

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Twenty-Seventh Session

ITEM 5: TRADE NEGOTIATIONS AMONG DEVELOPING COUNTRIES

Report by the Chairman of the Contact Group

The Contact Group held two meetings on 18 and 19 November and again this morning for an exchange of views on the arrangements resulting from the trade negotiations among developing countries and the draft decision circulated in documents L/3598 and Spec(71)116. A meeting of a number of delegations was held on 20 November for a more detailed discussion of the text of the decision circulated in document Spec(71)116 and to take note of any drafting suggestions with respect to this text.

At the outset of the discussions, several delegations indicated that since the relevant documents had been circulated to contracting parties only recently, their governments had not yet had time to consider the matter and to take a position. They emphasized the important character of the arrangements under discussion and urged that, in view of the various issues of substance and principle involved, more time should be given for a proper examination. Their participation in the discussions of the Group was without prejudice to this position of their governments.

On behalf of the participating countries it was pointed out that the Trade Negotiations Committee of Developing Countries was set up during the twenty-third session of the CONTRACTING PARTIES. At subsequent sessions the CONTRACTING PARTIES had been generally kept informed of its work and they had indeed assured that they would look at the results of these negotiations in a constructive and forward-looking spirit. Members of the Trade Negotiations Committee had made very strenuous efforts to conclude negotiations among sixteen countries which were in a position to do so. They had done so because they felt that after over four years of work the Committee must report positive

results to the CONTRACTING PARTIES at the twenty-seventh session. Since the arrangements presented by them had been worked out in GATT and represented a major event they very much hoped that the CONTRACTING PARTIES would bless these arrangements during this session itself.

In the course of the discussions, representatives of contracting parties not participating in these arrangements sought clarification and gave preliminary reactions and views on a number of points relating to the arrangements and the draft decision. The Group heard a number of clarifications and explanations on these points from the participating countries and also the replies of these countries to some of the suggestions made informally in the course of these meetings. I shall not attempt a resumé of the whole discussion but might briefly mention the principal issues on which the discussions centred:

1. A number of contracting parties enquired why the arrangements did not provide for automatic extension of the concessions to all developing countries. In this connexion a reference was made to the concept of extension of preferential treatment among developing countries on a non-discriminatory basis. It was also suggested that reciprocal concessions should not be required from the least developed among developing countries. Some representatives of developed countries regretted that the advantages negotiated were not automatically extended to the other developing countries. Those delegations expressed the hope that the results of the negotiations would be extended to the fullest extent possible and at the earliest date to all developing countries.

A representative of the participating countries stated that if they had followed the rule of automatic extension of the concessions there would have been no interest on the part of any country to negotiate concessions. They were endeavouring to build up a system of preferences among developing countries through a process of negotiation and their present arrangement had to be viewed in a dynamic context. The concept of evolving a most-favoured-nation rule for developing countries in GATT could be expected to be attained as more and more

developing countries acceded to the Protocol and to that end the participating countries have undertaken to facilitate accession of non-participating developing countries. According to paragraph 14 the Protocol shall be open for accession to all developing countries. It also provided that in any negotiations for accession, present and future development, financial and trade needs as well as past trade developments of the applicant developing country will be taken into account. The Committee could also agree to accession taking place without negotiations. According to the participating countries, paragraph 14 would enable them to give, on a case-by-case basis, sympathetic consideration to a request from a least developed among developing countries to accede to the Protocol without negotiations.

2. It was noted by some delegations that paragraph 14 of the Protocol stated that the Protocol was open for accession to all developing countries but did not make mention of developing dependent territories. They asked for confirmation that developing dependent territories could take part in these arrangements and suggested that this be made clear. The representatives of the participating countries stated that the Committee to be established under paragraph 4 of the Protocol will study, examine and consider, on a case-by-case basis, the question of accession of developing dependent territories as and when a request for accession is received from any developing dependent territory.

3. Several delegations noted that the negotiations were intended to cover an exchange of concessions on both tariff and non-tariff barriers and asked for information regarding the nature of the non-tariff barriers that might be included in any negotiations. These delegations pointed out that their governments would have particular difficulty in agreeing to the establishment of preferential arrangements with respect to any non-tariff barriers. It was also pointed out that the derogations from the provisions of Article I of the General Agreement authorized by the CONTRACTING PARTIES had, in all cases until now, been

limited to tariffs. In this connection some delegations felt that the present Decision should be restricted to concessions already negotiated and that no reference to other trade barriers should be made. The representatives of the participating countries recalled that in the Conclusions adopted at their twenty-fourth session, the CONTRACTING PARTIES had noted that the developing countries were exploring the possibilities of an exchange of both tariff and trade concessions. They had included reduction and elimination of tariff and non-tariff barriers as one of the objectives of their negotiations. They recalled that non-tariff barriers had also been included within the scope of the Kennedy Round negotiations. They felt that even if at this stage no concessions had been exchanged with respect to non-tariff barriers in the negotiations carried out thus far, it was essential that the possibility of negotiating such concessions should remain open to the participating countries. This would be consistent with the objectives of GATT.

4. Questions were put regarding the relationship of the Tripartite Agreement between Egypt, India and Yugoslavia to the Protocol. The representatives of the tripartite countries indicated that in pursuance of their commitments in terms of the relevant decision of the CONTRACTING PARTIES they had included in their schedules of concessions thirty-four tariff headings covered by the tripartite arrangement. Any decisions concerning the future of the tripartite arrangement would be taken in terms of the relevant provisions of that Agreement at appropriate time, taking into account the results of the Trade Negotiations Committee's work and further evolution of the arrangements. The CONTRACTING PARTIES would be kept informed.

The Contact Group also touched upon certain other questions such as the possibility of provisional application of concessions to non-participating countries until they had had time to accede and the implications for the arrangement of participation in the Protocol by developing countries who were members of free-trade area or customs unions which included developed countries.

In looking at the text of the draft decision circulated in document Spec(71)116, the Group noted that the draft text had been drawn up by the secretariat as a basis for discussion in response to the request made to the secretariat by the participating countries and that it did not commit any contracting party at this stage. In the light of the discussions on the points mentioned by me earlier, several revisions were made with respect to the text of the Decision. A text incorporating these changes will be made available to contracting parties later. I might, however, draw attention to some of the main changes.

As for the fourth Preambular paragraph, reference would be made to an exchange of tariff and trade concessions rather than to the reduction or elimination of tariffs and non-tariff barriers.

An additional Preambular paragraph would be added expressing the hope of the CONTRACTING PARTIES that all developing countries which have not participated in the arrangements will consider acceding to the Protocol.

As far as the operative paragraphs are concerned, paragraph (a) would be modified to permit according preferential treatment as provided in the Protocol, with respect to products originating in other parties to the Protocol, and there would be a proviso as a sub-paragraph to operative paragraph (a) to the effect that such preferential treatment shall be designed to facilitate trade between participants and not to raise barriers to the trade of other contracting parties. Operative paragraph (e) would provide for a major review by the CONTRACTING PARTIES at the end of the fifth year of the operation of the Protocol and would further state that before the end of the tenth year of operation, the CONTRACTING PARTIES would undertake another major review with a view to deciding whether the Decision should be continued or modified.

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It is, of course, understood, Mr. Chairman, that it remains open to any contracting party to take up any matter relating to this text.

Mr. Chairman, I should again invite attention to my opening remarks to the effect that the discussions in the Group were informal in character and that several representatives participated in these discussions without prejudice to any position which their government might eventually take on these matters and their further examination.

The annexed text of a draft decision incorporates suggestions made on an informal basis on the draft text circulated in Spec(71)116, following informal discussions in the Contact Group.

DRAFT DECISION

The CONTRACTING PARTIES to the General Agreement on Tariffs and Trade,

RECOGNIZING that individual and joint action is essential to further the development of the economies of developing countries and to bring about a rapid advance in the standards of living in these countries;

NOTING that the CONTRACTING PARTIES may enable developing contracting parties to use special measures to promote their trade and development;

CONSIDERING that trade negotiations among developing countries have as their objective expanding access on more favourable terms for developing countries in one another's markets through an exchange of tariff and trade concessions directed towards the expansion of their mutual trade;

RECALLING that, at the twenty-third session, the CONTRACTING PARTIES recognized that the establishment of preferences among developing countries, appropriately administered and subject to the necessary safeguards, could make an important contribution to the expansion of trade among developing countries and to the attainment of the objectives of the General Agreement;

NOTING that the countries which have participated in these negotiations have drawn up the "Protocol relating to Trade Negotiations among Developing Countries" (hereinafter referred to as the Protocol) with rules to govern the arrangements as well as a first list of concessions, and that these countries intend to keep under review the possibility of promoting negotiations for additions or enlargements to the schedules of concessions;

NOTING ALSO that while concessions exchanged in the Negotiations will apply among parties to the arrangements set out in the Protocol, the countries participating in these negotiations have undertaken to facilitate the accession of all developing countries on terms consistent with the latter's individual development, financial and trade needs;

NOTING FURTHER that the CONTRACTING PARTIES express the hope that all developing countries which have not participated in the arrangements will consider acceding to the Protocol; and

RECOGNIZING that these arrangements should not impede the reduction of tariffs on a most-favoured-nation basis;

DECIDE:

- (a) that without prejudice to any other Article of the General Agreement and subject to the provisions of paragraphs (b)-(e) of this Decision, the provisions of paragraph 1 of Article I of the General Agreement shall be waived to the extent necessary to permit each contracting party participating in the arrangements set out in the Protocol (hereinafter referred to as a participating contracting party) to accord preferential treatment as provided in the Protocol with respect to products originating in other parties to the Protocol, without being required to extend the same treatment to like goods when imported from other contracting parties;

PROVIDED THAT any such preferential treatment shall be designed to facilitate trade between participants and not to raise barriers to the trade of other contracting parties;

- (b) that any participating contracting party which, pursuant to the arrangements set out in the Protocol, introduces or modifies any preferential concessions shall so notify the CONTRACTING PARTIES and shall furnish them with all useful information relating to the actions taken;
- (c) that each participating contracting party shall afford adequate opportunity for consultations at the request of any other contracting party which considers that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of the arrangements set out in the Protocol;

- (d) that any contracting party which considers that the arrangements under the Protocol are being applied inconsistently with this Decision or that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of the arrangements and that consultations have proved unsatisfactory, may bring the matter before the CONTRACTING PARTIES, which will examine it promptly and will formulate any recommendations that they judge appropriate; and
- (e) that the CONTRACTING PARTIES will review annually, on the basis of a report to be furnished by the participating countries, the operation of this Decision in the light of the aforementioned objectives and considerations and after five years of its operation carry out a major review in order to evaluate its effects. Before the end of the tenth year the CONTRACTING PARTIES will undertake another major review of its operation with a view to deciding whether this Decision should be continued or modified. In connexion with such annual reviews and major reviews, the participating contracting parties shall make available to the CONTRACTING PARTIES relevant information regarding action taken under this Decision.