

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)

Negotiating Group on the Functioning
of the GATT System

IMPROVEMENT OF NOTIFICATION PROCEDURES

Note by the secretariat

1. At the meeting of the Negotiating Group on the Functioning of the GATT System of 15 December 1989, the secretariat was asked to provide a paper which could serve as a basis for discussion of proposals for the improvement of GATT notification procedures, and in particular of the proposal for establishment of a central repository or catalogue of notifications. The present note is intended to respond to this request.

A. Background

2. Many proposals for improvement of GATT notification procedures have been made, in various contexts, over the past ten years. The 1979 Understanding Regarding Notification, Consultation and Dispute Settlement and Surveillance - one of the Tokyo Round framework agreements - reaffirmed the commitment of contracting parties to fulfil their existing specific obligations under the General Agreement regarding publication and notification, and in its paragraph 3 added a new general undertaking to notify, to the maximum extent possible, adoption of trade measures affecting the operation of the General Agreement. Regular reviews of the performance of contracting parties in living up to their notification obligations was an important element in the special meetings of the Council introduced as a result of the 1979 Understanding. These reviews showed that not all notification obligations were adhered to, and that some contracting parties were more assiduous than others in making regular notifications. In general, notification obligations regarding trade measures which were the concern of a standing GATT or Tokyo Round Committee, and thus were subject to regular surveillance, were met to a much greater degree than those which did not receive regular multilateral review. At the Council's request, the secretariat compiled basic documents outlining notification obligations under GATT Articles, the Tokyo Round agreements, and specific Protocols of Accession. Several delegations noted the desirability of seeking some simplification and consolidation of these obligations.

3. Delegations also referred to the notification issue in the Senior Officials Group of 1985 and in the negotiations in 1986 in the Preparatory Committee which led up to the launching of the Uruguay Round. While not

specifically referred to in the Punta del Este Declaration, improvement in GATT notification procedures could clearly be regarded as one means of achieving enhanced surveillance in the GATT of trade policies and practices of contracting parties, the first of the three elements in the mandate of the FOGS Group.

4. Proposals for improvement in GATT notification procedures are included in four documents put forward by participants in the FOGS Group. In NG14/W/9, the United States proposed that GATT institute and maintain a central repository of notifications of all measures subject to GATT surveillance. In NG14/W/13, New Zealand proposed simplification and standardization of notifications to different committees, and a single notification each year (fulfilling obligations regarding, e.g. quantitative restrictions, non-tariff measures and Part IV) that would convey essential information about trade policies. In NG14/W/20, the European Community proposed introduction of a general notification obligation, complemented by an illustrative list, a common format, a central repository, request and monitoring procedures, and a political commitment to transparency. In NG14/W/22, Jamaica referred to the need to improve and simplify notification requirements in the context of surveillance.

5. All of these proposals were put forward fairly early in the Uruguay Round, and preceded the agreement at the mid-term review on the establishment of the Trade Policy Review Mechanism (TPRM), whose reporting requirements are relevant to the issue. The four delegations concerned may wish to indicate whether, and to what extent, their proposals would be affected by the introduction of the TPRM.

6. In NG14/W/18, the secretariat provided a list of notification obligations under GATT and related agreements. To these would now have to be added the reporting requirements introduced under the TPRM.

B. Issues

7. The following paragraphs attempt to identify issues that would arise in improvement of GATT notification procedures, and in particular in establishment of a central repository for notifications.

(i) What would be the purpose of a central repository?

8. The United States proposal suggests a central repository, "in order to improve the efficiency of the notification process, ensure that any enhanced surveillance procedure conducts its operations based on full and complete information, and to promote compliance with notification requirements." The EC also stresses that compliance with obligations is incomplete, and that the system is fragmented. Would a central repository serve other purposes? Does the introduction of the TPRM affect the rôle of a repository, given that the mechanism provides a unified picture of a country's trade policies, but given also that the TPRM is explicitly "not... intended to serve as a basis for the enforcement of explicit GATT obligations" (TPRM, A. Objectives (i))?

(ii) What form would the repository take?

9. At a minimum, the repository might simply log the reception in the GATT secretariat of all notifications, before passing them onward for handling according to present arrangements. At the opposite extreme, all notified data might be inserted into a comprehensive and standardized format, held in a computerized data base available for consultation by contracting parties and serving also as input for, e.g. the TPRM reviews and future negotiations. A simple form of repository would obviously be more quickly, easily and cheaply put into effect than a more elaborate one, which would also face considerable practical difficulties (see (iv) below). What level of ambition is contemplated, bearing in mind such considerations as the time available for developing solutions during (or after) the Uruguay Round, cost, the likelihood of new notification requirements emerging from agreements negotiated during the Round, etc.?

(iii) What would be the relationship between the central repository and particular reporting requirements?

10. The proposal by the European Community notes that this question would need to be answered. The United States proposes that notifications would continue also to go to the appropriate committee.

(iv) What would be the practical implications of introducing a simple central repository of notifications?

11. As noted in (ii) above, a central repository could at its simplest level imply no more than the logging in the secretariat of the arrival of notifications by contracting parties, before these were passed on to the appropriate secretariat divisions for distribution to the committees concerned. The records kept would provide a central registry of performance in fulfilling notification requirements, and might lend themselves easily to computerization; updates of the records could be distributed to contracting parties. (These updates would however add to the present documentation load unless they were regarded as an adequate substitute for distribution of at least some of the notifications themselves.) A slight further development in the concept would retain copies of each notification in the central registry, thus establishing a true repository. The rôle of the central repository would be significantly increased if it were made responsible for reminding contracting parties of their notification obligations, for seeking supplementary information to fill gaps in notifications made, and for providing technical assistance in preparing notifications. (Both the New Zealand and European Community proposals envisage a technical assistance rôle for the secretariat.)

12. At the simplest level, the maintenance of a central record or log of incoming notifications would be straightforward and inexpensive, not least because GATT already uses a central registry for all mail. The main costs would be those of preparing and distributing periodic updates of notification records. In itself, however, such a record would appear of limited value. A true repository would have more substantial budgetary implications, their amount depending on the tasks laid upon it. To the extent that the repository's rôle was expanded in the directions discussed

in (v) below, its budgetary cost could be quite large, although offsetting savings elsewhere in the secretariat, and for individual governments, could also be expected.

(v) What problems would be faced in a more ambitious effort to consolidate or simplify notifications?

13. Notification requirements arise out of specific obligations, and are tailored to them. Some have existed since the General Agreement was negotiated, and apply to all contracting parties; others are more recent. Many apply only to signatories of particular agreements or to governments whose GATT status is governed by a specific Protocol, or which have been granted a waiver from particular obligations. Some requirements call for regular notifications by all contracting parties; others apply only when particular actions are taken. Reporting requirements for reviews under the TPRM are broad and universal, apart from such modifications as may be introduced for the least-developed countries. However, they are not yet fully applied, the agreed format for reports is less precise than most notification requirements, and the updating procedures have not been tested.

14. A considerable task of analysis would be required to identify all the information at present collected under various notification requirements. Some simplification, standardization and consolidation is clearly possible, especially with the aid of modern developments in data processing. (An issue to be explored would be the scope for bringing such information into the Integrated Data Base now under development.) However, a major difficulty in changing the disparate reporting requirements of the GATT Articles, the Tokyo Round agreements, etc., is that these requirements in each case form part of specific contractual agreements between governments. A change in notification requirements may well represent a change in the content of the contract, and thus require negotiation. Further problems may arise from considerations of confidentiality (because the notified information is available only to signatories of the agreement concerned) and technicality (the information is highly specialized in nature, so that only persons expert in the field concerned can judge whether modification of the notification requirement is practicable; although apparent duplications in notification requirements may exist, the form in which information is requested may not be the same in each case, and lack of a common basis may make consolidation very difficult). Finally, establishment and maintenance of a comprehensive consolidated data bank of notifications would have substantial budgetary implications.

15. Two fundamental questions are suggested by these considerations. Are participants in the negotiations ready to commit the necessary resources to a comprehensive negotiation on consolidation and simplification of notification requirements? And if so, should they aim to enter into substantive negotiations before the end of the Uruguay Round, or should they seek agreement to negotiate at a later period? Prima facie, the Uruguay Round negotiations could result in new or amended notifications in a number of areas.

(vi) Should a general obligation to notify be introduced?

16. As already noted, a general obligation to notify is proposed in MTN.GNG/NG14/W/20. This would presumably provide a strengthened substitute for the undertaking in the 1979 Understanding, referred to in paragraph 2 above. Is this proposal independent of the proposals for consolidation and simplification of notifications discussed under (v)? If so, how should the additional notifications which would be made in fulfilment of the obligation be handled? As noted in paragraph 2, there is a clear correlation between fulfilment of notification obligations and the existence of a standing committee or other body to examine them. The Negotiating Group might therefore wish to consider whether establishment of a general obligation to notify should be linked with procedures for regular review of the notifications received. Given that section B(i) of the Decision establishing the TPRM provides that "Between reviews, contracting parties will provide brief reports when there are any significant changes in their trade policies", could a general obligation to notify be linked to the reporting requirements and review arrangements established under the TPRM?