

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Trade in Industrial Products

DRAFT REPORT TO COUNCIL¹

Revision

1. At the twenty-fifth session the CONTRACTING PARTIES instructed the Committee on Trade in Industrial Products² to report to the Council, before the twenty-sixth session, on the results of its work. This report covers the seven meetings held in the period December 1968 to October 1969 under the chairmanship of Mr. Guy Stuyck (Belgium) during which matters related to non-tariff barriers and to the tariff study were treated.

I. Non-tariff Barriers

2. At the twenty-fourth session of the CONTRACTING PARTIES in November 1967 it was decided, as part of the future work programme, that an Inventory of non-tariff and para-tariff barriers affecting international trade should be drawn up. The Inventory was to be based on notifications received from contracting parties and consolidated by the secretariat. At the twenty-fifth session in November 1968 the CONTRACTING PARTIES agreed that the Industrial Committee should move rapidly from the stage of study and identification of the problems to that of seeking mutually acceptable solutions. During the examination the Committee was to explore possibilities for concrete action on non-tariff barriers, both with regard to reducing or removing such barriers and to developing possible rules of conduct. It was also agreed that the Committee's report on results of work should be such as to enable the CONTRACTING PARTIES to take appropriate decisions at the next session.

3. The first list of notifications of non-tariff barriers (COM.IND/4) dated 30 August 1968 appeared in a revised and reorganized form in document COM.IND/6 with seven addenda. These documents formed the basis for the Committee's analysis during its meetings in 1969, of some 800 notifications by a large number of contracting parties concerning non-tariff and para-tariff barriers which in the view of the notifying countries were in force in nearly all countries parties to the General Agreement. The barriers were notified because of their restrictive effect on international trade and irrespective of their legal status in relation to the General Agreement.

4. The notifications were placed in five main groups covering the following topics:

- (i) Government participation in trade.
- (ii) Customs and administrative entry procedures.

¹This text includes suggestions made in the Committee on 8 December and in writing after that meeting.

²The composition of the Committee appears in document COM.IND/1/Rev.1.

- (iii) Standards involving imports and domestic goods.
- (iv) Specific limitations on imports and exports (quantitative restrictions and the like).
- (v) Restraints on imports and exports by the price mechanism.

The notifications in a sixth group, which are of a miscellaneous character, are now being allocated among the first five.

5. The Committee has carried out a first examination of the notified barriers, including supplemental notifications received through October 1969. A comprehensive Inventory has been drawn up which includes a secretariat report on each notification, showing the country maintaining the restriction, a brief description of the measure, the names of notifying countries and a summary of the debate for each item bringing out comments on the effects of the measure and/or its relationship to GATT provisions. Generally speaking, this information is descriptive and the effects on trade are discussed in general non-quantitative terms. Nevertheless, the stage was reached by October 1969 at which it seemed appropriate to give attention to the next steps which might be taken.

5 bis From the very beginning of the examination, notifications were encountered in nearly all parts of the inventory which raised the question, for some representatives, whether it was more appropriate to consider the problem involved in the Committee on Trade in Industrial Products or in the Committee on Agriculture. There were differing views as to which products should be regarded as agricultural. Developing countries pointed out that processed goods based on agricultural raw materials were among their most important manufactures. Another member stated that in his view it was the nature of the barrier which should be decisive rather than the product affected. In other cases, it was noted, a single measure might have a mixed product coverage. Some countries considered that products classified in chapters 1-24 were agricultural. The subject was debated on a number of occasions, and as a result it was decided to refer certain notifications to the Committee on Agriculture if the country maintaining the restriction requested that this be done. This action was taken on the understanding that if it appeared at a later stage that that Committee had not been able to give attention to some or all of the matters so referred, it might be desirable to reconsider them in the Industrial Committee, since it had always been agreed that all notifications should receive consideration in one forum or the other.

6. At its October 1969 meeting the Committee discussed, on the basis of proposals by the Director-General, how to organize the next phase of its work. The proposals noted that many of the notifications represented examples of problems of a general multilateral character, cases in which there was either no adequate international rule or in which the existing rule was not understood in a uniform sense by all parties. In all such cases new rules would need to be considered in keeping with these proposals. Another large class of notifications concerned cases in which at least some countries felt that established rules were

not being fully observed by all contracting parties. Beyond these cases there were obviously many situations of more limited interest, that is, situations of concern only to two or a few countries, even though the trade involved might be large. This group would also include cases where the measure of one country appeared to some (or even to many) to be inconsistent with existing obligations. Measures of this last sort might in some cases call for more effective consultative machinery; in others they might become objects for bargaining with a view to obtaining modifications in national regulations. Some measures which had been notified might be given lower priority because of work already well advanced in other bodies or because of the less pressing nature of the problem or its limited interest.

7. The Committee agreed that the time had come to move to the next stage of its work and that this could best be begun by agreeing on a limited illustrative list. It also agreed that the best way of carrying out the work would be to establish working groups each of which would, on the basis of the information in the Inventory and any information that might be subsequently furnished, have the function of exploring with regard to those barriers within its competence the possibilities for concrete action in that field, both with regard to reducing or removing such barriers and to developing possible rules of conduct. It was understood that this exploratory work would be preparatory in nature and would involve a search for possible solutions, not a commitment on the part of any participating country to take or to join in any action discussed.

8. The following decisions were also reached on organization of this next stage of the work:

- (a) Five groups will be established to deal with Parts 1 to 5 respectively in the Inventory as indicated in the Illustrative List.
- (b) Each group will work through the topics within its competence in the order in which they are listed in the Illustrative List, on the understanding that related notifications not listed may, with suitable advance notice, be brought in at appropriate times and that the groups may alter the order or the grouping of notifications if there is agreement among members to that effect. The groups will give special attention to measures of particular importance to developing countries.
- (c) It is open to members to suggest new items to be discussed as long as they have a certain affinity to the listed items. The groups may accept the inclusion of new items only if time permits, at this first stage of exploration.
- (d) The target for the groups to report conclusions or progress is 15 June 1970 in order to permit the Committee and subsequently the Council to consider the reports before the summer recess.
- (e) The groups should work successively and as expeditiously as possible, leaving some time between the meetings of one group and those of another.

- (f) In such a complex and disparate field, it is difficult to work out detailed guidelines in advance. The Director-General shall, in consultation with the Chairman of the Committee, the Chairmen of the Working Groups and interested contracting parties, ensure that the work of the various groups proceeds expeditiously in a balanced and satisfactory way.

9. The illustrative list of items referred to is attached as Annex I. This list is only a first starting point and does not in any way exclude action with regard to the other items in the inventory at the appropriate stage. The descriptions of measures contained in the illustrative list do not prejudge the position of the contracting parties maintaining the measures in question as to the nature and effects of the notified measures. One group of countries raised a question regarding inclusion of two notifications, indicated by an asterisk in Part 5 of the illustrative list. In their view, such notifications should be considered by the Committee on Agriculture as they related to agricultural products.

10. In the view of many delegations the foregoing agreed decision fall short of providing the degree of guidance which they considered desirable concerning the way in which the work of the groups should evolve. Most members who spoke on the question would have liked to supplement the points above by the addition of the following:

"The groups should, from the outset, try to specify solutions in order to facilitate substantive progress and should not be unduly concerned with the present ability of governments to accept them; acceptance of recommended solutions would be the subject of future negotiations. Some of these solutions may be bilateral and others will be fully multilateral. In some cases it may be expected that it will be concluded that existing GATT rules might be improved or clarified. In other cases a new set of rules might be envisaged. Still other solutions will commend themselves. Some consultative machinery may be found desirable. Each group should proceed in its work in whatever manner the members find yields the most promising results."

Some members proposed instead to state that the groups "would complete existing documentation as required and define the nature of the problems with a view to exploring the possibilities of concrete action in conformity with their terms of reference".

Another delegation suggested that it would not be useful to pursue this discussion further at this stage, that the mandate for the working groups agreed (paragraphs 7 and 8 above) should provide the necessary guidance for the groups. At the same time it was desirable that the Committee report reflect these differences in views as to the need for additional guidance which should be kept in mind by the groups.

11. It was agreed that the groups would be composed of notifying countries, countries maintaining notified measures, as well as countries which before the first meeting of each group notify their interest in particular notifications. Membership should be open to all contracting parties irrespective of membership in the Committee on Trade in Industrial Products.
12. The Committee has also discussed a proposal by the Director-General that contracting parties consider the desirability of subscribing to a Declaration of Intent underlining the importance of multilateral reduction of non-tariff barriers and stating their willingness to take part in exploratory talks looking toward negotiations for their reduction or elimination.
13. In the view of the Director-General, a Declaration of Intent along the lines of the secretariat's draft text annexed to this report would also enable participating countries, as is customary when preparations are under way for further advances in the field of trade liberalization, to give an undertaking to avoid the introduction of new non-tariff measures, or the reinforcement of existing measures, after 1 January 1970. A Declaration of Intent might also include provision for consultation should a contracting party find it necessary to take such measures.
- 13a. The Committee debated the proposal made by the Director-General. Most delegations welcomed the proposal and expressed support to the idea of the Declaration of Intent, although some views were expressed as to the necessity of modification of the original draft prepared by the secretariat. Some countries felt that the main purpose of a Declaration of Intent should be to draw the attention of the world trading community to the fact that GATT is at present actively engaged in an attempt to reduce and where possible to eliminate non-tariff barriers to trade. This would be demonstrated by a declaration showing the willingness of contracting parties to endeavour not to increase the present level of protection through non-tariff or para-tariff barriers to trade. The declaration should also include a reference to the readiness of contracting parties to enter into consultations upon request from governments justifying that their trade interests are seriously affected.
- 13b. However, some delegations pointed out the technical, institutional and legal difficulties that would be inherent in the preparation of such a declaration, in particular owing to the fact that it was impossible to define its field of application sufficiently precisely. They also noted that because of differences in the authority conferred on individual governments, the acceptance of such a declaration would not be of the same significance for each contracting party. Those delegations therefore reserved their position.
- 13c. Since it did not appear possible to agree upon a text within the Committee it was agreed to refer the matter to the Council.

14. In the debate on the organization of work in the groups and on the points to be kept in mind for a possible Declaration of Intent, representatives of the developing countries asked that it be borne in mind throughout the work that Part IV (Article XXXVII) of the General Agreement already contains certain obligations for all contracting parties vis-à-vis developing countries which must not be impaired by any action taken in this context.

15. Such special attention to one phase of the interests of developing countries was in accordance with the sense of a debate which was held in the Committee, pursuant to the conclusions of the CONTRACTING PARTIES on the special problems of developing countries. At that time it had been agreed that although there were some non-tariff barriers of more direct interest to developing countries than others it was difficult, for a variety of reasons, to see how it would be possible to accelerate benefits to developing countries by giving priority attention to any one area which might be selected out, mainly because of the network of interconnexions which would stand in the way of a solution in one area independently of, and in advance of, action on related matters.

16. It was for reasons of this kind that representatives of a number of countries considered that the best approach would be a "global" one, at every stage of which the interests of developing countries would be borne in mind even though the solutions would usually of necessity envisage action of general application to goods of developed as well as of developing countries. The representatives of some developing countries expressed reserve as to whether in practice the global approach would be satisfactory. It was generally agreed that more study by the developing countries of conditions encountered by their own exports, which would enable them to make notifications based on first-hand trading experience, would be helpful.

17. This completes the report of the Committee on progress with respect to work on non-tariff barriers. The question of adoption of a Declaration of Intent is the only matter requiring action at this time. The Committee will submit a progress report to the Council before the summer recess permitting the Council to decide upon what sort of action should then be embarked upon.

II. The Tariff Study

18. The second main task given to the Committee on Trade in Industrial Products by the CONTRACTING PARTIES in 1967 was to prepare an objective analysis of the tariff situation as it would be when all Kennedy Round concessions had been fully implemented. In conjunction with the material assembled on non-tariff barriers, this study will help the Committee to discharge its general mandate which is to explore the opportunities for further progress in the liberalization of international trade.

19. Work on the tariff study has been initiated by the secretariat, under the guidance of a Group of Technical Experts, in May 1968, and has now reached a stage at which the first analytical tabulations can be expected shortly.

Substantial technical and methodological difficulties had to be resolved before the post-Kennedy Round tariff rates, along with 1964 and 1967 or 1968 trade data, of nine countries¹ and the EEC could be put on computer tapes in a form suitable for comparative tabulations. In order to be included in the study Canada has prepared a concordance relating its tariff to the Brussels Nomenclature but technical considerations preclude the use of trade data for years prior to 1969. Canada will therefore be added to the study early in 1970 when 1969 trade data becomes available. Work on including South Africa has already been started by the secretariat and preparations are being made to include Australia and New Zealand, if possible also in the course of 1970.

20. At the June 1969 meeting of the full Committee, a number of contracting parties emphasized the need for the tariff and trade data to be presented in a form suitable for an analysis of the particular trade problems faced by the developing countries. Special emphasis was laid on the need to analyze the effects on trade of the differentials prevailing between tariffs on primary materials and tariffs on the semi-finished and finished manufactures made of such materials.

21. At a meeting held in October 1969 the tariff experts considered three specific proposals for a classification of tariff and trade data by meaningful industrial groups which would be further sub-divided by the degree of processing or, where appropriate, characteristic end-use of the products. An appropriate classification system has been established.

22. On the basis of the work by the Expert Group, the secretariat will proceed to make and submit to the Committee three comparative analytical tabulations: Summary Tabulation I, giving tariff and trade information for the countries included in the study on the level of BTN headings; Summary Tabulation II, giving tariff averages for twenty-three categories sub-divided into 119 sub-categories of imports; and, finally, Summary Tabulation III, grouping tariff items of particular export interest to developing countries and giving sectoral and sub-sectoral tariff averages applying to these products. These tabulations can be distributed to the Committee in May or June. The Committee expressed the hope that all participants will be covered in the tabulations. At that time the Committee will be in a position to draw conclusions with regard to the tariff situation as it will be when the Kennedy Round concessions are fully implemented and to recommend further action in the field of tariffs.

¹The United States, United Kingdom, Japan, Sweden, Denmark, Norway, Finland, Switzerland and Austria.

ANNEX I

Illustrative List of Items

<u>Identification</u>	<u>Description</u>	<u>Notifying countries</u>
<u>Part 1</u>		
18	Trade-diverting investment	Canada, Nordic countries
2,7,14,15	Export subsidies on industrial products	Canada, UK, US
76 and others	Countervailing duties	Canada, EEC, UK, Yugoslavia
24,25,26,32, 33,36,37,42, 44,47,48	Government procurement	EEC, UK, US and others
54,60,61 and others	State-trading enterprises in market economy countries	Pakistan, UK, US and one or two others
<u>Part 2</u>		
2C Gen. 97,107	Desirability of harmonization of valuation systems	EEC, Nordic countries, UK, Yugoslavia
88,92,108, 109	Special valuation procedures ¹	EEC, India, Japan, Switzerland, UK on behalf of Hong Kong, US
2B Gen. 85	Anti-dumping practices of certain countries not accepting the Anti-Dumping Code ¹	Canada, EEC, UK
114,116	Desirability of wider acceptance of BTN classification	Austria, EEC, Japan, Nordic countries, Switzerland
118,121,135, 146	Documentation, consular fees and formalities	Canada, EEC, Hong Kong, Japan, Nordic countries, US
<u>Part 3</u>		
	Industrial, health and safety standards acting as barriers through:	
157,169,183	Disparities in existing legislation or regulations	Canada, EEC, Japan, UK, US

¹ Hong Kong has requested the addition of item 104 under valuation and of items 81 and 83 under anti-dumping.

<u>Identification</u>	<u>Description</u>	<u>Notifying countries</u>
<u>Part 3 (cont'd)</u>		
156,158,166, 185	Disparities in future legislation or regulations	Canada, Japan, Switzerland, US
167,169,182, 187	Lack of mutual recognition of testing	Australia, Austria, EEC, Japan, Nordic countries, UK, US
153,155	Unreasonable application of standards	Brazil, EEC, UK for Hong Kong, US
198,199,201, 206,207	Packaging, labelling and marking regulations	Australia, Canada, EEC, Japan, Nordic countries, US
<u>Part 4</u>		
220,259, and others	Licensing arrangements	Many countries
209-309,338, 339,340.1 and others	Quantitative restrictions including embargoes	Australia, Canada, Czechoslovakia, EEC, Nordic countries, UK for Hong Kong ¹ , US and others
211,354,357	Bilateral agreements	Poland, US, Yugoslavia
360	Voluntary restraints	Brazil, India, Japan, Spain, Yugoslavia
292,485,498, 501,502, 597-603	Motion picture restrictions including tax matters and screentime quotas	UK, US
335 and others	Minimum prices on textile imports	Japan, Uruguay, Yugoslavia
<u>Part 5</u>		
398,399, 404,407	Prior deposits	Many countries
435,436 and others	Administrative and statistical duties	Brazil, Japan, Nordic countries, Switzerland, UK, US
459,537*,558, 587	Restrictions on foreign wines and spirits	Many countries

¹Hong Kong requested this addition.

<u>Identification</u>	<u>Description</u>	<u>Notifying countries</u>
<u>Part 5</u> (cont'd)		
473,592,593	Special duties on imports	Five notifications
484	Discriminatory taxes on motor-cars	US
511	Credit restrictions for importers	UK, US
515*	Variable levies	Many countries
519,562	Fiscal adjustments, either at the border or otherwise	Many countries

ANNEX II

Draft Declaration of Intent

The contracting parties represented at this twenty-sixth session of the CONTRACTING PARTIES

BEARING IN MIND the conclusion adopted by the CONTRACTING PARTIES at their twenty-fourth session, wherein they recognized the importance of proceeding to the preparation for further advances in the field of trade liberalization;

RECOGNIZING the extent and complexity of non-tariff barriers which obstruct and distort the flow of trade, and the importance of a multilateral effort towards their reduction and elimination;

TAKING NOTE of the conclusions adopted by the CONTRACTING PARTIES at their twenty-fifth session wherein they agreed to move rapidly from the stage of study and identification of problems related to non-tariff and para-tariff barriers to that of seeking mutually acceptable solutions;

CONSIDERING that the preparatory work has advanced sufficiently to permit the exploration of possibilities for concrete action, and believing that progress would be seriously hampered if non-tariff or para-tariff barriers were introduced or intensified;

BEARING IN MIND existing obligations of contracting parties in Article XXXVII,

HEREBY DECLARE

(i) their intention to proceed immediately to explore the possibilities for concrete action, both with regard to reducing or removing non-tariff and para-tariff barriers and to developing possible rules of conduct;

(ii) that in order to create a satisfactory point of departure for future action, contracting parties should refrain from introducing new, or reinforcing existing, non-tariff or para-tariff barriers with the object of improving their bargaining position in preparation for such action as may be taken;

(iii) that if, however, for unforeseen or compelling reasons, a contracting party finds it necessary to take such measures, it should, to the extent that the measures could have significant restrictive effect on the trade of other contracting parties, give notice in writing to the CONTRACTING PARTIES. Such measures should, at the request of another contracting party, be subject to consultation.