

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## TRADE ARRANGEMENTS BETWEEN INDIA, THE UNITED ARAB REPUBLIC AND YUGOSLAVIA

### Report of Working Party

1. The Working Party was established by the Council at its meeting on 10 September 1969 with the following terms of reference:
  - (i) to consult with India, the United Arab Republic and Yugoslavia, as provided for under paragraph 1(b) of the Decision of 14 November 1968, with respect to the Protocol of 16 July 1969, amending the Trade Expansion and Economic Co-operation Agreement of 23 December 1967, and to report to the Council; and
  - (ii) to carry out the review of the Decision of 14 November 1968 as provided in paragraph 1(c) of the Decision, and to report to the Council with a recommendation as to its extension, modification or termination.
2. The Working Party met on 26 September 1969, 18 December 1969 and 2, 3 and 6 February 1970, under the chairmanship of Ambassador H. Gros Espiell (Uruguay).
3. The main documents before the Working Party were L/2980/Add.1 - Tripartite Agreement and Common List: L/3132 - Decision of the CONTRACTING PARTIES of 14 November 1968: L/3242 - Protocol Amending Trade Expansion and Economic Co-operation Agreement of 1967 and List of Products added to the Common List: L/3285 and Corr.1 - Report submitted by the participating States on the operation of the Agreement; information on Trade Coverage of the Special Tariff Concessions listed in the new Protocol and the most-favoured-nation tariff rates concerned; statistical information for the review of the Decision of 14 November 1968, and a list of questions addressed to the participating States.
4. In an opening statement on behalf of the participating States, the representative of Yugoslavia referred to his statement to the Council at its meeting on 10 September 1969<sup>1</sup>, in which he had explained that, by signing the new Protocol, the participating countries had agreed to reduce, as between themselves, existing most-favoured-nation rates for a further fifty-seven tariff headings and sub-headings on

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<sup>1</sup>See document C/M/57, page 4.

products originating in the three countries. The new Protocol, which was to enter into force on 1 October 1969, would become part of the initial Agreement and would consequently remain in force during the period of operation of the Agreement. The same considerations which had guided the participating States in concluding the Agreement had motivated them to extend its scope. In their view, the extension of the Agreement would contribute to the expansion of international trade. The treatment accorded to the added tariff headings corresponded to that of the seventy-seven tariff items which were covered by the initial Agreement. He confirmed that the signatories would be willing to consider the integration of the mutual concessions into a wider arrangement that might be set up through the Agreement which was now under discussion in the Trade Negotiations Committee of Developing Countries.

5. Other members of the Working Party welcomed the idea of working out new techniques of co-operation among developing countries. In their opinion the Agreement and its extension by the new Protocol could be regarded as a further step in the process of improving the economies of the countries concerned.

6. During the discussion certain members of the Working Party stated, with reference to paragraph 1(b) of the Decision of 14 November 1968, that they regarded the new Protocol as a substantial modification of the initial Agreement. In some cases a relatively large volume of trade was involved. The additional Protocol thus constituted an important extension of the Agreement. These members of the Working Party considered that the three countries should have given more time for consultation before the Protocol came into force.

7. In reply, the representative of the participating States pointed out that in their view the modification of the Agreement could not be regarded as being of a substantial nature. This was evident from the statistics indicating the trade involved in the new items. Furthermore, they had notified the Protocol to the CONTRACTING PARTIES on 6 August 1969. This subsequently had been subject to a discussion in the Council, and as directed by the Council the examination in the Working Party had started before the Protocol came into force.

8. In reply to the question as to the basis on which the fifty-seven items were added to the Common List, the representative of the participating States explained that the same reasons had guided them in selecting the fifty-seven items which had determined the choice in the case of the initial seventy-seven items. The purpose of the extension was to create new and additional trade exchanges between the three countries while at the same time care had been taken to avoid undue injury to the trading interest of third countries, particularly developing countries. The representative pointed out that none of the traditional export products had been considered for inclusion in the extended Common List. The attention of the Working Party was drawn to the fact that the intra-trade in the fifty-seven added tariff items did not exceed 0.2 per cent of total imports, as could be seen from the statistics supplied by the participating States. The proposed additions to the commodity list therefore seemed to correspond to the pre-condition that the goods, subject to preferences, should be of a non-traditional nature. He further explained that it had been decided to expand the trade coverage of the Agreement by including fifty-seven items in the new Protocol so that the items satisfying the criteria of non-traditional products and thus unlikely to cause injury to its trading partners could be more adequately covered and thus contribute to a more fruitful implementation of the arrangements, taking into account the objectives of the Agreement.

9. Some members of the Working Party welcomed the extension of the Agreement to cover other products since in their view the limitation of the Agreement to a narrow range of products could have certain restrictive trade effects. They felt that the Agreement was an interesting experiment and hoped that the efforts of the participants to promote trade expansion and economic co-operation would be successful. Some members in welcoming the new developments under the Agreement reiterated the hope expressed by them on past occasions that the Agreement would not result in discrimination among developing countries. It was pointed out by some other members that in future annual examinations of the Agreement it would be necessary to consider the Agreement from the standpoint of the possibilities that it might open up for creating more trade flows, fuller utilization of existing, and establishment of additional production capacity.

10. Members of the Working Party from developing countries, while supporting fully the initial Agreement and the new Protocol, emphasized that suitable techniques will have to be found by which the benefits of these arrangements could be shared with other developing countries. One of these members further pointed out that, in his view, in the course of the current negotiations between developing countries, the concessions embodied in the Agreement and the new Protocol should automatically and without compensation be extended to all developing countries.

11. In reply the three participating States made reference to paragraph 10 of the statement the representative of Yugoslavia had made to the Council on 27 March 1968<sup>1</sup>, which reads as follows:

"The Agreement embodies the results of a more intensive effort on their part to complete the negotiations which had been started a long time ago in the GATT. In fact, these negotiations were based on request lists which had been exchanged in the Kennedy Round of negotiations."

They repeated their willingness to share with other developing countries the advantages of the Agreement as amended by the new Protocol and to consider incorporating it into any wider international arrangement which might emerge out of the current negotiations in the Trade Negotiations Committee of Developing Countries. Their intention to consider extending the Agreement to other developing countries by negotiations was evident from the fact that they were actively participating in the work of that Committee. They felt, however, that it would be premature to indicate at this stage the way in which the Agreement could be incorporated into such a wider arrangement, since the Committee was still discussing ground rules for trade negotiations and only a small number of countries had exchanged final request lists. They therefore found it necessary to await the outcome of the discussion in the Trade Negotiations Committee and they hoped that the actual negotiations would progress rapidly.

12. With regard to the operation of the initial Agreement, the representative of India, speaking on behalf of the participating States, referred to the report the three countries had submitted to the CONTRACTING PARTIES.<sup>2</sup> He pointed out that in the view of the three countries, the results of the operation of the Agreement were modest, but encouraging, especially as the Agreement was experimental in nature.

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<sup>1</sup>Document L/3032, page 12.

<sup>2</sup>Circulated in document L/3285.

In their view it was too early to assess its full impact on the economies concerned, particularly in regard to such aspects as its potential for creating new trade and establishing additional productive capacities accompanied by economies of scale. As developing countries they had faced many administrative and other practical problems during the initial period of implementation of the Agreement. When it had been in operation for a longer time, the participating States would gain sufficient experience in regard to its implementation and the contracting parties would be in a better position to judge it from the several aspects referred to above. It would therefore be desirable that any further decision of the CONTRACTING PARTIES should cover fully the remaining period of validity of the Agreement, i.e. until 31 March 1973. The three governments were ready to submit to the CONTRACTING PARTIES annual reports on the operation of the Agreement. If any contracting party considered it necessary, they were also prepared to make the operation of the Agreement subject to examination by a Working Party. They stood ready further to enter into immediate consultation with any contracting party which experienced difficulties in regard to the operation of the Agreement, as amended by the new Protocol. They had already held between the meetings of the Working Party with interested delegations informal consultations regarding the new Protocol and the operation of the initial Agreement and they had found such consultations useful.

13. The Working Party took note of additional statistical information provided by the participating States at the request of members of the Working Party and of replies made by them to questions put to them during the discussions. The representative of the participating States pointed out that as the Agreement had been in force for only a short time it was not possible to make significant statistical comparisons between the period 1963/69 and 1969/70 since the statistical information for 1970 was not yet available. It was evident, however, from the figures available that no trade diversion had taken place. He further explained that no special sourcing requirements were employed to use up balances under bilateral trading arrangements. Annual plans of an indicative nature were drawn up and arrangements made to take care of temporary trade imbalances through the provision of swing credits. Regarding the proportion of trade among the participating States on items falling in the common list and handled by State enterprises, the representative of India stated that rock phosphate was the only item which was dealt with by a State-trading agency in his country. Furthermore the duty on this product was zero for imports from all sources. The representative of Yugoslavia said that there were no State enterprises in Yugoslavia and the status of the self-managed foreign trade enterprises was clearly described in detail in paragraphs 9 and 10 of document L/2562. The representative of the UAR said that in his country there was no distinction between imports of items which fell within the common list and those which did not, and that the majority of imports were traded on the same footing through publicly-owned commercial enterprises on a purely commercial basis. In the recent balance-of-payments consultations with the UAR a full explanation had been given on the trading system in that country. The representative of the participating States confirmed that a more favourable performance of common list items had not been accomplished by diverting foreign exchange normally used to obtain non-preferential items.

14. Certain members recalled the views expressed by them regarding legal and other aspects of the Agreement in paragraph 12 of the previous report of the Working Party (BISD, Sixteenth Supplement; page 87) and the reasons for which they had been prepared to take a flexible attitude towards implementation of the Agreement. Their views remained the same but they were ready to agree to extension of the Decision of 14 November 1968 on similar understandings. The representative of the United States recalled the view of his Government expressed in paragraph 16 of the previous report. The representative of the participating States also recalled the relevant statements made by the three countries in paragraph 13 of that report with regard to these views. Some of the members recalled that they had agreed with the views of the participating States that the Agreement was fully consistent with the basic provisions of Part IV.

15. There was a general feeling in the Working Party that it was too early to make a final judgement on the operation and on the effects of the Agreement, particularly taking into account the fact that the addition of fifty-seven items to the common list had only recently been made and that no trade data on these items were yet available. Most members noted that while it appeared that the original agreement had not had adverse effects on their trade with the three participating States, in the absence of complete statistics for the most recent period it was not possible at the present time to assess fully the beneficial impact of the Agreement on the trade and development of the three participating States in terms of its stated objectives.

16. It was generally agreed that any draft decision prepared by the Working Party should contain an elaboration of the Decision of 14 November 1968 with a view to defining more clearly the procedures for consultation in respect of modifications of the Agreement and any recommendations that the CONTRACTING PARTIES might find it necessary to make in connexion with the Agreement.

17. It was suggested that for future annual reviews, the participating States should be requested to give more up-to-date and complete trade data. Some members suggested that in order to avoid the creation of new machinery to carry out any examination and review provided for in the Decision, the present Working Party might be asked to undertake such work whenever it was considered necessary. One member proposed that the future reviews might more usefully be carried out in the early autumn of each year taking into account the availability of trade data for the twelve-month period 1 April-31 March.

18. In the light of its discussions the Working Party agreed to recommend to the CONTRACTING PARTIES the adoption of the draft decision annexed to this report.

ANNEX

Draft Decision

Considering that the CONTRACTING PARTIES, by the Decision of 14 November 1968, agreed that the Governments of India, the United Arab Republic and Yugoslavia (hereinafter referred to as the "participating States" may implement, subject to specified conditions and procedures, the Trade Expansion and Economic Co-operation Agreement (hereinafter referred to as the "Agreement"), dated 23 December 1967, and effective 1 April 1968;

Considering further that the participating States have notified the CONTRACTING PARTIES that they have signed a Protocol amending the Trade Expansion and Economic Co-operation Agreement and constituting an integral part thereof (hereinafter referred to as the "Protocol"), dated 16 July 1969, and effective 1 October 1969, by the addition of a number of items to the list of products covered by the Agreement;

Bearing in mind that the Trade Negotiations Committee of Developing Countries is preparing trade negotiations with the aim of expanding trade between developing countries, and that this Committee has not yet finished its preparation for the trade negotiations between developing countries, and that the participating States have reiterated their intention to seek the extension of the concessions embodied in the Agreement, as amended by the Protocol, to all other developing countries by appropriate negotiations and to make their best endeavours to integrate these concessions within the framework of multilateral arrangements elaborated within the Trade Negotiations Committee of Developing Countries which will be reported to the CONTRACTING PARTIES for their consideration in due course;

Noting that the participating States have reiterated their readiness to consult with any contracting party which considers that the operation of the Agreement as amended by the Protocol is impeding the attainment of any benefit which should accrue to it under the General Agreement or is adversely affecting its trade, and to report to the CONTRACTING PARTIES concerning developments under the Agreement; and

Recognizing that it is not possible at the present time to assess fully the beneficial impact of the Agreement on the trade and development of the three participating States in terms of its stated objectives.

The CONTRACTING PARTIES decide:

1. That notwithstanding the provisions of Article I:1 of the General Agreement the participating States may continue to implement the Agreement as amended by the Protocol subject to the following conditions and procedures:

- (a) The participating States shall consult with any contracting party which considers that the operation of this Agreement is impeding the attainment of any benefit which should accrue to it under the General Agreement or is adversely affecting its trade.

- (b) The participating States shall report on any proposed modification in the scope or provisions of the Agreement so as to afford the CONTRACTING PARTIES adequate opportunity to consult with them before giving effect to any substantial modification and subject to the following procedures: The participating States shall promptly consult, with a view to arriving at a mutually acceptable settlement, with any contracting party which considers that any proposed modification threatens substantial injury to its trade with participating States. Should agreement not be reached in such consultation the question of such threat may be considered by the CONTRACTING PARTIES. Participating States may implement the proposed modifications if, within thirty days after the notification no contracting party has requested consultation or if it is agreed by the contracting party requesting consultation or by the CONTRACTING PARTIES, as the case may be, that no such threat exists. If, however, the CONTRACTING PARTIES find that such threat exists, the participating States shall not take such action but may take other action which conforms with any recommendation made by the CONTRACTING PARTIES.
- (c) On the basis of a report by the participating States on the operation of the Agreement, this Decision shall be subject to annual review by the CONTRACTING PARTIES taking account in particular of progress achieved in, and the outcome of, the negotiations conducted within the framework of the Trade Negotiations Committee of Developing Countries and of the contribution of the Agreement to its stated objectives. The CONTRACTING PARTIES may in the course of the annual review make such recommendations to the participating States as may be appropriate, including any arising out of any consultations held in regard to the effects of the Agreement on the trade of contracting parties. The CONTRACTING PARTIES may also in the course of this annual review take such decision regarding the future operation of this Decision as may be appropriate.
2. That without prejudice to any decisions the CONTRACTING PARTIES may take in the course of the annual review, the present Decision is intended to expire no later than 31 March 1973.
3. That this Decision shall not be construed as affecting any right of any contracting party under any provision of the General Agreement.