

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Surveillance Body

MEETING OF 5 JULY 1990

1. The Surveillance Body met on 5 July 1990.

Adoption of the agenda

2. The Surveillance Body adopted the agenda proposed in the convening airgram GATT/AIR/3012.

Item (A): Standstill

- (I) Examination of standstill notifications (MTN.SB/SN/- series) submitted in accordance with the agreed procedures (MTN.TNC/W/10/Rev.1)

3. The Chairman noted that the agreed procedures provided for the Surveillance Body to transmit a record of the proceedings relating to standstill notifications to the next meeting of the TNC, due to be held at the end of July 1990. The record would also be transmitted to the GNG for information.

4. The record of the Body's examination of notifications on standstill, drawn up in accordance with paragraph 3 of the agreed procedures, is annexed (Annex I).

- (II) Consideration of statements by participants concerning other aspects of the standstill commitment

"Early warning"

- (a) United States Export Enhancement Program

5. The representative of Australia, referring to the statement which his delegation had made at the last meeting, asked whether the United States could provide any information on the possibility to sell meat to the Soviet Union, using bonuses under the Export Enhancement Program of the United States.

6. The representative of the United States said that he would check with his authorities to see whether the matter could be clarified.

(b) European Communities agricultural measures

7. The representative of Australia recalled its earlier statements at previous meetings on a number of proposed EC measures, including increases in processing aids for dried vine fruit, an increase in dairy production quotas and export refunds, the imposition of security deposits for peas and beans, and the conversion scheme subsidies for oilseeds, nuts and berries, ornamental plants, flowers and so forth. With the possible exception of the dairy issue, the European Communities had not responded substantively to these issues. His delegation wished to be on record that these issues, which appeared to be permanent and broadened the scope of the Common Agricultural Policy, thus remained of serious concern to Australia.

8. The representative of the European Communities, noting that some of the issues listed by Australia had already been discussed, said that his delegation would take note that the matters were raised once again.

(c) Anti-import actions in the Republic of Korea

9. The representative of the United States expressed its concern about the recent surge of anti-import actions taking place in the Republic of Korea. The United States was encouraged to hear that recently the President of the Republic of Korea had directed Cabinet Ministers to ensure that the Government had no part in these actions, and that the country's import liberalization should proceed as agreed. However, the nature of the actions, the methods by which they were implemented, and the discrimination against imports were of great concern to the Government of the United States, and were contradictory to the Republic of Korea's previous liberalization commitments. The United States would urge the Korean Government to underscore its liberalization commitments by taking aggressive steps to counteract import restrictive or discriminatory practices.

(d) United States Bill on textile and shoe imports

10. The representative of the European Communities referred to an announcement on 4 April that a Bill to restrict textile and shoe imports had been introduced in the United States Congress, and that there had been a large number of sponsors in both Houses of the Congress. The Bill would limit the growth of textile and apparel imports to 1 per cent a year based on 1989 levels. It would establish global import quotas for each category of textiles and textile products. According to the Bill, there would be some exemptions for certain countries which had free-trade agreements with the United States. However, even among participants of such agreements with the United States, there would be some discrimination as the Caribbean Basin countries would be covered by the terms of the Bill. The Communities were aware that the Bill did not have support from the United States Administration. They recognized that representatives of the Administration had expressed opposition to the enactment of the Bill. Nonetheless, it was a matter of concern that so many sponsors were found for the Bill, and that the fact might exercise pressure on the United States Government to proceed with a policy that could result in a breach of the standstill commitment. The issue was also a matter of considerable concern for other participants in the Uruguay Round.

11. The representative of Hong Kong shared the concern expressed by the European Communities, and hoped that the United States Administration would continue resisting the enactment of the Bill, in particular in the light of the fact that textiles were under negotiation in the Uruguay Round.

12. The representative of the United States, confirming that his Administration opposed the Bill, said that the comments made at this meeting would be conveyed to his authorities.

(e) Remarks by the Chairman

13. The Chairman, in conclusion of discussions under this agenda item, said that it was encouraging that the number of subjects under this agenda was steadily declining, as it would reflect the care taken by governments to avoid actions which could have an adverse impact on the negotiating process in the Uruguay Round. At the same time, there remained concern about new measures under consideration which, if adopted, might possibly violate the standstill commitment. In this respect, the Surveillance Body continued to fulfil its function of ensuring that the concern was duly shared and transmitted, in an appropriate fashion, to the authorities concerned.

Item (B): Rollback

(I) Consideration of statements concerning the rollback commitment in the light of the agreed procedures (MTN.TNC/W/10/Rev.1)

14. The Chairman noted that in accordance with the agreement at the last meeting on progress reports on rollback, three progress reports had been submitted to the Surveillance Body: by the European Communities and Hong Kong on their respective rollback consultations with Japan (RBC/17/Add.2 and RBC/8/Add.5), and by Japan on rollback consultations with a number of participants (RBC/22).

(a) Canada

15. The representative of Canada informed the Surveillance Body of the status of its rollback consultations with other participants. First, with regard to consultations with Finland (RBC/11), Norway (RBC/13) and Sweden (RBC/14) on the question of Pinewood Nematode, consultations had been held in 1988, but this issue had not been resolved. Canada had not asked for further consultations to be held on this matter. Second, Canada had held two rounds of consultations with Brazil on the question of Brazil's "law of similarity" (RBC/9). Recent changes in Brazil's international trade régime would appear to have removed the original cause for the Canadian communication. Third, Canada had held consultations with Japan concerning Japan's import quotas on fish products (RBC/12). The current conditions of access to Japan permitted Canadian products to be exported to the country, and Canada had no immediate intention to follow-up on the consultations on the issue. Fourth, with respect to the United States Section 337 action (RBC/15), the Panel report on the notified measure had been adopted by the

GATT Council, and the implementation of its recommendations were awaited. Canada noted that the United States had indicated that the implementation would take place in the context of the Uruguay Round. Finally, the issue relating to the European Communities' ban on hormone-treated meat (RBC/10) had been discussed with the Communities. Canadian exports were affected as a result of the measure since January 1989. However, no further action in this matter had been taken.

(b) Romania/Sweden (RBC/21)

16. The representative of Sweden referred to the rollback request by Romania, contained in RBC/21. The measures referred to in the communication were, in Sweden's views, maintained in accordance with Article 3 of Romania's Protocol of Accession, and they were notified to GATT under Article 3(b) of the Protocol. They were therefore consistent with the General Agreement or with "Instruments negotiated within the framework of GATT or under its auspices" (Section C of the Punta del Este Ministerial Declaration).

17. The representative of Sweden said that his Government had nevertheless carefully looked into the measures concerned. Restrictions regarding reindeers or their meat were applied against imports from the Soviet Union and all countries in Eastern Europe. Those making a living out of reindeers were under strained economic conditions, not the least as a result of the Chernobyl accident. The competent Swedish authorities regarded it as necessary to continue the restrictions. However, the Government followed the situation carefully and was prepared to review the matter, inter alia, in the light of the rapid economic reform process in the Eastern European countries. The representative of Sweden noted that there were no exports of reindeer meat from Romania to Sweden, and therefore found it difficult to understand the economic interest of Romania in the rollback request. With respect to the import of leather shoes, the Swedish Government had already decided to eliminate the restrictions on imports from Romania as well as from other Eastern European countries, in accordance with a pre-established plan of 1987. The elimination would be effectuated over a five-year period which terminated in 1992. The Swedish Government was unable to advance the date for the complete elimination of restrictions, but had decided to increase the imports allocation for Romania by 19,000 pairs of shoes, from 60,000 to 79,000 pairs. The rollback request also referred to rubber or plastic boots, but the restrictions on these products had been completely eliminated as of 1 January 1985.

18. Responding to the Swedish statement, the representative of Romania said that both a question of practical nature and a question of principle were involved in the issue. With respect to practical aspects, there was perhaps a difference of interpretation between the two delegations as to the nature of restrictions applied to certain products of Romania. According to Romania's interpretation, the Protocol of Accession carried a commitment for the elimination of discriminatory restrictions against Romania by contracting parties maintaining such restrictions. As far as the practical aspects of the matter were concerned, his delegation thanked

the Swedish Government for the careful analysis of the restrictive measures, and for the decisions taken to eliminate certain restrictions. His delegation would report the Swedish statement to its authorities, and inform the Surveillance Body of any further change in the situation.

(c) United States/Japan (RBC/1 and RBC/22) and others

19. The representative of the United States, referring to the progress report by Japan on the rollback consultations with his country (RBC/22), appreciated the willingness of Japan to continue to hold consultations, and noted Japan's view that some of the issues might be best dealt with in the Uruguay Round Negotiating Groups. In terms of this particular request contained in RBC/1, it was the position of the United States that the consultations had been completed, and that the United States could look to the elimination of GATT-inconsistent quantitative restrictions by Japan.

20. The representative of the United States informed the Surveillance Body that authorities in Washington were actively reviewing all the rollback notifications which they had made and also those which had been made against the United States. He expected that at some point in the future, his delegation would be able to make some further report on the status of these notifications. In this connection, he reminded the Surveillance Body that transparency should be kept in the rollback process, and that if further consultations were held by any participants, they should be notified to the Body so that all interested parties could take part in them.

21. The representative of Japan, referring to its rollback consultations with the United States (RBC/1 and RBC/22), said that during the two rounds of consultations, Japan had explained the justification for all quantitative restrictions maintained by Japan. Although the United States referred to them as GATT-inconsistent, the Japanese position was different.

(d) Finland

22. The representative of Finland informed the Surveillance Body that, without prejudice to the consistency of the measures with the General Agreement, import licence requirements had been abolished as of 6 June 1990 for a number of tariff items, such as live animals (except for human consumption), certain fish, bananas, citrus fruits, and a number of preparations of vegetables and fruits like preserves, juices and jams. The exact description of the goods covered by this change in the import system was included in the notification on quantitative restrictions and other non-tariff measures that had been sent to the Secretariat.

(e) Argentina (MTN.SB/RBN/3)

23. The representative of the United States recalled that at the last meeting his delegation had asked for further clarification of the notification made by Argentina. According to his delegation's understanding, Argentina had transferred 734 categories from its prior review procedures to automatic licensing, leaving 110 categories still

subject to the prior review procedures. It was a useful and welcome change, as it represented a significant reduction from 3,000 categories which had been subject to such procedures two years before. His delegation was also interested to know the intention of Argentina with respect to the remaining 110 categories.

24. In reply, the representative of Argentina referred to the announcement made in the previous week by Argentina's Ministry of Economy regarding new measures of trade liberalization. Among these measures was further reduction in the list of products subject to the prior review, including the complete elimination of some sectors from the list. His delegation had no specific information at hand, but was waiting for the formal announcement of the measures. As soon as it received additional information, it would pass it on to the Surveillance Body.

(f) Colombia and Morocco

25. The representatives of Colombia and Morocco said that they would soon notify to the Surveillance Body autonomous trade liberalization measures which they had taken recently.

Item (C): Other business, including future work and the date of the next meeting

(a) Chairman's summary of the current situation

26. The Chairman referred to a draft Chairman's summary of the current situation on implementation of the standstill and rollback commitments which had been circulated to participants before this meeting. The draft summary was drawn up on his own responsibility. It was intended to provide the TNC with a factual account of the implementation of these commitments, and also to inform the Committee about certain arrangements agreed in the Surveillance Body for further work on rollback.

27. Some participants commented on the draft. The representative of the European Communities said that reference to the rollback measures taken by the Communities should reflect the importance they had on actual trade for the countries concerned. The representative of Australia said that the summary should contain some qualitative analysis of the standstill and rollback notifications, and that with respect to the proposals on rollback procedures by New Zealand and Australia, the summary should reflect the views of the participants in order to show the extent to which consensus existed.

28. In response to an inquiry by the representative of the European Communities about information by the Secretariat on the implementation of Panel recommendations (paragraph 19 of the draft summary), the Chairman said that the exact extent of the information would not be clear without further examination. The Chairman added that the Secretariat would try the best it could, and the exercise would be similar to that already done in the Negotiating Group on Non-tariff Measures, although the period under examination for this Body may be longer.

29. The Chairman proposed that in the light of these comments the draft summary would be revised, as appropriate, on his own responsibility, and be transmitted to the TNC. The Surveillance Body so agreed. The revised Chairman's summary is annexed (Annex II).

(b) Date of the next meeting

30. The Surveillance Body agreed to hold the next meeting of the Surveillance Body on 30 October 1990, noting that the date might have to be adjusted in the light of the decisions of the TNC meeting in late July.

ANNEX I

Examination of Standstill Notifications (MTN.SB/SN/- series) Submitted
in Accordance with the Agreed Procedures (MTN.TNC/W/10/Rev.1)

New notifications on standstill

1. The Chairman drew attention to the latest list of notifications on standstill (MTN.SB/W/3/Rev.8), noting that there was no new notification to be examined at the meeting.

Previous notifications on standstill

Sweden: increase in the levy on imports of sheepmeat (MTN.SB/SN/19)

2. The representative of Australia recalled the statement it had made at the last meeting, pointing out that while the sheepmeat levies were decreased to SEK 17.35 per kilogramme as from 1 January 1990, from a high point of SEK 20.45 per kilogramme on 1 July 1988, it remained considerably higher than the SEK 14.50 per kilogramme at the time of the Punta del Este Declaration. Australian access was significantly restricted. In the view of Australia, the current levy rate was clearly a breach of the standstill commitment.

3. The representative of Australia noted further that the current Swedish farm bill would reduce internal support progressively, but did not address border measures which, according to indications by Sweden, would be addressed in the context of the Uruguay Round. He asked about Sweden's intentions with respect to border measures, such as the import levies on sheepmeat and beef, in the context of the Uruguay Round agricultural negotiations.

4. The representative of Sweden said that as a matter of principle, Sweden regarded the levy system to be in accordance with the existing GATT rules. In respect of future border measures, they will be considered in the light of the outcome of the Uruguay Round, as already explained during the recent trade policy review of Sweden by the Council.

United States: customs user fee (MTN.SB/SN/1)

5. The representative of the European Communities asked the United States to provide information on the latest state of development of legislation to bring the customs user fee into conformity with the General Agreement.

6. The representative of the United States replied that the conferees between the House and the Senate in the United States Congress had not yet completed their work on the so-called mini-trade Bill which contained provisions to bring the customs user fee into conformity with the General Agreement. The Congress might act on the Bill at any time, and should it do so, he would immediately report this to the Surveillance Body.

ANNEX II

CHAIRMAN'S SUMMARY OF THE CURRENT SITUATION ON IMPLEMENTATION
OF THE STANDSTILL AND ROLLBACK COMMITMENTS

1. The Punta del Este Ministerial Declaration contains the following commitments on standstill and rollback:

"Standstill

- (i) not to take any trade restrictive or distorting measure inconsistent with the provisions of the General Agreement or the instruments negotiated within the framework of GATT or under its auspices;
- (ii) not to take any trade restrictive or distorting measure in the legitimate exercise of its GATT rights, that would go beyond that which is necessary to remedy specific situations, as provided for in the General Agreement and the Instruments referred to in (i) above;
- (iii) not to take any trade measures in such a manner as to improve its negotiating positions."

"Rollback

- (i) that all trade restrictive or distorting measures inconsistent with the provisions of the General Agreement or Instruments negotiated within the framework of GATT or under its auspices, shall be phased out or brought into conformity within an agreed time-frame not later than by the date of the formal completion of the negotiations, taking into account multilateral agreements, undertakings and understandings, including strengthened rules and disciplines, reached in pursuance of the Objectives of the Negotiations;
- (ii) there shall be progressive implementation of this commitment on an equitable basis in consultations among participants concerned, including all affected participants. This commitment shall take account of the concerns expressed by any participant about measures directly affecting its trade interests;
- (iii) there shall be no GATT concessions requested for the elimination of these measures."

2. The aim of this note is to provide the TNC with a full summary of the implementation of the standstill and rollback commitments, and to outline arrangements accepted in the Surveillance Body for further work on rollback.

3. The Surveillance Body has held twelve meetings. Detailed reports are contained in MTN.SB/1-13. The latest list of notifications and communications on standstill and rollback is contained in MTN.SB/W/3/Rev.8.

4. A consolidated text of the Ministerial commitments on standstill and rollback, and of the procedures agreed by the TNC and by the Surveillance Body, is contained in document MTN.TNC/W/10/Rev.1.

(a) Standstill

5. Since the standstill commitment took effect on 20 September 1986, a total of 25 notifications, by 11 participants against 8 participants, have been made as of 27 June 1990. All notifications but one were made during the period October 1986 to November 1988. There were no notifications in 1989. During the first six months of 1990, there was one notification.

6. Ten notifications were addressed to the United States, six to the European Communities, three to Canada, two to Brazil, and one each to Greece, Indonesia, Sweden and Switzerland. The notifications cover quantitative restrictions, tariffs, import levies, import controls and prohibitions, export restrictions, internal taxes, production and export subsidies, and government procurement.

7. Sixteen notifications cited violation of paragraph (i) of the standstill commitment. Two notifications cited violations of both paragraphs (i) and (ii). Eleven notifications referred to paragraph (iii) of the commitment, three to paragraphs (i) and (iii), and one to paragraphs (ii) and (iii). There was one notification which did not specify particular paragraphs.

8. To date, only one standstill notification has been withdrawn, in 1988.

9. Five measures referred to in seven notifications under standstill have been subject to Article XXIII:2 Panel proceedings. Four of these measures were found by the Panels to be inconsistent with the General Agreement. The Council has adopted these Panel reports. The fifth measure is currently under examination by a Panel.

10. In the Surveillance Body's "early warning" discussions on proposed legislation and other actions affecting trade, 34 cases have been subject to discussions, some being repeatedly discussed. Ten cases were brought up in 1987, eight in 1988, ten in 1989, and six, to date, in 1990.

(b) Rollback

11. Twenty rollback requests, by eight participants addressed to seven participants, have been made as of 27 June 1990. All requests but one were made during the period June 1987 to October 1988. There were no new requests in 1989. During the first six months of 1990, there was one request.

12. One half of the requests came from developed countries, and the other half from developing countries. Five requests each were addressed to the European Communities, Japan and the United States, two to Sweden, and one each to Brazil, Finland and Norway. Most of the requests concern quantitative restrictions considered by the notifying country to be inconsistent with Articles XI and XIII of the General Agreement.

13. Twenty-one consultations were held on fifteen of these requests. There have been no consultations on the remaining five requests. The Surveillance Body had agreed on a target of 30 days for beginning the process of consultations following receipt of requests. In many cases, this target has not been met. The frequency of consultations has greatly diminished over the recent period (five consultations in 1987, thirteen in 1988, three in 1989 and no consultations in 1990).

14. There have been two notifications on rollback actions which are partly related to the rollback requests: one by Japan on the termination of import allocation systems on eight categories of agricultural products (MTN.SB/RBN/1), and the other by the European Communities on the elimination of a range of quantitative restrictions (RBC/19/Rev.1).

15. The above-mentioned notification by the European Communities also contains autonomous rollback measures related to the elimination of specific quantitative restrictions and the suspension of non-specific quantitative restrictions on imports from Poland and Hungary. Four other participants (Canada, Australia, Argentina and Colombia) have notified autonomous trade liberalization measures (MTN.SB/W/6 and 7, MTN.SB/RBN/3 and 4). Finland informed the Surveillance Body of its trade liberalization measures without prejudice to the consistency of the measures liberalized with the General Agreement, and Morocco has indicated that it would also notify its trade liberalization measures to the Surveillance Body (MTN.SB/13).

16. The notifications by Japan and Canada include the liberalization of some measures which had been the subject of Panel reports. The United States also made a rollback notification on legislation to amend the Superfund tax in pursuance of Panel recommendations (MTN.SB/RBN/2). The tax was subject to standstill notifications from other participants.

(c) Proposals for the implementation of rollback commitment following the Mid-Term Review

17. Following the Mid-Term Review, proposals were put forward by Australia (MTN.SB/W/7) and New Zealand (MTN.SB/W/8) for ways to ensure the fulfilment of the rollback commitment. Australia proposed that the TNC agree on the full implementation of all outstanding Panel reports adopted by the CONTRACTING PARTIES. New Zealand proposed that the Surveillance Body should agree on the following ways in which the rollback commitment might be evaluated:

- (i) through the implementation of individual offers to roll back measures;

- (ii) through the implementation of any multilateral agreements, undertakings and understandings reached in the course of the multilateral negotiations which established that certain types of measures, the present GATT status of which was not necessarily agreed, would henceforth be inconsistent with GATT provisions,
- (iii) through the phasing-out of measures ruled inconsistent with the GATT by Panel reports adopted by the CONTRACTING PARTIES.

18. The Surveillance Body discussed these proposals on a number of occasions. While there was considerable support for these proposals, consensus was not achieved to adopt them, as views were divided, for example, with respect to the ways in which autonomous trade liberalization measures and the implementation of Panel reports should be evaluated.

(d) Provision of further information to the TNC

19. The Surveillance Body considered what information should be provided which would be relevant to the fulfilment of the above standstill and rollback commitments. The Surveillance Body undertook to endeavour providing the fullest possible information to the TNC on actions taken in respect of the commitments entered into at Punta del Este, together with an account of the present situation. Accordingly, it agreed that:

- (i) full reports should be submitted by participants which have made rollback requests and those addressed by such requests, either jointly or separately, concerning consultations, if any, which have been held and their outcome. The objective would be to give an indication of rollback action actually taken or still under discussion and the status of all pending requests;
- (ii) other rollback measures taken by participants autonomously since the inception of the commitment, which have not yet been notified, should be communicated to the Surveillance Body;
- (iii) participants would also be invited to communicate any other measures which they propose to roll back before the completion of the Uruguay Round.

It is understood that such communications would be without prejudice to the question of consistency with the General Agreement of the measures listed.

20. It is proposed that, in order to permit the compilation of as detailed a list as possible of all measures taken in response to requests or otherwise communicated, all such communications should be received by the Secretariat not later than 12 October.

21. The question has been raised whether the Secretariat could provide a list of "measures inconsistent with the GATT" which remain in force. In this connection, the Secretariat might be requested to examine whether it

could supply, for the October meeting of the Surveillance Body, a list of measures which have been found by the CONTRACTING PARTIES, following Panel findings, to be inconsistent with the General Agreement, and any information available regarding actions taken in response to such findings.

22. Until now, there has been no discussion of an agreed time-frame for the phasing out, or bringing into conformity, of restrictions. In this connection, it is to be noted that the rollback commitment requires that the measures mentioned should be phased out or brought into conformity "within an agreed time-frame not later than by the date of the formal completion of the negotiations, taking into account multilateral agreements, undertakings and understandings, including strengthened rules and disciplines, reached in pursuance of the Objectives of the Negotiations". The point has been made that agreement on a time-frame need not necessarily imply that all such measures should be phased out or brought into conformity before the end of the Uruguay Round. It has also been pointed out that the full details of multilateral agreements, undertakings and understandings reached, including strengthened rules and disciplines, may emerge only towards the end of the Uruguay Round.

23. The TNC might wish to make an evaluation of the situation in the light of the elements presented above.