

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NTM/4
29 May 1975

Special Distribution

Multilateral Trade Negotiations

Group "Non-Tariff Measures"

Sub-Group "Customs Matters"

ACTING CHAIRMAN'S SUMMING-UP AND RECORD OF DECISIONS TAKEN AT THE MEETING

Meeting of 20-26 May 1975

1. The Sub-Group invited the Secretary-General of UNCTAD or his representative to attend this meeting of the Sub-Group as an observer. It also invited a representative of the Customs Cooperation Council to attend this meeting of the Sub-Group as an observer to assist the Sub-Group in an expert capacity.

A. Customs valuation

2. The Sub-Group noted that the existence of different customs valuation systems did not in itself represent a barrier to international trade but recognized that the adoption of commonly agreed international rules could facilitate international trade.

3. It was recalled that over ninety countries had customs valuation systems based upon the Brussels Definition of Value and several delegations suggested that this definition would seem an appropriate basis for a common international system. Other delegations were of the opinion that the draft principles and draft interpretative notes worked out by Group 2 of the Committee on Trade in Industrial Products (see Appendix 1 to document MTN/NTM/W/7) would be an appropriate basis for the future work of the Sub-Group.

4. Representatives of countries using other valuation systems considered that the Brussels valuation system had a number of serious defects and was not in its present form a suitable basis for a common international system. They noted the new Customs Cooperation Council recommendation allowing an f.o.b. option as a basis for valuation. Moreover, they noted statements by countries applying the Brussels Definition that they were prepared to examine changes to it and felt that in particular rules on uplifts and elements along the lines of those referred to in paragraphs 10-12 of the draft interpretative notes should be incorporated in any common international system. It was noted that changes to existing valuation practices would be considered in the context of overall reciprocity in the Multilateral Trade Negotiations.

5. Representatives of some developing countries pointed out that practices by which the customs value was determined on the basis of domestic prices in the exporting or in the importing countries posed particular problems to their exports.

6. The Sub-Group agreed that participants should transmit to the GATT secretariat in writing by 15 September 1975 specific suggestions, accompanied by notes explaining the objectives of these suggestions, for the elements that they wished to have included in any new set of international rules on customs valuation to be adopted in the context of the Multilateral Trade Negotiations.

B. Import documentation including consular formalities

7. There was a general agreement in the Group that the work on documentation going on in the United Nations Economic Commission for Europe and the Customs Cooperation Council was useful and should be taken into consideration. Countries not taking part in the activities of these two organizations stressed however that they reserved their right to consider in the framework of the MTN any arrangement agreed upon in the other organizations.

8. The Sub-Group noted that current information requirements, including those relating to customs invoices, were closely related, inter alia, to valuation, anti-dumping and countervailing duty procedures. It was generally agreed that information requirements should be limited as much as possible. In this context, certain delegations pointed to the importance of strict adherence to international agreements. The Sub-Group agreed that a useful starting point for its work in this field would be the list of particulars required by the customs for formalities on the importation of goods which was contained in the CCC document 18.909 and as supplemented by more recent CCC information. This list would be circulated to the Sub-Group. The Sub-Group agreed that members should submit to the secretariat in writing by 15 September 1975 lists of what they considered to be excessive in other countries' information requirements, explaining and identifying their specific difficulties. The Sub-Group would then hold discussions at its next meeting on the basis of a secretariat paper which would give a synopsis of the complaints and comments received. Such analysis could then provide a basis for subsequent review in the light of developments in other relevant policy areas.

9. With regard to consular formalities and fees, there was widespread support that they should be eliminated as prescribed in the draft interpretative note to Article VIII set out on page 20 of MTN/NTM/W/7. Some delegations pointed out that they would be prepared to give negotiating credit in the negotiations for such elimination. The Sub-Group noted that most countries did not make use of consular

formalities and fees or had managed to abolish them. Many delegations felt that problems connected with these formalities created a real burden in international trade. Those included high, often excessive, fees even for small consignments, administrative problems in exporting countries, a frustrating large number of statements etc. Some delegations recognized, however, that the abolition of consular formalities might pose certain problems to the countries which still retained such formalities. Some countries which still maintained consular formalities said that according to their experience they were useful and necessary to assure a better administrative process and since they did not consider that these formalities, simple as they were, constituted any obstacles to trade they did not contemplate their elimination. In this context one delegation expressed its reservation with respect to the draft interpretative note to Article VIII. Countries which felt it necessary to retain consular formalities were invited to explain in detail the justification for their continued existence and possible problems associated with their abolition. This would enable possible solutions to be sought within the MTN context.

C. Customs procedures

10. The discussion centered mainly on two problems, i.e. delays incurred in the formal customs clearance process and penalties for errors.

11. Some delegations considered that an interpretative note should be added to Article VIII of GATT to ensure that customs entries were formally liquidated within a reasonable period after the importation of the goods and that there should be limits imposed on retroactive or deferred assessment of duties. The Kyoto Convention, which by arrangement with the CCC would be distributed to all members of the Sub-Group, was of relevance to this problem. One delegation indicated its intention to make specific proposals on this point in time for discussion at the next meeting.

12. Some delegations considered that rules should be established for controlling the imposition of penalties by customs officials, particularly in the case of inadvertent error, and providing arrangements for judicial appeal. Certain delegations saw considerable difficulties in establishing general rules and drew attention to the importance of penalties in discouraging carelessness on the part of importers and their agents. The Sub-Group agreed to revert to this question at its next meeting.

D. Customs nomenclature

13. Many delegations considered that countries which did not currently use the BTN as the basis for their customs tariffs should adopt it as soon as possible. Some other delegations considered the BTN archaic and did not believe that it provided an adequate basis for a modern tariff classification system. Nor did they regard the existence of different tariff nomenclatures as an obstacle to trade.

14. Certain delegations stressed that, given the economic, political and administrative problems associated with a major change in tariff nomenclature, they would regard the adoption of an alternative system in their own nomenclature as a substantial concession. It was suggested that any comprehensive nomenclature change would create substantial uncertainty for exporters and it was recalled that in such cases the provisions of Article XXVIII of GATT would be applicable.

15. Those countries that urged the adoption of the BTN indicated their willingness to examine amendments to this nomenclature. It was generally agreed that the work currently being done in the Customs Co-operation Council on the development of the so-called "harmonized commodity code" provided a significant opportunity for developing a modernized international nomenclature. Many delegations urged that proposals which countries might wish to make in this context should be presented to the CCC as soon as possible. Countries not taking part in the activities of the CCC stressed that they reserved their right to consider in the framework of the MTN any arrangement agreed upon in the CCC.

16. Certain delegations considered that all countries should have satisfactory arrangements for providing potential importers with binding tariff decisions, and for appeal of customs classification decisions to a body independent of customs officials as provided for in Article X of GATT. Some countries indicated their intention to submit information about their practices in this field.