensive country reports was crucial to the effective operation of the TPRM. Contracting parties were committed to provide information on the full range of their trade policies and practices, and his authorities interpreted the term "full range" broadly so that information on any measure affecting trade, whether imposed at the border or not, should be provided. In this respect he had been encouraged to hear so many participants confirm that the phrase "Trade policy measures" in Part A(iv)(a) of the Format was broad enough to cover all measures affecting trade. The TPRM exercise was by no means limited in scope by the contents of individual country reports, and although the Format should ensure the provision of full information and help to increase transparency, it would not set parameters for the collective assessments that were to be carried out by the Council. His delegation for one would not shy away during those assessments from asking questions about any measure that affects trade.

7. One participant stated that he understood the TPRM would cover the full range of contracting parties' trade policies and practices including any measure affecting trade, and he regarded the Annex as an open, illustrative list of such measures. Several participants stated that country reports drawn up on the basis of the Format were only one element of an effective TPRM, and the Format should not prejudice or limit the scope of the collective assessment exercises that would ensue. Some said that the Format should be regarded as indicative and used flexibly. One added that contracting parties would no doubt have in mind the objectives of the TPRM when compiling their country reports. One said that his authorities hoped for analytical and probing Secretariat reports which could play a catalytic role in the TPRM, supplementing country reports, highlighting problems and proposing solutions to them.

8. Another participant welcomed the adoption of the text of the Format as the last step before the entry into operation of the TPRM. The importance of the introduction of the TPRM was that it represented the end of a period during which the institution had faced the imbalance of examining and reviewing periodically the policies of small contracting parties in the context of the Committee on Balance-of-Payments Restrictions while large contracting parties' policies, whose impact on international trade was really significant, had remained unscrutinized. At a time when unilateralism was casting a shadow over the effective operation of multilateral institutions, the TPRM would certainly contribute to re-establishing balance inside the GATT and to reinforcing its role. The agreed Format was a guideline, not a binding instrument, and it would provide necessary flexibility for countries in making their reports. His authorities were confident that it would be useful in achieving its main objective, which was to give some uniformity, to the extent feasible, to the presentation of countries' trade policies as well as to the external international environment that shaped the trade policies of the large majority of GATT contracting parties.

9. A number of other participants welcomed the entry into force of the TPRM. Some also saw it as a means of increasing transparency and correcting the asymmetry in surveillance that had existed in GATT until now. One stressed that the TPRM should not become a routine exercise and that it should not be viewed as giving approval to protectionist policies where these were reported on. Several stated that the Format was indicative and it would go a long way towards ensuring transparency by allowing all countries to work with a common guideline and the necessary degree of flexibility in providing information on their trade policies and practices. One recalled that the Format could be reviewed and modified in the light of experience.

10. Some participants welcomed the fact that the Format was balanced and consistent with the agreed objectives of the TPRM which were restricted to the trade policies and practices of contracting parties. One stated that the Format should concern itself exclusively with trade policies and practices within the terms of the GATT; it did not extend to cover such things as labour standards. In the section dealing with "The trade policy framework", countries should provide information on whether the GATT was constitutionally integrated into their national legal systems. He hoped that information provided on trade liberalization could be used to secure "credits" in negotiations with other contracting parties. Two others expressed concern about the inclusion of "free trade zones, including in-bond manufacturing" in the illustrative listing of measures in the Annex since in their view these were investment measures and covering them in the TPRM would be tantamount to prejudging the outcome of the TRIMs negotiations. Another said that his authorities would try to give all useful and necessary information. One participant hoped that the Format would permit the provision of information that was useful to other contracting parties and not result in excessively detailed reports that would conceal the essential. He hoped also that it would allow contracting parties to keep track of how political pressures on trade policies were developing.

11. One participant stated that the purpose of the TPRM was the review of trade policy and of measures linked to the objectives of that policy.

Practical experience in carrying out the collective assessments would be most important and might result in changes being made to the Format.

B. Status of Work and the Group's Future Work Programme

12. The Chairman invited comments on the content and priorities of the subjects that had been proposed for further discussion in the Group, a non-exclusive listing of which had been prepared by the Secretariat (MTN.GNG/NG14/W/34).

13. A number of participants stressed the importance they attached to the elaboration of modalities through which developing countries would receive credit in the Uruguay Round for trade liberalization measures taken autonomously or as part of programmes agreed with international financial institutions. Several said that their countries had undertaken significant trade liberalization since the launching of the Uruguay Round and this should be taken into account in the final stages of the negotiations. One added that credit should be accorded not only for liberalization but also for efforts by developing countries since 1986 to increase their bindings. Another participant stated that his country, which was not a developing country but which had undertaken trade liberalization autonomously and in the context of programmes with international financial organizations, was also interested in this issue.

14. Many participants attached great importance to work proceeding in the Group on the substantive links between trade, financial and monetary policies, as well as on strengthening the relationship between GATT and other international organizations responsible for monetary and financial matters. Several expressed the hope that the forthcoming report of the Director-General of GATT on his discussions with the executive heads of the IMF and the World Bank would take up matters of substance raised in the Negotiating Group with regard to achieving greater coherence in global economic policy-making, and not be restricted to identifying ways of strengthening institutional relationships which, they considered, logically should follow on from the substantive findings. The substantive links between trade, financial and monetary policies were in their view indisputable and coherence between these policies at the global level was particularly important for developing countries. One participant proposed that the report of the Director-General should focus on the need for a formal link between international trade, money and finance to ensure coherence in global economic policy-making. Another stressed the need for better coordination among international organizations so that undertakings made by member countries to one did not turn out to be incompatible with their obligations to another, as had been the experience of his own country. One participant stated that consideration of ways of strengthening institutional relationships should not be restricted to the IMF and the World Bank and that the door should be left open for additional contacts with other organizations, while another stressed that the organizations in question were only those responsible for monetary and financial matters. Another participant, while emphasizing the need for progress in this area to match that achieved in the other two areas of the Group's negotiating mandate, considered that the task the Director-General was undertaking was limited to procedural issues and he appealed for

submissions from other participants on substantive matters so that a debate could take place in the Negotiating Group. The Chairman agreed to pass on to the Director-General the comments made.

15. Two participants called for discussions in the Group on ways and means of improving and guaranteeing the transparency of certain day-to-day negotiating and decision-making activities in GATT. They recalled statements that had been made at the last GNG meeting in this regard. One stated that the issue related to the functions of the Director-General. One suggested setting up a sub-group to analyse the matter, while the other suggested that the Director-General should be invited to submit proposals to the Group on how to improve the situation. The Chairman requested the Secretariat to enquire whether the Director-General would be in a position to make a contribution later on this matter, and invited concrete proposals from participants as a basis for further work on how transparency might be improved.

16. Some participants proposed discussions in the Group on the legal and institutional framework of the GATT from a number of perspectives. One expressed concern that different situations existed among contracting parties with regard to whether or not the GATT was constitutionally incorporated into national legislation, and this could lead to the disruption of GATT rights and obligations. Any agreements his country might enter into in the new subject areas of the Uruguay Round would automatically become part of national legislation, but there were other contracting parties where that would not occur and they would be able to modify their GATT obligations through domestic laws. Another stated that the issue went beyond the new areas for negotiations and it was linked not only to the balance of GATT rights and obligations but also to strengthening the organization. Another said that in his country private citizens could have recourse to the provisions of the GATT through the domestic legal system but the same recourse was not available to the citizens of other contracting parties where constitutional provisions were different. Discussions on this issue should encompass also a review of the provisional nature of the General Agreement and an examination of how to strengthen it. The Chairman agreed to invite the Special Advisor to the Director General to make a statement and answer questions on these issues at the Group's next meeting.

17. One participant stated that the purpose of having the last five items on the list in MTN.GNG/NG14/W/34 was not to invite discussion on each of them individually but to suggest the need for general discussions on making the GATT and its related instruments more readily available and comprehensible to interested observers in the private sector.

18. One participant said the Group might usefully discuss in the future the establishment of a simple mechanism to ensure that certain procedures, such as those adopted recently by some contracting parties for phytosanitary reasons in an area of export interest to his country, should not lead to trade restrictive effects that were not justified.

C. Other Business

19. The Group agreed to hold its next meeting in the week of 9-14 October, and to plan on having an additional meeting in early December.

ATTACHMENT

Outline Format for Country Reports

The following outline format for country reports has been agreed in pursuance of the Decision (L/6490) of the CONTRACTING PARTIES of 12 April 1989 establishing a Trade Policy Review Mechanism. This outline format shall be reviewed, and modified as appropriate, in the light of the experience gained from its application.

The purpose of the outline format is to provide guidelines that will permit all governments to supply, on a systematic basis, the information required to meet the objectives¹ of the Trade Policy Review Mechanism:

- "(i) The purpose of the mechanism is to contribute to improved adherence by all contracting parties to GATT rules, disciplines and commitments, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of contracting parties. Accordingly, the review mechanism will enable the regular collective appreciation and evaluation by the CONTRACTING PARTIES of the full range of individual contracting parties' trade policies and practices and their impact on the functioning of the multilateral trading system. It is not, however, intended to serve as a basis for the enforcement of specific GATT obligations or for dispute settlement procedures, or to impose new policy commitments on contracting parties.
- (ii) The assessment to be carried out under the review mechanism will, to the extent relevant, take place against the background of the wider economic and developmental needs, policies and objectives of the contracting party concerned, as well as of its external environment. However, the function of the review mechanism is to examine the impact of a contracting party's trade policies and practices on the multilateral trading system."

The outline format aims to secure, in relation to each country, a level of essential detail which is both meaningful and readily achievable and which makes use of information provided under present notification obligations. The listing is not meant to exclude the provision by the contracting party concerned of such additional information (including relevant published studies if available) as it may consider appropriate.

Initial reports should focus on the previous three years, but should provide sufficient information regarding earlier years to put recent developments into context.

It is recognized that it may be burdensome for least-developed countries to adhere to the outline format. A simplified reporting format for reviews of trade policies and practices of the least-developed contracting parties should therefore be considered.

¹L/6489, paragraphs A(i) and (ii).

On request, the secretariat shall make available technical assistance in preparing reports to less-developed contracting parties, and in particular to the least-developed contracting parties.

OUTLINE FORMAT

Governments are encouraged to add a brief "executive summary" to their reports.

A. TRADE POLICIES AND PRACTICES

(i) Objectives of trade policies

Objectives of national trade policies. Where particular sectoral trade policies have evolved, an explanation should be provided of their economic goals and significance.

(ii) Description of the import and export system

Summary description of the system, and its relationship to the general and sectoral objectives indicated in A(i).

(iii) The trade policy framework

(a) Domestic laws and regulations governing the application of trade policies.

(b) Summary description of the process of trade policy formulation and review, as well as responsibilities and institutional functioning of bodies primarily involved in this process and with the administration of trade policies.

(c) Bilateral, multilateral, regional or preferential trading agreements, their scope, duration and goals.

(iv) The implementation of trade policies

(a) Trade policy measures² used by the contracting party, their implementation during the period under review, including developments in different sectors, and comparison with their use in earlier periods. Where possible, quantitative estimates of the trade coverage of each policy instrument should be provided.

²Annex I provides an illustrative listing of types of measures affecting trade on which information could be supplied, as appropriate.

(b) Developments during the period under review in the agreements referred to in A(iii)(c) above.

(c) Programmes in existence for trade liberalization, including those agreed in the context of structural adjustment and/or debt negotiations.

(d) Prospective changes in trade policies and practices to the extent these changes are already announced or can be made known.

B. RELEVANT BACKGROUND AGAINST WHICH THE ASSESSMENT OF TRADE POLICIES WILL BE CARRIED OUT: WIDER ECONOMIC AND DEVELOPMENTAL NEEDS, EXTERNAL ENVIRONMENT.

(i) Wider economic and developmental needs, policies and objectives of the contracting party concerned

(ii) The external economic environment

(a) Major trends in imports and exports.

(b) Developments in the terms of trade and commodity prices.

(c) Important trends in the balance of payments, reserves, debt, exchange and interest rates, and other such issues.

(d) International macroeconomic situation affecting the external sector of the contracting party concerned.

(iii) Problems in external markets

Problems of market access facing exports: existing significant barriers to trade (including VERs and OMAs) as well as developments since the last review.

APPENDIX: STATISTICAL AND TABULAR INFORMATION

(i) Trade flows by product and country/geographic area

Total exports and imports in value and volume, their commodity composition³, and the principal countries/geographic areas of origin and destination.

(ii) Macro-economic indicators and other information considered relevant

³ For example, at the 2-digit SITC level.

ANNEX

Illustrative listing⁴ of measures

Trade measures applying to
imports and exports and
other measures directly
affecting trade

- tariffs (including range and scope of bindings, GSP provisions, rates applied to members of free trade areas/customs unions, other preferences)
- tariff quotas and surcharges
- QRs, including VERs and OMAs affecting imports
- other non-tariff measures such as licensing and mixing requirements; variable levies
- customs valuation
- rules of origin
- government procurement
- technical barriers
- safeguard actions
- anti-dumping actions
- countervailing actions
- export taxes
- export subsidies, tax exemptions and concessionary export financing
- free trade zones, including in-bond manufacturing
- export restrictions, including VERs and OMAs
- other government assistance, including subsidies, tax exemptions
- rôle of state-trading enterprises
- foreign exchange controls related to imports and exports
- government-mandated countertrade
- any other measure covered by the General Agreement, its annexes and its protocols.

⁴The measures listed are included with a view to information being made available on "the full range of individual contracting parties' trade policies and practices" (L/6490, A(i)) and not to defining the obligations of contracting parties with respect to any measure.