

GENERAL AGREEMENT ON TARIFFS AND TRADE

Group on Quantitative Restrictions
and Other Non-Tariff Measures

MEETING OF 22 MARCH 1984

Note by the Secretariat

Chairman: Ambassador A. Onkelinx (Belgium)

1. The Group met on 22 March 1984.
2. The Chairman recalled that the purpose of the meeting, as set out in GATT/AIR/1984 was to continue Stage II of its work, i.e. the review of existing quantitative restrictions and other non-tariff measures and, in particular, the grounds on which these are maintained, and their conformity with the provisions of the General Agreement.
3. In accordance with the procedures agreed at the meeting of October 1983 (NTM/4), the Group first dealt with quantitative restrictions and then turned to other non-tariff measures. As set out in the airgram convoking the meeting (GATT/ATR/1984), the Group is to take up questions relating to measures affecting agriculture and textiles at a later date in the light of developments in the work being undertaken elsewhere in the GATT in these areas.
 - A. Collection of further information on quantitative restrictions
4. On a point of procedure, the representative of Chile stated that the secretariat note on the proceedings of the last meeting had covered the questions and discussions regarding the GATT justification or lack thereof in too general a manner. On the other hand, more attention had been given in the report to matters related to the grounds on which those measures were maintained. This affected the balance in the presentation of the proceedings of the Group and made it difficult to draw meaningful conclusions. He hoped that this situation would be appropriately corrected in the future. The Chairman stated that he had seen the document in advance and informed the secretariat that it represented a fair record of the discussions. He added that in keeping with established GATT procedures the document in question had been informally circulated to concerned delegations prior to finalization and they, including the delegation of Chile, had had a chance to make their comments for incorporation in the official version. Comments received from delegations had, in fact, been incorporated in the note NTM/5. Further, as clarified by the secretariat, for a full record of the last meeting, the note of the secretariat, NTM/5 had to be seen together with the two documents NTM/W/6/Rev.1 and Rev.1/Add.1 which incorporated the information provided by delegations.
5. The Chairman noted that, since the last meeting of the Group, the NTM/W/6 documentation had been updated by the secretariat (NTM/W/6/Rev.1 and Rev.1/Add.1) to incorporate information provided at the last meeting as

well as new information received from some contracting parties. He reminded the Group that the documentation continued to identify the products of export interest to the developing countries following the terms of reference of the Group. He expressed the Group's appreciation for responses received to the request for information, noted that some contracting parties were working on new or revised notifications, and invited others, in particular those contracting parties who had yet to submit detailed notifications, to do so at the meeting or soonest possible thereafter. The objective was to provide the Group with documentation that was as comprehensive as possible at the end of Stage II.

6. The representative of Turkey stated that Turkey's commercial régime had been significantly transformed recently following the change of government which took place in December 1983. The new import régime, constituted an important step forward in the direction of liberalization. Many of the import restrictions which had existed under the old system had been eliminated as part of a policy which aimed at greatly expanding Turkey's trading relations. The full particulars of the new import régime and details of the remaining restrictions were not yet available to the delegation. The representative of Turkey stated that the detailed information would be transmitted to the secretariat as soon as possible for circulation.

7. The representative of Trinidad and Tobago stated that, in response to the Chairman's request for information relating to the work of the Group, his authorities had sent some initial information to the secretariat though there were areas in which additional information was still required. He stated that efforts were underway to have the data completed and that these would be sent to the secretariat as soon as possible.

8. In a general statement, the representative of Cuba stated that her country did not maintain quantitative restrictions. The foreign trade régime of Cuba was based on the principle of non-discrimination set forth in the General Agreement. Trade operations, relating to imports and exports were under an independent legal entity of the State. The activities carried out included trading operations and setting out conditions for the development of Cuba's external trade. The objectives of the activities of the foreign trade enterprises exclude their being used to hinder trade, since they are designed to create conditions for the development of foreign trade with all countries willing to maintain trade relations with Cuba on a basis of equality, respect and mutual benefit, while abiding by considerations of a commercial character. The representative considered that quantitative restrictions and other non-tariff measures incompatible with the General Agreement should be eliminated to achieve greater liberalization of world trade. To this end, special attention should be paid to products of export interest to the developing countries, as pointed out in the Ministerial Declaration. The Cuban delegation would supply further information as soon as possible.

9. The representative of Malaysia stated that Malaysia maintained very few import restrictions involving quotas and licensing requirements. These restrictions fell into the categories of complete prohibition, import permits (subject to clearance by relevant departments) and quotas and import licensing. These non-tariff restrictions were imposed on security and moral grounds and to encourage local processing and manufacturing in line with the Government's industrialization policy. (The detailed

information provided by the Malaysian representative will be incorporated in NTM/W/6/Rev.1/Add.2.)

10. The representative of South Africa stated that, as indicated in the last meeting, the South African notification had been submitted and the information collated by the secretariat in NTM/W/6/Rev.1. South Africa was continually reviewing its residual import restrictions. In line with this policy, a further ninety groups of items had been decontrolled. This further liberalization of import control was announced subsequent to the submission of South Africa's earlier notification. (The information provided will be incorporated in NTM/W/6/Add.2.)

11. The representative of Norway, speaking on behalf of the Nordic countries, stated that their main concern was that a considerable number of contracting parties had not so far submitted notifications. The need for maximum possible transparency was underscored. As regards Norway, a notification had been made to the secretariat regarding the deletion of a number of licensing requirements. The representative of Sweden stated that updated, corrected and supplementary information regarding Sweden's quantitative restrictions had been notified. (The supplementary information provided by the representative of Norway and Sweden will be incorporated in NTM/W/6/Add.2).

12. The representative of Canada stated that it was essential for all contracting parties to approach the obligation of notifications on an equal footing. He noted that there were a number of cases where notifications had yet to be made and supported the initiative that this be done. There were also cases where the information supplied was incomplete or where quantitative restrictions, known to exist in the general course of trade, had not been included by the countries concerned in their notifications. Canada would be in touch on a bilateral basis regarding the last category. Canada made a plea that in future meetings the Group should have the flexibility to go back to the question of the collection of further information.

13. The representative of New Zealand stated that the significant trade liberalization and adjustment measures currently being undertaken by New Zealand had been mentioned previously. These included the import licensing tendering scheme and the industry development plans. The New Zealand Government was negotiating an industrial strategy and associated programme of relaxation of quantitative restrictions which would effect a major change in the régime over the next few years. This year, New Zealand had adopted a firm policy of identifying goods not produced domestically so that they could be exempted from import licensing. On 1 July 1984, a major exemption was scheduled to occur involving some eighty tariff items and statistical keys with a trade value of approximately \$NZ 60-\$NZ 70 million per annum. This policy would continue next year with the expectation that considerable further progress could be made. The representative also pointed to the provision of increased amounts of import license under industry development plans having a significant effect on the import licensing system. In the current import licensing year, about \$NZ 100 million worth of additional import licenses had been available under these plans.

14. The representatives of the United States and the European Communities stressed the need for getting a complete listing of all quantitative

restrictions in existence. The former noted that information was still to come from a number of contracting parties. The latter stated that the information should include import as well as export restrictions.

15. Underscoring the objective of maximum possible transparency, a number of delegations welcomed the statements by delegations regarding supply of required information, noted that gaps in the data base still existed and expressed support for the idea that if the information was not forthcoming, the secretariat should be asked to draw from available official, published sources.

16. The representative of India stated that the issue of transparency was perhaps receiving an inordinate degree of importance. The data base, though not perfect, was adequate to begin the more substantive work. India saw no sequential links between the collection of information and the review of the measures. The Group should now focus on the operative part of the Ministerial mandate in respect of the elimination of quantitative restrictions inconsistent with the General Agreement. India recalled the conclusions of the Ministerial meeting held in May 1963 on the elimination of quantitative restrictions on imports of less developed contracting parties inconsistent with the provisions of the GATT within a period of one year or two years from then (BISD12S/36). Further delay in tackling the substantive work or failure of the Group on achieving results would adversely effect the overall credibility of the GATT system in this area.

17. Regarding availability of information, it was noted that detailed information had been received from or promised by fifty-three out of the ninety contracting parties, although, as clarified by the secretariat, this includes forty-seven out of the forty-nine contracting parties paying above the minimum GATT contribution which is an index of their participation in world trade.

18. In his concluding remarks, the Chairman noted that documentation was not complete though progress had been made. The Group agreed that the secretariat be requested to contact and, if necessary, to assist delegations of contracting parties who had not yet made the required notifications, drawing, if necessary, upon information available in published official sources, in consultation with contracting parties concerned.

Item B: Review of Grounds for and GATT Conformity of Quantitative Restrictions

19. Opportunity was provided to delegations to seek further clarification on the grounds and GATT justification for quantitative restrictions. It was observed that the documentation had been revised for the product sections examined at the last meeting and Column 6 now contained information on this point. The Chairman invited delegations to make supplementary statements on their measures or ask supplementary questions bearing in mind that where no justification was advanced, the Group had agreed to insert the words "no GATT Article/Provision cited".

20. A number of delegations stressed that transparency, though desirable, was not an end in itself and that the Group should now move ahead with a clear work programme designed to achieve the operative objective of the Ministerial Declaration of either bringing measures into conformity with

GATT or eliminating them. The formula "no GATT Article/Provision cited" was a clear indication that the particular measure in question was not justifiable in terms of the General Agreement. Moreover, two recent panel reports adopted by the Council had shown that social, historical or similar reasons for the maintenance of quantitative restrictions could not be considered valid justification and consequently were irrelevant to GATT obligations.

21. As elements of a possible future work programme, these delegations suggested that (a) contracting parties should undertake the obligation of notifying any existing or future trade restrictive measures maintained or applied, including their justification under the relevant GATT provisions and information on the grounds on which they are maintained; (b) the secretariat should prepare two separate lists of measures, one comprising the measures for which no GATT Article/Provision had been cited, the second containing measures for which the grounds or justifications advanced by the maintaining countries had been questioned in the Group; (c) as to the first list, a programme should be drawn up as part of the conclusions of the Group, in order to comply with the Ministerial Decision, thereby securing within a reasonable time the elimination of such measures or their being brought into conformity with the provisions of the General Agreement; the possibility of requesting a waiver was also mentioned in this connection. With regard to the second list, it was suggested that further examination would be required in order to clarify the question of the conformity of the measures included; (d) while undertaking this work, special attention should be given to measures affecting products listed as of priority interest to developing countries.

22. A number of delegations stressed the need for the fullest possible transparency, particularly to ensure that measures hitherto not notified were included in the data base. This was considered essential for the maintenance of a proper balance in the documentation and also for a fair categorization of measures.

23. At the last meeting, some questions had been raised concerning the quality of information available. In this context, a number of delegations suggested that the secretariat prepare a brief paper on the symbols used in the documentation. The Group agreed that the secretariat should prepare such a paper in consultation with delegations for consideration at a future meeting with the objective of examining how best the present system might be streamlined to improve the quality of information.

24. Another delegation pointed to the need to invoke GATT justifications for measures as precisely as possible. Generalized references to GATT articles, e.g. Article XVIII, were not adequate as some provided multiple possible justifications under their different parts. It was also recalled that at its last meeting the Group had agreed to a proposal by the Chairman that the next progress report to the Council should reflect the Group's concern about justifications which were invoked without the appropriate procedures being followed by the country or countries maintaining the concerned measures. The suggestion was made that the secretariat might seek further clarifications in such cases from the concerned delegations.

25. A representative of a group of delegations stated that in many cases it would be appropriate also to question the status of the justification cited by the notifying countries particularly when it was known that in

many cases the appropriate procedures had not been followed. Under these circumstances there would be difficulty in drawing a clear distinction between one type of quantitative restriction and another; nor was it possible to look at Article XI in isolation from the many discussions that had already taken place on the subject of quantitative restrictions or the history of these measures. Proposals for future work would have to be carefully considered against this background.

26. One delegation expressed support for seeing the exercise in the context of the Ministerial Declaration. The specific proposals for future work deserved careful consideration. It was essential also to focus on other non-tariff measures which constituted a significant barrier to trade.

27. The representative of South Africa stated that grounds for the maintenance of measures were of relevance to the exercise even where contracting parties had not been able to cite specific GATT articles/provisions for such measures. The Group would be able to make progress only if it retained a measure of realism when considering existing quantitative restrictions or other non-tariff measures. South Africa had, like some other countries, not always been able to quote GATT articles/provisions in Column 6 of the NTM/W/6 documentation. However, this did not imply that legitimate grounds did not exist, e.g. cases where structural change was in progress and which could not be effected immediately without serious dislocation. South Africa's import control régime went back more than thirty years when it was introduced shortly after World War II to protect the country's dwindling foreign exchange reserves. With the passage of time, import control also inevitably assumed an incidental protective aspect. However, it remained the policy of the Government to protect domestic industry on a selective and moderate basis by means of the customs tariff as and when tariff freedom could be negotiated under the GATT. South Africa had, since 1972, when it finally disinvoked recourse to the provisions of Article XII, consistently worked towards the ultimate reduction of quantitative restrictions. In fact, quantitative restrictions such as import control were also in conflict with the Government's declared policy of supporting the free market economy system. More recently, South Africa had increased its efforts to do away with residual restrictions. This was part of various other steps like the relaxation of control over the movement of foreign exchange and free floating of currency for market related exchange and interest rates. To further promote the aim of a free market orientated economy, substantial progress had been made in the direction of the removal of all import quota restrictions by 11 July 1980 and replacement by a system according to which import permits would be issued for full reasonable requirements of importers. (Detailed information to be incorporated in NTM/W/6/Rev.1/Add.2)

28. The representative of Hungary stated that with effect from 1 January 1984, the number of specific quotas maintained for balance-of-payments reasons had been considerably reduced. (Detailed information to be supplied to the secretariat.) This was an example of progressive reduction even though the measures were in conformity with the GATT.

29. In summing up the discussions on this item, the Chairman welcomed the statements made and noted that while there did not appear to be much more concrete information to be added to the existing documentation at this

stage, the Group had agreed that the collection of information should remain an important and ongoing part of the work of the Group. Further, the secretariat would be available for assistance to delegations for this purpose. Additional information collected from delegations and, in consultation with them, from available official sources would be appropriately incorporated in the documentation.

30. The Chairman recalled the general discussions and specific proposals put forward during the meeting regarding the Group's future work programme. He suggested that delegations consult further among themselves with the objective of reaching definitive conclusions in the forthcoming meetings of the Group. The Chairman would also hold consultations with the secretariat and delegations regarding how best work might proceed in the area of products of interest to developing countries. He would revert to this matter at an appropriate

Review of other non-tariff measures and priorities for Stage III

31. The Chairman drew the attention of the Group to the new Addendum, NTM/INV/I-V/Add.6 which included most of the new, amended or modified notifications received so far. There were others being processed and these would be incorporated in subsequent addenda. He recalled that the updating of this documentation remained an ongoing process.

32. Opportunity was provided to delegations to ask questions on the grounds and GATT conformity of measures in the Inventory.

33. The representative of Australia referred to a notification by Singapore relating to the imposition by Australia of anti-dumping duties against Singapore as of 23 September 1982 on vertical metal filing cabinets (II.A.2 of NTM/INV/I-V/Add.5). Australia had discontinued the action as from 5 October 1983 and accordingly requested the deletion of the notification from the Inventory.

34. The representative of Canada informed the Group that Canada had submitted a number of comments to the secretariat with respect to notifications raised concerning measures by Canada. Canada would also be requesting deletions of some notifications on a bilateral basis with the concerned notifying countries.

35. The Group had earlier agreed that it should proceed with a discussion of priorities so as to enable it to arrive at conclusions in this area this year as requested by the Ministers. The Chairman recalled that, in the December meeting, some possible approaches to the selection of priority areas had already been presented. He invited further discussion and specific proposals with a view to crystalizing ideas to the extent possible.

36. The representative of a group of delegations referred to the list of existing new and amended notifications for priority discussion circulated by them at the last meeting. While they continued to prefer discussion on individual measures, they agreed that in parallel with this discussion, the various types of measures as outlined in the Inventory could also be examined. They proposed to submit a list of priorities by types of measures in the near future. Another representative reiterated that Sections A, B, G and H of Part IV of the Inventory should be given priority

treatment. In addition, certain non-tariff measures covered by provisions of any of the Codes, e.g. pertaining to subsidies and countervailing duties, customs valuation and technical barriers, should be referred to the concerned Code Committees for more active review. Another representative referred to the need to give priority to the export interests of developing countries in accordance with the mandate of the Group and to ensure a just equilibrium in the approach to future work. In this connection, reference was made to paragraph 47 of NTM/5.

37. In concluding the discussion on priorities, the Chairman stated that it would be premature to draw definitive conclusions at this stage though the Group would be called upon to do so later with the commencement of Stage III. In this regard, he urged further reflection and consultation so that the Group could arrive at an early consensus in respect to the approach to be adopted in this area.

Arrangements for future meetings

38. As suggested by the Chairman, the Group agreed that the next meeting would be held on 7 and 8 May to (a) review the documentation and examine questions relating to grounds and GATT conformity of quantitative restrictions and other non-tariff measures in the area of agriculture and textiles (b) revert to any outstanding questions relating to the items discussed earlier and (c) agree to move to Stage III, consideration of the Group's findings and conclusions, on the understanding that the work of collection and examination of information may be continued, if necessary.

39. The Chairman further suggested that the Group should aim to complete its work by 19 October to enable its report to be considered by the Council and, subsequently, by the CONTRACTING PARTIES as required by the Ministers. The Group agreed to hold meetings on the following dates to deal with Stage III of its work; on the understanding that this programme would be modified, if necessary:

13 and 14 June
2 and 3 July
27 and 28 September
15 and 16 October.