

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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BALANCE OF PAYMENTS PROVISIONS

Communication from the European Community

The attached communication has been received from the delegation of the European Community with the request that it be circulated to participants in the negotiations.

BALANCE OF PAYMENTS

Communication from the European Community

The Community presents the attached text incorporating a number of procedural suggestions relating to the application of the Balance of Payments provisions of GATT. In the Community's view a consensus could easily emerge on these points and this would constitute a useful contribution to a new declaration by Contracting Parties on trade measures for balance of payments purposes.

The Community considers, however, that it will be necessary in addition, for such a new declaration to address other issues raised by the EC proposal (NG7/W/68). The EC is ready to work towards such objective on the basis that, as regards criteria for the application of BOP restrictions, it would be necessary to confirm a number of key principles, in particular those raised by paragraph 1 of the 1979 Declaration on trade measures taken for balance of payments purposes.

The Community reiterates its view that an agreement on the implementation of the Balance of Payments provisions incorporating procedural aspects and confirmation of certain key principles of the 1979 Declaration is an essential component of the overall Uruguay Round package.

PROCEDURES FOR BOP CONSULTATIONS

- The GATT Committee on Balance of Payments Restrictions (hereafter referred to as "Committee") shall carry out consultations in order to review all restrictive import measures taken for balance of payments purposes. The Membership of the Committee is open to all Contracting Parties indicating their wish to serve in it. The Committee shall follow the procedures for consultations on balance of payments restrictions approved by the Council on 28 April 1970 and set out in BISD, Eighteenth Supplement, pages 48-53 (hereafter referred to as "Full consultation Procedures"), subject to the provisions set out below. Consultations shall be carried out in accordance with the "Plan of Discussions" set out in Annex 1 to this Declaration.
- Contracting Parties applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures shall enter into consultations with the Committee within four months of the adoption of such measures. The Contracting party adopting such measures may request that a consultation be held under Article XII:(4)(a) or Article XVIII:12 (a). If no such request has been made, the Committee may invite a Contracting party to hold such consultation, if it considers that there is a prima facie case of "substantial intensification". Factors that may be examined in reaching such a decision would include, inter alia, the introduction of new types of restrictive measures for balance of payment purposes, an increase in the level or product coverage of restrictions.
- All restrictions applied for balance of payments purposes shall be subject to periodic review in the Committee under paragraph 4 (b) of Article XII or under paragraph 12 (b) of Article XVIII, subject to the possibility of altering the periodicity of consultations in agreement with the consulting Contracting Party or pursuant to any specific review procedure that may be recommended by the Council.
- Consultations may be held under simplified procedures in the case of least developed Contracting Parties or in the case of less developed Contracting Parties which are pursuing liberalisation efforts in conformity with the schedule presented to the Committee in previous consultations. Simplified consultations may also be held when the TPRM review of a less developed Contracting Party is scheduled for the same calendar year as the date fixed for the consultations. In such cases the decision as to whether a Full Consultation should be held will be made on the basis of the factors enumerated in paragraph 8 of the 1979 Declaration. Except in the case of least developed Contracting Parties, no more than two successive consultations may be held under simplified procedures.

NOTIFICATION AND DOCUMENTATION

- Contracting Parties shall notify to the CONTRACTING PARTIES the introduction or any changes in the application of restrictive import measures taken for balance of payments purposes. Significant changes shall be notified to the CONTRACTING PARTIES prior to or not later than 30 days after their announcement. A consolidated notification, including all changes in laws, regulations, policy statement or public notices, shall be made available to the GATT Secretariat on a yearly basis for examination by Contracting parties. Notifications shall include full information, as far as possible at the tariff line level, on the type of measures applied, the criteria used for their administration, product coverage and trade flows affected.
- At the request of any Contracting Party, notifications may be reviewed by the Committee. Such reviews would be limited to the clarification of specific issues raised by a notification or to examine whether a consultation under Article XII(4) (a) or Article XVIII:12 (a) is required. Contracting Parties which have reasons to believe that a restrictive import measure applied by another Contracting Party was taken for balance of payments reasons may bring the matter to the attention of the Committee. The Chairman of the Committee shall request information on the measure and make it available to all Contracting Parties. Without prejudice to the right of any member of the Committee to seek appropriate clarifications in the course of consultations, questions may be submitted in advance for consideration by the consulting Contracting Party.
- The consulting Contracting Party shall prepare a Basic Document for the Consultations which, in addition to any other information considered to be relevant, should include: a) An overview of the balance of payments situation and prospects, including a consideration of the internal and external factors having a bearing on the balance of payments situation and the domestic policy measures taken in order to restore equilibrium on a sound and lasting basis. b) A full description of the restrictions applied for balance of payments reasons, legal basis and steps taken to reduce incidental protective effects. c) Measures taken since the last consultation to liberalize import restrictions, in the light of the conclusions of the Committee; plan for the elimination and progressive relaxation of remaining restrictions. Reference may be made, when relevant, to the information provided in other GATT notifications or reports. Under Simplified Consultations, the consulting Contracting Party shall submit a written statement containing essential information on the elements covered by the Basic Document.

- The GATT Secretariat shall, with a view to facilitating the consultations in the Committee, prepare a factual background paper dealing with the different aspects of the plan for consultations. In the case of less developed Contracting Parties, the secretariat document will include relevant background and analytical material on the incidence of the external trading environment on the balance of payments situation and prospects of the consulting country. The technical assistance services of the GATT Secretariat shall, at the request of a less developed Contracting Party, assist in preparing the documentation for the consultations.

CONCLUSIONS OF BOP CONSULTATIONS

- The Committee shall report on its consultations to the Council. In the case of full consultations, the report should indicate the Committee's conclusions on the different elements of the plan for consultations, as well as the facts and reasons on which they are based. The Committee shall endeavour to include in its conclusions proposals for Council recommendations aimed at promoting the implementation of articles XII, XVIII:B and this Declaration. Whenever the Council has made specific recommendations, the rights and obligations of Contracting parties shall be assessed in the light of such recommendations. In those cases in which a time-schedule has been presented for the removal of restrictive measures taken for balance of payments reasons, the Council may recommend that, in adhering to such a time-schedule, a contracting party shall be deemed to be in compliance with its GATT obligations. In the absence of specific recommendations, the conclusions should record the different views expressed in the Committee. In the case of simplified consultations, the report shall include a summary of the main elements discussed in the Committee and a decision on whether Full Consultations are required.