

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

Prep.Com/W/6/Rev.1
13 July 1973

Special Distribution

Preparatory Committee for Trade Negotiations

DRAFT OUTLINE FOR REPORT

Note by the Director-General

Revision

At its meeting of May 1973 the Preparatory Committee requested me to prepare a draft outline for its report to the meeting at ministerial level to be held in Tokyo on 12-14 September 1973.

A draft was circulated as Prep.Com/W/6. This has now been revised in the light of the discussion which took place in the Preparatory Committee.

ANNEX

Draft Outline for Report

1. In February 1972, contracting parties received Joint Declarations on International Economic Relations which were made by Japan and the United States on the one hand and the European Community and the United States on the other hand. In these declarations, which differ only slightly in their wording, the signatories undertook to initiate and actively support multilateral and comprehensive negotiations in the framework of GATT beginning in 1973 (subject to such internal authorization as may be required) with a view to the expansion and the ever greater liberalization of world trade and improvement in the standard of living of the people of the world, aims which could be achieved, inter alia, through the progressive dismantling of obstacles to trade and the improvement in the international framework for the conduct of world trade. These negotiations would be conducted on the basis of mutual advantage and mutual commitment with overall reciprocity, and would cover agricultural as well as industrial trade. Special attention would be given to the problems of developing countries.
2. At the meeting of the Council in March 1972 all major developed trading nations welcomed the initiatives contained in the Joint Declarations and expressed their intention of joining in the undertaking to initiate and actively support multilateral and comprehensive negotiations in the GATT beginning in 1973. Developing countries, while expressing appreciation of the initiatives, made it clear that their association with the undertakings was conditional upon the details to be applied to their participation, in particular with regard to the techniques and modalities to be worked out for the negotiations.
3. The Preparatory Committee was established by the CONTRACTING PARTIES at their twenty-eighth session in November 1972 to prepare for a new multilateral trade negotiation under the auspices of the GATT to be opened by a meeting at ministerial level in Tokyo in September 1973. It was also agreed at the session that the Tokyo meeting would consider the Committee's report, establish a Trade Negotiations Committee and provide the necessary guidelines for the negotiations (L/3773/Rev.1).
4. Since the establishment of the Preparatory Committee, one delegation has transmitted to it the text of its overall approach to the negotiations (L/3879).

5. The Committee has accordingly drawn up the present report on its work, which is set out under three main sections:

- A. Objectives
- B. Substance (including principles, coverage and approaches to be followed)
- C. Procedure

Points of interest to developing countries, including questions relating to objectives, conditions and procedures, are dealt with under the sections to which they relate.

6. In drafting its report the Committee has drawn on the preparatory work done under the Programme for the Expansion of International Trade. A detailed picture of the present status of preparatory work for the negotiations, which includes work carried out since the Joint Declarations of February 1972, is to be found, for the work of the Agriculture Committee, in L/3472, COM.AG/25 and COM.AG/27, for the work of the Committee on Trade and Development, in L/3873, for the work of the Committee on Trade in Industrial Products, in L/3886. The latest report of the Group of Three is contained in L/3871.

A. OBJECTIVES

7. The Committee noted that at their twenty-eighth session, the CONTRACTING PARTIES had agreed that the objectives of the multilateral trade negotiations should be "an expansion and ever greater liberalization of world trade and an improvement in the standards of living of the people of the world through co-ordinated efforts to solve in an equitable way the trade problems of both the developed and the developing countries" (L/3773/Rev.1).¹

¹Three delegations reserved their position on the paragraphs from which this is taken.

8. The Committee further noted the agreement reached at the twenty-eighth session that the multilateral trade negotiations should also aim to secure "additional benefits for the international trade of the developing countries so as to achieve a substantial increase in their foreign exchange earnings, diversification of their exports and an acceleration of the rate of growth of their trade, taking into account their development needs" (L/3773/Rev.1).¹

9. The negotiations should result in the improvement of the international framework for the conduct of world trade. In this connexion, it was suggested that this should have the effect of making this framework more responsive to the needs of developing countries.

10. [Agriculture - to be drafted]

11. Delegations from developing countries have suggested that not only should the negotiations not result in any harm to any individual developing country but they should result in net additional benefits for developing countries so as to contribute substantially to the achievement of the economic and social goals and objectives of the Second United Nations Development Decade. These delegations proposed in addition that the negotiations should have among their objectives a new, fair and equitable international division of labour; an increasing share in the growth of international trade for developing countries commensurate with the needs of their economic development; a substantial improvement in the conditions of access for the products of developing countries; a larger share of the markets of developed countries for these products; and stable, equitable and remunerative prices for these products. These delegations have stressed that there was also need for structural adjustment and an improvement in the international division of labour in the agricultural sector.

¹Three delegations reserved their position on the paragraphs from which this is taken.

12. The negotiations should also provide for a special consideration of the problems of the least-developed countries.

13. Delegations from some developing countries proposed that, apart from providing for additional benefits through trade policy measures, objectives for complementary negotiations in the appropriate fora in such fields as industrial co-operation, financing related to trade, transportation and trade promotion should be established with a view to ensuring that developing countries, and in particular the least developed among them, would be in a position to increase their export potential and take advantage of trade concessions.

B. SUBSTANCE

Coverage

14. The Committee agreed that the multilateral trade negotiations should cover tariffs, non-tariff barriers and other measures which impede or distort trade and both industrial and agricultural products, including tropical products.

15. It should be noted that if a distinction is made in the negotiations between agricultural and industrial products, these will have to be defined. A first approximation to such a definition is that agricultural products are those that fall within Chapters 1 to 24 inclusive of the Brussels Nomenclature. It has been suggested that consideration should be given to how, for example, processed agricultural products should be treated.

16. It is agreed that in the negotiations particular attention should be paid to all products of particular export interest to developing countries and all measures affecting the exports of developing countries and especially the least-developed countries.

Principles

17. The Committee agreed that the negotiations should be based on the most-favoured-nation principle. Delegations from developing countries have, however, proposed that concessions should be granted to them on a preferential basis in all areas of the negotiations where this is practicable and that concessions should be made available to them immediately, without phasing.

18. It has been suggested that the negotiations on certain non-tariff measures should be conducted on the basis that the benefits would accrue only to countries that are parties to the resulting arrangement. The developing countries have stressed that all concessions resulting from the negotiations should be extended to them unconditionally.

19. The Committee agreed that in order to secure the fullest possible measure of trade liberalization, there should be the widest possible participation in the negotiations and it should be a matter of joint endeavour by all participants to achieve an overall balance of advantage at the highest possible level. The importance of full, effective and continuous participation of developing countries, whether or not contracting parties and including the least developed among them, has been stressed.

20. Some delegations have suggested that the possibility of countries joining in the negotiations after the Tokyo meeting should be provided for.

21. Some delegations said that in the negotiations account should be taken of the particular circumstances of individual countries, including countries in a comparatively early stage of industrialization.

22. It was agreed that the negotiations should be conducted on the basis of mutual advantage and mutual commitment with overall reciprocity, which would call for a fair distribution of effort from all industrialized countries.

23. It was noted on the other hand that the provisions of Part IV of the General Agreement lay down that "the developed countries do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less developed countries". Guidelines should be established for the application of this latter principle. Some delegations have suggested that the degree of economic development of individual developing countries should be taken into account when considering the contribution they might make. Some delegations have suggested that the question of the extent and manner of the contribution by developing countries could be considered in the light of the additional and special benefits granted by the developed countries. Some delegations have pointed out that there are great differences between the levels and the opportunities for development in various developing countries and that provision should be made for the possibility of varying concessions granted to developing countries in the light of those differences. Many delegations felt that non-reciprocity should be absolute.

24. Stress has been laid on the overall unity of the negotiations and the need for all areas of the negotiations to move forward together. It has been suggested in this context that priority attention should be given to products of interest to developing countries.

Approaches or Combinations of Approaches to be followed in the Negotiations

Tariffs

25. The Committee took note of the tariff study data.

26. The Committee agreed that the negotiations in this area should be designed to secure a significant reduction in tariffs. Some delegations suggested that, as far as industrial tariffs are concerned, the objective should be their abolition over a period of years.

27. The Committee agreed that the negotiations on tariffs should be based on simple rules of as general application as possible. Three main approaches to tariff reductions have been suggested:

- tariff elimination
- the linear tariff reduction, and
- tariff harmonization

It has also been suggested that the possibility of a combination of these approaches as well as other types of approach should be kept in mind.

28. Other delegations consider that the negotiations should lead to a significant lowering of tariffs by means of reductions in duty graduated in relation to its current level, thus leading to a harmonization of tariffs. In the view of these delegations, it would also be desirable to establish a threshold or floor below which no reduction would be required, another consequence of which would be to maintain a margin of preference in favour of the developing countries.

29. The Committee agreed that no technique which permitted the participation of additional countries or the reduction of additional tariffs should be discarded. A number of other types of approaches have been suggested. It has, for example, been suggested that some countries might negotiate tariff reductions on an item-by-item basis. Some delegations have suggested that nuisance duties might be eliminated.

30. The Committee agreed that, on the one hand, nothing should discourage participants from making reductions on particular products which were greater than the reductions provided for in the general rules and that, on the other hand, in cases where it did not prove possible to secure the reduction of tariffs or where zero duties were unbound, these should be bound against increase. Some delegations suggested that provision may need to be made for the phased implementation of tariff cuts.

31. It has been agreed that the negotiations should reduce both the nominal and effective tariff protection on products of export interest to developing countries and tariff escalation.

32. Delegations from developing countries stated that there should be advance implementation of tariff cuts on a preferential basis for developing countries. Every effort should be made during the negotiations to improve the Generalized System of Preferences and to avoid its erosion especially in respect of products in which developing countries have an actual or potential interest. Tariff cuts should be such as to permit the maintenance of the maximum preferential margin. The implementation of cuts on products of interest to developing countries and which involve any substantial erosion of preferential margins should be phased over a long period of years. Alternative trade opportunities should be provided to developing countries to offset any loss caused to them by the erosion of preferences. These delegations also stated that the Generalized System of Preferences should be bound in the negotiations, taking into account the special situation of the least developed countries. If for exceptional and compelling reasons it is not possible to include any product of particular interest to developing countries in the Generalized System of Preferences there should be a deeper tariff cut for that product than for other products. The ultimate aim should remain the inclusion of that product in the Generalized System of Preferences.

33. The Committee agreed that the Trade Negotiations Committee should draw up a tariff negotiating plan.

Non-tariff measures

34. The Committee took note of the inventory of non-tariff measures, which is now being up-dated, and the general agreement that no measure included in the inventory should be excluded definitively from the negotiations and that it should be open to participants to add further measures to the inventory at any stage of the negotiations.

35. The Committee agreed that in the negotiations every effort should be made to reduce or eliminate the trade restricting or distorting effects of non-tariff measures.

36. In the preparatory work attention has been concentrated on problems which appear to call for a multilateral solution.

37. Solutions comprising alternatives have been drawn up on an ad referendum basis to problems in the fields of:

- valuation for customs purposes
- licensing systems
- standards

Some delegations have raised the question as to whether it would be possible to finalize these and implement them before the conclusion of the negotiations.

Some delegations are of the opinion that all the texts already drawn up, or still in preparation, should be taken into account in the context of the negotiations so as to make up, with other elements of solutions, a meaningful and well-balanced package.

38. Solutions are actively being sought to problems in the fields of:

- quantitative restrictions, including embargoes, and export restraints
- export subsidies and domestic subsidies that distort trade
- countervailing duties
- import documentation, including consular formalities
- packaging and labelling requirements.

39. Other categories of non-tariff measures contained in the inventory on which some preliminary discussions have been held include government procurement; State trading in market economy countries; anti-dumping duties; customs classification; certificates of origin; samples requirements; marks of origin; minimum price regulations; motion picture restrictions; prior deposits; credit restrictions for importers; fiscal adjustments either at the border or otherwise; restrictions on foreign wines and spirits; discriminatory taxes on motor cars; statistical and administrative duties; special duties on imports; health and sanitary regulations; and internal taxes.

40. In the discussions particular attention has been paid to questions of interest to developing countries. The point has been made that the particular situation of these countries should be taken into account in the solutions to be adopted and that certain special problems experienced by developing countries could be solved by the insertion of provisions for the granting of technical assistance in codes etc. drawn up in the negotiations, as was being done for example in the area of standards. Delegations from a number of developing countries suggested that an action programme should be established for the preferential reduction or elimination of the trade-restrictive and trade-distortive effects of non-tariff barriers of concern to developing countries.

41. Problems related to quantitative restrictions are of particular importance to developing countries. There appears to be a consensus that quantitative restrictions on imports of the largest possible number of products of interest to developing countries should be relaxed or removed on a priority basis. Delegations from developing countries have suggested that an agreed time-table for the removal of such restrictions, embargoes and export restraints on all products of export interest to them should be followed and that the relaxation or removal of such measures should be allowed to take place on a preferential basis. In those exceptional cases where the removal of such restrictions in accordance with the agreed time-table was not possible, arrangements should be drawn up providing for the progressive enlargement of quotas in favour of developing countries so as to ensure a gradual increase in their market share.
42. Some delegations suggested that the next step should be to draw up a common list of priorities attached to dealing with the various categories of non-tariff measures in the negotiations but it was not possible to reach agreement on the usefulness of this.
43. Several delegations have proposed that, as a general principle, the examination should be directed at the measures which appear to be the greatest obstacles to international trade, and, where many similar measures are applied by a large number of countries, to seek multilateral solutions, whether by abolition or amendment or by agreement on greater harmony or discipline. In addition, in the view of these delegations, the forthcoming negotiations on non-tariff barriers should take account as much as possible of the work already done on the matter within GATT and the OECD. Some delegations have suggested that in deciding on priorities due account should be taken of measures of interest to developing countries.

44. Some delegations have suggested categories for inclusion in a common list of priorities, while stressing that these suggestions are not necessarily complete.

Among the suggestions which received a measure of support are:

- Export subsidies, and domestic subsidies that distort trade
- Anti-dumping duties
- Government procurement
- Valuation for customs purposes
- Standards, including packaging and labelling
- Quantitative restrictions, including embargoes, and licensing systems

Sector approach

45. The Committee agreed that the sector approach might be used in the negotiations in appropriate cases. This approach called for the negotiation of freer trade in selected sectors, i.e. arrangements covering or taking account of all important trade restrictions affecting trade in the products of a particular sector. Delegations from developing countries said that this approach was well suited to their needs since their exports were concentrated in certain sectors.

Particular problems related to agricultural products

46. The Committee agreed that in applying various approaches to agricultural products due account will have to be taken of any special circumstances that exist in the agricultural field.

47. Delegations have proposed various types of approach which might be adopted in the negotiations on agricultural products, and some have declared their willingness to borrow from each of these methods to varying degrees, so that the approaches to be followed should be most effective and suitable for the actual situation of the country and product concerned. It is recognized that the objectives of negotiations in the field of agriculture are capable of achievement on the basis of co-operation between exporting and importing countries leading to a better accommodation of problems of shortages and surpluses.

48. Certain delegations have indicated that the immediate, primary and principal subject of negotiation is the tariff or non-tariff measures themselves.
49. The approach suggested for this purpose covers five major categories of measures: export assistance; tariffs/levies and other special charges; quantitative restrictions; sanitary and administrative regulations of all kinds; domestic support policies.
50. It would call for these measures, or their trade restricting or distorting effects, to be gradually eliminated, or at least reduced to the fullest extent possible.
51. This approach may imply either the use of the classical item-by-item technique of presenting lists of offers and requests with precise indications of the concessions sought and offered, or recourse to automatic renegotiating formulae. In this context, some delegations have stated that automatic methods for reducing tariffs on industrial products could also be applied to agricultural products. On the other hand, other delegations have stated that such an approach could not be realistically applied to agricultural products in view of the manifold situations as regards products and countries concerned.
52. Within this approach, a number of suggestions have been made aimed at giving developing countries particular advantages: in any trade liberalization priority should be given to the reduction and elimination of barriers to trade in products of export interest to developing countries on a preferential basis. In this connexion, account should be taken in the negotiations not only of the share of an individual developing country in a given market, but also of other trade criteria, such as the importance of products to individual developing countries.

53. Other delegations have expressed the view that the modification of existing practices in respect of exports, imports or production would result from the application of certain rules to those practices and the essential subject of negotiation would be those rules - or modification of any that already exist.

54. Delegations in favour of this method have indicated three main lines for development:

- (a) The codes or sets of rules designed to encompass/in respect of imports, exports and production within a body of mutually acceptable general rules. Such codes could, inter alia, apply to export policies (codes of fair competition and adequate supply), to the use of sanitary regulations, and possibly to certain aspects of internal price policies.
- (b) In addition, for certain specified products or product groups, the above rules, supplemented where necessary (export policies, stocks, import policies, prices, food aid etc.) could be given expression in a more precise and more systematic way, even to the extent of constituting multilateral co-operation conventions in certain sectors.
- (c) Lastly, one particular variant of the general approach has been identified. Certain countries have expressed a particular interest in the idea of appraising commitments entered into during the negotiations either in terms of average protection (support margin - "montant de soutien"), or in terms of the evolution of the position of each country as an importer or exporter (self-sufficiency ratio).

55. Other delegations in turn have stressed that the conditions for the expansion of trade would be more favourable if the stability of world markets were better assured. The best way of achieving that objective would be to organize some orderly world markets by means of appropriate international arrangements.

56. In the view of these delegations, a price mechanism (minimum and maximum prices) would be negotiated for certain products, along with measures concerning stocks, in order to regulate supply; this would facilitate the implementation of food aid programmes. The best method of fulfilling such commitments would be to conclude international commodity agreements.

57. In the case of other products, which are not suited to such agreements, concerted arrangements might be negotiated to ensure that the operations of exporting countries on the worldmarkets are carried out in an orderly fashion.

58. The same delegations expressed the view that the problems arising in connexion with the harmonization of legislation covering both human and plant health and regulations concerning the utilization and packaging of products, should also be covered in the negotiations.

59. Although the measures set out above are designed to bring about an improvement of world markets which would be beneficial to the developing countries as well, additional action should be taken on products of particular interest to the developing countries. This action could take the form of measures specially adapted to each individual case to enable these countries to improve their export earnings.

60. In connexion with the approach discussed in the preceding paragraphs it has been suggested that the obligations to be assumed by developing countries might, however, need to be differentiated according to the development and trade needs of those countries taken both individually and as a whole. Developing countries considered that they might derive benefits from the application of the codes, multilateral co-operation conventions or international commodity agreements referred to above, depending on their scope and content. It has been suggested that the participation of developing countries in such codes or arrangements would enhance their effectiveness and in certain cases might even be essential for their very viability.

61. There was a wide measure of agreement that tropical products in raw, semi-processed and processed forms should constitute a special sector to be given early and urgent attention in the negotiations. It was suggested by several delegations that full liberalization should be achieved by the removal of barriers to access. In this connexion, some delegations from developing countries pointed out that the special arrangements which exist for the marketing of some tropical products emanating from historical and other links between certain developing and developed countries would need to be taken fully into account. Tariff escalation should be reduced and eliminated. Internal taxes, in particular selective taxes, should also be eliminated.

Safeguards

62. While there are differing views on the desirability of amending the safeguard provisions of the General Agreement, it has been agreed to examine the adequacy of the multilateral safeguard system of the General Agreement:

- (i) in the light of present conditions and efforts to achieve and preserve a further liberalization and expansion of trade, and
- (ii) for ensuring the maintenance of access.

In this connexion, it has been agreed that due consideration will be given to the adequacy of the multilateral safeguard system of the General Agreement to the special situation, development problems and needs of developing countries, bearing in mind the objectives of the negotiations.

63. A number of elements have been suggested which might be embodied in any revision of the multilateral safeguard system including, inter alia:

(a) consultations among interested countries; (b) an international panel; (c) criteria for invocation; (d) modalities of measures; (e) the principle of non-discrimination; (f) temporary application; (g) degressivity; (h) industrial adjustment measures; (i) compensation; (j) retaliatory measures; (k) treatment of the existing bilateral safeguard. In this connexion some delegations are of the opinion that any new procedures of application in respect of Article XIX should neither result in new restrictive measures nor have the effect of merely making the system more flexible, in particular by restricting entitlement to compensation or to take retaliatory action, unless the conditions governing their application are at the same time clearly laid down and control of their use made stricter.

64. Delegations from developing countries have put forward a number of suggestions aimed at limiting the application of safeguard measures against their exports to exceptional situations and at tightening the conditions attached to the application of safeguard measures against their exports with greater weight in this context being given to the use of measures of adjustment assistance in the developed countries. It has also been suggested that provision should be made for the differential treatment of developing countries, and especially the least-developed countries, in the application of safeguard measures. Imports of products from developing countries which are new entrants in the markets of the developed countries should be excluded from the application of safeguard measures. These delegations also proposed the elaboration of special provisions for the application of safeguard measures by developing countries including the least-developed among them.

The question of the review of other GATT rules

65. Some delegations have suggested that other GATT rules should be reviewed at an appropriate time. Some other delegations, however, have confirmed their respect for the disciplines of the General Agreement and expressed reservations in regard to any reforms of the General Agreement which might result in the introduction of new restrictive measures that would be inconsistent with the objective of trade liberalization.

66. Mention has been made of the need to review at an appropriate time the provisions governing the use of trade measures for balance-of-payments reasons. It has been suggested that developing countries should be exempted to the fullest extent possible from measures taken for balance-of-payments reasons. Some delegations have stated that the trade negotiations cannot be taken as an appropriate way of remedying disequilibria in the balance of payments of any of the parties, in particular through the adoption of new safeguard provisions.

67. Delegations from developing countries have suggested that new provisions should be incorporated in the GATT recognizing, inter alia, the right of developing countries to non-reciprocity, non-discrimination and preferential and/or differential treatment.

C. PROCEDURE

Terms of Reference of Trade Negotiations Committee

68. The Committee agreed that the terms of reference of the Trade Negotiations Committee should be:

- (a) to elaborate and put into effect detailed trade negotiating plans and to establish appropriate negotiating procedures, and
- (b) to supervise the conduct of the negotiations.

69. The Trade Negotiations Committee would be empowered to establish subordinate bodies as necessary to assist it in its work.

70. One question that would need consideration is the relationship of existing committees to the Trade Negotiations Committee.

71. The negotiating procedures to be established by the Trade Negotiations Committee should provide, inter alia, for the possibility of groups of countries negotiating as a unit and for developing country participants to have due account taken of their joint interest in specific products, whether or not they are substantial suppliers. The negotiating procedures should also provide for the effective and continuous participation of developing countries which wish to participate.

72. Some delegations suggested that provision may need to be made for the phasing of agreed reductions in barriers to trade. Some delegations have suggested that agreement would need to be reached on a base date for tariffs and non-tariff measures to provide a reference point for the negotiations.

Membership of Trade Negotiations Committee

73. The Trade Negotiations Committee would be composed only of the representatives of all participating countries. It will be necessary to define the requirements that a country would need to meet in order to be considered a participant.

Participation of developing countries which are not contracting parties

74. There are a number of possible procedures for the participation of these countries in the negotiations. Some delegations pointed out the traditional procedure would be for non-contracting parties to participate on the basis that if the negotiations are successfully concluded they would accede to the GATT. Delegations from a number of developing countries have suggested that no preconditions should be laid down for the participation of these countries in the negotiations; mutually acceptable terms would be worked out for the implementation of any agreements in which these countries signified their wish to participate.

Time-table of the negotiations

75. The Committee agreed that the negotiations should be concluded by 31 December 1975.

76. Some delegations suggested that the Trade Negotiations Committee should hold its first meeting in the last week of October and that it should report to governments early in 1974 on administrative arrangements and procedures.