

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

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Group on Quantitative Restrictions
and Other Non-Tariff Measures

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PROPOSALS REGARDING QUANTITATIVE RESTRICTIONS
AND OTHER NON-TARIFF MEASURES

CHILE

Addendum

The report (1984) of the Group on Quantitative Restrictions and Other Non-Tariff Measures (L/5713), adopted by the CONTRACTING PARTIES at their fortieth session, contains the recommendation that contracting parties should make written proposals by the end of April 1985 regarding quantitative restrictions and other non-tariff measures (paragraphs 44(h) and 65(f)).

The following communication, dated 18 June 1985, has been received from the Permanent Mission of Chile.

PROPOSAL BY THE DELEGATION OF CHILE CONCERNING
LIBERALIZATION OF QUANTITATIVE RESTRICTIONS

I. INTRODUCTION

In compliance with the Ministerial Declaration of November 1982, the terms of reference of the Group on Quantitative Restrictions and Other Non-Tariff Measures, and the recommendations of the latter approved by the CONTRACTING PARTIES in November 1984, the Chilean delegation herewith submits, in keeping with the agreed procedure, a proposal which will make it possible to liberalize quantitative restrictions within a reasonable period.

This proposal is made without prejudice to the rights of each contracting party under the General Agreement.

At the present stage of its work, the Group must proceed in the framework of a general approach that would allow contracting parties to adjust their immediate needs and advance toward attainment of the objective of liberalization envisaged in its terms of reference.

The individual replies by only a few of the governments that apply quantitative restrictions are very disappointing in that they touch on only some restrictions, or are conditional.

Without prejudice to commencing application of the liberalization programme proposed below, the Group can examine the effects of measures, especially those affecting products of interest to developing countries. However, to limit itself solely to such an exercise is insufficient and does not contribute to fulfilment of the Group's terms of reference.

Lastly, it is necessary to restore a minimum of equity. Indeed, some contracting parties have applied restrictive measures for balance-of-payments reasons or have made use of a waiver under Article XXV:5, thereby observing the provisions and disciplines of the General Agreement. On the other hand, other contracting parties make unlimited use of restrictions contrary to the letter and spirit of the General Agreement, do not justify them, and thus evade its obligations and disciplines.

II. LIBERALIZATION PROGRAMME

The Group has made significant progress in the matter of transparency of quantitative restrictions through the inventory it has prepared; the latter should be formalized, and procedures established for its permanent updating and for its unrestricted circulation as an official GATT document.

The inventory makes it possible to classify measures according to their conformity with the General Agreement in three separate groups:

- (i) measures that have not been justified under the provisions of the General Agreement;
- (ii) measures that have been justified but are questioned by other contracting parties; and
- (iii) measures that have been justified and are not questioned.

This classification thus makes it possible to establish a separate procedure for each group of measures, in the perspective of a programme of liberalization or of bringing them into conformity with the General Agreement.

1. Measures which have not been justified under the General Agreement

The participants in the Group were invited to justify their measures under the General Agreement. As the Chairman stated, if no justification was advanced, "there would be a prima facie case that the measures were not in conformity with the GATT" (NTM/9).

An appreciable number of measures have been identified which have not been justified and which are presumed to be contrary to the General Agreement, and in respect of them the following programme would be applied:

1.1 Contracting parties which apply quantitative restrictions that are not justified shall, by 31 December 1985, eliminate them or bring them into conformity with the General Agreement, and notify this to the Group and through it to the Council.

1.2 If the provisions of paragraph 1.1 are not complied with by the date indicated, the Council shall automatically determine, in accordance with Article XXV:5, whether to grant a waiver to the contracting party applying the restriction and shall decide on the conditions thereof.

1.3 This programme shall be applicable in principle to all products. Nevertheless, in view of the work being done by the Committee on Trade in Agriculture in respect of quantitative restrictions and in the light of progress achieved by that Committee, the present programme would be suspended in regard to agricultural products and would apply only if there is no progress or in the event that, after recommendations are arrived at in the matter of agriculture, measures still exist that are presumed to be not in conformity. The same exception would apply to products covered by the Multifibre Arrangement. Application of the programme will be suspended until 31 December 1986, prior to which the Group shall make recommendations

to the Council concerning application of the programme to agricultural products, textiles and clothing in the light of progress made in those areas.

2. Measures that have been justified and are questioned

The Group's documentation, in particular the draft informal note by the secretariat which refers to document NTM/W/6/Rev.1 and summarizes various observations made during the Group's meetings, contains a list of some of the justifications questioned.

The Group shall examine the justification adduced by the contracting parties concerned on the basis of the considerations it furnishes.

Similarly, it shall examine those measures whose justification has not been sufficiently specific, for which purpose the contracting party concerned shall cite the specific paragraph of the Article which it is invoking and which it considers as the justification of the quantitative restriction applied.

This examination shall be completed by 30 October 1985.

3. Measures that have been justified and are not questioned

One can distinguish two major groups of measures applied under this head:

3.1 Quantitative restrictions that correspond to temporary situations and in respect of which the General Agreement makes provision for their liberalization under established procedures. Since these measures are applied on a temporary basis, it would not be appropriate to include them in a liberalization programme.

3.2 Measures that correspond to situations of a more permanent character and whose liberalization is not foreseen. For example, those justified by the clause of existing legislation; waivers; protocols of accession; etc. Most of them are quantitative restrictions that are not consistent with the General Agreement but are maintained under exceptions authorizing their application. For these cases an examination should be undertaken, to be completed in October 1985, in order to arrive at recommendations establishing appropriate modalities and time-limits for liberalization in each case, and in particular to determine their trade effects and the economic considerations that make them necessary.

PROPOSAL BY THE CHILEAN DELEGATION CONCERNING
OTHER NON-TARIFF MEASURES

In compliance with the Ministerial Declaration of November 1982, the terms of reference of the Group on Quantitative Restrictions and Other Non-Tariff Measures, and the recommendations of the latter approved by the CONTRACTING PARTIES in November 1984, the Chilean delegation herewith submits a concrete proposal for making progress in liberalizing other non-tariff measures.

As can be seen from existing documentation, other non-tariff measures are numerous and varied, and accordingly are not necessarily suitable for uniform treatment. They must therefore be tackled individually. Furthermore, the notifications made do not have the same relevance or effect in regard to trade, and some of them do not affect the interests of a substantial number of contracting parties; for these reasons, the matter should be approached according to the type of measure concerned.

The Group has before it ample information, in the inventory of measures, together with a description and analysis of the problems and obligations at international level in respect of each measure, prepared by the GATT secretariat and circulated in the informal note of 12 May 1985. This informal document should be given official status. It is becoming increasingly urgent to tackle the problem which is before the Group because of the explosive proliferation of these measures in international trade, the spreading of their effects in trade flows, and the fact that in some cases they are generating even greater uncertainty and instability in trade than quantitative restrictions.

Nevertheless, some of these measures are already regulated by multilateral disciplines set forth in the instruments resulting from the Tokyo Round. Essentially, the Group should consider only those not covered by any of those instruments.

For tackling this group of measures, the General Agreement and past practice offer various options as to procedures and modalities that can lead to effective liberalization. The secretariat's formal note describes three procedures that can be used, depending on the nature of the measure and the character of the problem.

In the light of the considerations set forth in the preceding paragraphs, the Chilean delegation proposes a work plan to guide the Group's activities in this area and which would allow useful results to be attained within a reasonable period.

Work of the Group

1. The Group should establish a work schedule under which between now and 31 October next it could examine and reach conclusions on liberalization procedures for each type of measure.

Simultaneously, and for the purposes of that work schedule, priorities and the order of discussion would be established on the basis of:

- (i) the interest of contracting parties in each measure, expressed in terms of the number of countries supporting the reverse notifications;
- (ii) measures affecting products of particular export interest for developing countries; and
- (iii) interest expressed at earlier meetings by delegations participating in the Group.

For these purposes, priority and order of discussion, the Chairman of the Group would be requested, with the assistance of the secretariat and in consultation with delegations, to propose for the next meeting the work schedule and priorities.

2. The Group should prepare a report on each measure expressing, in addition to the specific characteristics of the measure, horizontal considerations common to the measures, in respect of:

- (i) principles that should guide the liberalization procedure, in order to eliminate factors that could impede progress of a particular liberalization technique;
- (ii) international provisions in force in respect of the measure concerned, possibilities of applying them or the need to supplement them, or to draw up a new legal instrument;
- (iii) importance of the effects of the measure concerned for international trade, and in particular the export trade of developing countries. Likewise, how the contracting parties concerned furnish indications as to the effects of the measures on their exports.

3. The reports on each type of measure should contain detailed and practical recommendations on appropriate liberalization procedures, so that if approved by the Council, the necessary action to comply with the mandate of the Ministerial Declaration could be taken at individual and/or collective level, as appropriate.

4. The Group should present its final report to the Council by 31 October 1985.