

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

NTM/12

17 June 1985

Limited Distribution

Group on Quantitative Restrictions
and Other Non-Tariff Measures

MEETING OF 21 MAY 1985

Note by the Secretariat

Chairman: Ambassador A. Onkelinx (Belgium)

1. The Group met on 21 May 1985.

A. Written Proposals Relating to Quantitative Restrictions and Other
Non-Tariff Measures

2. The representative of Spain drew attention to what he considered were serious errors in the Spanish text of the note on the last meeting (NTM/11). He felt that in view of these and, possibly other errors, a revision of the document should be issued. He thought that he had detected a general problem with other Spanish translations as well. The representative of the secretariat assured the delegate that the matter would be looked into and appropriate action taken.

3. The Chairman stressed that the written proposals were a critical area of the Group's work and must receive priority attention. It was essential to have as large a number of proposals as possible. He recalled that in view of the objectives outlined in the Group's (1984) Report, L/5713, he had earlier made the general suggestion that the proposals might contain (i) information on immediate steps taken to eliminate or liberalize quantitative restrictions and other non-tariff measures; (ii) suggestions as to future action by contracting parties in these areas; and (iii) indication of any immediate and future steps to deal with quantitative restrictions and other non-tariff measures affecting products of export interest to developing countries. He also recalled, in this connection, that the CONTRACTING PARTIES had asked the Group to take into account the insights gained and the conclusions reached in the Working Party on Structural Adjustment (L/5757/Rev.1).

4. It was recalled that in framing their proposals, or adding to the ones already made, contracting parties should bear in mind the discussions held in the Group and analyses prepared by the secretariat. In this context, the Chairman drew attention to the latest informal secretariat paper, circulated to members, undertaking further analysis of the data base. The Group's Report (L/5713) had asked for these studies by the secretariat. The objective of the note was to build upon the earlier secretariat analyses (circulated as NTM/W/9) and to assist the Group in dealing with quantitative restrictions and perhaps more particularly with other non-tariff measures, with which the Group had had some difficulty in coming to grips.

5. The Group noted with appreciation that a number of written proposals had been received and circulated to members as NTM/W/12 and Addenda 1-8. It was also noted that some other contracting parties had indicated that they would be sending their proposals soon. In this context, it was suggested that the written proposals should cover both quantitative restrictions and other non-tariff measures and, to the extent possible, precise descriptions of measures and tariff headings of products affected should be communicated to make evaluation easier by interested delegations.

6. Delegations who wished to introduce the proposals already tabled by them or to make proposals, or to seek clarifications or make comments on existing proposals were invited to do so.

7. The representative of Canada recalled that he had indicated at the last meeting that his authorities were conducting a review in light of the recommendations in the Group's report adopted at the last session of the CONTRACTING PARTIES: Canada's review of quantitative restrictions and non-tariff measures was proceeding on two fronts: (i) in respect of measures maintained by Canada or notified by other contracting parties with respect to Canadian practices; and (ii) measures maintained by other contracting parties. With respect to the former, the Canadian authorities had experienced some delays but would plan to make a written submission to the Group within the next few weeks. This submission would note, by way of example, the removal from the Canadian import control list of items relating to sugar in the data base on quantitative restrictions and, in the area of non-tariff measures, the implementation as of 1 January 1985 of the Valuation Code and the proclamation on 1 December 1984 of the Special Import Measures Act, both of which represented significant steps forward in the liberalization of Canada's import régime and would point logically to the deletion of a number of measures notified against Canada in the Inventory of Non-Tariff Measures. With respect to the review of measures maintained by other contracting parties, the representative stated that Canada saw it as a longer term project, as it would take time to complete an evaluation of Canada's trade interests. There was a possibility of making a submission to the group at a later date. The representative informed the Group that he would be providing the Group with a notification updating Canadian measures listed in the information base on quantitative restrictions.

8. The representative of New Zealand stated that the sheer size of New Zealand's proposal (NTM/W/12/Add.8), covering some 100 pages, provided a fair indication of the amount of work required to produce a detailed item-by-item indication of the steps being taken to dismantle the import licensing system. The New Zealand authorities had attempted to look ahead without restricting themselves to reminding other contracting parties of steps already taken. For example, the submission did not mention that on 1 July last year a major elimination of quantitative restrictions occurred involving some eighty tariff items and statistical keys with a trade value of approximately NZ\$60-70 million. In introducing the proposal, the representative stated that Part I contained proposals on New Zealand's quantitative restrictions with each item listed according to the format set out in the Import Licensing Schedule. The symbol "T" used in New Zealand's proposal meant that the relevant item did not fall within a specific industry plan but was subject to general liberalization measures under which additional import licences were allocated by tender. In November

1984 licences were tendered to further increase the level of access to a minimum of 10 per cent by value of the domestic market. In some cases even higher percentages were available. The next step would be a move to 15 per cent of the domestic market on almost all products outside the industry plans. The New Zealand Government was currently considering precisely when this move should take place, i.e. which month during 1985 and the size of future increases in import licence tendering beyond this year. It was important to realize that by the time imports have access to 30 per cent of the domestic market import licensing was virtually irrelevant. For many products not already free of licensing that stage would be reached in only two or three years' time. The NZ\$435 million worth of tenders made available under the import licensing tendering scheme at the beginning of this year was the largest single offering of import licences ever. It was interesting that NZ\$220 million of licences were not taken up, possibly because of the novelty of the tendering system. The other main series of symbols used in the New Zealand proposal were the numbers 1 to 16 which referred to specific industry development plans that had their own liberalization schemes. The industry plans covered about 40 per cent of New Zealand's total production and included some very significant industries, e.g. textiles, motor vehicles, plastics, electronics and rubber goods. Each plan was tailored to the particular circumstances of that industry. Many plans, particularly those implemented already, included defined dates for the removal of import licensing in respect to the products they covered. For example, import licensing had already disappeared in respect of a range of packaging materials. Next year it would end in respect of a number of ceramic products. In 1987 writing instruments would be taken off license, followed by plastic goods in 1988. 1989 would see the end to import licensing of tyres, glassware and starch products. Rubber goods would be completely off license in 1990 and canned fruit completely in 1991. Certain specific items within these industries either have been, or will be, made exempt before these dates. The second part of New Zealand's submission contained "proposals" in respect to the quantitative restrictions or other non-tariff measures of other contracting parties. They indicated New Zealand's trade interest, current or potential, in the market concerned and were not necessarily a reflection of the incidence of non-tariff measures maintained by specific contracting parties. Provided the measures were not replaced by greater restrictions they were all proposals on which New Zealand should welcome elimination or, at least, more liberal treatment.

9. The representative of South Africa introduced South Africa's proposals (NTM/W/12/Add.3) which reflected the fact that efforts to relax import control had been stepped up considerably since the inception of the Group. These efforts culminated in the publication earlier this year of two very extensive lists of items at present being considered for removal from import control. It was expected that more than 2,400 items would be removed from import licensing in the very near future, leaving only about 2.5 per cent of South Africa's total imports subject to control measures for which specific GATT provisions had not been invoked. These residual items remained under review and further dismantling of import control was not excluded. While South Africa's proposals were not conditional upon a comparable effort by all participants and the exercise was not regarded as one which would require absolute reciprocity, the South African authorities felt that the elimination of quantitative restrictions on a broader and more substantive basis would give more credence to the effort to bring

about an elimination or reduction of quantitative restrictions in the GATT. It would certainly assist individual governments in the implementation of the Group's mandate, albeit painful in certain sectors or in respect of particular industries. In short, a collective effort would make the adjustment process more palatable to industry, especially in countries where economic recovery remained sluggish. South Africa had so far also been able to resist pressure for the invocation of Article XVIII and would continue to resist it, in the hope that alternative techniques for the removal of residual restrictions might be elaborated to safeguard its legitimate development needs, and those of the other members of the Southern Africa Customs Union Agreement, which included three least-developed countries, one of which, incidentally, had recently acceded to the Customs Valuation Code.

10. The representative of Australia noted that Australia maintained few quantitative restrictions. These restrictions covered measures maintained under Article XX(b) of the GATT relating to an import prohibition on wheat, rye and oat seeds and on chocolate containing alcohol; and an embargo relating to sugar imports which came under the Protocol of Provisional Application. Australia was sensitive to its obligation to ensure that the effects of these regulations were consistent with its GATT obligations. In this regard, the Group would recall that Australia had removed the embargo on wheat imports last year. The other category of quantitative restrictions maintained by Australia related to used, secondhand and disposal goods, e.g. excavation machinery, which were subject to discretionary licensing controls because an ad valorem tariff was not considered appropriate in view of the difficulty in verifying the normal value of items in this category. Australia currently maintains discretionary licensing arrangements under Article XIX relating to four-wheel drive vehicles. The representative recalled that Australia's Article XIX action on steel was recently terminated when steel had come under a liberalization programme.

11. The representative of Japan stated that the Japanese proposals (NTM/W/12/Add.7 and Corr.1) did not include all the measures taken by his authorities since December 1983 to improve market access but had concentrated mainly on the more recent set of external economic measures announced on 9 April 1985 and circulated to the CONTRACTING PARTIES in L/5795. The latter set of measures had two aspects: (i) specific decisions taken to improve immediate access to the Japanese market; and (ii) medium term policy decisions for an action programme taking into account the recommendations of the Advisory Committee for External Economic Issues composed of influential Japanese citizens. Immediate measures included steps to improve standards and certification systems, import testing procedures etc. in product areas like pharmaceuticals, medical equipment, telecommunications etc. Japan hoped to be able to announce new measures in due course. With respect to medium term decisions, a special task force had been established for the promotion of external economic measures and to draw up by the middle of 1985 an outline of the action programme which would cover, inter alia, import restrictions, standards, certifications, government procurement etc. The programme would give special consideration to specific measures promoting the economic development of developing countries e.g. the liberalization of quota restrictions on leather and leather products. The representative stated that the recommendations made by the Advisory Committee included one that

import restrictions should be examined in the context of international trends. As for standards, certifications, and import procedures, the Committee had recommended that these should be rationalized on the basis of simplicity and transparency, that consistency with international standards should be ensured and scope for administrative discretion reduced. The Committee had further recommended that customs procedures be simplified and streamlined and that government procurement procedures be improved, inter alia, through a thorough reassessment of the single tendering procedures and efforts to increase the procurement of foreign products. The representative believed that the multilateral review could proceed on the basis of the proposals so far made.

12. The representative of the United States confirmed his authorities would be sending a written proposal. The United States had few quantitative restrictions and those mostly in the agriculture and textiles areas. As such the United States proposal would not only deal with their own restrictions but also make suggestions as to how to proceed further with future work in this area.

13. A number of delegations stated that they would make comments in the proposals already tabled after they had been examined by their authorities.

14. Some delegations' sought clarifications from other delegations who had submitted written proposals. Referring to the EEC proposal, the delegation of Hungary stated that while the Benelux countries and the United Kingdom had eliminated quantitative restrictions in conformity with their contractual obligations arising from the General Agreement, France, Ireland, Italy and the Federal Republic of Germany, by announcing measures of a discriminatory nature, did not act in conformity with the basic provisions of the GATT. The representative added that out of the twenty-eight items indicated in the EEC proposal, his country had exports only in two items and the value of these exports was below 100,000 ECU. He stated that the measures of France, Ireland, Italy and the Federal Republic of Germany were contrary to the GATT, to the obligations of contracting parties under Hungary's Protocol of Accession, to the mandate of the Group and to the recommendations of the Group contained in its report to the CONTRACTING PARTIES. It was suggested that the authorities of the EEC member States concerned and the competent fora of the Community should reconsider their proposal in light of these comments. The Group should agree not to consider proposals that were not in conformity with the General Agreement or the Group's mandate.

15. The representative of Poland recalled that he had voiced similar concerns at the last meeting of the Group and urged that the Community review its proposal.

16. The representative of the European Economic Community stated that the Community had made substantial efforts to eliminate quantitative restrictions and the progress so far achieved had to be maintained by further work. It was not possible to have a resolution of all problems pertaining to quantitative restrictions and other non-tariff measures in the Group as work in some areas was proceeding in other bodies and had to be kept in view. Restrictions with respect to Hungary would have to be considered in terms of Hungary's Protocol of Accession and, in this sense, the treatment of these restrictions was on a separate track from the

overall exercise being conducted by the Group. The representative of Hungary could not accept this view and stated that the mandate of the Group was absolutely clear in this respect: all existing quantitative restrictions and other non-tariff measures could and should be examined by the Group and priority should be given to the task of achieving the elimination of measures which are not in conformity with the General Agreement or their being brought into conformity with the GATT.

17. Views were exchanged on possible ways of eliminating and liberalizing quantitative restrictions and other non-tariff measures or bringing quantitative restrictions into conformity with the General Agreement. In this context, reference was made to the informal note on possible techniques prepared by the secretariat (L/5713, Annex 3). One delegation was of the view that the unqualified application of certain of the existing GATT provisions might not necessarily result in trade liberalization e.g. there might be a proliferation of actions ostensibly taken under Article XIX (whilst fully accepting the legitimacy of recourse to this Article in valid cases) or recourse to grey-area measures, the status of which might be difficult to establish under existing GATT rules. In this context, this delegation said that the least disruptive, most transparent, predictable and GATT-legal method of bringing residual import controls into conformity was to replace them by realistic tariffs with a procedure whereby contracting parties would be permitted to introduce such tariffs on bound items on the understanding that the increased duties would be phased out over an agreed time schedule, failing which, and only then, Article XXVIII negotiations would be entered into. Another delegation considered that it was possible, in principle, to develop approaches where one country or set of countries liberalized quantitative restrictions across the board while others liberalized in specific sectors. The key to a successful and large-scale reduction in non-tariff barriers lay in providing appropriate adjustment assistance to producers who would be adversely affected by the removal of restrictions. Liberalizing non-tariff measures working through price arrangements (mostly measures affecting agricultural trade) was more complicated. One possible approach might be the undertaking of commitments by governments imposing levies or minimum prices to progressively lower internal prices to world price levels at a determined schedule. This delegation noted, inter alia, that the Inventory of Non-Tariff Measures demonstrated that a large number of contracting parties imposed non-tariff measures on at least some products without attempting to justify them in terms of GATT provisions. It would, therefore, be important to have non-tariff measures which are contrary to GATT provisions converted to measures that are consistent, or to persuade contracting parties to provide justification for the measures they take under the General Agreement.

B. Arrangements for the Multilateral Review of Progress made in Achieving the Objectives laid down by Ministers

18. The Chairman recalled that in the March meeting, the importance of the multilateral review had been underscored by members. The Group had found in the past that, while work on quantitative restrictions and other non-tariff measures should proceed in parallel, it was necessary for purely practical reasons to deal with the two areas separately.

19. Specific comments and suggestions were put forward by delegations regarding procedures for the multilateral review.

20. Some delegations stated that, in view of the mandate and the recommendations set out in the Group's Report, L/5713, the review should concentrate on quantitative restrictions affecting products of export interest to developing countries. As an input, the secretariat should undertake a review of progress in a limited number of sectors - leather, footwear, canned products, electronic products, and tableware indicating, inter alia, the legal framework of measures in these areas. More products could be covered at a later stage, as considered necessary by the Group. While agreeing to the need for action on products of export interest to developing countries, some other delegations stressed that a broad-based approach was needed to ensure a balanced appraisal of the existing situation and the progress achieved. In this context, it was also recalled that the Group had agreed to proceed on quantitative restrictions and other non-tariff measures in a balanced manner and that work on the latter should not be neglected.

21. One delegation observed that the review would need to take into account several elements e.g. paragraph 7(i) of the Ministerial Declaration. It was necessary to focus on problems in the specific product areas of agriculture, textiles, iron and steel which the Group's Report (L/5713, paragraph 12) had noted were more adversely affected by quantitative restrictions. The importance of notification and consultation requirements in other relevant GATT bodies would have to be kept in mind as also the need for contracting parties to fulfil these. It should also be kept in view that ensuring a comprehensive and up-to-date data base on quantitative restrictions and other non-tariff measures was a major task before the Group. As to procedures for the review, a country-by-country approach might prove to be the most appropriate one. In any case, the review should be comprehensive in nature and designed to provide a useful basis for a possible new round of negotiations.

22. Some delegations stated that in view of the time constraint under which it was working, the Group should concentrate its efforts on its main task of reviewing the progress made in achieving the objectives laid down by Ministers (L/5713, paragraphs 44(i) and 65(g)), taking account of the written proposals submitted by members (paragraphs 44(h) and 65(f)). The other multilateral review (paragraphs 44(e) and 65(e)), i.e. of the accuracy and adequacy of the documentation and the grounds and GATT conformity of measures, should be kept for a later stage.

23. Some delegations made comments on the informal secretariat analysis of the data base on quantitative restrictions and other non-tariff measures, circulated recently to members in response to the Group's request (L/5713, paragraphs 44(d) and 65(c)). These delegations felt that the multilateral review of progress towards achieving the objectives laid down by Ministers should include some of the ideas contained in the paper, particularly with respect to other non-tariff measures with which the Group had had some difficulty in coming to grips.

24. In concluding the discussions, the Chairman observed that though the precise modalities for the multilateral review could be decided later perhaps through a process of informal consultations, it was clear that the review should deal with quantitative restrictions and other non-tariff measures in a balanced manner, that priority attention should be paid to products of export interest to developing countries and that, in the

review, the Group should take stock of action that has been taken by members towards the elimination or liberalization of restrictions and consider ways in which further progress might be made with a view to making recommendations to the CONTRACTING PARTIES on this subject.

25. It was agreed that, as an input for the multilateral review, the secretariat should provide a factual paper bringing together information available to the Group on developments in the field of quantitative restrictions and the progress made during the lifetime of the Group towards the objectives laid down by Ministers, taking into account the written proposals submitted to the Group, and pulling together information available on specific products of export interest to developing countries as suggested.

C. Other

Arrangements for Informal Consultations on Questions of a Technical Nature

26. The Chairman referred to the several technical tasks before the Group and recalled the discussions on these matters in March (NTM/11, paragraphs 13-17). The Group agreed to his suggestion that informal consultations be initiated among interested delegations with a view to making proposals for the Group's consideration and decision in July. The secretariat was asked to organize such discussions in consultation with interested delegations.

Dates and Agenda for Future Meetings

27. It was noted that the time-table of meetings was as follows:

19 (3 p.m.) - 21 June
10-12 July

The main item on the agenda of the June meeting would be the multilateral review of progress made in achieving the objectives laid down by Ministers called for in the Group's (1984) Report (L/5713, paragraphs 44(i) and 65(g)).