

**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

MEETING OF 22-23 MAY 1990

Note by the Secretariat

1. The Group held its seventeenth meeting on 22-23 May 1990 under the chairmanship of Ambassador J. Lacarte-Muro. The agenda contained in GATT/AIR/2988 was adopted.

Agenda Item A (I)

Domestic transparency of trade policy-making

2. The representatives of Australia, Canada, Hong Kong and New Zealand presented the following revision to their proposal contained in NG14/W/37:

"It is proposed therefore that contracting parties agree to:

Recognize the inherent value of domestic transparency of government decision-making on trade policy matters for both national economies and the multilateral trading system, and to encourage and promote greater transparency within their national systems, acknowledging that the implementation of domestic transparency must be on a voluntary basis and take account of their own legal and political systems."

3. One participant recalled his delegation's position that the substance of the proposal could not be considered in isolation from the context in which it might be included in the final package of agreements resulting from the Group's work, and that the only meaningful context was in a joint Ministerial statement on global policy coherence. Several other participants said that they could agree provisionally with the substance of the proposal, subject to agreement at a later stage on an appropriate context in which to place it.

4. The Group agreed to retain in its existing form the revised text of the proposal, and to return to examine it once the Group had a clearer idea of where the issue it addressed might be included in the the final package of agreements stemming from the negotiations.

Improvement of notification procedures

5. The Chairman drew attention to a Note prepared by the Secretariat containing proposals, on the basis of the Group's discussions, which could serve as a basis for negotiations on this subject. (Note of 8 May 1990; Documentation number 1053).

6. Many participants welcomed the Note and considered it a useful basis for further negotiations, and several found the draft text broadly acceptable as it stood. The main points on which participants felt further reflection and discussion was warranted were:

- General points: the cost implications of decisions taken in this area should be kept under review, and the Budget Committee could be asked to look into them; one participant felt that budgetary considerations should not be allowed to stand in the way of the efficient functioning of the GATT. Is there an inherent contradiction between confidentiality and transparency?

- General obligation to notify: this should be a reinforcement and not simply a reaffirmation of the 1979 Understanding. The indicative list of measures to be covered by the general obligation to notify should be examined, possibly by the working group (see below). Confidentiality of notifications of measures from the indicative list should be respected.

- Central registry of notifications: respective committees should keep pressure on contracting parties to maintain up-to-date notifications; this function should not be turned over to the central registry. The trade impact of a measure should be included in the central registry only if it is included explicitly in a notification; this should not be taken to be an invitation to the Secretariat to attempt to analyse the trade impact of measures notified. The logging-in process should be kept as simple as possible; should the central registry simply log-in notifications or should an additional summary be prepared by the Secretariat, and if so are the budget implications contained in the Note realistic. The circulation of information from the central registry "on request" should not replace the existing practice of automatically circulating notifications to all parties entitled to receive them. The central registry should circulate notifications to all contracting parties entitled to receive them.

- Review of notification obligations and procedures: avoid bureaucratizing GATT through establishing the new working group. The terms of reference of the working group should be kept broad and flexible. The date for the working group to complete its work should be kept flexible. Should the working group examine also Code notifications? The working group should also take account of notifications pursuant to results stemming from the Uruguay Round.

7. The Chairman concluded the discussions by asking participants to reflect further on the proposals contained in the Secretariat Note and to come prepared at the next meeting with concrete drafting proposals where they felt improvements were needed, so that as much progress as possible could be made towards reaching provisional agreement on this subject.

Agenda Item A (II)

8. The representative of Switzerland said that his delegation was preparing a draft legal text on the subject addressed in NG14/W/38, and he hoped that this could be presented to the Group at its next meeting. He invited interested participants to consult informally in the meantime with his delegation on this issue.

Agenda Item A (III)

9. The representative of Switzerland introduced a new submission by his delegation entitled "Policy Coherence: The Role of GATT" (NG14/W/41). He explained the reasons behind Switzerland's decision to make the submission. First, the Report of the Director-General (NG14/W/35) had addressed the relevant issues and had been interesting, but Switzerland preferred a more ambitious approach. The Director-General had rightly pointed out that it was up to the CONTRACTING PARTIES to put forward their ideas on concrete ways and means to improve the policy rôle of GATT within the overall economic framework of which trade policies were a part. Switzerland believed that coherence of policies was an issue that would need to be faced more and more acutely in GATT. Second, the Uruguay Round was not concerned exclusively with traditional border measures; it was evolving into a negotiation on competition and even worldwide integration. This was particularly apparent in the new sectors, but it was also true in the traditional areas, including agriculture where negotiations were consolidating progress in ensuring competition nationally, regionally, and internationally. Addressing market access in terms of competition and internal policies which affect trade meant addressing all macro-economic policies. There was essentially no national legislation which affected resource allocation or distribution that did not affect trade and competition in one way or another. Border trade measures were becoming less relevant and competition laws more relevant, and it was therefore necessary to take a broader view of trade policy. Co-ordination of internal competition laws, however, required a shift in focus from dispute settlement to problem prevention, and in Switzerland's view the negotiations needed to address the implications of this on international co-operation.

10. Coherence between macro- and micro-policies was not a theoretical, abstract issue; there was plenty of evidence of concrete interaction between them. The launching of the Tokyo Round was often linked to the breakdown of the gold standard and more directly to the surcharge on imports imposed by the United States at that time for monetary reasons. Many scholars linked the launching the Uruguay Round to the Plaza Agreement

and the surge in the value of the dollar which led to important trade and current account deficits. There was much evidence that currency-induced deficits led to protectionist pressures, and some governments had used trade liberalization measures to correct currency-induced surpluses. The debt problem in many developing countries had probably had more effects on trade flows than all border measures combined. If, at first, balance of payments issues had led to a surge of protectionist measures, newer evidence showed that countries had started to tackle debt problems by liberalization measures to generate and attract foreign exchange. Mexico was one example of such an approach. The interdependence between macro- and micro-policies, and the multi-faceted aspects of such inter-linkages, was thus well documented. It had also been recognized by policy makers. However this recognition had been ad hoc and crisis-related. What was needed, in Switzerland's opinion, was a mechanism to analyse those inter-linkages and take steps to address them before a crisis developed.

11. Switzerland concluded from the Group's discussions that there was a growing, common understanding of the issue of coherence and international co-operation. However, delegates seemed to fear, on the one hand, the issue of cross-conditionality and a further meddling of international institutions in internal affairs, and on the other hand a blurring of responsibilities between the three institutions and a watering-down of the monetary and financial discipline of the Bretton Woods institutions. In Switzerland's view those concerns were real, but they could be addressed. Switzerland believed that issues of co-ordination were addressed in one way or another in crisis situations, but without effective multilateral channels the chances were high that they would be addressed in small ad hoc meetings among the major players. As a small country, Switzerland was interested in such co-operation taking place in a transparent and open way.

12. Switzerland also believed that developing countries could reap important benefits from increased co-operation. Greater coherence among the policies of the different institutions would allow developing countries to use their unilateral liberalization efforts to negotiate greater access to the markets of developed countries. Developing countries could use concessions made in multilateral negotiations to obtain additional financial credits from the Bretton Woods institutions. Greater co-ordination would allow the identification and elimination of contradictions or inconsistencies which might exist among the aims pursued by monetary, financial and trade policies, such as the ones identified in paragraphs 6 (a) and 6 (b) of the Director-General's Report. Developing countries' adjustment programmes could also be used to obtain from their trading partners specific concessions and/or assurances that their exports would be exempted from any unilateral measures, whether justified or not, that contracting parties might take to protect their own economies. Developing countries might also use their policy agreements with the Bretton Woods institutions to negotiate contractual rather than unilateral preferential schemes for their exports. Organizing coherence and co-ordination in a way which avoided both cross-conditionality and the blurring of institutional responsibilities could best be achieved by avoiding the institutionalization of co-operation.

13. The submission was based on three concepts. (i) Co-operation would take place if it was attractive and beneficial to all parties involved. GATT could be made more attractive as a partner for collaboration with the Bretton Woods institutions by increasing its knowledge about trade policy at the national and international level. The first step proposed for improving coherence was therefore to strengthen GATT's capacity for trade policy dialogue. (ii) Co-ordination could not be instituted, it had to take place on a voluntary basis. However, mechanisms could be created to facilitate co-operation, and Switzerland was proposing them at the operational level, the policy analysis level and the political level. (iii) Co-operation had to respect each individual institution's autonomy, confidentiality and responsibilities. The submission suggested how this could be done by putting the emphasis on the sharing of information, knowledge and capacities and by respecting each organization's internal structure.

14. The Annex to the submission had been included because it did not seem consistent to make a proposal about co-operation between the GATT and the Bretton Woods institutions without addressing the one case where actual co-operation already took place and was regulated by the GATT Articles.

15. Many participants said that they did not consider the matter addressed in the Annex to the submission to be an appropriate subject for discussion in this Negotiating Group.

16. One participant stressed the importance of harmonizing trade, monetary and financial policies among governments for the benefit of all parties. His delegation considered the proposals contained in NG14/W/40 and W/41 to be important contributions to the Group's work. He asked for clarification on the following points in the submission put forward by Switzerland. What was meant by GATT as an institution or organization? In the context of GATT as an institution, what rôle would be played by the CONTRACTING PARTIES, the Council and the various committees? Why was it necessary to set up another system alongside the TPRM for the analysis of the trade policies of individual contracting parties, and who would dialogue with whom in this new system of analysis? While it would seem that independent analysis of the policies of individual countries was needed in the context of the lending programmes of the IMF and World Bank, what rôle would it play in the context of GATT? Should not the issue of remedying the lack of legal and institutional status of the GATT Secretariat be considered in terms of its general merits, rather than in the narrow context of creating the conditions necessary for more fruitful co-operation with IMF and World Bank?

17. One participant said his delegation could agree with most of what was contained in the Swiss submission. However, it was not convinced of the need for ad hoc Ministerial meetings, and in this regard the proposal opened up more questions than it solved. It seemed contradictory to propose that an ad hoc, open-ended group should meet with a certain regularity, and he asked for clarification on this and on the reference to establishing the specific mandate of such a group only after establishing the mandate of the Ministerial group. What seemed to be lacking in the submission was what operational conclusions were to be drawn and what kind of timeframe would be involved.

18. One participant said that GATT was a collective contract; it did not have an institutional nature and it was clearly not an international organization. In his view, if the Group was to discuss the institutional status of GATT it should not use the institutional structure of the IMF or World Bank as a rôle model. However, before entering into such a discussion, it was necessary to know what were the substantive results of the Uruguay Round so that the discussion could be informed by needs rather than by theory. His delegation considered it absolutely essential to increase coherence between trade, monetary and financial policies, and the Group was arriving at the point where it would need to take operational decisions. He agreed with the submission that coherence was meaningless without a basis of political responsibility, but he did not agree that joint Ministerial meetings were the best way of putting this into practice. He did agree, however, with the idea of a joint report prepared by the three institutions under their own responsibilities which could serve as a basis for Ministerial discussion in each of them. His delegation saw the matter of political responsibility as requiring a joint declaration by the GATT, IMF and World Bank to establish basic guidelines on coherence, covering trade, monetary, financial policies and development assistance. The Group had made considerable progress in analysing the problems, and it was now a matter of setting out clearly how to assume such political responsibilities at the end of the Uruguay Round. Institutional difficulties should not be allowed to stand in the way; they could be solved by each delegation taking the matter up among its own trade, money and finance officials.

19. Regarding co-operation at the level of secretariats, his delegation favoured the preservation of a highly flexible approach and not a process of telling secretariats how and to what extent they were to co-operate. What was necessary was to provide a framework within which the secretariats could continue co-operation on the basis of political encouragement given at the end of the Uruguay Round. His delegation doubted the usefulness of GATT staff participating in missions of the IMF and World Bank; it did not oppose this if the country in question considered it useful, but there were understandable sensitivities involved which suggested it would not be reasonable to press in that direction.

20. One participant said that strengthening GATT as an institution and transforming it into a more policy-oriented organization was not covered by the Punta del Este mandate; GATT was a legal instrument with a clear scope of application. His delegation believed, therefore, that the Group had no mandate to enter into discussions of the rôle of the Secretariat since that could not be addressed outside the context of the legal status of the GATT. The section of the submission dealing with the TPRM and the proposed new independent, analytical rôle of the Secretariat went beyond the rôle given to the Secretariat when the TPRM was adopted. His delegation believed that closer co-operation with the IMF and World Bank would have to be achieved by addressing the substantive linkages between trade, money and finance; it could not be achieved through organizational changes alone, and he recalled comments to the same effect contained in the Director-General's Report. One possible area for co-operation was to provide financial support for net food importing developing countries adversely affected by

the reform of agricultural trade. He reiterated his delegation's request to the Director-General to discuss this issue with the heads of the IMF and World Bank.

21. One participant said that the internationalization of national economies should not be associated with a diminution in the importance of national policies. The effects of the national policies of major trading countries on the trading system as a whole should be underlined. His delegation agreed with the submission that strengthening the rules of world trade were not part of the Group's terms of reference. Strengthening the analytical work of the Secretariat should be linked to the outcome of the Uruguay Round. His delegation did not consider the TPRM to be an exercise in strengthening GATT's analytical capacity. The proposal for an ad hoc Ministerial group warranted close consideration as long as it was seen as being open in character and based on rotation and ample participation. The participation of GATT staff in IMF and World Bank missions needed to be defined more clearly, taking into account the internal procedures of the relevant institutions, but his delegation was sceptical about this proposal; it should not lead to GATT involvement in programmes of trade reform demanded by the IMF and World Bank. His delegation welcomed the reference in the submission to the need to make GATT more aware of debt and financial problems, and he recalled in this context the general objectives of the Uruguay Round contained in the Punta del Este mandate. It also welcomed the reference to the need to restore balance in surveillance exercises. GATT should focus on the consequences of protectionist measures taken by developed countries and the links between their monetary policies, debt service obligations and high interest rates; this was relevant to the ability of developing countries to commit themselves to bind concessions. GATT studies should address these issues, which were part of the essential subject matter of this Group.

22. One participant said coherence was needed to ensure that the policies and activities of international organizations were not carried out at cross-purposes. Coherence was needed at both national and international levels. His delegation did not feel it was the purpose of this Group to address the issue of coherence at the national level, although such coherence was very important and it had a marked impact on the international trading and economic environment, particularly in the case of the policies of large economies. Regarding coherence at the international level, it was necessary first to identify the problems so that any solutions agreed to would be able to address them effectively. Those problems included the effects of protectionism on imports from developing countries that were required to go through structural adjustment or trade liberalization programmes, debt, and exchange rate fluctuations.

23. His delegation agreed with the submission that the respective mandates of the institutions should be respected. However, it had problems with the suggestion of strengthening GATT as an institution because this went far beyond the current nature and mandate of GATT, which was a legal instrument and contractual commitment, and not an institution. It could not understand, therefore, what would be the purpose of establishing a trade policy analysis function of GATT. This would lead beyond GATT's basic

jurisdiction and competence, and the involvement of GATT in the trade policies of contracting parties would be much greater than at present. His delegation could not agree to give some sort of policing rôle to the GATT over countries' trade policies. He asked what was meant by the reference to the decision-making structure of GATT. The TPRM had recently been put in place, and the Secretariat had a well-defined rôle within it.

Experience showed that the TPRM was functioning relatively well, and he saw no need to set up in parallel a separate policy analysis mechanism. With regard to the suggestion for establishing an ad hoc Ministerial group, his delegation's views were that owing to the contractual nature of the GATT there is no place for such a group to provide direction. He also questioned the terminology used in this part of the submission, since there were no Ministerial groups in GATT, there were only Ministerial meetings with agreed and clearly laid out objectives.

24. Regarding the issue of better institutional co-operation, his delegation saw no need for GATT experts to participate in IMF or World Bank missions. The countries in question understood well enough their own trade policy problems and they were in a better position to advise the relevant institutions about them themselves. The same was true for the design of trade liberalization measures. In any event, he did not understand why there would be any need for additional staff in GATT to perform these functions. His delegation did not see how a better balance of surveillance would follow from what was being proposed in the submission. He asked when Switzerland envisaged that GATT would have achieved the "certain bargaining power" referred to on page 6. Regarding joint analysis of problems of interdependence, he considered the Trade and Development Report prepared by UNCTAD should also be included in the list contained in the submission.

25. One participant said that many of the ideas and proposals in the submission were linked to the final outcome of the Uruguay Round. It was difficult to decide upon them, therefore, at this stage. The Secretariat could indeed play an important rôle in analysing trade policies, but the effectiveness of such analysis would depend upon the multilateral dialogue that it created; the participation of delegations was the essential part of the TPRM. The proposal on an ad hoc Ministerial group needed to be studied; his delegation did not wish to see a sort of trade security council with permanent membership set up. Strengthening co-operation with the IMF and World Bank was important and it needed to be examined in greater depth, although his delegation agreed that GATT needed to become more sensitive to macro-issues, including finance and debt problems. His delegation was not prepared for the time being to take a position on political level co-operation. However, it believed that joint analysis of the interdependence of trade, monetary and financial problems was important, but the submission had failed to mention UNCTAD which was an essential element of such analysis.

26. One participant said that although it was undeniable that there was increasing interdependence between economies, no mention had been made in the submission of the fact that this had widened the economic gap between developed and developing countries and that the management of world trade had been concentrated increasingly in the hands of the larger contracting parties. Nor was there any mention of the trade-finance link. It was that

kind of imbalance which made international institutions ineffective, and it had to be corrected before it would be possible to speak of them having an integrated vision. The focus of the first part of the submission seemed to be on the implementation at the national level of the policy implications of analysis performed by the three institutions. It argued that this was not possible because the international organizations had traditional, fragmented structures which hampered the integrated view necessary to make them efficient. The submission then proposed solving this by giving GATT the capacity to perform independent analysis. Her delegation failed to understand how that would strengthen GATT as an institution. It seems to her that this new analytical capacity was intended mainly to make GATT eligible for co-operation in the eyes of the IMF and World Bank. It was true that GATT's involvement in trade issues had increased, especially with TPRM, but its involvement in national monetary and financial policies was carefully circumscribed under Article XV. Any review of the mandate of the Secretariat which in the name of a policy dialogue capacity would enhance GATT's involvement with the national macro-economic policies of contracting parties would enlarge the jurisdictional competence of the GATT and alter the contractual nature of the Agreement. She sought clarification on what was meant by "operational involvement in the policy dialogue at the national level" in part II.1.3. of the submission. With regard to strengthening institutional co-operation, she questioned the statement that the three institutions had identical aims and philosophies; in her view, one of the practical difficulties that hampered co-operation was precisely the different nature of the institutions. While GATT was of a contractual nature and each contracting party had identical juridical weight, there was weighted decision-making in the IMF and World Bank. Also, developed countries never borrowed from World Bank and only rarely from the IMF, and surveillance was effective only on countries which were borrowers.

27. One participant asked whether the proposal to strengthen the analytical capacity of GATT implied a change in the contractual nature of the GATT, and whether there was any link in this context with proposals to establish a World Trade Organization. In his view, the question of strengthening the rôle of the Secretariat deserved careful consideration. His delegation was reluctant to agree to the idea of an ad hoc Ministerial group; it could pose problems in deciding on membership, or, if open ended, of how to ensure the effective operation of such a group, and his delegation was sceptical about the rôle of such a group and concerned that it could create bureaucratic conflict. With regard to institutional co-operation, his delegation favoured leaving this on an informal basis rather than trying to institutionalize it because of the need to avoid possible conflicts of mandates and jurisdiction among the three institutions. He asked for confirmation that there would be no obligation for any institution to accept the participation of the staff of another institution in its work, but wondered even if that were true how expertise could be exchanged without institutions taking responsibility for the work of one of their staff members. His delegation was not at all enthusiastic about the idea of joint Ministerial meetings; the mandate and nature of such meetings were not convincing, and they could result in an enormous burden on countries participating in them. It was also unrealistic to

expect that only a small number of countries would wish to take part in such meetings. His delegation believed that some conflict of mandate and jurisdiction could be created through the establishment of a joint report.

28. One participant said the submission challenged participants to look at what the Group should do in the next few months. Each delegation needed to ask itself whether it was necessary to restructure the GATT and whether a new GATT was needed, with a different type of decision-making and a new rôle for the Secretariat that might be made more independent. There would need to be significant changes in the way that GATT was structured if it were decided that it should give advice to the IMF and World Bank and be prepared to accept advice from those institutions.

29. One participant agreed with Switzerland's assessment of the need for greater coherence and the objectives of such coherence. Many points in the submission were consistent with views that his delegation had expressed, including strengthening the stature and analytical capability of GATT and the importance of achieving greater co-operation between the GATT, the IMF and World Bank. These were essential to achieving greater coherence in global economic policy-making. A number of delegations, including his own, had been discussing various ideas in this regard and hoped to put forward specific suggestions in advance of the next meeting.

30. The representative of Switzerland replied to some of the comments made and the questions asked. His delegation was fully aware that the GATT was a contract, but the GATT Secretariat existed and it was different from the secretariats of the other two institutions. It was not necessary for the debate on this point to get tied up in institutional issues; the Secretariat was there to do what contracting parties wanted it to do, and it was up to contracting parties to give it a mandate. The Secretariat's rôle had changed significantly over time, even if this had not necessarily been acknowledged institutionally. In arguing for the Secretariat to be given an independent analytical rôle, his delegation was aware that it was insufficient to suggest the reason was simply so that it could dialogue with the IMF and World Bank.

31. His delegation did not see co-ordination in terms of policing; dialogue should be seen as mutual understanding. Internationalization was not going to make national policies less relevant, but the effects of national policies would become more important and it would become much harder to achieve objectives through national policies alone. There was no intention to construct a new TPRM. The TPRM was a good mechanism as long as it provided answers to why governments did what they did. However, when the resources available to the IMF and World Bank were compared with those at GATT, it was clear that GATT could not be expected to distil the policy lessons not only for the country concerned but also for its trading partners.

32. He agreed that there were difficulties involved in establishing an ad hoc Ministerial group, but said that a control mechanism would be needed if the Secretariat were to be given a greater analytical capacity. With regard to co-operation at the staff level, the aim should be to establish a

free flow of information among organizations without attacking the issue of responsibility or competence. That was why experts had been proposed. No organization would be obliged to take account of the advice provided by those experts. There was, nevertheless, a question mark over whether the resources available to GATT would be sufficient if the system were to prove workable. The proposal that the heads of the Interim and Development Committees and of the GATT ad hoc Ministerial group should participate in all three meetings could provide a relatively useful and low-cost alternative to joint meetings by trade and finance ministers. With regard to the proposal for a joint report, he hoped that it would be possible to avoid problems of institutional competence. Such a report could provide a substantive analysis of the problems, and ministers could then be left to translate that into operational terms. In his view, all of the ideas contained in the submission could be translated into operational terms relatively quickly once a decision had been taken in the Group to do so.

33. The Group agreed to return to this Agenda item at its next meeting.

Agenda Item B

34. The Group agreed to hold its next meeting on 25-26 June 1990.