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FUNCTIONING OF THE GATT SYSTEM

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special

Communication from the European Community

The Punta del Este Declaration indicates that negotiations shall aim to develop understandings and arrangements to enhance surveillance, improve overall effectiveness and decision-making and increase the contribution of GATT to achieving greater coherence in global economic policy-making. While a separate consideration of issues has been necessary to organise the work of the Group, these three objectives cannot be dissociated from each other. The common thread binding them together is the need to strengthen the role of GATT through a reinforcement of its policy dimension, which should complement but not substitute for ordinary contractual activities. Any understanding or arrangement which may be developed should be seen as a contribution towards achieving the three objectives of the negotiating mandate.

With this communication, the European Community aims to contribute to the balanced progress in the Negotiating Group on those elements which are necessary for achieving globality in relation to the overall negotiating objective. As the negotiating process evolves, and in light of the discussions in the Group, the EC intends to present further contributions on particular elements. In this context the EC would wish to underline that, as was recognised in Punta del Este, a central objective of the Uruguay Round negotiations is to foster concurrent action to strengthen the inter-relationships between trade policies and other economic policies, as well as contributing towards efforts to improve the functioning of the international monetary system and the flow of resources to developing countries. Participants therefore have every interest in avoiding a situation where the results of the Uruguay Round are compromised.

I. Enhancing Surveillance in the GATT

The objective of a Trade Policy Review Mechanism would be to improve transparency and acquire a better understanding of countries' policies leading to a collective evaluation. It is therefore essential that reviews are not considered as a form of passing judgement on countries' policies or a mechanism for the enforcement of rights and obligations. These latter functions properly correspond to dispute-settlement procedures. At the same time, there is a need to proceed to a rationalisation of existing GATT notification and surveillance mechanisms with a view to improving compliance, avoiding duplication or the creation of new layers of bureaucracy and maintaining the overall coherence and unity of the system.

A. Notification

The 1979 Framework Understanding already contains the principle that all trade measures should be notified to GATT and that, whenever

possible, this should be done in advance of implementation. The practice of reverse notification is also firmly established in GATT. Despite this, there is widespread concern that the level of compliance leaves much to be desired and that the notification system continues to be excessively fragmented. Notification of trade measures is a basic transparency requirement and provides the backbone for effective surveillance. The notification system should be comprehensive and independent of the legal justification claimed for particular measures. Such a system could be based on the following elements:

1. A general obligation to notify new trade measures, whether of a liberalising or protective nature. This general obligation, couched in as broad as possible terms, could be complemented by an Illustrative List of practices subject to notification.
2. A common format for notifications, indicating the minimum information which should be provided with each notification.
3. All notifications should be sent to a Central Repository, so as to be able to obtain, at any point in time, a complete picture both of countries' trade policies and of general trends. There will be a need to examine the relationship between the new system and notification/reporting requirements established under particular GATT provisions or decisions.
4. Countries would be requested, through the Secretariat, to notify measures for inclusion in the Central Repository. Compliance with notification requirements should be subject to regular monitoring in the GATT.

The above procedural improvements would have to be supported by a political commitment to increase the transparency of trade policy - which should apply to all contracting parties. Technical help could be offered to less developed countries in order to facilitate compliance with notification requirements. As an immediate step, the Secretariat could be asked to carry out a study of how the proposed new system would relate to existing notification requirements, as well as drawing up possible criteria for establishing an Illustrative List of practices and a common format for notifications.

## B. Trade policy review mechanism

1. Country Reports. It is essential that reports are policy-oriented, and that the Common Format focuses on an explanation of the objectives pursued, the instruments and measures adopted or discussed to further these objectives, the difficulties faced, either of an internal or external nature, and the overall future direction of trade policy. In order to provide "early warning", significant proposals or impending measures should be included in the reports. Since reporting constitutes a basic transparency exercise, no distinction should be introduced among c.p.s which should be required to fulfill the annual reporting requirement.

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For the purpose of the trade policy reviews the EC should be considered as a single entity.

## 2. Frequency of Reviews.

The Annual Agenda of Reviews could be drawn up on the basis of four criteria: a) The time lapsed since the last review. A rigid categorisation of c.p.s should be avoided. Informal guidelines could indicate the expected frequency of reviews, which would be related to the share of world trade. A maximum interval for the completion of reviews should be established. b) The need to establish a geographically and economically balanced programme of review. c) The presence of major developments in trade policy or the trading environment, which may justify the need for an urgent review without waiting for completion of the normal cycle. d) The convenience not to have reviews scheduled for the same Session in which other major consultations are to take place.

## 3. Conduct of reviews.

The EC believes in the need of having both a well-prepared and structured discussion of policies and an open review in which all c.p.s would have the opportunity to participate. Another important consideration is to avoid the formation of a Permanent Surveillance Body, which could appear as passing judgement on countries' policies. Preparation of reviews could involve visits to capitals, but the review should be conducted in Geneva and be open to the participation of all c.p.s. A possible institutional structure would be special sessions of the Council to carry out a number of country reviews. In order to increase public awareness, reports, together with any comments, should be made public.

## 4. Review of General Developments

An horizontal examination of trends would fulfill a useful function, in particular to balance the rotating nature of country reviews. The Secretariat could be asked to prepare, on the basis of all reports, an analysis of trade policy developments, which could serve as a basis for a better focused discussion in a single special session of the Council, which would replace the present biannual Review Sessions. The objective of the reviews should be to reach a collective assessment of trade policy development, from which common guidance for collective behaviour may emerge.

## 5. Relationships between trade policy reviews and existing surveillance mechanisms.

The Council should continue to represent the central mechanism to monitor ordinary GATT activities. It also provides the natural forum for the discussion of individual measures of particular concern for

the contracting parties. A proliferation of specialised GATT bodies, as have sometimes been proposed in other Negotiating Groups, should be avoided with a view to maintaining the unity of the system. The two specialised bodies now in existence - the Committee on Trade and Development and the Balance of Payments Committee - perform the necessary function of monitoring the application of central GATT provisions. It should be underlined that the nature of country reviews and BOP consultations would necessarily be different, since the latter require an examination of trade measures in the light of specific requirements for the application of a major GATT exception.

## II. Increasing GATT contribution to achieving greater coherence in global economic policy-making

When launching the Uruguay Round negotiations, Ministers were particularly mindful of the inter-actions between trade, money, finance and development. Indeed, the formulation of trade policy cannot be dissociated from the global economic environment and the incidence of factors such as the instability and misalignment of exchange rates, external imbalances or the high level of indebtedness of developing countries. Similarly, decision-makers in the financial and development fields are increasingly aware of the central role that trade plays in the process of international economic adjustment. The need for close cooperation between the GATT and the IMF and the World Bank was already recognised in the Charters of the three institutions, which refer to common principles and include among their shared objectives the promotion of the expansion of world trade. Institutional relationships are, therefore, not an end in themselves, but rather a means through which a policy framework can be established so as to better ensure that decisions taken within the ambit of each institution complement and do not annul or contradict each other.

It needs to be stressed that the Uruguay Round negotiations cannot provide a solution to economic imbalances whose origin lies outside the trade field. Determined efforts to improve cooperation in the monetary and finance fields are equally necessary. What the GATT can achieve, both on its own and in cooperation with other institutions, is to promote the role of trade policy in global economic policy-making, which should be an important element in facilitating further progress in the convergence of economic policies. In order to achieve this objective, GATT should reinforce its capacity to consider trade policy in a broad economic context, which should become an important element of country and general reviews. This reinforcement will have to take place both at an operational level, mainly through an increase in the resources available to the Secretariat, and at a policy level, through more regular Ministerial involvement.

In order to assess how cooperation could be improved between the institutions, the EC considers that the Group could concentrate on

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three areas in which the interactions between trade and other policies are manifest:

- a) On the basis of GATT's Article XV, procedures for cooperation have been developed when the GATT examines trade restrictions applied for balance of payments purposes; yet despite the fact that the rights and obligations of contracting parties will be affected there are no equivalent procedures when the IMF takes decisions over exchange restrictions.
- b) The increased emphasis on structural adjustment has resulted in trade policy issues being regularly discussed by the IMF and the World Bank. This is particularly the case for Article IV consultations under the IMF Charter. Conversely, macroeconomic and development policies are regularly considered in GATT fora and will be an important feature of trade policy reviews. This reciprocal interest has not yet been sufficiently reflected in the organisation of surveillance activities by each institution.
- c) The financing activities of the IMF and World Bank in relation to LDCs are no longer limited to short-term BOP adjustment and project lending. In recent years, several developing countries have introduced major trade policy reforms in the context of structural adjustment programmes. At present, the GATT has little information about the content of these programmes, which has limited its capacity to support and encourage trade reforms.

The above set of activities suggests that there is a need to establish closer working relationships between the three multilateral institutions of an informational and advisory kind. Specifically it can be suggested that:

- The procedures for mutual consultations between the IMF and the GATT on the use of trade and exchange restrictions should be reinforced. The examination of Article XV in the GATT Articles Group will be relevant in this respect.
- There should be closer cooperation, in particular with the IMF, on the scheduling of surveillance exercises and the use of each other's surveillance information. In this context, the present role of GATT in the Interim and Development Committees should be enhanced and the IMF and World Bank could be invited to participate in the proposed Trade Policy Annual Review of GATT.
- The confidentiality of the relationships between the IMF/World Bank and member governments is particularly sensitive in the case of loan programmes and should not be prejudiced. This notwithstanding, the GATT Secretariat could perform an important advisory role on how the contents of a programme could be maximised in the GATT multilateral framework. The GATT should consider

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mechanisms through which credit will be given to LDCs' undertaking trade policy reforms and possible contributions from other c.p.s can be assessed.

- The setting up of a GATT liaison office in Washington should help to facilitate closer cooperation between the staff of the three institutions.
- The closer working relationship that would result from the above suggestions would provide the basis for further institutional developments, which could be considered at a later stage. Given the need for joint action in several areas, the work of this Group would require a close GATT dialogue with the IMF and the World Bank.

The above comments are focused on the institutional aspects of the trade-monetary link and the Community reserves the right to present a further contribution, as appropriate, on the broader issues which arise in this field.

### III. Improving the overall effectiveness and decision-making of the GATT as an institution

The concepts of "effectiveness" and "decision-making" are clearly broader than the question of ministerial participation which is identified in the Negotiating Mandate as one possible instrument through which these objectives may be achieved. At the same time, the role of Ministers is linked to the reinforcement of the GATT's policy dimension and needs to be considered, therefore, in relation to the three negotiating objectives.

#### A. Effectiveness

Improvements in effectiveness will tend to result from proposals to establish a review mechanism and to strengthen the relationships with other international organisations. The work of other Negotiating Groups will also be relevant to expand the coverage of GATT activities.

Another important consideration will be the efficiency of the institution. Improvements in the notification system and proposals to maintain the overall coherence of the GATT system should contribute towards this objective.

The Secretariat and the Director General would have a central role to play in relation to the management of the notification system, the preparation of trade policy reviews and the establishment of working relationships with the IMF and the World Bank. In order to fulfill these functions, there will have to be a significant increase in the resources available to the Secretariat. A particular need appears to be to potentiate geographical desks to enable the Secretariat to perform a regular monitoring function and facilitate cooperation with the IMF/WB staff.

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## B. Decision-making

The principle of consensus is an important element of cohesion necessary to reach decisions which engage all contracting parties. For minor decisions, such as those of an administrative nature or for the information gathering exercise, greater flexibility may be needed. It would be difficult, however, to define in advance hard and fast rules on when the principle of consensus should apply. It is preferable therefore to rely on an evolution of practices which should lead to the elimination of unnecessary blockages.

Rules and practices which have evolved for the contractual activities of GATT should not necessarily apply to the trade policy review mechanism. The principle that reports will not have to be adopted but simply taken note of should be affirmed. Reservations about any particular concepts in a report could always be expressed through formal statements. For this principle to apply, it is essential that reports are not conceived as a judgement on countries' policies.

## C. Ministerial participation

In order to identify the purposes and functions of ministerial participation in GATT, there is a need to define the role which ministers may play in relation to the different elements of our negotiating mandate:

- a) Examination of general trade policy developments: Discussions at Ministerial level of the major themes identified in the annual process of reviews, as highlighted by the Secretariat Report on General Developments, would be a major contribution to reinforcing the commitment to the multilateral trading system. These discussions would help to promote a greater political awareness of the functioning of the GATT system and signal areas in which action by the Contracting Parties may be necessary.
- b) Effectiveness and decision-making: The effectiveness of GATT would hardly be increased if Ministers were to be involved in the routine process of decision-making. The role of Ministers should be one of providing the guidance and orientation which are necessary to sustain ordinary GATT activities, as well as launching major initiatives to provide GATT with a sense of dynamism. The effectiveness and credibility of GATT would also be increased if Ministers were to assume publicly the defence and promotion of the principles of the multilateral trading system and bring GATT activities into greater prominence in domestic and international arena. This should help to overcome the current dissociation between "internal" and "external" perceptions of the value of GATT in international trade relations.

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- c) Coherence: Discussions on the interactions between trade policy and the global adjustment process need to be conducted at a political level. Ministers can also send the signals which are necessary to forestall sudden trade disturbances and engage in a policy dialogue with other institutions.

The EC believes that the reinforcement of GATT's policy dimension would require a more regular ministerial involvement than has been the case in the past. A clear understanding of the functions that Ministers would be called to assume would facilitate the discussion of the particular forms in which Ministerial presence can be established within GATT.