

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
MTN/SEC/W/7
30 October 1975
Special Distribution

Multilateral Trade Negotiations
Group "Sector Approach"

Original : English

NOTE BY THE CANADIAN DELEGATION

During the meeting of the Sector Group in July 1975, the Canadian delegation noted¹:

- (a) that semi-finished manufactures account for a substantially smaller portion of imports of industrial products into the main industrial countries than either raw materials or fully finished manufactures. In 1971, imports of semi-manufactures accounted for 21 per cent of total industrial imports whereas finished manufactures accounted for 47 per cent and raw materials 32 per cent;
- (b) that the growth in imports of semi-manufactures during the five years 1967 to 1971 was substantially less than the growth in imports of finished manufactures and raw materials. During the five-year period from 1967 to 1971, imports of semi-manufactures increased by about 20 per cent compared to 50 per cent for all industrial products, 75 per cent for finished manufactures and about 40 per cent for raw materials. As a result, semi-manufactures accounted for a significantly smaller portion of total industrial imports in 1971 than in 1967.

As for metals, the Canadian delegation also noted, inter alia, that in 1971:

- (a) imports of semi-manufactured metals accounted for only 31 per cent of total imports of all metals;
- (b) imports of semi-manufactures of copper accounted for only 9 per cent of total imports, nickel 5.1 per cent, zinc 2.2 per cent and lead 0.7 per cent.

This pattern of trade is largely the result of the commercial policy systems of the resource-importing countries. Generally, these systems provide duty-free entry for raw materials and, in some cases, lowly processed products; tariff rates which provide high effective rates of protection on the more highly processed products; and a range of NIM's which supplement the effective protection of the tariff on the more highly processed products. These structures of protection are often reinforced by tax measures biased in favour of importing in raw material form rather than in processed forms. Six rounds of trade negotiations have failed to liberalize effectively the trade in these sectors.

¹The text of the statement by the Canadian delegation is contained in document MTN/SEC/W/3 of 4 July 1975.

This bias in favour of importing raw materials and lowly processed products results in the location in the resource importing countries of processing and manufacturing plants which, under a neutral commercial policy, might be located in the resource exporting countries. This substantial misallocation of resources results, in turn, in higher costs for fabricating and manufacturing industries and, of course, for consumers; in dissatisfaction on the part of resource exporters with the returns they obtain; and in uncertainty on the part of resource importers regarding the security of supply of materials.

The MTN provides an opportunity - perhaps the only opportunity for a number of years - to eliminate systematically or to reduce substantially the impact of these tariff and non-tariff measures. The Canadian delegation is of the view that the most effective way to take advantage of this opportunity would be to undertake negotiations in certain resource sectors.

For those reasons, the Canadian delegation has prepared a memorandum (attached) setting out the elements of an agreement designed to liberalize trade in copper products. A number of the same elements would seem to be relevant to other sectors as well. While the precise coverage of the copper sector would be a subject for negotiation, it could be envisaged that it would include all copper products that account for a significant share of world consumption of copper.

The objective of these negotiations would be to eliminate tariffs on copper products, or to reduce them to the maximum extent possible, and to eliminate non-tariff measures, or where this is not appropriate, to remove or reduce the trade distorting effects of such measures and, indeed, of other governmental measures affecting the allocation of resources in this sector, and to bring all such measures under effective international discipline. In order to ensure that the liberalization of trade thus achieved is not impaired, the agreement should include rights and obligations additional to those now in the GATT relating to such matters as government procurement, subsidies, countervailing duties, dumping, anti-dumping duties, emergency action against imports, restrictive business practices, and to consultation, surveillance, impairment and dispute settlement.

In order to administer the provisions of the agreement, it is proposed that a Copper Group might be established consisting of all signatories to the sector agreement, and that a Surveillance Panel be provided for, to be made up of a few highly qualified individuals. The Group would have assigned to it tasks related to the general administration of the agreement; the Panel would be primarily designed to resolve disputes and to maintain the balance of rights and obligations.

Under conditions of substantial trade liberalization, it is envisaged that the agreement would include rights and obligations regarding security of supply which would be additional to or a revision of those now in the GATT. There are also suggestions as to how differential treatment might be applied to the trade of developing countries, in order to provide these countries with special and more favourable treatment.

It is envisaged that the agreement would constitute a trade agreement between signatory countries; that, for signatories, it be in effect an integral part of the GATT; and that it would complement the general solutions that are being developed to liberalize trade in the Multilateral Trade Negotiations and would likely go further in achieving the objectives of the negotiations than would the general solutions. Insofar as the GATT provisions relating to non-tariff measures are modified so as to conform inter alia to the purposes of the agreement, the sector agreement could be simplified by cross-references to the amended GATT provisions.

It is proposed that special institutional provisions be included for the administration of the agreement. If during the course of the negotiations there is a general strengthening of the enforcement provisions of the GATT, then the same institutions might serve for the enforcement of any sector agreement. For example, it may be that a number of panels will be established in connexion with agreed solutions in particular areas of the MTN. It might be useful to consolidate these various panels into one permanent body, a few of the members of which could be chosen, depending on the issue and their expertise, to act in regard to any sector agreement.

The question of membership would also need to be considered; clearly a sector agreement would work best if all the important trading countries concerned were signatories.

It is the view of the Canadian delegation that no provision in any such sector agreement should preclude the establishment of a commodity agreement relating to any of the products covered by a sector agreement and consisting of both consumers and producers and involving provisions on pricing and buffer stocks. Such a commodity agreement would not reduce the need for a sector agreement designed to liberalize trade in these products, nor would a sector agreement make any less necessary an effective commodity agreement; they would deal with different issues.

ATTACHMENT

Elements of an Agreement to Liberalize Trade
in Copper Products

Objectives

1. An agreement would have the following objectives:

- (a) to bring about a more efficient international allocation of the resources invested to mine, refine, process and manufacture copper;
- (b) to encourage the location of copper refining, processing and manufacturing facilities wherever such facilities would be most efficient and competitive;
- (c) to promote the expansion of international trade in refined, processed and manufactured copper products on the basis of such improved international division of labour; and
- (d) to develop more stable and secure conditions of international trade in copper in its different product forms.

2. To reach these objectives would require the elimination of tariffs on copper products, the elimination of related NTM's, or of their trade restrictive and distorting effects, and the strengthening of certain GATT provisions to ensure that the resulting liberalization of trade is not impaired or nullified. If one or more participants in the negotiations could not agree to eliminate all tariffs on copper products, the objective in this negotiation might be harmonization of rates at the lowest levels possible. However, it should be noted that failure to remove tariffs will have consequences for other elements in the negotiations.

Product coverage

3. An agreement should apply to virtually all copper products which are significant in terms of world consumption. To this end, the agreement might include the products covered by the following BTM headings or their equivalent in other national tariff schedules:

<u>Number</u>	<u>Description</u>
26.01C	Copper ores and concentrates
74.01	Copper matte; unwrought copper (refined or not); copper waste and scrap

<u>Number</u>	<u>Description</u>
74.02	Master alloys
74.03	Wrought bars, rods, angles, shapes and sections, of copper; copper wire
74.04	Wrought plates, sheets and strip, of copper
74.05	Copper foil (whether or not embossed, cut to shape, perforated, coated, printed, or backed with paper or other reinforcing material), of a thickness (excluding any backing) not exceeding 0.15 millimetre
74.06	Copper powders and flakes
74.07	Tubes and pipes and blanks therefor, of copper; hollow bars of copper
74.08	Tube and pipe fittings (for example, joints, elbows, sockets and flanges), of copper
	It is for consideration whether the following two groups of products might be included; this would depend on progress in certain areas of the negotiation, especially with regard to government purchasing to which paragraph 7 below refers. It will be necessary to take into account the substitutability of aluminium wire and cable
74.10	Stranded wire, cables, cordage, ropes, plaited bands and the like, of copper wire, but excluding insulated electric cables
85.23	Insulated (including enamelled or anodised) electric wire, cable, bars, strip and the like (including co-axial cable), whether or not fitted with connectors

Tariffs

4. In order to attain the objectives it should be agreed to reduce nominal tariffs, effective protection and tariff disparities on the products listed in paragraph 3 by the maximum amount possible. Agreement to remove all tariffs would, of course, achieve these results. If this is not feasible then it would be possible to go some way towards this objective by agreeing to harmonize duty rates at the lowest levels possible.

5. Duties might be reduced by stages so that the protected parts of copper industries in participating countries would have a reasonable opportunity to adjust to increased competition. Accordingly, it is suggested that most, if not all, duties be reduced in equal annual instalments over, say, five or six years. For a limited number of duties, it may be necessary to stage their reduction over a somewhat longer period if this were necessary to achieve orderly adjustment.

6. Consideration might be given to differential measures to apply to the copper products of developing countries, in order to provide special and more favourable treatment for these countries. These might include improvements in the Generalized System of Preference of developed countries for the products covered in the agreement, as well as accelerated MFN tariff reductions by developed countries and a deferred and extended phasing period for tariff reductions by developing countries. Developing countries would not, of course, be expected to make tariff reductions which, it was agreed, would be inconsistent with their development, financial and trade needs. The Canadian delegation would welcome any specific suggestions the delegations of developing countries would wish to put forward in this connexion.

Government purchasing

7. Wire and cable products classified under BTN 74.10 and 85.23 account for about 55 per cent of copper consumption. Government purchasing, in turn, accounts for a significant part of the sales of these products. It will therefore be important that any agreement on copper include provisions to ensure that public purchasing entities ensure equality of opportunity for, and do not discriminate against, foreign suppliers. Without such provisions the liberalization of tariffs on these products would not contribute to trade liberalization.

8. To this end participants would undertake to ensure that purchasing policies, procedures and practices of public entities, insofar as they relate to the products in paragraph 3, be based on the principle of equality and non-discrimination between foreign products or suppliers and domestic products or suppliers. Participants would also undertake that such non-discrimination involve inter alia the freedom of foreign firms and enterprises to tender on all public contracts of the type described in the agreement regardless of the value of the contract. It would be necessary to include supplementary provisions designed to give precision to these undertakings and to ensure that participants adhere to them.

Other measures affecting imports

9. Any agreement in this sector must take into account the fact that because of the need to encourage exploration, the large amounts of capital necessary for the development of mines and building refineries, processing and manufacturing facilities and the long period of time that is required to plan and construct these facilities, action affecting imports can have serious adverse effects on the long-term adequacy and security of supplies of copper products. Accordingly, the agreement should include provisions along the lines set out below regarding export subsidies, domestic subsidies, countervailing duties, injurious dumping, anti-dumping duties and emergency action under Article XIX.

(a) Export subsidies

10. Existing export subsidies would be removed; new ones would be prohibited; consultation, surveillance and dispute settlement procedures would be established to ensure that the prohibition is effective.

11. To this end, participants would undertake not to provide any government aid, either direct or indirect, involving differential treatment in favour of exports of the products listed in paragraph 3 over the sale of the same products domestically, i.e. related to the degree and extent of export performance. (An open ended list of prohibited export aids might be developed.) Participants would agree to afford adequate opportunity for consultation, and promptly, regarding such representations as might be made by another participant with respect to these undertakings. If a satisfactory solution to any such issue could not be reached, the Copper Group would consider the matter, with a view to facilitating agreement. If agreement was not reached within, say, 60 days of the time the matter was referred to the Copper Group, the Panel would investigate whether an export aid was being granted, and if it found that that was the case, it would recommend that the measure be terminated. If the participant granting the aid did not terminate it, within a period of, say, 60 days, the Panel would make recommendations designed to restore the balance of concessions.

(b) Domestic subsidies

12. An agreement should include provisions designed to eliminate the trade distorting effects of domestic subsidies and to establish effective reporting, consultation, surveillance and dispute settlement procedures in regard to such obligations.

13. More specifically, it might be agreed that participants would:

- (a) not grant, maintain or introduce any measure affecting the products listed in paragraph 3, whose purpose or effect was, directly or indirectly, either:
 - (i) to impair or nullify the benefits accruing, or which could reasonably be expected to accrue, to other participants, whether in domestic, export or third country markets, as a result of the agreed reduction of customs duties or the regulation or removal of non-tariff measures; or
 - (ii) to distort or to restrict international competition in the production of copper products including international allocation of resources with respect to the refining, processing and manufacturing of copper.

- (b) at fixed intervals notify the Copper Group of all measures affecting their copper industries whether related to production, investment, regional development, adjustment assistance, environmental conditions or regulations or otherwise (except those of a strictly social character granted to individual consumers provided they are granted without discrimination to the origin of goods; e.g. manpower retraining and family allowances).
- (c) the agreement should contain provisions relating to consultation, impairment and dispute settlement similar to those in paragraph 11 relating to export subsidies.

(c) Countervailing duties

14. If the participants agreed to include special and additional provisions on export subsidies, it would appear that special and additional provisions would be appropriate with regard to the use of countervailing duties. To this end, it is suggested that participants undertake that formal investigation into the possible application of countervailing duties would not be initiated until a written complaint was received from the domestic producers concerned, and that they would provide adequate opportunity for consultation with the governments of participating exporting countries and, upon request, for review by the Copper Group, before any such formal investigation was initiated or publicly notified. If after such consultation a participant institutes countervailing duty proceedings, the matter should be reviewed by the Copper Group, and at the request of a participant, by the Panel.

(d) Anti-dumping duties

15. It is for consideration whether participants should agree to take effective measures within the framework of their national laws to ensure that their exporters did not engage in injurious dumping. If such an obligation were agreed, participants might then also undertake a reciprocal obligation that formal investigations regarding the possible application of anti-dumping duties would not be initiated until a written complaint was received from the domestic producers concerned, and that they would provide adequate opportunity for consultation with the government of the participating exporting country and, upon request, for review by the Copper Group before any formal investigation was initiated or publicly notified. There should be appropriate provisions regarding surveillance of any subsequent actions, analogous to those suggested regarding countervailing duty proceedings.

(e) Emergency action on imports

16. Consideration should be given in the negotiations to ensuring that before a participant takes action under the provisions of Article XIX respecting imports of any copper product listed in paragraph 3, it would give notice in writing to the

CONTRACTING PARTIES, as Article XIX now provides. This provision of Article XIX would provide the exporting participants with an opportunity to consult with the participant proposing action.

17. If agreement among the participants concerned were not reached in such consultations, the Copper Group would consider whether the copper products concerned were in fact being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive copper products and other related matters, and make such recommendations to the interested parties as the facts warranted.

18. If agreement is not reached among the participants concerned or in the Copper Group, the participant proposing action under Article XIX would be free to take such action but only if certain conditions were met, namely:

- (A) the restrictions would not reduce imports from any participants below a reasonable level based on past trade. Such a level might be the annual level which prevailed in, say, a twelve-month period ending three months before the date of notice. Imports would be allowed to increase at a reasonable rate;
- (B) the restrictions were applied on a non-discriminatory basis;
- (C) the restrictions would be removed in not more than, say, two years;
- (D) plans for adjustment designed to ensure removal of the restriction on imports in not more than, say, two years were submitted to and reviewed by the Copper Group.

19. Any such restrictions would then be referred to the Copper Panel which would investigate such action and make appropriate recommendations as to whether the restrictions should be discontinued, continued or modified. In this investigation the Panel would, inter alia, assess whether the restrictive action was justified.

20. In the event the Panel recommended that the restrictions need not be removed, it would consider whether they met the conditions set out in paragraph 18, and would make such recommendations as the facts warranted. The Panel would keep the restrictions under surveillance and report periodically whether they were being administered in accordance with such conditions. If the Panel found that a participant maintaining restrictions was in breach of any obligation under the agreement, it would make recommendations designed to restore the balance of concessions.

21. It would be for consideration whether, in the circumstances of the substantial trade liberalization envisaged as the objective of these negotiations, it would be necessary to retain the provision set out in the third sentence of paragraph 2 of Article XIX.

Restrictive business practices

22. An agreement might include provisions regarding the restrictive business practices of private or commercial enterprises affecting international trade in the copper products listed in paragraph 3. The provisions should ensure that such practices do not interfere with the achievement of the objectives of the agreement, nor impair or nullify the benefits accruing to participants from the liberalization of trade barriers under it.

Security of supplies

23. The liberalization of trade under an agreement for the copper products listed in paragraph 3, combined with the special and additional provisions to prevent impairment or nullification outlined in other parts of this memorandum, would be the most effective way for importers to increase their security of supply of these products. Over time, the improved international allocation of resources brought about by this trade liberalization would change the pattern of imports so that it would include increasing amounts of semi-manufactured and manufactured copper products as well as unwrought copper and concentrates. In these circumstances, exporting countries would have a growing vested interest in developing the copper sector of their economies in a way which would provide stable supplies of a range of copper products to the extent that their reserves permitted.

24. Under conditions of substantial trade liberalization reinforced by provisions to prevent impairment, it is envisaged that an agreement would include rights and obligations regarding security of supplies which would be additional to or a revision of those now in the GATT.

Consultations, nullification and impairment

25. For the reasons set out in paragraph 11 above i.e. the large investment and substantial lead times required to establish new capacity for production of the copper products listed in paragraph 3, it is essential that participants be assured that the liberalization of trade under such an agreement be maintained. For this reason, it is important to ensure that the provisions of the agreement as they relate to consultation, nullification and impairment operate quickly and effectively. Procedures would have to be developed to this end.