

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## Committee on Trade and Development

### PAST DISCUSSIONS ON THE CONCEPT OF NON-RECIPROCITY

#### Note by the Secretariat

1. At the eleventh session of the Committee on Trade and Development, attention was drawn to paragraph 8 of Article XXVI and the interpretative note to that paragraph; it was suggested that the secretariat should prepare a background paper outlining past discussions relating to application of the principle of non-reciprocity between developed and developing countries in trade negotiations so that the Committee could have a thorough discussion of the matter at their next session.

2. The following sections contain a collection of references to the principle of non-reciprocity drawn from records and working papers of high-level meetings and sessions of the CONTRACTING PARTIES, the Committee on Legal and Institutional Framework and organs of the Kennedy Round. Section III also contains some additional notes (in paragraph 23) on matters relating to the participation of developing countries in the Kennedy Round.

#### I. The Ministerial Meetings of 1961 and 1963

3. At the Ministerial meeting in November 1961 the Ministers

"... agreed that, in view of the stage of economic development of the less-developed countries, a more flexible attitude should be taken with respect to the degree of reciprocity to be expected from these countries" (BISD, Tenth Supplement, page 26, section 2).

4. At the Ministerial meeting in May 1963 at which a decision was taken to commence comprehensive trade negotiations it was agreed that:

"in the trade negotiations every effort shall be made to reduce barriers to exports of the less-developed countries, but that the developed countries cannot expect to receive reciprocity from the less-developed countries" (BISD, Twelfth Supplement, page 48).

#### II. The Committee on Legal and Institutional Framework

5. Early in the discussions in this Committee it was suggested that a new provision should be inserted in the GATT to reflect the Ministerial directives referred to above. One of the proposals was that it should be provided that developing countries should be exempted: "... from the obligation to grant tariff concessions of equal magnitude in tariff negotiations with industrialized countries ..." (Spec(63)280, page 1).

6. Some members of the Committee seem to have been of the view that developing countries should give no reciprocal concessions in negotiations with developed countries and that developed countries were "... not to expect reciprocity in the form of tariff concessions". An explanatory note to the paragraph containing this statement reads: "... As the less-developed countries accept a measure of discipline in their commercial policies through their participation in the General Agreement, it is to be expected that reciprocity for tariff concessions would be expressed in the increased capacity to import, generated by such concessions, rather than through reciprocal tariff concessions by the less-developed countries" (Spec(63)316/Rev.1, pages 4 and 5).

7. This view was, however, not generally accepted. The minutes of the second meeting of the Committee record a suggestion that: "... the element of degree should be worked in, to avoid the implication that less-developed countries had no obligation to offer concessions when such were consistent with or might even promote their development ..." (L/2114, page 5).

8. In February-March 1964 the Committee drew up a draft chapter on trade and development containing alternative formulations on the question of non-reciprocity, viz:

"not to expect less-developed contracting parties to provide full reciprocity in negotiations with developed countries"

"not to expect to receive reciprocity from the less-developed contracting parties".

The wording of a suggested interpretative note in the Committee's draft is identical to that quoted in paragraph 6 above with the following additional sentence:

"The effect of this increased capacity to import on the trade of individual developed contracting parties could be balanced through the exchange of concessions among the developed contracting parties concerned."  
(L/2195/Rev.1, page 6)

9. In a discussion on the above-mentioned draft at the twenty-first session of the CONTRACTING PARTIES in March 1964 the Indian representative said that "In finalizing the text of the new chapter, the Committee might consider the inclusion of the concept of the degree of reciprocity expected by developed countries from less-developed countries, ..." (SR.21/11, page 170). On this same point the Canadian representative said that "The most careful thought should be given to what degree of reciprocity was desired, since this could vary as between developing countries and between various items of trade ..." (SR.21/11, page 179).

10. When the Legal Committee resumed its work after the twenty-first session a proposal was circulated which included the following interpretative note:

"In view of their high level of demand for imports for development purposes, it is to be expected that reciprocity for tariff concessions extended to less-developed contracting parties would be expressed in increased imports from other contracting parties and through a consequent expansion of international trade." (INT(64)255)

11. A paper considered by the Committee in October 1964 reads as follows:

"The developed contracting parties should not expect reciprocity for measures taken by them to reduce or remove tariffs and other barriers to the trade of developing contracting parties." (INT(64)552)

The interpretative note to the above paragraph seemed to reflect a view that it was the developing countries themselves which would decide whether any concessions they would wish to offer were consistent with their individual development and needs; the proposed text reads:

"It is understood that the phrase 'should not expect reciprocity' does not mean that the less-developed contracting parties may not make concessions which in their view are consistent with their individual development, financial and trade trends and needs in accordance with the objectives of this chapter." (INT(64)552)

12. A new proposal circulated in the Committee in October 1964 contained a formulation on the "contribution" of the less-developed countries as agreed at the meeting of the Trade Negotiations Committee held at Ministerial level in May 1964.<sup>1</sup> In this paper the developing countries reiterated and elaborated the position which Brazil and Argentina had taken in the meeting of the Trade Negotiations Committee on the necessity to take into account financial and trade needs as well as "past trade developments" in considering the contribution of less-developed countries (INT(64)552/Rev.1). The interpretative note to the provision on non-reciprocity in this paper did not retain the phrase "in their view" which appears in the text quoted in paragraph 11 above. Agreement was eventually reached on the formulation suggested in this revised version and with the exception of minor stylistic improvements appears virtually unchanged in the final report of the Committee (L/2281).

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<sup>1</sup> See paragraph 15 below.

13. It may be noted that the interpretative note under paragraph 8 of Article XXXVI (Part IV) also indicates that "this paragraph would apply in the event of action under Section A of Article XVIII, Article XXVIII, Article XXVIII bis (Article XXIX after the amendment set forth in Section A of paragraph of the Protocol Amending Part I and Articles XXIX and XXX shall have become effective), Article XXXIII, or any other procedure under this Agreement".

### III. The Kennedy Round negotiations

14. At its first meeting, in November 1963, the Sub-Committee on Participation of Developing Countries in the Kennedy Round noted:

"... Ministers had agreed that the developed countries could not expect to receive reciprocity from the less-developed countries. Representatives of some less-developed countries suggested, in this connexion, that the general increase in imports into the less-developed countries of products needed for their development which should result from a successful conclusion of the negotiations, coupled with an assurance by them of a disciplined commercial policy, should be regarded as a measure of reciprocity on their side. It was generally felt that the right approach to this question was to consider what contribution each participating less-developed country could make in the light of its development needs and for the purpose of furthering its trade and economic development. It was suggested that the less-developed countries could, among other things, consider bindings or reductions in their tariffs which were desirable in their own economic interest, it being recognized that considerations of revenue and of the need to protect infant industries would limit what could be done in this connexion. It was suggested that special consideration should be given to the situation of those less-developed countries whose tariffs were already low ..." (TN.64/LDC/1/Rev.2, page 2, paragraph 7).

15. At a meeting at Ministerial level in May 1964, the Trade Negotiations Committee recalled the 1963 Ministerial declaration on this point (see paragraph 4 above) and agreed "... that the contribution of the less-developed countries to the overall objective of trade liberalization should be considered in the light of the development and trade needs of these countries" (BISD, Thirteenth Supplement, page III, Section D). A footnote to this Resolution indicates that "Argentina and Brazil accepted this paragraph on the understanding that the phrase 'development and trade needs' covers the requirements of the current financial situation".

16. At a meeting of the Trade Negotiations Committee in October 1966, the Chairman said:

"... Ministers had made it clear that reciprocity was not expected of less-developed countries, but the twenty-eight countries following the special procedures for the participation of the less-developed countries had accepted an obligation to offer some contribution to the objectives of the trade negotiations ..." (TN.64/83, paragraph 1).

17. The obligation referred to above relates to the agreement reached at a meeting of the Sub-Committee on 12 March 1965 that developing countries would submit statements of the offers which they would make as a contribution to the objectives of the trade negotiations (TN.64/41/Rev.1).

18. At the meeting in October 1966 when withdrawal of offers was being discussed the representative of the United States stated that

"His delegation would not withdraw a product of interest to less-developed countries lightly but might be obliged to do so because no effort had been made by the less-developed country concerned. It was agreed that reciprocity would not be required of these countries but his delegation felt that some contribution was necessary so that it could justify the concessions it was itself making." (TN.64/83, paragraph 19)

On that same occasion the representative of Japan expressed disappointment

"at the lack of concrete offers from less-developed participants and had made specific suggestions as to what contribution these countries might make in their own interest" (TN.64/83, paragraph 20).

19. The report of the Chairman of the Sub-Committee on Participation of Less-Developed Countries in the Kennedy Round to the Committee on Trade and Development at its meeting in Punta del Este in January 1967 included the following statement:

"Ministers agreed that reciprocity would not be expected from developing countries. This decision has since been given formal legal expression by incorporation in Part IV of the General Agreement. There will, therefore, be no balancing of concessions granted on products of interest to developing countries by developed participants on the one hand and the contribution which developing participants would make to the objective of trade liberalization on the other and which it is agreed should be considered in the light of the development, financial and trade needs of the developing countries themselves. It is therefore recognized that the developing countries themselves must decide what contribution they can make. Some industrialized participants have, as foreseen in the agreed procedures, made suggestions as to action which might be taken by these countries in the tariff and non-tariff fields in the context of the negotiations." (COM.TD/W/37, paragraph 9)

20. Paragraph 28 of the same report also states that:

"Certain industrialized participants have indicated that they may find difficulty in maintaining existing offers if no effort is made by developing countries. Whilst it is agreed that participating developing countries will make those concessions which are feasible from their own point of view and consistent with their economic, financial and development needs, the fact that such a contribution is made will facilitate the maintenance or improvement of the offers of developed countries on products of interest to developing countries and will provide an important opportunity for developing countries to review their levels of protection in the light of their own interests."

21. At a meeting of the Trade Negotiations Committee on 4 May 1967 the United States representative stated that:

"... There was also considerable pressure on the United States delegation to withdraw certain offers on which developing countries had a direct interest. It had proved difficult to resist this pressure because it had not been possible to demonstrate that the less-developed countries in question had seriously endeavoured to offer contributions in the form of tariff reductions which would be consistent with their development needs. Offers of a specific nature from developing countries benefiting from the American offer, even if made at this late stage, could still be a factor enabling his Government to maintain its offers." (TN.64/100, page 3, paragraph 12)

22. In a meeting of the Committee on 13 June 1967 the representative of Yugoslavia stated that:

"... had believed that the present trade negotiations were to be different from the five previous negotiations in the GATT because reciprocity would not be demanded from less-developed countries ... In practice this had not been so, and developed countries had not honoured the obligations they had undertaken in the Ministerial Resolutions in 1963 and 1964 and in Part IV." (TN.64/107, page 4)

23. The following twenty-three countries indicated that they were participating in the trade negotiations under the procedures established for the participation of developing countries:

Argentina	Nicaragua
Brazil	Nigeria
Ceylon	Pakistan
Chile	Peru
Dominican Republic	Portugal (non-European territories)
India	Sierra Leone
Indonesia	Spain
Israel	Trinidad and Tobago
Jamaica	Turkey
Republic of Korea	United Arab Republic
Malawi	Uganda
	Yugoslavia

Of these, fourteen countries (namely: Argentina, Brazil, Chile, Dominican Republic, India, Israel, Jamaica, Korea, Malawi, Peru, Spain, Trinidad and Tobago, Turkey and Yugoslavia) made offers of tariff bindings or concessions that are now embodied in the schedule of concessions attached to the Geneva (1967) Protocol to the General Agreement. A number of countries made "statements of contribution" to the objectives of the trade negotiations referring to recent measures of trade liberalization or forthcoming changes in import systems. Since, however, these were not bound in the GATT schedules, as such they do not form part of the concessions resulting from the negotiations. No specific evaluation has been made up to now of the schedules of concessions made by developing countries. Nor, in view of the confidential character of bilateral negotiations, is any indication available as to whether the schedules of developing countries include any concessions that a developing country was obliged to make, even though it was inconsistent with its individual development, financial and trade needs. Though there were withdrawals from the linear offer by a number of major industrialized countries in the final stages of the negotiations, the records of the multilateral discussions have provided no specific indication as to whether any particular products were withdrawn by an industrialized country from the linear offer because it considered that adequate reciprocity was not forthcoming from one or more developing country with which it had negotiated.