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SPECIAL PROCEDURES FOR DEVELOPING COUNTRIES

Working Paper Presented by the Brazilian Delegation

The Tokyo Declaration has mandated this Committee to establish special procedures for negotiations between developed and developing countries. The definition of such procedures will be vital, not only to the effective participation of developing countries in the Trade Negotiations themselves, but to the attainment of the global objectives set out by our Ministers in Tokyo. Thus far, however, there seem to be no clear ideas as to exactly what is meant by "special procedures". It therefore appears that it might be very useful if the Trade Negotiations Committee were to undertake, at the earliest possible stage of its work, a preliminary discussion on this subject, so that when our work programme is fully organized, the necessary decisions may be taken to enable the TNC and its subsidiary bodies to undertake a more detailed study of these procedures.

"Special procedures" should be conceived as a means of transforming the general principles relating to developing countries, and incorporated into the Tokyo Declaration, into practical rules and mechanisms for the Negotiations. In essence, this would mean the translation of the basic principle of differentiated or more favourable treatment to developing countries into effective negotiating procedures.

The word "special" holds, thus, the connotation of procedures which will enable us to negotiate measures of a special, differentiated or more favourable nature to the benefit of developing countries, and implies procedures of an additional, or exceptional, character to the general procedures which are to be established for negotiations in all areas between the developed trading partners. We might consequently reach a first basic conclusion: special procedures must be devised for developing countries in each and every area of the Trade Negotiations. It would certainly be premature to try to spell out in detail, at this stage, exactly what these procedures must be, since we do not even yet have a clear notion of what the general procedures will be. Nevertheless, it might be useful to recall some of the major issues for developing countries in each major area of the Negotiations, in order to have a clearer idea of the special procedures which will be necessary.

For the purposes of this exercise, it might be convenient to start from the classification, contained in paragraph 3 of the Tokyo Declaration, of the six main negotiating areas: (a) tariffs, (b) non-tariff barriers, (c) sectoral approach, (d) safeguards, (e) agriculture, and (f) tropical products. This classification is not necessarily the most logical one, but it has the merit of stemming from an agreed document.

Special procedures for tariff negotiations

In the course of the preparatory work for the trade negotiations, the Brazilian delegation has had the opportunity to advance a number of specific proposals for negotiations in the tariff field. It would appear that special procedures should be devised to carry out these proposals.

First, there is the question of improving and expanding the GSP.¹ Some special procedures would appear to be necessary for this. On a purely administrative level, it will be necessary to study the implications for the GSP of whatever tariff negotiating technique is to be adopted. In the light of the results of such a study, which should be carried out as an integral part of the general studies or analyses to be undertaken before effective tariff negotiations begin, it should be possible to determine certain special procedures. These procedures might include: (a) arrangements for exceptions to the general tariff-cutting rule, in order to preserve certain preferential margins; (b) arrangements to include new products in the GSP; and (c) arrangements to negotiate improvements in the GSP itself. In relation to this third point, Brazil has already stated its willingness to consider the possibility of negotiating certain firm commitments of a generalized, non-discriminatory preferential nature. This would require procedures for binding certain preferential margins; or alternately, perhaps for a "phased binding" of such margins. In this respect, for example, we might consider the possibility of an advance implementation of agreed tariff cuts for developing countries, and the adoption of a commitment to respect the preferential margin resulting therefrom for the duration of the period of the staged reduction of this tariff on a most-favoured-nation basis.

¹See proposals by the Brazilian delegation contained in document COM.TD/93.

A second question is to devise procedures to enable developed countries to effect deeper tariff cuts on certain products of particular interest to developing countries where the maintenance of a preferential margin is not possible or useful. This may require arrangements to isolate certain specific products or product categories, which would be negotiated separately with the interested developing country exporters with a view to eliminating the tariff, on a most-favoured-nation basis, or subjecting it to a deeper cut than the established norm. If a tariff harmonization approach is adopted, a lower normative rate should be set for the product categories of particular interest to developing countries.

Finally, special procedures should be established for eliminating or reducing tariff escalation on products of particular export interest to developing countries. This will also require a preliminary identification of these product categories, with a view to devising, if possible, an approach to eliminate tariff differentials, or reduce them on a Harmonic basis, whenever possible within the framework of the GSP. The Brazilian delegation considers this one of the major issues to be dealt with in the Trade Negotiations.

Special procedures for non-tariff barrier negotiations

In the field of non-tariff barriers, it is certainly more difficult to try to pin-point special procedures for developing countries at the present moment. There is one issue that stands out quite clearly, though, and that will merit very special attention: quantitative restrictions.

In relation to quantitative restrictions, Brazil has already proposed that an across-the-board rule be adopted, for phasing out of quantitative restrictions, on a preferential basis for developing countries and with a minimum of exceptions to this treatment.¹ We therefore propose that the TNC consider procedures to this end; they might be general procedures for negotiations on a most-favoured-nation basis, as well as special procedures for quantitative restrictions which are of special interest to developing countries. Here again, the starting point might be the identification of restrictions which would be the object of negotiations on the basis of an automatic or semi-automatic formula, so that more specific and detailed procedures can be worked out.

¹See proposals by the Brazilian delegation, contained in document COM.TD/W/188.

It appears that special procedures for dealing with other non-tariff barriers, such as health and sanitary regulations, internal taxes, variable levies and other special measures in the agricultural field, standards, etc. will have to await a clearer definition on how these barriers will be dealt with in the Negotiations. But the general rule should still apply: special procedures should be devised to enable developing countries to receive differentiated or more favourable treatment, whenever applicable, in these areas, and thus derive additional benefits from the Negotiations.

Special procedures for sectoral negotiations

Sectoral negotiations will evidently call for a combination of special procedures, along the lines of those pointed out for tariff and non-tariff barrier negotiations, and in accordance with the special characteristics of each sector. This will be the case for negotiations on tropical products, and on agriculture or commodities as such, should they be taken as a separate area of the Trade Negotiations. The Brazilian delegation supports, in principle, the concept of negotiation on specific sectors of trade, and would support any initiative to undertake a preliminary examination of possible sectors that would lend themselves to this approach. At such a time, it would be necessary to take up the question of the special procedures that each sector might require, for negotiations with developing countries. In general, the application to the sectoral approach of the concept of differentiated treatment to developing countries would be based on three principles (a) no sector which developing countries consider essential, and which in their view would lend itself to sectoral treatment, should be excluded; (b) sectors of special importance to developing countries should be negotiated on a priority basis, and (c) within each sector appropriate techniques would be evolved for dealing on a preferential basis with the problems of developing countries.

Special procedures for safeguards and other normative negotiations

The Brazilian delegation is convinced that the negotiations of new trade rules or codes of conduct, such as a multilateral safeguard system, will be one of the crucial areas of the Trade Negotiations, particularly for developing countries. Special procedures as such will not be required for negotiations between developed and developing countries on these issues. Rather, it is simply the case of ensuring that, in the negotiations, special procedures will be devised for dealing with exports from developing countries in accordance with the rules,

mechanisms or codes which are to be established. In this respect, there is a need for full and effective participation of developing countries in the negotiations on these matters, and the specific proposals already presented by Brazil on some of the main issues involved should be borne in mind.¹

The need to ensure differentiated and more favourable treatment to developing countries in two fundamental issues which will come up for negotiations should be stressed: safeguard clauses, and subsidies and countervailing duties.

Special procedures for negotiations on agriculture and other primary commodities

In general, the procedures suggested for tariff and non-tariff negotiations, as well as for sectoral negotiations, would also apply to agricultural products, and other primary commodities. Negotiations in such areas as tariffs and levies, quantitative restrictions, production aids, sanitary regulations, and the like, should aim at eliminating such restrictions or their trade-restrictive effects, on a preferential basis, whenever they affect products of interest to developing countries, or at reorienting them in such a way as to provide wider access to products of developing countries. Similarly, special procedures would have to be evolved for negotiations of commodity agreements or arrangements, as well as for multilateral codes.

Special procedures for negotiations on tropical products

In the area of tropical products, which should constitute, as agreed in Tokyo, a special and priority sector, the special procedures would be based on the following elements: (a) granting to developing countries a free market in importing developed countries, whenever appropriate on a preferential basis, on the understanding that adequate compensation should be given by developed countries to any developing countries that may be affected by such liberalization and provided such compensation does not affect the interests of third developing countries; (b) tariff differentials between primary and processed and semi-processed products should be eliminated, preferably in the framework of the GSP, and in accordance with an agreed timetable and (c) removal of internal taxes and other non-tariff barriers.

¹See proposals by the Brazilian delegation, contained in document COM.TD/91.

Organizational questions

The Brazilian delegation holds the view that the guidelines contained in paragraph 3 of the Tokyo Declaration are insufficient for the preparation of detailed negotiating plans, including the special procedures for negotiations between developed and developing countries. It would therefore seem useful if the Trade Negotiations Committee were to carry out a further examination of these guidelines, in order to refine and develop them. This would enable the Trade Negotiations Committee to centralize the formulation of the general approaches for the negotiations, in the spirit of paragraph 10 of the Tokyo Declaration, and, at the same time, decentralize the formulation of the more specific organizational procedures, through its subsidiary bodies.

The Brazilian delegation is, however, flexible on this issue. Should this two-level approach not be adopted, the subsidiary bodies of the Trade Negotiations Committee should be instructed to refine and develop the guidelines embodied in paragraph 3, and pertinent to their work. Under no circumstances should the subsidiary bodies start their substantive work without completing this preparatory task. The preparation of these guidelines will enable each group to evolve the procedures for negotiations, which include, as an integral part, the special procedures for developing countries. The essential point is that special procedures for developing countries should be part and parcel of the general procedures to be formulated for negotiations in each area; the discussion of special procedures must therefore take place simultaneously with the discussion of the general procedures, in the same forum, and at the same level.