

**MULTILATERAL TRADE
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THE URUGUAY ROUND**

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UNITED STATES STATEMENT ON THE

UNITED STATES/CANADA BALANCE-OF-PAYMENTS PROPOSAL

The delegation of the United States has requested that the following statement, made by it at the meeting of the Negotiating Group on 6-8 December 1989, be circulated to participants.

Despite its length and detail, the basic ideas in the US/Canadian proposal on reform of the balance-of-payments disciplines are fairly simple. The objective is to encourage countries with serious balance-of-payments problems to select the least harmful types of trade restrictions and to apply them for the shortest possible period of time.

We recognise the need for a flexible, practical approach in pursuing this goal. We have listened to the strongly held views of a number of developing countries concerning the difficult balance-of-payments situations they continue to face and the need for disciplines which promote rather than undermine development. We have tried to design a mechanism which accommodates these views.

The proposal does not eliminate the GATT right to restrict trade when there are serious balance-of-payments problems. It does not advocate any automatic sanctions for use of balance-of-payments related restrictions. We know that balance-of-payments problems can persist and worsen over time. Therefore, the proposal does not establish any rigid time limits on use of balance-of-payments related restrictions.

Many developing countries are already opening their markets and pursuing a strategy for dealing with balance-of-payments problems which emphasises export growth in order to increase overall growth and development. As noted in the recent submission by Peru, the sharp drop in imports experienced by highly-indebted countries in this decade has been to the detriment of the development process. We stress that, in promoting reduced reliance on trade restrictions during periods of balance-of-payments difficulty, we are trying to make GATT disciplines more supportive of a strategy for trade liberalisation and development which has already been adopted by many developing countries.

In addition, we recognise that increased discipline over balance-of-payments related measures cannot occur in a vacuum. Improvements in this area must be part of an overall package of Uruguay Round reforms which enhance market access and limit derogations for all GATT members.

The overall approach is to minimise GATT surveillance or interference when countries limit their balance-of-payments related restrictions to temporary, least disruptive measures, and, instead, to focus surveillance on more harmful measures. Thus we have tried to combine positive incentives to limit use of trade restrictions with increases in discipline in selected cases.

Guidelines are proposed for applying limited measures which are to be subject to reduced GATT surveillance. These guidelines reflect a number of current balance-of-payments provisions, both in the articles and in the 1979 Framework Declaration, which define the least harmful measures to be used for balance-of-payments purposes. Countries would have a significant degree of autonomy in applying measures within these specified limits.

For consultations regarding these temporary, limited measures, the Balance-of-Payments Committee would serve as a monitoring body rather than a body which passes judgement. Measures which conform to the guidelines would automatically be GATT-consistent, and countries applying them would not be subject to challenge in the GATT on the basis of their failure to meet their obligations. In this manner, the uncertainty facing both countries applying the measures and their trading partners would be minimised.

At the same time, there will be situations where countries feel they need to apply more restrictive measures over a longer period than allowed by the guidelines. We recognise that, even for such exceptional balance-of-payments related measures, the balance-of-rights and obligations between invoking countries and their trading partners must be determined by GATT CONTRACTING PARTIES decisions, rather than by automatically applied rules. Therefore, in these cases, the Balance-of-Payments Committee should function as a decision-making body which assesses the question of whether exceptional measures beyond those in the guidelines are justified.

Much of the proposal is designed to improve the ability of the CONTRACTING PARTIES to come to decisions regarding measures which go beyond the guidelines.

To facilitate decision-making in the Balance-of-Payments Committee, the proposal clarifies the criteria upon which the decision should be based: the severity of the balance-of-payments problem, the nature of the overall economic adjustment effort, and the extent to which the specific types of measures employed are as consistent as possible with GATT principles and obligations. These clarified criteria draw from, and pull together, existing rules and practice. Our proposal also relies heavily on existing rules and practice in defining the role of the International Monetary Fund in balance-of-payments consultations. The proposed IMF role in no way diminishes the decision-making function of the Committee.

The proposal also clarifies the kind of information that the invoking country needs to provide to the Committee in order to allow for a meaningful consultation. This includes information on the coverage and nature of the balance-of-payments related measures, as well as the country's alternative plan for applying and phasing out balance-of-payments related measures when it seeks acceptance for measures beyond the guidelines.

The Committee is asked to examine the information, hold consultations with the invoking country, and then reach agreement on whether the exceptional balance-of-payments related measures should be accepted.

To facilitate achievement of consensus in the Committee, the proposal provides the opportunity for the Committee to accept exceptional measures conditionally - that is, subject to fulfilment of specific Committee recommendations for reform of the measures. Affected countries' willingness to accept measures which go beyond the guidelines would be greatly increased if they had an opportunity to request future changes which reflect their concerns.

The GATT-consistency of exceptional measures is established when the Balance-of-Payments Committee decides to accept the measures. The GATT-consistency of accepted measures could not be challenged, unless conditions for acceptance were not fulfilled or the balance-of-payments problems were eliminated.

If the Committee fails to reach consensus to accept or conditionally accept the exceptional measures, it simply means that the question of the GATT consistency of the measures has not been decided. In those cases, an adversely affected country could choose to pursue its interests under GATT dispute settlement provisions. It would then be up to a normal GATT dispute settlement panel to decide the question of whether the balance-of-payments related restrictions are consistent. Our paper does not propose any new dispute settlement mechanism or procedures. Rather, it calls for the application of current GATT dispute settlement provisions, as amended by the Negotiating Group on Dispute Settlement. No counter-actions could be taken by an affected country without a decision by the CONTRACTING PARTIES.

We hope that the US/Canadian proposal, by providing concrete suggestions for reform, will stimulate a constructive discussion aimed at finding some balance between the needs of countries with balance-of-payments problems and those of their trading partners. Given the convincing evidence of the benefits of outward-oriented trade policies for growth, development and adjustment to balance-of-payments difficulties, we think that this is an area where reasonable reforms can create gains for all countries.