

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Trade in Agriculture

## SUMMARY OF POINTS RAISED DURING THE MEETING FROM 5 TO 8 MARCH 1984

### Note by the Secretariat

The present note, which summarizes the main points raised during the Committee's discussion from 5 to 8 March 1984, has been prepared in order to facilitate the work of the Committee at its meeting at senior level to be held from 2 to 4 April 1984.

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#### Introduction

1. In conformity with its Programme of Work, the Committee completed its examinations of trade measures affecting market access and supplies, including those maintained under exceptions and derogations, and its examination of the operation of the General Agreement as regards subsidies, especially export subsidies, including other forms of export assistance. The Committee then proceeded to a preliminary consideration of conclusions to be drawn. The Committee based its work on a document prepared by the Secretariat (AG/W/5 - Draft Report).

#### General remarks

2. It was felt that in general document AG/W/5 fairly reflected the discussions in the Committee so far. It was recognized that the examination of trade measures had considerably increased the transparency with respect to trade policies and had also helped members to better understand their motivations. It was felt that what was now needed was a willingness to consider all the problems together, and that one of the principal issues to focus the attention on in this general context was the nature of the conditions that would make it possible to bring substantially all measures affecting trade in agriculture under more operationally effective GATT rules and disciplines. It was pointed out, however, that a certain balance would need to be established between the various elements involved.

3. It was stressed that in its work, the Committee should take full account of the need for a balance of rights and obligations under the GATT and of the special needs of developing countries in the light of the GATT provisions providing for differential and more favourable treatment for such contracting parties. Full account should also be taken of specific characteristics and problems in agriculture and the link between agricultural policy in general and other national policies, and import and export policies which were integral elements of national agricultural policies. The scope for improving the operation of GATT rules, provisions and disciplines and agreed interpretations of its provisions should also be taken account of. It was in any case essential that in the effort to liberalize agricultural trade, all countries both developing and developed should take active part in the development of solutions.

4. The examination of the operation of the General Agreement as regards subsidies brought out that subsidies and assistance of all types should be addressed in a multilateral context, keeping in mind the relationship of export subsidies to domestic support measures and to measures concerning market access. It was stressed that the special needs of developing countries should also be taken into account in this area, notably with respect to export subsidies which had often caused damage to the trade of developing countries. Such subsidies had in turn forced developing countries to subsidize their exports in order not to be excluded from the markets. Attention was, however, drawn to the fact that the interests of developing countries were also present in the area of supplies.

#### Examination of measures affecting trade

5. It was recognized that tariffs occupied an important place in most regimes examined, but as tariffs were often accompanied by other restrictive measures some members felt that the benefits of lowering and binding of tariffs on agricultural products might too often not be significant. With respect to variable levies, it was noted that members applying such measures said that in doing so they observed existing tariff bindings. A suggestion to examine the scope for agreed multilateral disciplines on variable levies was supported by several members, but it was noted that discussion of possible rules in this area, would also involve the binding of what was unbound and that any such exercise would need to encompass unbound tariffs, quotas and quantitative restrictions including those maintained under exceptions and derogations.

6. Problems related to the application of various types of quantitative restrictions and related measures figured prominently in the Committee's discussion. The gap between GATT requirements and actual practice with respect to licensing and quantitative restrictions was considered to be such as to warrant exploration for possible improvements in existing GATT rules and disciplines.

7. For a number of measures applied to trade in agricultural products, reference was made to legislation predating accession to the General Agreement, to relevant provisions of protocols of accession, and to waivers. It was suggested that consideration be given to the conditions under which measures maintained under these derogations and exceptions could be brought under GATT rules of disciplines. Progress in this field would be essential for improving the balance of rights and obligations under the GATT.

8. The Committee's examinations confirmed that voluntary export restraints were increasingly resorted to in agricultural trade. It was therefore desirable to have increased transparency in this field. It was stressed that such measures should be subject to more complete notification and surveillance procedures and also otherwise be subject to appropriate GATT rules and disciplines.

9. It was noted that in many countries, agricultural trade was extensively regulated through the activities of governmental agencies, marketing boards, associations and cooperatives. The view was expressed that it was not the existence per se of such bodies that was relevant but rather the impact of their operations on trade. It was therefore suggested that consideration be given to the manner in which the provisions of Article XVII could be more effectively applied in the agricultural sector to ensure that the operation of such bodies were conducted, with respect both to exports and imports, in conformity with GATT rules.

10. Concern was expressed regarding the impact on trade of the manner in which sanitary and phytosanitary regulations and other technical restrictions and related administrative procedures were applied. It was noted that it was the legitimate objective to safeguard human, animal or plant life and that each country should have the right to determine its own standards. It was suggested, however, that the application of these measures and related administrative procedures should be subject to objective examination to ensure that they were not applied in a manner which exceeded what was necessary in accordance with the preamble to Article XX. It was suggested that the current procedures for reverse notification of and consultation on such measures should be strengthened, and contracting parties should accept to engage in consultations on such matters.

#### Examination of the operation of the General Agreement as regards subsidies

11. The examination of measures affecting trade confirmed that various forms of direct or indirect assistance to exports of agricultural products were extensively resorted to. It was felt that the operation of the General Agreement as regards subsidies had not been effective, although some members believed that it might be as correct to say that the rules had not been applied. It was clear that the unsatisfactory situation derived both from the shortcomings as regards the effectiveness of Article XVI and from the fact that contracting parties had not been respecting the general spirit of that Article.

12. It was generally agreed that the notification requirements of Article XVI should be more fully complied with by all contracting parties, and that all forms of assistance should be recorded. It was considered important to improve the scope and coverage of notification and surveillance in order to have a comprehensive picture of the situation. Furthermore, considerable support was expressed for the idea of establishing procedures for regular reviews of such notifications.

13. As regards interpretation of Article XVI:1 different views were expressed concerning the determination and assessment of prejudice caused or threatened by subsidization, and also with regard to the content of the obligation to discuss the possibility of limiting such subsidization.

14. Similarly, the concept of "equitable share" as contained in Article XVI:3 and in Article 10 of the Subsidy Code, was not defined, interpreted or applied in a way that could constitute an effective discipline on the use of export subsidies.

15. When addressing the question of what constituted a primary product and of what were the obligations of contracting parties as regards the subsidization of the primary product component of a processed product, it was reiterated that existing GATT rules provided for a ban on export subsidies on any product other than a primary product, including processed agricultural products. It was noted, however, that price compensation schemes, under which the difference between domestic prices and world market prices on the primary product component in a processed product was compensated for, was a well established practice in many countries.

16. The suggestion was made that the Committee should try to reach some agreement on measurable disciplines covering the entire range of export assistance measures. It was also suggested that the aim should be a phasing out of export subsidies, and to have an effective ban on export subsidies for processed products.

#### Preliminary consideration of conclusions

17. It was generally agreed that the Committee's examinations had demonstrated that there were serious problems over a range of measures affecting trade in agriculture and that there was an urgent need to find appropriate solutions. Against this background, the Committee gave preliminary consideration to a number of suggested approaches aimed at bringing substantially all measures affecting trade in agriculture under more operationally effective GATT rules and disciplines, and improving the opportunities for trade in agriculture. In this context, stress was laid on a number of important general considerations which it would be necessary to take fully into account in the Committee's work. These included the need to take account of the special needs of the developing countries, of the specific characteristics and problems of agriculture, and of the need to maintain an overall balance of rights and obligations. It was also stressed that the need to liberalize trade in agriculture and to allow greater scope for the interplay of market forces under fairer conditions of competition and security of access were also of fundamental importance.

18. The view was widely shared that progress in improving the rules and opportunities for agriculture should be undertaken on as broad a basis as possible, that the interests of the full range of contracting parties should be covered, and that all contracting parties should participate in or share the resulting adjustments and benefits. In this regard it was noted that, having regard to the political realities and the nature of the problems, improvements in the existing situation would need to be introduced progressively and in a balanced manner.

19. The approaches considered by the Committee covered a range of possibilities. It was suggested, having regard to the fact that account should be taken of the need to address simultaneously market access and domestic production policies, that all tariff lines should be bound or partly bound, that quotas should be liberalized through provision for a growth element, and that to reinforce these commitments, internal support prices should be bound in relation to a base price.

20. Another suggestion considered was that liberalization should be approached on a broad front involving commitments on all measures affecting trade, with certain measures, such as those applied for health and sanitary reasons, having to be scrupulously justified. As part of this approach, it was suggested that there should be a ban on export subsidies with time-limited exceptions. It was also suggested that commitments on access and limitations on export subsidies would automatically bring pressure to bear on the internal support policies which were responsible for structural surpluses.

21. Another suggested approach outlined in the Committee's discussions involved strengthening the linkages under GATT rules between domestic policy and import and export measures in a manner which precisely defined the permissible or acceptable limits to the impact of domestic policies on trade. It was suggested that this linkage was widely recognized and in fact already existed in a certain form in Article XI and also in XVI. It was noted in this regard that the present situation in agriculture had developed largely as a result of there being no effective limits on internal support policies. While contracting parties would be unwilling to accept that domestic policies per se could be negotiated internationally, a question to be considered was whether the linkage could be developed within the GATT rules in a way that would result in more effective disciplines being imposed on subsidies affecting exports generally and on import measures.

22. Against the background of these suggestions the Committee gave preliminary consideration to a number of possibilities with respect to Articles XI and XVI on the basis that improvements in these two key inter-related areas were fundamental to any attempt to improve the rules and opportunities for trade in agriculture.

23. With respect to Article XI, discussion focused on the possibility that the provisions of the Article be reinforced in a manner which would enable all quantitative restrictions and other related or assimilable measures to be brought under effective GATT surveillance and disciplines. It was central to this approach that all such measures should be covered by a strengthened Article XI including measures maintained under waivers, protocols of accession and pre-existing legislation. How this could be done without weakening the existing provision of the Article was a matter upon which divergent preliminary views were expressed. In this regard, it was noted that bringing such measures under Article XI would result in a weakening of that Article only if it was assumed that its provisions would be relaxed to the extent necessary to accommodate the status quo. It was suggested, however, that the assumption should be that the conditions under which such measures could be brought within the effective ambit of a reinforced Article XI would be a matter for broader negotiation, involving, for example, transitional arrangements designed to ensure full conformity within an agreed timeframe.

24. The possibility of bringing certain measures not subject to specific GATT rules and disciplines under the aegis of a reinforced Article XI was also discussed. It was pointed out for example, that the considerations which had a bearing on the increasing use of voluntary restraint agreements were assimilable more to the conceptual framework of Article XI than to that of Article XIX. It was also suggested that consideration might be given to the possibility of establishing appropriate rules and disciplines on variable levies in the context of possible efforts to strengthen Article XI in its application to substantially all quantitative restrictions and other non-tariff measures affecting trade.

25. With regard to subsidies affecting exports the Committee gave preliminary consideration to a number of possibilities in the context of the linkage between domestic policies and export measures. Basically, these included the elimination or phasing out of direct export subsidies, and more general suggestions regarding disciplines on the use of subsidies affecting exports in the framework of precise exceptions to a general prohibition. The suggestion was also made that concessional sales should be replaced by grant aid transactions. The view was expressed that it was important to take account of the need to safeguard the dynamic character of production and trade in considering this question. It was also noted that possible approaches which were directed at controlling direct export subsidization without dealing with the more fundamental problem of subsidies generally and other forms of export assistance, were unlikely to significantly improve the current unsatisfactory situation.

26. It was generally considered that an approach to subsidies affecting exports along the lines of Article XI, namely a general prohibition in conjunction with specified exceptions, was a possibility worth exploring further. It was noted that such an approach could represent an improvement compared to the largely ineffective exhortation to avoid the use of export subsidies and the unworkable effect-oriented criteria in the current rules.

27. It was also pointed out that while the special needs of developing countries should be taken fully into account, consideration of improved rules and disciplines in the area of subsidies affecting exports should proceed on the basis that any improved rules and disciplines would be generally applicable to all exporters.

28. Regarding possible general criteria for exceptions to any prohibition, reference was made, inter alia, to effective supply management or production control programmes, to disciplines related to internal price and income support and to situations of temporary oversupply. Reference was also made to the manner in which exports subsidization should be permitted, with the suggestion being made that, in principle, producers should themselves meet the cost of exporting rather than being directly assisted. The question was also discussed as to whether exceptions granted to any general prohibition should be temporary. It was also noted in this general context that as part of any effort to improve the disciplines on subsidies affecting exports it would be necessary to strengthen the existing rules governing competition on world markets.

29. As regards the interrelationship of the possible approaches discussed with regard to Article XI and XVI, it was noted that it was essential that there should be a degree of symmetry and balance in terms of rights and obligations, and that the overall result should be to improve the opportunities for trade.

#### Chairman's Concluding Remarks

30. In closing the meeting, the Chairman made some general comments, the text of which is annexed.

ANNEX

Closing remarks by the Chairman - Meeting 5 to 8 March 1984

1. Following the Committee's examinations and our broader discussions this week, there are some preliminary conclusions which have begun to take shape, and I would like to provide you with an indication of some of the concepts which will be contained in the non-paper I will be submitting to you in advance of the meeting in April.

2. First of all, it is apparent that the GATT has not succeeded in substantially liberalizing trade in agriculture despite major efforts in successive negotiations. Moreover trade policy in many instances has been conducted outside or on the margin of GATT rules and disciplines, even in the modified form that they apply to agriculture. There are, of course, exceptions but by and large the picture which has emerged from our examinations is one in which trade access has become increasingly restrictive, in which conditions of competition have degenerated, and in which the mounting direct and indirect costs of support and protection are a major source of concern to governments.

3. Secondly, the situation facing contracting parties as I have described it, is mainly the result of the extensive range of trade restrictive measures put in place to protect domestic income and price support or stabilization policies. Although in practice, domestic policy has a direct impact on trade, under the existing GATT rules and disciplines the link between domestic policy and trade policy is largely indirect and attenuated. The weakness of this link has meant that domestic policy has been conducted in a framework in which the permissible limits to the impact of domestic policy measures are vague and ill-defined.

4. In my view, it is essential, if progress is to be made in improving the GATT framework and opportunities for trade in agriculture, that the link between domestic policies and their impact on trade should be made more direct and more explicit in the GATT rules. While such policies are not amenable per se to specific GATT commitments, scope does exist to develop and strengthen the linkages that already exist in Articles XI and XVI in a manner which better defines the permissible or acceptable limits of the impact of domestic agricultural policies on trade.

5. It appears to me from our discussions that movement along these general lines could provide a possible basis or foundation for improving the superstructure of GATT rules and the opportunities for agriculture. It is equally clear that improvements in such critical areas as Articles XI and XVI must go hand in hand with improvements relating to other measures affecting agricultural trade, the grey zone measures, unbound tariffs, variable levies and health and sanitary regulations etc. But for our work to proceed in all these areas we need to have our conceptual framework in place in order to see how we might achieve greater liberalization and take full account of the needs of the developing countries.

6. There has, I believe, been fairly widespread endorsement that one of the principal issues that the Committee needs to focus on is the nature of the conditions that would make it possible to bring substantially all measures affecting trade in agriculture under more operationally effective GATT rules and disciplines. It seems to me that, in this general context, more explicit recognition of the linkages between domestic policies and trade measures affecting imports and exports should be approached as one of the conditions that might make it possible to make progress towards achieving this goal.