

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)

Negotiating Group on Functioning
of the GATT System

CHAIRMAN'S REPORT ON THE STATUS OF WORK IN THE
NEGOTIATING GROUP

1. The Group has continued negotiations under all three headings of its mandate, with a view to reaching agreements regarding understandings and arrangements which might be adopted by Ministers at the close of the Uruguay Round.

2. Mandate item (i): "to enhance the surveillance in the GATT to enable regular monitoring of trade policies and practices of contracting parties and their impact on the functioning of the multilateral trading system"

(a) The Group has reached tentative agreement that contracting parties should

"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."

The Group will examine the text again when a clearer idea can be formed of where the issue it addresses might be included in the final package of agreements stemming from the negotiations.

(b) Trade Policy Review Mechanism There is broad support in the Group for a recommendation to Ministers to confirm the Trade Policy Review Mechanism as established provisionally in April 1989, together with the agreements subsequently reached on reporting requirements under the TPRM. However, there is a need for review procedures to improve the TPRM when greater experience of its operation has been gained.

The Group has completed the elements of the TPRM by reaching agreement on the Outline Format for country reports for least-developed countries.

Three other proposals related to the TPRM have also been made:

(i) for development of the GATT secretariat's capacity and authority to play a more independent and analytical rôle;

(ii) for seeking the co-operation and assistance of other international organizations responsible for monetary and financial matters when preparing reports; and

(iii) to extend the coverage of the TPRM to services, TRIPs and TRIMs.

In preliminary discussions, reservations have been expressed as regards both the substance and timing of these proposals.

(c) Overview of developments in the international trading environment. The Group has agreed to recommend confirmation of the provisional agreement establishing periodic examinations in the GATT Council of developments in the international trading environment which are having an impact on the multilateral trading system, including publication of reports on these examinations.

(d) Notification procedures The Group has reached ad referendum agreement on proposals that would indicate more clearly which trade measures are covered by requirements to notify; that would establish a central registry of notifications within the GATT Secretariat; and that would provide for a general review by a working group, on behalf of the CONTRACTING PARTIES, starting immediately after the conclusion of the Uruguay Round, of GATT notification obligations and procedures. The text of the agreement is attached as Annex I. At the Negotiating Group's request the Secretariat provided tentative estimates of the budgetary implications of establishment of the central registry of notifications.

3. Mandate item (ii): "to improve the overall effectiveness and decision-making of GATT as an institution, including, inter alia, through involvement of Ministers."

(a) Initial consideration is being given to a proposal to amend Article X of the General Agreement on Tariffs and Trade so as to render the domestic branch of the functioning of the GATT more effective.

Delegations have not yet taken positions on this proposal. Some delegations have suggested that this subject could be raised more appropriately in the Negotiating Group on GATT Articles.

(b) Ministerial-level meetings. Following the agreement reached by Ministers at the mid-term review to hold sessions of the CONTRACTING PARTIES at Ministerial level at least every two years, the Group has discussed further proposals for establishment of a smaller Ministerial-level group. These discussions have shown that some delegations see value in such a group as bringing Ministers more closely into the regular work of GATT, and providing GATT with political-level initiatives and directives. Other delegations are not convinced that such a group would serve a useful function. Although some delegations believe that, to be effective, any such body should have a fixed membership, many

delegations believe that, if established, it should be open to participation by all contracting parties. Further careful study of this issue will need to take place before a final determination can be reached.

In this connection, a specific proposal has been made for a policy advisory group at Ministerial level, representing all contracting parties, to prepare Ministerial-level sessions of the CONTRACTING PARTIES. The proposal would provide for collaboration by the group with the chairpersons of the Development Committee and the Interim Committee in order to co-ordinate the timing, location and agendas of their meetings and to facilitate the exchange of recommendations between the committees. In preliminary discussions, some support has been given to this proposal. Some delegations, however, do not see scope for such a group to co-ordinate its activities with the Development and Interim Committee.

(c) Multilateral trade organization. A proposal has been made that, in view of the lack of an institutional basis for GATT and the existing and possible further fragmentation of the system, the institutional basis of GATT should be strengthened by establishing a multilateral trade organization. This would be done on the basis of an organizational treaty whose main elements would be provisions on membership and on a common organizational structure; a legal basis for taking actions concerning the implementation of the results of substantive negotiations and in particular for adopting dispute settlement procedures in principle applicable to all multilateral trade agreements; establishment of an international bureau or secretariat consisting of a Director-General and staff; budgetary provisions; and final provisions. The proposal emphasizes that establishment of such an umbrella organization would not alter the substantive rights and obligations of contracting parties or signatories under existing multilateral trade agreements. It would however provide an institutional and organizational framework, now lacking, to ensure that questions of administration and implementation of the different agreements can be dealt with coherently and efficiently.

While it is accepted that the results of the Uruguay Round will put extra demands on the present institutional structure of the GATT, there is widespread agreement that priority must continue to be given to the substantive issues under negotiation. Many delegations believe, in consequence, that the proposal to establish a multilateral trade organization, although interesting, should be considered only after completion of the Round, and perhaps after legislatures have endorsed its results. Some delegations believe Ministers should be asked to consider the proposal at the end of the Round, at least in principle: negotiations on the details could be taken up later on. Some delegations have expressed the view that the FOGS Group does not have a mandate to discuss the proposal. Some delegations, pointing out that the Group's mandate specifically covers negotiations "... to improve the overall effectiveness ... of GATT as an institution", believe that the Group can appropriately consider the proposal. Only a very preliminary exchange of views has taken place on the proposal.

4. Mandate item (iii): "to increase the contribution of the GATT to achieving greater coherence in global economic policy-making through strengthening its relationship with other international organizations responsible for monetary and financial matters"

Proposals in the group have shown different approaches to the issues under discussion.

One approach emphasizes the substance of present problems of lack of coherence in global economic policies and in economic policies at the national level and thus calls for discussion of the policy problems themselves as a first requirement for any action. In the view of some delegations, because these problems are essentially political in nature, there is a need to enhance political commitment and co-operation.

Other proposals focus on practical arrangements to strengthen the relationship between GATT and other international organizations responsible for monetary and financial matters.

The proposals made for strengthening the secretariat's capacity and authority and for seeking the co-operation and assistance of other international organizations in preparing reports (see paragraph 2(b)(i) and (ii) above) have been cited as directly relevant to the issue of achieving greater policy coherence.

It has been stressed that the Uruguay Round results themselves would represent a major contribution to greater policy coherence.

(a) Political commitment and co-operation

A proposal has been made for a Joint Declaration on Coherence between trade, monetary and financial policies, to be adopted at the Ministerial level by the GATT, the International Monetary Fund and the World Bank. The declaration, to be adopted as part of the final results of the Uruguay Round, would define a number of principles as to the conduct of trade, monetary and financial policies, as well as establish the basis for institutional co-operation. Governments would undertake a basic commitment to pursue policies, both at the national level and within the framework of the competent international institutions, that enhance the complementarities between the trade, monetary and financial aspects of global economic policy-making. Such a commitment would indicate a number of specific implications for trade policies, the international monetary system, and finance linked to development.

Discussion of this proposal has not yet been taken very far. Although a number of delegations have expressed their support for a political commitment by Ministers at the Brussels meeting that would reinforce efforts to achieve greater coherence in global policymaking, others have expressed doubts as to the value and practicability of a joint declaration and have underlined practical difficulties referred to by the representatives of the Fund and Bank.

Following discussions in the Group of various possibilities for bringing together trade and finance ministers to encourage development of more coherent policies, one proposal has been made to invite the Director-General to consult with the chairpersons of the Interim and Development Committees, the chairperson of the proposed policy advisory group (see paragraph 3(c) above) and the heads of the Fund and Bank in order to organize their joint participation in each of the three committee meetings. Only very preliminary consideration has been given to this proposal.

(b) Strengthened relationships between GATT and other international organizations responsible for monetary and financial matters

The Group has reviewed options for co-operation at the institutional level, with the assistance of a report prepared by the Director-General at the request of Ministers, on ways of achieving greater coherence in global economic policymaking through strengthened relationships between GATT and other international organizations responsible for monetary and financial matters.

As regards substantive possibilities for co-operation, many delegations have seen opportunities of providing negotiating credit in GATT for trade liberalization undertaken autonomously and under Fund and Bank programmes, and of financial support from the Fund and Bank for countries undertaking trade liberalization in the context of GATT. In this regard, some delegations have stated that such co-operation should take into account the impact of the economic policies of major industrialized countries on the trading environment for developing countries, and that trade liberalization efforts of developing countries should be assessed in the light of their debt service commitments. It has also been proposed that the Fund and Bank should provide financial support for countries adversely affected by the results of the Uruguay Round, and in particular for net food-importing countries. Many delegations have stressed concern that co-operation in these and other fields should avoid establishment of cross-conditionality between the activities of each organization, and should respect and preserve each institution's character, autonomy and needs for confidentiality.

Some delegations take the view that co-operation between GATT and the other institutions should be governed by a formal agreement covering such matters as consultations, reciprocal representation, exchanges of information, shared services and possible joint activities. Other delegations would prefer that co-operation should grow gradually, on an informal basis, in response to perceived needs. Representatives of the Fund and Bank have noted the preference of the executive heads of their organizations, endorsed by the Director-General in his report, for informal co-operation.

One proposal has suggested that GATT, the Fund and the Bank should produce a biennial Joint Report on Coherence between trade, monetary and financial policies. Some delegations have noted practical difficulties with producing a joint report, and have questioned the need for such a report.

Another proposal is that the three institutions should jointly analyze specific problems of interdependence among policies, each organization providing analysis from its own point of view. These analyses would be considered by Ministers. Several delegations have supported this proposal.

Representatives of the Fund and Bank noted that their experience with joint papers strongly suggested that an issues-oriented approach was most fruitful.

A number of other proposals have been put forward to develop closer institutional co-operation between GATT, the Fund and the Bank. Only preliminary views have been expressed on any of these proposals, and the Group will consider them further at future meetings. The proposals include:

- that the GATT secretariat should seek the co-operation and assistance of the Bretton Woods institutions when preparing its reports and its participation in the TPRM exercise.
- that a framework be developed for voluntary collaboration, on the basis of individual experts, that would ensure (i) that the expertise of the GATT secretariat be made available, upon request of the country consulting, to any country undergoing a country review with the Fund or Bank, (ii) the provision and/or use of experts from each organization for tasks and information for which that organization has primary responsibility, and (iii) that experts from the relevant institutions will be used as macro- and micro-economic consultants in the preparation of individual institutional reports;
- that representatives of the Bretton Woods institutions be invited to participate on an ad hoc basis in GATT meetings which consider issues related to the specific responsibilities of those organizations, and that GATT representatives be invited to participate in similar circumstances in Fund and Bank meetings.
- that the three institutions exchange reports and studies and make it possible for each to provide expertise on matters within their competence;
- that possibilities be created for each to provide input in reviews and working groups in the other institutions whenever suitable;
- common research projects and seminars regarding matters of joint interest in order to enhance mutual knowledge and understanding;
- common information services to provide trade statistics and other relevant information;
- staff exchanges;
- a GATT liaison office in Washington D.C.

- that groups be established to keep relations between GATT and other international organizations responsible for monetary and financial matters under review (one would establish an ad hoc consultative group of interested contracting parties to consider matters arising out of the relationship between GATT and these organizations, and another would create a working group of representatives from the secretariats of each institution to examine matters of common interest).

On the overall issue of support to practical proposals for co-operation, some delegations have said they would be guided by concerns about possible cross-conditionality, institutional competence, confidentiality requirements, and budgetary consequences.

To advance consideration of the institutional proposals above, two procedural suggestions have been made, and are under consideration. One would require the Director-General to make a proposal by October 1990 regarding staff and organizational requirements for the suggested collaboration, and to discuss the content of a possible collaboration agreement between GATT and the two Bretton Woods institutions. The other would invite representatives from the Fund and Bank to take part, with representatives of GATT, in a task force to determine, and report on, how the proposals for collaboration could be implemented, and what their budgetary implications would be.

5. Other institutional questions

The Group notes that other institutional questions may be referred to it. Some delegations have suggested in this connection that the Group would be the appropriate body to ensure consistency in the formulation and drafting of agreements reached in the various negotiating groups.

ANNEX I

IMPROVEMENT OF NOTIFICATION PROCEDURES

THE CONTRACTING PARTIES,

DESIRING to improve the operation of notification procedures under the General Agreement, and thereby to contribute to the transparency of national trade policies and to the effectiveness of surveillance arrangements established to that end,

RECALLING their existing obligations under the General Agreement to publish and notify, including obligations assumed under the terms of specific Protocols of Accession, waivers, and other agreements entered into by the CONTRACTING PARTIES,

DESIRING to reinforce the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance adopted by the CONTRACTING PARTIES on 28 November 1979,

Have agreed as follows:

I. General obligation to notify

1. Contracting parties reaffirm their commitment to existing obligations under the General Agreement regarding publication and notification.
2. Contracting parties recall their additional undertakings set out in the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance of 28 November 1979. With regard to their undertaking therein to notify, to the maximum extent possible, their adoption of trade measures affecting the operation of the General Agreement, such notification itself being without prejudice to views on the consistency of measures with or their relevance to rights and obligations under the General Agreement, contracting parties agree to be guided by the annexed list of measures. Contracting parties therefore agree that the introduction or modification of such measures is subject to the notification requirements of the 1979 Understanding.

II. Central registry of notifications

3. A central registry of notifications shall be established under the responsibility of the secretariat. While contracting parties will continue to follow existing notification procedures, the Secretariat shall ensure that the registry records such elements of the information provided on the measure by the contracting party as its purpose, its trade coverage, and the requirement under which it has been notified. The registry shall cross-reference its records of notifications by country and obligation.

4. The central registry shall inform each contracting party annually of the regular notification obligations to which that contracting party will be expected to respond in the course of the following year.

5. The central registry shall draw the attention of individual contracting parties to regular notification requirements which remain unfulfilled.

6. Information in the central registry regarding individual notifications shall be made available on request to any contracting party entitled to receive the notification concerned.

III. Review of notification obligations and procedures

7. The CONTRACTING PARTIES will undertake a review of GATT notification obligations and procedures. The review will be carried out by a working group, membership in which will be open to all contracting parties. The group will be established immediately after the end of the Uruguay Round.

8. The terms of reference of the working group will be:

- to undertake a thorough review of all existing notification obligations of Contracting Parties established under the General Agreement, with a view to simplifying, standardizing and consolidating these obligations to the greatest extent practicable, as well as to improving compliance with these obligations, bearing in mind the overall objective of improving the transparency of national trade policies and the effectiveness of surveillance arrangements established to this end, and also bearing in mind the possible need of some developing Contracting parties for assistance in meeting their notification obligations;

- to make recommendations to the Council by 31 December 1991.

ANNEX

Indicative list¹ of notifiable measures

- tariffs (including range and scope of bindings, GSP provisions, rates applied to members of free trade areas/customs unions, other preferences)
- tariff quotas and surcharges
- QRs, including VERs and OMAs affecting imports
- other non-tariff measures such as licensing and mixing requirements; variable levies
- customs valuation
- rules of origin
- government procurement
- technical barriers
- safeguard actions
- anti-dumping actions
- countervailing actions
- export taxes
- export subsidies, tax exemptions and concessionary export financing
- free trade zones, including in-bond manufacturing
- export restrictions, including VERs and OMAs
- other government assistance, including subsidies, tax exemptions
- rôle of state-trading enterprises
- foreign exchange controls related to imports and exports
- government-mandated countertrade
- any other measure covered by the General Agreement, its annexes and its protocols.

¹This list does not alter existing notification requirements in specific GATT Articles and in agreements and arrangements negotiated under GATT auspices.