0450

SM/91/187

September 4, 1991

To: Members of the Executive Board

From: The Acting Secretary

Subject: Uruguay Round - An Update

There is attached for the information of Executive Directors an updated staff paper on the Uruguay Round negotiations.

Mrs. Junz or Mr. Boonekamp, Office in Geneva (41-22-734-3000), is available to answer technical or factual questions relating to this note.

Att: (1)

Other Distribution:
Department Heads

INTERNATIONAL MONETARY FUND

Uruguay Round: An Update 1/

Prepared by the Office in Geneva

Approved by H.B. Junz and T. Leddy

August 30, 1991

I. Relaunching the Round

When the negotiations were suspended in Brussels in December 1990, the break point was the inability to find the way forward on negotiating liberalization in trade in agriculture. However, major problems existed in other areas as well, some of which crystallized fully only with the streamlining of the negotiation structure that was introduced in Brussels and refined in Geneva in April 1991.

In Brussels a number of issues were basically completed and others reasonably ready to be "put in the freezer" for final packaging of the Round, in so far as it was generally understood what the remaining problems were and how they could be solved. 2/ The latter, therefore, have been more or less left aside since the restart of the talks. They include: in rules, safeguards and dispute settlement; in market access, textiles and clothing; and in the new areas, intellectual property rights. However, in other areas much work still needed to be done, the extent of which has come to be recognized only recently. Indeed, it may well be that if an end-spurt toward tying up the package at the end of last year had been possible, formidable problems would have emerged at the point of making these agreements operational. This has become particularly clear in the complex services negotiations, where such basic problems as how to formulate commitments and exceptions have turned out to be tougher than thought earlier; perhaps more surprisingly, questions about how to formulate commitments have arisen also in some of the more traditional market access areas such as nontariff measures (NTMs). Thus, the breathing space provided by the suspension of the talks has allowed room for considered resolution of some of these issues.

1/ This paper should usefully be read in conjunction with "Uruguay Round: What is at Stake?" (SM/91/57; 3/8/91).

2/ For details, see SM/91/57, Annex, p.21 ff. The elements agreed ad referendum include texts on most of the GATT Articles under discussion, some of the MTN (Tokyo Round) Codes and some nontariff measures.

Nevertheless, there is a question regarding the efficiency with which the time has been used. This is important since, although no new official deadline has been adopted, there is a general understanding that the various political calendars mandate bringing the Round generally to a conclusion by end-1991, at least if its objectives are to be achieved, or even approximated. It is from this perspective that the results to date need to be viewed. After the break in December, all work was in abeyance until some formula about how to approach the negotiations in agriculture could be found. When in February such a formula, which would address explicitly each of the areas of agricultural support, (i.e., domestic support, market access and export subsidies) was adopted, the negotiations to all intents and purposes still remained dead in the water while participants awaited the U.S. Congress' decisions on extending the Administration's "fast-track" negotiating authority. The main move at that time was a formal streamlining of the Round's negotiation structure through consolidation of the fifteen separate negotiating groups into seven. 1/ However, this rationalization may not suffice as many decisions remain interlinked across negotiating groups. For example, for many participants, the willingness to move on market access is conditioned on changes in the rules areas, especially antidumping, countervailing and dispute settlement. Because of these interlinkages, perhaps the only real advance in the negotiations has concerned clarification of some outstanding issues regarding the structure of negotiations in tariffs, NTMs and services. While technical work has been proceeding on these and on points in the rules area, the major effort of bringing these elements into a coherent whole, as necessary for any assessment of the structure and magnitude of trade liberalization the Round will yield, has been put off till the second half of September. This calendar is partly determined by the expectation that before late September no solution to the agricultural negotiating problems will have emerged.

II. Negotiating Issues

1. Agriculture

The compromise understanding on agriculture that allowed resumption of work in February 1991 did not really engage the basic issues. The latter are all connected with the causes for, and the management of, export subsidies, which some major agricultural exporters 2/ consider the most trade-damaging form of support and which are at the core of the dual pricing

---

1/ The seven groups are: 1. Market access; 2. Textiles and clothing; 3. Agriculture; 4. Rule-making and trade related investment measures (TRIMs); 5. Trade-related aspects of intellectual property rights, including trade in counterfeit goods (TRIPs); 6. Institutions (including dispute settlement and functioning of the GATT system); and 7. Services.

2/ The United States and the Cairns Group (Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay).

system of the EC's Common Agricultural Policy (CAP). Thus, the compromise was more in the nature of a good faith commitment than a basis for the start of real negotiations. The latter still awaits further decisions largely by the EC and the United States regarding the structure, timing and magnitude of possible reductions in the three main areas of agricultural support noted above.

Under the circumstances, the work undertaken since February attempts to refine the manner in which negotiations--once engaged--can yield the objective of integrating the agricultural sector into the world trading system. This has resulted in an "options paper" prepared by the GATT Director-General, as Chairman of the Agricultural Negotiating Group. These options clarify--within the agreed objective that decisions on the three main areas of the negotiations must be mutually supportive--the outstanding issues on coverage, formulation and means of implementation of commitments, monitoring and exceptions and safeguards. On domestic support, the principle to be applied is that the extent to which policies have trade effects determines whether they are subject to the disciplines to be agreed in the negotiations. The basis for exception, therefore, is whether a policy has no, or only minimal, effects on trade distortion or production. The criteria for determining the existence or otherwise of such effects are still to be worked out, an effort that presents problems not dissimilar to those encountered in the definition of the effects of trade related investment measures (TRIMs). Further questions are what arrangements, if any, would be needed to monitor and review compliance with respect to current and future policies and how commitments should be formulated, i.e., with respect to specific policies; on the basis of some aggregate measure of support; or on a combination of these two?

Introducing trade neutrality into domestic policies obviously has implications for export competition policies as well. The main issue here is how to make the principle of binding and progressive reduction of export assistance operative. This raises a host of questions regarding breadth of coverage: export performance-related subsidies only, or all subsidies and payments that affect exports and pricing, including export credit and producer-financed subsidies; rules and disciplines, including circumvention, in particular the criteria for distinguishing between aid and commercial transactions and those for the application of special rules, such as sanitary and other quality standards; formulation of commitments, whether on the level of subsidies, on export volume or on per unit subsidy level. The third leg in the agricultural negotiations, trade liberalization, presents all the issues regarding approaches to reductions of tariffs and NTMs raised in the other market access areas (discussed below), plus the problem of amending the special provisions relating to agriculture in the GATT and the question whether normal safeguard provisions can apply. Core points at issue are first, how border protection is to be measured, i.e. how tariff equivalents are to be established, as obviously the calculated level of

initial protection will differ according to choice of method, and second, at what levels such equivalents are bound. 1/

The options paper finesses the issues raised by the EC's proposals that reductions of trade barriers on some products should be balanced by support increments for others, and that its variable price mechanism, which allows internal prices to be insulated from exchange rate fluctuations and world market price changes, be maintained. The real discussions on how to solve all these problems are being pursued off-site on a bilateral or plurilateral basis. Basic agreement on the major elements would open the way for engaging proper market access negotiations in agriculture. The latter, in turn, particularly since they are to cover all agricultural products, cannot be bargained out overnight. But without a sense of the possible result in agriculture, many negotiators are keeping the extent of commitments to liberalize trade in other areas of the negotiations firmly in their back pockets.

2. Textiles and Clothing

The delay in completing the Round has required an extension of the Multi-Fibre Arrangement (MFA) beyond its scheduled expiration at end-July 1991. With no date set for concluding the Round, the MFA has been extended to end-1992, which would make it dovetail with the currently expected start of its phase-out period in January 1993 under the Round. Suggestions from both importers in the major markets and restrained exporters that a start should be made on liberalization during the 17 month extension period of the MFA--or that at least there should be an explicit standstill commitment on restrictions--were not successful. Accordingly, the extension involves simple rollover of the MFA, in part to avoid putting at risk, through detailed negotiations on the MFA, the virtually complete Uruguay Round agreement to eliminate all MFA measures, or to make them GATT consistent.

The draft Brussels text to phase out the MFA remains in place but, as noted in "The Uruguay Round: What is at Stake", 2/ the nature of the potential agreement suggests minimal initial liberalization, and the deliberate "back loading" of the lifting of restrictions creates doubt about its full implementation. This raises some questions about the tenor of the dialogue on liberalizing and deregulating textile and clothing trade. The major restrained exporters have argued strongly for liberalization, but it is not clear--given their agreement to the current texts--whether they look to a genuine freeing of market forces or only to greater growth, within assured market shares, of their export markets. The fact that few major exporters show any taste for opening their own markets to competition in the textile sector would seem to imply that they also are not eager to see free competition in traditional overseas markets--especially from the side of

---

1/ See discussion of tariff bindings below.
2/ Op.cit.

newer entrants such as China. 1/ Therefore, private sector producers in a number of countries are content with the cartel aspects of the status quo. The major motivation for restrained exporters to bring the textile and clothing sector into the GATT appears to stem from the fear that, if restrictive trading arrangements outside the GATT are not made illegal, there could be contagion to other products and sectors, compromising their export diversification efforts and potential.

3. Other market access areas

According to the Chairman of the Group of Negotiations on Market Access, no substantial progress on resolving outstanding issues has been made since December 1990. However, bilateral and plurilateral negotiations to reduce tariffs on specific products or product groups are in train. The atmosphere, thus, is workmanlike in the willingness to use the various negotiating approaches that have been proposed but not agreed, eclectically and simultaneously.

(a) Tariffs. In the absence of agreement on a common approach and negotiating technique for tariff reductions, participants have formulated their offers and requests on the basis of their preferred approach. This has helped move forward the bilateral negotiations but, obviously, continues to give a certain amount of leeway to would-be free-riders. The latter problem, as well as the danger of substantial shortfalls for the Round's goal of reducing tariffs by about one-third on average, argues for emphasis on moving forward sectoral negotiations, particularly those that hold promise of significant reductions for a wide number of participants. In separate multilateral discussions on reducing barriers to trade in steel, harmonizing and bringing tariffs to zero and phasing out bilateral export restraint agreements (VERs), progress is being made. In fact, with the delays in the Uruguay Round, it may be necessary to align--as intended--results in the rules area, especially dispute settlement, with Uruguay Round results at a later stage. 2/

Headway on tropical products remains tied to the agricultural negotiations and that on natural resource-based products (NRBPs) to progress on the sectoral tariff negotiations. Similarly, the questions of tariff peaks and tariff escalation, especially with respect to textiles and clothing, footwear and leather products, petrochemicals and food products, have not yet been addressed explicitly.

The latter are linked, to some extent, to the results of the negotiations on tariff bindings. There is at this point no common approach

---

1/ China is a participant in the Uruguay Round, but not a member of GATT.
2/ 18 countries, accounting for 75 percent of world steel production, participate in the Steel Consensus Group; it includes most industrial countries plus Argentina, Brazil, Hungary, Korea, Mexico, Trinidad and Tobago, and Yugoslavia, with the Czech and Slovak Federal Republic to join.

to the evaluation of credit for tariff bindings nor, for that matter, of recognition for unilateral liberalization efforts. For both of these, the permanence of liberalizing measures is the guiding principle. Thus, in the view of many industrial countries, the value of these measures is undermined by the current working of the provisions of Article XVIII:B (under which restrictive measures may be imposed for balance of payments reasons). With reference to bindings, two aspects are important: (i) many participants, especially among developing countries, but also Australia and New Zealand, have bound only a low percentage of their tariffs. At the same time a number of recent GATT members, who bound their tariffs fully or largely upon accession, assumed that they would obtain credit in the Round; (ii) many countries maintain bindings well above actual rates either for negotiating or safeguard purposes. There is broad agreement that credit should be given only for tariff bindings that are at commercially meaningful levels. The maintenance of leeway between the levels at which tariffs are bound and those actually charged in order to vary the level of protection at will, obviously impinges upon the credibility of the GATT system of rules and disciplines. The evaluation of tariff bindings, therefore, relates directly to whether or not the bound tariff is commercially relevant.

(b) NTMs. The lack of substantive progress in the negotiations on NTMs--except for a few where some multilateral disciplines could be agreed (see footnote 2, p.1)--relates in part to both their importance and the dubious legal status of most of them. Whereas tariff reductions can be monitored easily, recourse to NTMs is much less transparent and this may have played a role in their growing relative importance. It is, therefore, not surprising that no general approach to the reduction of NTMs on specific products or product groups has yet been agreed. The main problem involves the fact that, whereas a whole range of NTMs is accepted under GATT for reasons of quality maintenance, health, safety and other standards, they often seem to be used as instruments of protection and this raises doubts about their legality under GATT. Their manner of implementation, accordingly, is frequently contested as being inconsistent with national treatment, but has been taken to dispute settlement only on rare occasions. Thus, years of condoning has given them a patina of legality. As a consequence, reducing NTMs and ensuring that they do not spring up in new ways requires clear rules and, ultimately, depends on faith in the even-handedness and efficiency of the dispute-settlement mechanism.

Matters are further complicated because consideration of NTMs is spread over many negotiating areas: some quantitative restrictions, health regulations, other standards, and restrictions related to state trading are dealt with in the market access negotiations proper. Broad areas of other NTMs, such as technical standards, licensing measures and some safeguard actions, are being dealt with in the rule-making areas or in the Tokyo Round codes, although actual bilateral negotiations on specific products and product groups are likely to take place in conjunction with market access offers and requests.

Changes in the content of the codes, although subscribed to by only a limited number of GATT members, are being negotiated by all participants. This reflects the understanding that the Uruguay Round should result in universal application of the codes, although this still needs to be negotiated out as well. Ad referendum agreements are in place, or close to being so, on customs valuation, government procurement, import licensing, and technical barriers to trade. Agreement still needs to be reached on antidumping and subsidies and countervailing duties (see below).

4. Rules

Strengthening and clarifying the rules governing the international trading system is a key objective of the Round. Without clear and consistent trading rules, predictability of market access is in jeopardy through increasing resort to unilateral and bilateral action with trade harassment potential and/or actions outside the legal framework of the GATT, e.g., antidumping measures and VERs, respectively. In the period since Brussels there have been no significant advances in any of the major rules areas, partly because most of the problems and possible areas of compromise are known. Accordingly, progress is dependent upon political decisions rather than further clarification of options. To recapitulate: 1/

(a) On safeguards, the outstanding point involves whether measures should be applied selectively--which would de facto bring VERs into the system to the extent that for a significant period of time an importing nation can simply assert injury--or on a nondiscriminatory basis--which all smaller traders favor as a means to reduce their vulnerability to pressure from the major traders.

(b) On antidumping, an agreed negotiating text has yet to emerge. The central issues are two-fold: (i) led by Japan and the ASEAN countries, many participants seek tighter rules to reduce or eliminate the trade harassment potential of antidumping actions; and (ii) a number of participants, notably the EC and the United States, seek new rules to prevent the circumvention of duties.

(c) On subsidies, the outstanding point is whether there should be outright prohibition. The United States would prohibit all subsidies that inherently distort trade. The EC and Japan, with the support of Korea, the Nordic countries and Switzerland, would ban industrial export subsidies, but leave agricultural export subsidies to be negotiated and would put no outright prohibition on domestic subsidies; they would deal with the latter case-by-case, depending on clearly demonstrated negative trade effects, and would rely on tightened countervailing measures. It might be recalled that the latter position is in contradiction to the view taken by most industrial countries with respect to TRIMs.

1/ See "The Uruguay Round: What is at Stake" (op. cit.), pp. 9-13 and p. 16, for a full discussion of the rules area.

(d) On trade measures for balance of payments reasons, the basic point is whether there should be negotiations at all. Most industrial countries, notably Canada and the United States, consider that they provide a loophole that greatly reduces the value of market access commitments made by developing countries. Therefore they seek tighter procedures that would stress the use of temporary, price-based measures. By contrast, many developing countries remain of the view that GATT's present provisions are adequate. But much of this may be tactical in view of the way in which these provisions have been used recently, with Argentina, Brazil, Ghana and Peru disinvoking their cover as part of economic policies to reduce market impediments, 1/ and the Czech and Slovak Federal Republic invoking it to implement price-based measures with clear commitments as to their phase-out period.

(e) On TRIMs, the central issue, as in subsidies, is outright prohibition. Most industrial countries regard local content and trade-balancing requirements as contrary to present GATT rules, and consider export-performance requirements to be trade distorting. Most developing countries seek freedom to use TRIMs in a development context and opt for a case-by-case approach to identify instances of significant adverse trade effects. Indications remain, as in Brussels, that many developing countries would be ready, contingent upon appropriate results elsewhere, to accept prohibition of those TRIMs that are seen to be GATT inconsistent.

(f) On trade-related aspects of intellectual property rights (TRIPs), the outstanding issue, as in Brussels, is where to lodge enforcement of disciplines--in GATT, including its dispute settlement mechanism, or elsewhere. This issue may be increasingly tactical in nature.

5. Dispute Settlement

The complexity of the Round and the difficulty in fashioning unambiguous and monitorable commitments make it likely that the burden of any such ambiguities will have to be borne by the dispute settlement mechanism. This makes strengthening of its basic functioning, i.e., improvement in efficiency and accessibility, yet more imperative than indicated by the current delays in adoption and implementation of panel findings and the overwhelming share of cases brought by major traders.

At issue are:

(a) Delays. Of late, efficiency in adopting panel findings has improved markedly, but implementation lags remain inordinate. Such delays undermine the credibility of the dispute settlement process, even more so when implementation is made contingent upon Uruguay Round results (five

---

1/ Korea's disinvocation of its balance of payments cover was in conjunction with its restored balance of payments position rather than as part of an overhaul of economic policies.

cases out of twenty) as the dispute settlement mechanism protects present GATT rights.

(b) The fragmented nature of the dispute settlement mechanism. Each Tokyo Round code has dispute settlement provisions separate from those of the GATT. 1/ As all have equal standing and overlap with regard to the measures they address, this has given rise to "forum shopping" which, in turn, increases the unpredictability of application of the multilateral legal system. The range of dispute settlement fora could yet broaden depending upon the decisions taken with respect to agreements in the new areas, especially services. This issue is yet to be addressed.

(c) A major stumbling block, the pros and cons of which are cited frequently, is the possibility of retaliation across areas covered by different agreements. However, serious consideration could find ways and means of consolidating the "multilateral court system" regardless of the breadth or otherwise of possible retaliation.

(d) A problem not generally addressed, namely, how far the improvements in the functioning of the dispute settlement system under discussion would go to make it a universally accessible and used system. So far, there has been little broad use of dispute settlement, the main users being major industrial countries. If smaller and developing countries are to be active participants in the multilateral trading system, they must be confident that recourse to dispute settlement will in fact resolve the issue in question. However, without banding together, smaller traders may have only limited ability to assure implementation--other than through peer pressure. This leads to the question whether some multilateral enforcement mechanism could be considered in cases of inordinately prolonged non-implementation of adopted panel findings, ranging possibly from withdrawal of privileges--such as the procrastinator's ability to retaliate in protecting his rights in other cases--to multilateral retaliation.

6. Services

In the services sector, the eight months of reflection and discussion since Brussels are likely to result in a materially more robust framework agreement than existed at that time. The major questions needing to be clarified involve the distinction between the manner in which a service provider can operate after market access has been granted (national treatment and/or equal competitive opportunity), and market access itself. The two, obviously, are inter-related and clarifying their interface has been a major effort. This emerged as more and more participants came forward with offers and requests, requiring a clear understanding of what such commitments meant. Most of these questions have now been sorted out, except how to treat qualitative measures that basically should apply in a

---

1/ With the exception of import licensing.

nondiscriminatory manner (e.g., technical standards, licensing requirements, etc.).

Similarly, the somewhat related issue of whether or not to grant unconditional most favored nation treatment (MFN), a question that involves in part how to deal with potential "free-riders", has proved to be resolvable. The solution leaves basic commitment to unconditional MFN remaining intact, but allows participants both to set out in their schedules measures they would wish to exempt from MFN (such exemptions having to do with domestic considerations rather than the "free-rider" issue) and not to apply concessions to participants whose commitments are regarded to involve less than acceptable reciprocity. It is also agreed that exemptions should fall under agreed disciplines, and that they would be subject to time limits and to a review mechanism. Under these general headings, however, details still need to be worked out.

While significant progress has been made, also in terms of commitments on the table, the framework is far from ready. In addition to the work that needs to be done on the Articles that deal with how commitments are to be interpreted, much is yet to be done on dispute settlement, and the Articles dealing with exceptions under balance of payments cover and other safeguard measures, while that on restrictions on transfers and payments remains in preliminary draft form.

With regard to the Annexes (to fit special sectoral circumstances), agreement has been reached that an Annex on labor mobility will be required, but work is far from complete. In addition, there is understanding that Annexes will be maintained for telecommunications and financial services, while the content of remaining provisional Annexes (e.g., maritime and audio-visual services) probably can be dealt with within the commitments participants make under the general framework agreement.

III. Issues of Special Interest to the Fund

The Fund's most direct and obvious interest in the outcome of the Uruguay Round relates to the linkage of success of Fund policy advice and programs to that of assuring adequate market access under predictable rules. Over the past 12 months, the already important trend toward autonomous trade liberalization as part and parcel of policies to make national economies more flexible and efficient has accelerated. Consequently, the international dialogue has increasingly included concerns that unilateral moves toward trade liberalization may not yield the security of the external payments situation that is the joint objective of domestic policies and Fund advice. For example, interventions at the latest meeting of ECOSOC 1/ more often than not coupled the need for external finance with the view that

---

1/ The United Nations Economic and Social Council, Second Regular Session of 1991, Geneva, July 3-26, 1991.

in the absence of adequate access to major external markets such finance would only create new debts with little chance of repayment. The emphasis on freeing up domestic markets has also brought about a change in the negotiating attitude of many developing countries as compared with that prevailing at the beginning of the Round. The econo-political environment now is such that no doubt attaches to their desire to be active partners in the Uruguay Round and the GATT system.

While a successful conclusion of the Round, or the absence thereof, may have implications for the Fund's future policy advice, the more immediate interests of the Fund in the areas under discussion in the Round remain as discussed on earlier occasions. 1/ Thus, institutional issues, such as the Fund's relationship with GATT, are to be taken up shortly after conclusion of the Round, in the context of the agreed results.

Of more direct and current relevance is the shaping of a services agreement that may cover questions already within the jurisdiction and responsibilities of the Fund under the Articles of Agreement, and the discussions of possible changes in the way the GATT provisions on trade measures for balance of payments reasons are applied.

With regard to the emerging contours of a services agreement, the focus of the Fund's interest lies in two principal areas: (i) the rules governing restrictions on payments and transfers for services transactions; and (ii) the rules governing the imposition of restrictions on the provision of services for balance of payments reasons. While these issues are important in all sectors covered by the drafts, they perhaps come out most clearly in the discussions on financial services where payments and transfers are closely linked to the provision of the service. As in Brussels, there is no question that the Fund's jurisdiction must be respected, nor is the assessment role of the Fund with regard to balance of payments questions at issue. The main points lie in assuring that participants' commitments not to interfere with transfers and payments flows--except under clearly established rules--are appropriately formulated so that any agreement properly recognizes the Fund's involvement in payments and transfers for current transactions, its surveillance of both current and capital flows under Article IV, and also any future role the Fund may assume under its Articles. Obviously, once agreement is reached, the operational consequences will need to be considered and examined.

IV. Conclusion

In the months since Brussels a considerable amount of useful technical work has gone forward, especially in some of the market access areas, including agriculture, and in services. But the ability to conclude the

---

1/ Most recently SM/91/57, op.cit.

Round successfully and in a timely fashion does not lie in the hands of the technical negotiators. It lies squarely with the decision makers in the main industrial countries. Political decisions are required first and foremost in agriculture, but also in rules and in the market access areas that involve trade liberalization in both long protected areas, such as textiles and clothing and in newer ones, such as electronics and automobiles.

The importance of bringing the Round to a successful conclusion--which means a comprehensive package--has been reiterated at highest political levels across a broad spectrum of nations--developed and developing. This political consensus recognizes the link between an open trading system operating under clear and equitable rules and the conversion of the adjustment efforts--that range across all continents from New Zealand to Brazil, from Ghana to Poland and, most recently, also to India--into sustainable growth. Equally undisputed is the importance of trade to sustain growth in a world in which the business cycle remains demonstrably alive.

The difficulty of converting recognition of these facts into political action demonstrates the difficulties involved in achieving structural change of a type that pits long-established interests against the economic realities of the present. Many countries have been forced by circumstance, when the cost of non-adjustment had reached crisis proportions, to make the rational choice. The absence of such decision-forcing crises in the industrial world surely should not be the reason for putting the world on the path of economic regionalism.

Time is of the essence. The number of outstanding issues remains large. Delays in resolving them creates the danger of grid-lock in the final moments of the negotiations which, in turn, could lead to even less than second best outcomes.