

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
CPC/W/32
23 December 1975
Special Distribution

Preferential Arrangements Among Developing Countries Negotiated in GATT

COMMITTEE OF PARTICIPATING COUNTRIES

Enlargement of the Protocol

Note by the Secretariat

1. At the tenth meeting of the Committee of Participating Countries in October 1975 (CPC/30), some further consideration was given on a preliminary basis to the possibilities for enlargement of the Protocol in the light of the MTN and the interest expressed at the Seventh Special Session of the United Nations General Assembly and in other fora concerning the expansion of trade among developing countries. As indicated in paragraph 19 of CPC/30, the Committee took note of comments made by delegations with regard to enlargement of the Protocol¹ and agreed to revert to this matter at its next meeting for the purpose of undertaking a detailed examination of the possibilities and scope, as well as timing, of a further round of negotiations among developing countries. The following notes have been prepared to assist members in their discussions on this matter which might fall under item 1(d) of the agenda for the eleventh meeting (CPC/W/30).

Background of the Protocol negotiations

2. The Committee on Trade and Development began in 1965 an examination of the question of the expansion of trade among developing countries on the basis of proposals that originated in the Ministerial Meeting in GATT in 1963. In April 1966, the CONTRACTING PARTIES endorsed the view of the Committee that the establishment of preferences among developing countries, appropriately administered and subject to the necessary safeguards, could make an important contribution to

¹Secretariat notes CPC/W/14, CPC/W/18, CPC/W/22 and CPC/W/24 also make reference to a number of points relevant to the enlargement of the Protocol.

the expansion of trade among developing countries and to the attainment of the objectives of the General Agreement. It was considered that the establishment of such preferences should most appropriately be the subject of negotiations among developing countries which, under Part IV of the General Agreement, had committed themselves to the reduction of barriers to their mutual trade in so far as such action is consistent with their individual present and future development, financial and trade needs.

3. Against this background, an initiative towards practical negotiations was taken by developing countries in the context of the Kennedy Round and informal exchanges of views took place in 1966-67. In November 1967, a Trade Negotiations Committee of Developing Countries in GATT was set up under the chairmanship of the Director-General to discuss the basis for the negotiation of tariff and trade concessions directed towards the expansion of the mutual trade of developing countries. The results of the negotiations in so far as they involved arrangements of a preferential character were to be referred to the CONTRACTING PARTIES for appropriate action. It was agreed to invite non-GATT developing countries to participate as full members in the work of the Committee. The intention of developing countries to pursue multilateral trade negotiations with a view to reducing their mutual trade barriers was also affirmed in UNCTAD II. At one time or another some thirty-seven developing countries, including ten non-GATT countries, were members of the Committee.

4. In the initial stages of its work, the Committee concentrated on arrangements for assisting members in defining their interest in particular products and in securing information on barriers affecting their mutual trade. For the purpose of exchanging information required to establish and pursue requests for concessions on specific products, a series of consultations at governmental expert level were held in October 1968. In the second stage of its work, the Committee addressed itself mainly to questions related to the rules and procedures for the negotiations and to the submission of request lists and offers. It also initiated discussions on certain other specific questions such as those, for example, relating to the rules of origin to be applied in the context of the negotiations.

Rules and procedures for the negotiations

5. In February 1970, the Committee reached a broad consensus on certain working rules and hypotheses for the negotiations on the basis of which requests and offers could be formulated and discussed. The working rules, as generally agreed upon by the Committee, are annexed hereto.

6. In the context of its consideration of rules and procedures, the Committee addressed itself to a number of points such as the general character of the negotiations and the nature and scope of concessions. It also identified a number of further matters on which action had to be taken after concessions had been tabled, but before the negotiations could be considered as completed. These included provision for entry into force of concessions, the duration, modification or withdrawal of concessions, nullification or impairment, rules of origin, and institutional arrangements and procedures.

7. Following intensive consultations on tariff and trade policies, and after detailed negotiations based on the principle of mutual benefit, sixteen developing countries exchanged some 500 tariff and trade concessions covering more than 300 headings in the CCC Nomenclature representing, in 1970, trade worth approximately US\$550 million.

Protocol

8. The Trade Negotiations Committee also agreed on a draft text of a Protocol Relating to Trade Negotiations Among Developing Countries, which was submitted to the CONTRACTING PARTIES at the twenty-seventh session.¹

9. On 26 November 1971, after examining the draft text, the CONTRACTING PARTIES adopted a Decision waiving the provisions of paragraph 1 of Article I of the General Agreement to the extent necessary to permit each contracting party participating in the arrangements to accord preferential treatment as provided in the Protocol with respect to products originating in other parties to the Protocol, without being required to extend the same treatment to like goods when imported from other contracting parties.² In considering that trade negotiations among developing countries have as their objective expanding access on more favourable terms for developing countries in one another's markets through an exchange of tariff and trade concessions directed towards the expansion of their mutual trade, CONTRACTING PARTIES also expressed the hope that all developing countries would consider acceding to the Protocol while recognizing that these arrangements should not impede the reduction of tariffs on a most-favoured-nation basis. The Decision also contains terms and conditions for the application of its provisions.

¹L/3598

²BISD, Eighteenth Supplement, pages 26-28

10. Pursuant to the Decision, the Protocol Relating to Trade Negotiations Among Developing Countries was signed in early 1972 and, in accordance with the provisions of paragraph 20, entered into force on 11 February 1973.

Enlargement of the Protocol

11. Possibilities for enlargement are contemplated both in the Protocol and in the 1971 Decision of the CONTRACTING PARTIES. Paragraph 6 of the Protocol provides that the Committee of Participating Countries shall keep under review the possibility of promoting negotiations for additions or enlargements to the schedules of concessions and may at any time sponsor such negotiations. The preamble to the 1971 Decision notes that while concessions exchanged in the negotiations would apply among parties to the arrangements set out in the Protocol, the countries participating in these negotiations had undertaken to facilitate the accession of all developing countries on terms consistent with the latter's individual development, financial and trade needs.

12. With regard to enlargement, the Committee of Participating Countries has concentrated its efforts in encouraging other developing countries to accede to the Protocol. To this effect, special sessions, to which all developing countries were invited, took place in 1973 and 1974¹ and a procedure for informally exploring possibilities of accession to the Protocol was established.² As a result of these efforts, Paraguay and Bangladesh applied for accession without negotiations and Romania, Sri Lanka, Iran and the Dominican Republic are in the process of following the procedures for exploring possibilities for accession. A number of other countries have either requested the secretariat's assistance in identifying existing concessions of possible interest to them under the Protocol or expressed some preliminary interest in the Protocol.

Recent developments

13. On various occasions, a number of members of the C.D. have indicated interest in a new round of negotiations among developing countries with the aim of expanding membership and product coverage of the Protocol, increasing the margins of preference of existing concessions as well as taking action with respect to

¹The summaries of discussions at the special meetings appear in CPC/S/2 and CPC/S/3.

²CPC/S/1

other trade measures among interested developing countries.¹ At the fourth meeting of the Committee of Participating Countries, for example, a proposal was made that participating countries might utilize the procedures and steps outlined in document CPC/S/1 to explore the possible exchange of additional concessions among themselves. The Chairman noted that members generally supported the proposal to enlarge the scope of the concessions contained in the Protocol although the question of timing had some relevance. In this connexion, there was substantial support for the suggestion that participating countries should begin preparations for a new round of trade negotiations.² The annual reports of the Committee have also focussed considerable attention on the possibilities for enlargement.³

14. At the recent thirty-first session of the CONTRACTING PARTIES, the Chairman in referring to the Protocol recalled, inter alia, that the Seventh Special Session of the United Nations General Assembly in its recommendations on co-operation among developing countries had specifically endorsed the exchange of trade concessions among developing countries. He noted that the presence of teams of trade negotiators in Geneva for the Tokyo Round provided a genuine opportunity for enlarging the product coverage of this preferential arrangement and for adding to the number of participating governments.⁴

Points for consideration

15. At its tenth meeting in October 1975, the Committee of Participating Countries agreed to undertake at its next meeting a detailed examination of the possibilities and scope, as well as timing, of a further round of negotiations among developing countries. Should the Committee feel favourably disposed towards the possible activation of a new round of trade negotiations among developing countries, it would need to consider, at the appropriate time, the following points among others:

¹CPC/5 paragraph 6, CPC/6 paragraphs 4 and 6, CPC/8 paragraphs 6-11, CPC/30 paragraphs 18-19 and CPC/S/3 paragraph 11

²CPC/8 paragraphs 9 and 11

³L/4091 and Add.1, L/4238 and Add.1-2

⁴GATT/1171

- (i) timing of the negotiations;
- (ii) participation;
- (iii) objectives;
- (iv) negotiating techniques;
- (v) rules for negotiations; and
- (vi) negotiating machinery.

Timing

16. It may be expected that, in the event that the Committee decided to initiate a new round of trade negotiations among developing countries, it would wish to establish a provisional time-table including a date for commencement and duration.

Participation

17. Presumably, any new round of negotiations would be open to all interested developing countries.

Objectives

18. In earlier discussions in the Committee, it has been suggested that a new round of negotiations among developing countries should have, inter alia, the following objectives:

- (i) expansion of the product coverage of the Protocol;
- (ii) improved tariff cuts on the products already in the schedules of concessions; and
- (iii) where possible, the elimination of other obstacles to trade among participating countries.¹

19. The objective of the negotiations should be to provide improved conditions of access for exports of developing countries to one another, in such a manner as to provide for the development of complementary trade and production. The

¹CPC/8 paragraph 7

participants could agree to aim at exchange of concessions covering a minimum value of trade flows. For this purpose they could agree to an exchange of concessions taking place on either a linear or an item-by-item basis. Other measures of support for the mutual exchange of concessions could also be explored.

Negotiating techniques

20. These would depend on the objectives of the negotiations. In the Committee of Participating Countries, some members have suggested the possibility of negotiating linear tariff reductions in respect of major categories of developing country imports from other developing countries. Others have proposed a product-by-product approach. In this connexion, the use of the request-and-offer procedure has been mentioned.

Rules for the negotiations

21. Any rules would need to take into account decisions adopted with respect to participation and objectives of the negotiations as well as the negotiating techniques to be used, taking into account, inter alia, the position of the least-developed among the developing countries. In this connexion, a copy of the working procedures adopted for the negotiations leading to the establishment of the schedule of concessions attached to the Protocol is annexed.

Negotiating machinery

22. In this respect there would appear to be two possibilities. If the negotiations were to be limited to CPC countries only, the Committee of Participating Countries might be charged with the conduct of the negotiations. However, if the negotiations are open to all interested developing countries, the Committee might wish to consider the establishment of a Trade Negotiations Committee of Developing Countries in GATT open to all countries wishing to participate in such negotiations, to focus on the negotiations, leaving the CPC to discharge its normal functions. Such an approach would appear to be consistent with the provisions of paragraph 6 of the Protocol.

ANNEX

Certain Working Rules for
Trade Negotiations Among Developing Countries

The aim of the trade negotiations among developing countries is to expand trade between developing countries and to widen the markets they provide for each other, through reduction or elimination of some of the tariff and non-tariff barriers that affect existing trade flows or inhibit the development of new trading possibilities.

1. The negotiations are open to all developing countries irrespective of whether these countries:

- (a) belong to the same geographic region or not; and
- (b) are contracting parties to the GATT or not.

The participation of any developing country in these negotiations will not create any new rights or obligations between that country and any other participating country in respect of any commitment not covered by these negotiations.

2. The negotiations may cover an exchange of concessions on tariffs and/or any other barriers to trade. It will be for the participating countries, in their bilateral negotiations, to decide on the scope of the concessions to be exchanged between them.

3. The negotiations will be carried out on a selective product-by-product basis. It will, however, be open to participating countries to offer tariff reductions on one or more sectors of their imports on a linear basis.

4. The concessions resulting from these negotiations apply on a preferential basis. They will be applicable on a multilateral basis and on the principle of mutual benefit to all developing countries referred to in Rule 1, namely, developing countries whether contracting parties to the GATT or not. The procedures under which the concessions would be applied to developing countries who have not effectively participated in the negotiations will be defined before the concessions come into force.

In applying the principle of mutual benefit, the participating countries intend to take into account the development, financial and trade needs of individual developing countries.

5. Concessions will be exchanged between participating countries on the basis of specific lists of requests and of offers made within the framework of these negotiations.
6. The list of concessions granted by each participating country will be attached to an appropriate legal instrument giving effect to the scheme resulting from these negotiations.
7. Developing countries who have not until now participated in the negotiations may at any time request the Trade Negotiations Committee to make arrangements for their participation.