

1987

Report on GATT

Arthur W. Rovine

Recommended Citation

Arthur W. Rovine, *Report on GATT*, 21 INT'L L. 622 (1987)
<https://scholar.smu.edu/til/vol21/iss2/17>

This Section Recommendation and Reports is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in International Lawyer by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

II. Report on GATT

BE IT RESOLVED that the American Bar Association supports the efforts of the government of the United States in opening a new round of multilateral trade negotiations designed to preserve and to strengthen the current multilateral trading system and to liberalize trade further on a mutually fair and reciprocal basis.

BE IT RESOLVED FURTHER that the American Bar Association, as a matter of general policy, opposes enactment of legislation inconsistent with the international obligations of the United States under the General Agreement on Tariffs and Trade and enactment of legislation that would undercut the negotiating objectives of the United States in a new round of trade negotiations.

REPORT

1. The United States, as one of the founders and primary beneficiaries of the liberalized world trading system established by the General Agreement on Tariffs and Trade, has a vested interest in maintaining the integrity of the General Agreement and in pursuing the further liberalization of international trade under its auspices. Since the formation of the GATT, the annual volume of internationally traded goods and services has increased ninefold. At the same time, the percentage of the United States's gross national product (GNP) dependent on international trade has risen dramatically. International trade now accounts for nearly 14 percent of U.S. GNP.

2. At successive economic summits in Williamsburg, London, and Bonn, the United States led the call for a new round of multilateral trade negotiations designed to further liberalize international trade in goods and services. A new round of multilateral negotiations is now scheduled to begin in the Fall of 1986. Actions taken by the U.S. government prior to the opening of a new round will have a large impact on the ability of U.S. negotiators to achieve specific U.S. negotiating objectives, including strengthening GATT dispute settlement mechanisms and opening world markets to U.S. goods and services.

3. Legislation currently before the U.S. Congress would extend the President's authority to negotiate the reduction or elimination of trade barriers and other distortions of international trade. Such legislation would provide the basis for U.S. participation in a new round of trade negotiations. It would represent, moreover, a laudable commitment on the part of the Congress to support the multilateral trading system developed under the GATT. That commitment is reflected as well in the efforts by many in the Congress to address the current frictions in U.S. trade relations through legislation that is in harmony, rather

than in conflict, with U.S. international obligations under the General Agreement.

4. There are, however, several measures before the Congress that are not so clearly consonant with U.S. international obligations nor with the U.S. objectives of strengthening the multilateral trade regime. While we recognize that there may be circumstances where U.S. interests require a departure from GATT norms (e.g., in retaliation for unfair trade practices), the Association should as a matter of general policy, oppose the enactment of legislation inconsistent with U.S. obligations under the GATT.

5. For example, legislation introduced in the U.S. Senate to expand the "manufacturing clause" of the Copyright Act, 17 U.S.C. § 601 (1982 & Supp. 1985), and to extend its life beyond the July 1, 1986 deadline under current law would result in the continuing imposition of quantitative restrictions on the import of various printed works in violation of the GATT. The manufacturing clause requires, with certain exceptions, that nondramatic literary works written in English by American authors be printed in the United States or Canada to receive full protection under U.S. copyright laws. The manufacturing clause has been determined by the GATT Council to be in violation of the GATT Article XI ban on quantitative restrictions.¹ The Administration has acceded to the Council's decision and opposes the current legislation. Such legislation is inconsistent with the U.S. objective of improving intellectual property protection in the context of a new round of trade negotiations. Furthermore, legislation which willfully ignores the determinations of GATT dispute settlement mechanisms undercuts U.S. efforts to strengthen the system of GATT jurisprudence.

6. In addition, legislation currently before the U.S. Congress which would impose selective tariff surcharges is potentially inconsistent with the obligations of the United States under the most-favored-nation clause of the GATT² because of the inherently discriminatory nature of such surcharges. Bills currently before the Congress to impose a general tariff surcharge on all imports into the United States may well result in the rupture of tariffs bound under international agreements resulting from previous multilateral trade rounds. Such actions would contravene U.S. obligations under the GATT and call into question the good faith commitments of American negotiators in the context of a new round of multilateral trade negotiations. Furthermore, legislation that could result in the imposition of antidumping or countervailing duties in a manner in-

1. 31 GENERAL AGREEMENT ON TARIFFS AND TRADE, BASIC INSTRUMENTS AND SELECTED DOCUMENTS 74 (1986).

2. General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. (5), (6), T.I.A.S. No. 1700, 55 U.N.T.S. 194 (1948), Article I.

consistent with U.S. obligations under the GATT and its various codes of conduct exposes U.S. exports to retaliation or "mirror image" treatment. It should be noted that the European Communities and Australia expressly provide for application to an exporter selling to those markets the trade rules of the exporter's country.

CONCLUSION

By means of this resolution, the American Bar Association would support the initiation of a new round of multilateral trade negotiations, underscore the importance of the United States' adherence to its international obligations under the General Agreement, and foster a basic respect for the jurisprudence of international trade law in the context of the GATT. In so doing, the American Bar Association would express its support for a system of rules that has provided the basis for increased trade, economic growth, and prosperity over the last four decades.

Respectfully submitted,
Arthur W. Rovine,
Chairman

June 1986

SYMPOSIUM
Legal Problems Affecting
the Multinational Corporation

Section Symposium organized by
Committee on Multinational Corporations
S. Linn Williams,
Chair and Conference Moderator
December 12, 1986
St. Thomas, U.S. Virgin Islands

