

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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ARTICLE XVIII:B - SUBMISSION FROM PERU

The following submission has been received from the delegation of Peru, with the request that it be circulated to members of the Negotiating Group.

1. The Uruguay Round is a multilateral effort whose goal is the complete fulfilment of the objectives laid down in the General Agreement and the Punta del Este Declaration. The present state of international trade, far from embodying the theoretical models worked out by GATT's authors forty years ago, shows some advances, but above all forms an intricate web of balances in which each contracting party has found ways of accommodating its specific situation.
2. Enough has already been said in this Negotiating Group about exceptions and derogations which affect the force of the GATT rules and principles, and we have no intention of going over this subject again. However, when we hear it suggested that the rights of developing contracting parties set out in Article XVIII:B of the General Agreement should be modified, either directly or indirectly, we feel we must remind the Negotiating Group that the Article is fundamental both for those contracting parties and for the functioning of the General Agreement itself. By taking into account the specific structural needs of the economies of developing countries, it allows the necessary balance among the GATT contracting parties. Acknowledging this reality is a key factor in the maintenance of the balance in the Uruguay Round negotiations which is necessary for the Round's success.
3. The ability to invoke the right laid down in Article XVIII:B of the General Agreement is now more important than ever for developing countries. The only possible justification for modifying that provision would be for the purpose of expanding - and by no means limiting - the legitimate recourse by developing countries to Article XVIII:B.
4. The Punta del Este Declaration expresses the determination of all the contracting parties to work together to promote development. It likewise highlights the linkage between trade, money, finances and development and the need for GATT to increase its responsiveness to the evolving international economic environment.

5. The changes that have occurred in recent years have not modified the persistent and structural nature of balance-of-payments problems in most developing countries. On the contrary, the changes since 1950 have forced these countries to rely increasingly on emergency measures to protect their international reserves; this illustrates even more clearly the direct impact of the balance-of-payments situation on their development programmes. Even in 1957, when the present Article XVIII:B was included, special reasons for granting additional facilities to developing countries in the balance-of-payments area were recognized. At that time it was noted that, while the balance-of-payments problem was persistent and structural for developing countries, it was cyclical and temporary for developed countries. That was the reason for the distinction between Article XII and Article XVIII:B.

6. The external environment is even worse today for the developing countries than it was three decades ago. Their trade and capital accounts have both undergone adjustment. In trade, developing countries have felt the combined effects of the deterioration in the terms of trade, slower growth of markets for their exports and greater restrictions on those exports. With respect to the capital account, they have faced the combination of an increase in debt-servicing obligations and a much lower rate of capital inflow, in some cases including net transfers of financial resources to developed countries. Thus, for developing countries, the external environment has been characterized by instability and markedly adverse trends in the sectors of interest to them. In these circumstances, for many developing countries both income and investments have been reduced, thereby affecting their development programmes, with serious repercussions on their social and, consequently, political stability.

7. The third preambular paragraph of the Declaration on Trade Measures Taken for Balance-of-Payments Purposes (1979 Declaration) states that "restrictive trade measures are in general an inefficient means to maintain or restore balance-of-payments equilibrium". Yet it does well to qualify restrictive trade measures as being "in general" inefficient: for in the case of the economies of many developing countries restrictive trade measures are necessary and are adopted so as to avoid the high costs resulting from reductions in income and investment and the slowing of economic growth. It is often argued that balance-of-payment problems are fundamentally caused by excessive public spending, budget deficits and monetary expansion. Consequently, some say, what are needed to correct them are reductions in public spending or tax increases, not trade measures such as quantitative restrictions. But, as an interesting study published recently points out, this argument does not fit the situation of many developing countries where balance-of-payments problems may not be attributable to governmental over-spending but have other sources, and where, for example, if idle installed capacity exists, trade measures such as quantitative restrictions can increase the output of import substitutes. Moreover, quantitative restrictions appear to be a more useful tool than devaluation for developing countries, as they are much more effective, especially in the short term, and have the additional advantage of allowing each economy to operate in conformity with its own priorities and needs.

8. In this Negotiating Group, some developing countries have been criticized for retaining import restrictions under Article XVIII:B of the General Agreement for prolonged periods of time. We believe that this is perfectly comprehensible and fully in accordance with the General Agreement. Such measures are maintained over time because of the constant need to manage foreign currency resources in such a way that the country's pressing obligations, including debt servicing, can be met. They are an inevitable response to a "persistent and structural" problem (deterioration in the terms of trade, growth of protectionism in developed countries, limited or non-existent access to new sources of financing, etc.), which is reflected in a chronic scarcity of foreign exchange. Accordingly, if a developing contracting party has balance-of-payment problems for an extended period of time, nothing should prevent it from keeping in effect throughout that period the trade restrictions which, in accordance with its rights as a developing contracting party, it is authorized to apply under Article XVIII:B of the General Agreement and the 1979 Declaration.

9. Furthermore, as has already been pointed out in this Group, many quantitative restrictions and other restrictive measures adopted on the basis of other articles, or even in violation of the General Agreement, have affected the multilateral trade system; and yet there are no procedures similar to those of the Balance-of-Payments Committee to investigate and monitor such measures. For example, according to the most recent report of the GATT secretariat on developments in the trading system (L/6530), a great many unilateral and bilateral "voluntary" export restraints and import restrictions remain in effect, some of them dating from the 1960s and 1970s. Many of these measures are not in conformity with the General Agreement, and for that reason, have very rarely been notified to GATT. Moreover, it is most revealing to note that four-fifths of these restrictive measures are designed to protect the markets of the major trading partners.

10. The balance-of-payments situation in many developing countries remains critical: the trade situation is not improving, there are, in general, no new sources of financing, and debt continues to be a serious problem. As regards the debt problem, which is of major importance to the topic under consideration, we all know that, although some progress has recently been made, especially conceptually, the present manner of handling the problem has not succeeded in creating the necessary conditions for renewed growth in the developing countries concerned. The GATT should provide a coherent macro-economic trade framework including, inter alia, better market-access facilities for developing countries taking into account their financial and development needs.

11. According to World Bank data, the average product growth rate in medium-income, highly-indebted countries dropped from 4.3 per cent yearly in 1978-1981 to 1.2 per cent in 1981-1987. Gross fixed investment in the same countries, which represented over 22 per cent of the GDP in 1978-1981, fell to less than 15 per cent in 1985. Moreover, the radical adjustment effort these countries have made has been reflected in a reversal of the

trade balance, from a deficit in the years 1978-1981 (-2 per cent of GDP) to a surplus in 1985-1986 (4 to 5 per cent), standing at 2.7 per cent in 1989. While in some cases these trade surpluses reflect increased exports, they primarily indicate a sharp drop in imports, to the detriment of the development process. It should be stressed that a large percentage of export earnings is earmarked for meeting international obligations, and not for development programmes.

12. It is interesting to note that, of the eighteen developing countries consulting under the Balance-of-Payments Committee since 1975 (see document W/46), eight¹ appear in the World Bank's above-mentioned list of countries, and nearly all of them are countries with high levels of debt. This is no accident: it is rather a proof of how the balance-of-payments problems of the developing countries are persistent and structural.

13. Nevertheless, in discussions like the one being held on the application of Article XVIII:B by developing contracting parties, it would appear that the sole objective of some industrialized countries is to open up the markets of developing countries, with no regard for other concerns. In our opinion, the purpose of the negotiations during the Round, of which these talks on Article XVIII:B are part, should be to promote a development process that will generate the income and well-being required to convert these potential markets into real markets with real purchasing power, thereby benefiting all contracting parties and the international trading system.

14. Article XVIII:B, both in its substance and in the procedures deriving from it, contains the necessary elements to function effectively, as the results of the consultations in the Balance-of-Payments Committee with various contracting parties have just demonstrated. The Article also contains an inalienable right of developing contracting parties that is fundamental to the balance that must prevail among all contracting parties in the multilateral system. This right must not be impinged upon, either directly or indirectly, and that is why we believe that no modification or restrictive interpretation of its functioning is called for.

15. Finally, we wish to stress that paragraph 12 of the 1979 Declaration sets out a mandate that must be fulfilled. The Committee's work must therefore focus to a much greater degree on the examination of specific measures to improve the external environment of developing contracting parties with balance-of-payments problems.

16. In this as in other Negotiating Groups, the contracting parties must clearly demonstrate that the objectives of the Round of multilateral trade negotiations in which we are now engaged take due account of the interests of all the contracting parties, as stipulated in the Punta del Este Declaration.

¹ Argentina, Brazil, Chile, Colombia, Nigeria, Peru, Philippines and Yugoslavia