

GENERAL AGREEMENT ON
TARIFFS AND TRADE

DIVISION LEVEL AGREEMENT

RESTRICTED

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Trade Negotiations Committee

DIVISION LEVEL AGREEMENT

TARIFF NEGOTIATING PLAN

Report Summarizing the Position Reached

1. This paper summarizes the position reached in the discussions of the Sub-Committee on the Tariff Negotiating Plan.
 - A. The depth of the tariff reductions and the rules for exceptions
2. It is agreed to take as a working hypothesis that the depth of the across-the-board reduction in tariffs should be 50 per cent.
3. It is agreed that the rule to govern exceptions should be that agreed to by the Ministers in May 1963 with the additional proviso that such exceptions should be only those necessitated by reasons of overriding national interest.
4. It is agreed that as regards the base date and the level of duties by reference to which the 50 per cent reduction would be calculated, it would be left to each participating country to propose the basis on which the across-the-board tariff reduction should apply in its case, it being understood that this basis would have to be acceptable to the other participating countries and that in all cases the duties used for reference purposes should be those existing after the 1960-61 Tariff Conference and should reflect the results of that Conference.

B. Tariff disparities

5. A full report on the discussion on this question is set out in TN.64/14. The Annex to the present paper sets out the reasons which led certain delegations to take up the positions described in the following paragraphs.

Identification of disparities

6. It is agreed that, as a first step in the identification of significant disparities, prima facie cases of disparity should be regarded as existing only where certain arithmetic criteria are met.

7. While most delegations would in this connexion prefer a formula based on a seuil or cut-off, all have agreed to see if it is possible to find a solution based on the double-écart proposal of the European Economic Community under which a prima facie case of disparity would be regarded as existing wherever, first, the high rate is at least double the low rate and where, secondly, there is a gap between the two rates of at least ten percentage points.

The main problem: position of third countries

8. It is agreed that, in addition to purely arithmetic criteria, further criteria or principles are required. In this connexion the most important unresolved problem relates to the position of third countries.

9. The Community have indicated that they would be prepared to enter into bilateral discussions with certain countries in cases where the application of the disparity rule might have serious consequences for them in order to deal in a pragmatic way with the problems involved.

10. The delegation of Austria, while they would prefer the use of an automatic criterion in this field, feel it might be advisable to follow the pragmatic approach suggested by the Community.

11. This approach would not be acceptable to other delegations. A solution generally acceptable to them would be based on:

- (a) substituting an automatic criterion in place of the procedure suggested by the Community;
- (b) devising a criterion the effect of which would be to exclude from disparity treatment all products where participating **third** countries are major suppliers to the low rate country.

12. It has, however, been suggested by the Swedish delegation that, if it would not be possible for the Community to accept a solution of this nature, it might be provided that it should be recognized that the country with the "low" duty would have the right to invoke the disparity rule wherever the provisions of the arithmetic formula and the agreed additional criteria were met, but that, without prejudice to that right, it would be understood that it would not normally be invoked where a third country was the principal supplier of the country with the "low" duty; and that where, exceptionally, the latter wished to invoke the right, it would consult first with the principally interested third countries. The Swedish delegation also drew attention to the problem which would arise if the third country principal supplier were itself in a position to invoke the disparity formula on the product concerned.

Other problems

(i) Application of double-écart formula to semi-processed products

13. Under the Community proposal, the ten percentage points minimum gap requirement referred to in paragraph 7 would not apply to semi-processed products. All delegations other than that of the Community feel this requirement should also apply to semi-processed products. The Community delegation have indicated that they may be able to accept the use of a smaller minimum gap requirement in the case of semi-processed products (say two or three percentage points).

14. The other delegations have indicated that they would not regard this as acceptable. Several delegations have supported a possible compromise under which, while the ten percentage points minimum gap requirement would apply to semi-processed products, it would nevertheless be open to a country to claim that a disparity exists where this requirement is not met, but where a case is made on the basis of the special circumstances of that product.

(ii) Key countries

15. It is agreed that, for the purpose of establishing significant disparities, the identification of high rates should be confined to the three main tariffs, namely those of the United States, the European Economic Community, and the United Kingdom only. The Community have reserved the right to return to this question.

(iii) Criterion relating to absence of imports into low rate country

16. The Community have proposed that disparities provisionally identified by the arithmetic criteria in paragraphs 6 and 7 should not be regarded as significant where there are no, or only negligible, imports into the country with the low rate, provided that the absence of imports or their low level is not due to the existence of quantitative restrictions or measures with equivalent effect. There is general agreement with the first part of this proposal, but all delegations other than that of the Community and Austria support a proposal that the proviso relating to quantitative restrictions should be dropped. Austria has, however, reserved its final position. The Israeli delegation proposed that either the proviso should be dropped or countries should be able to invoke it only if they undertook to remove their restrictions at the same time.

(iv) Criterion relating to absence of production in low rate country

17. Subject to further discussion of the meaning of the term "short-term" there is agreement with a Community proposal that disparities should not be regarded as significant where there is no production, and no short-term plan for production in the country with the low rate.

(v) Criterion or principle relating to a high level of imports into the high rate country

18. The Community have indicated that, notwithstanding the existence of significant disparities in cases which satisfied the arithmetic and qualitative criteria so far described, the Community would be prepared to discuss with the high rate country the possibility of not invoking the disparity rule where that country imported substantial amounts from the Community, taking into account all the relevant factors, such as the proportion of imports in domestic consumption.

19. The delegation of the United States cannot accept the Community's proposal and have put forward a counter-proposal that the principle proposed by the Community should be stated in terms of an automatic criterion and that, imports from any source over the high rate should be taken into account and not just imports from the low rate country. Most other delegations agree with the United States position.

ANNEX

/To be circulated later/