

GENERAL AGREEMENT ON TARIFFS AND TRADE

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STATEMENT BY THE REPRESENTATIVE OF JAPAN ON 21 FEBRUARY 1977

As this meeting is virtually the first substantive meeting of this newly formulated Group, I would like to put forth the general Japanese position on the work of this Group.

First of all, this delegation wishes to stress the importance it attaches to the premise upon which the Group would undertake its work. It is our firm belief that the work of the Group should be undertaken on the basis of the Tokyo Declaration, which states in its paragraph 9, "Support is reaffirmed for the principles, rules and disciplines provided for under the General Agreement. Consideration shall be given to improvements in the international framework for the conduct of world trade which might be desirable in the light of progress in the negotiations and, in this endeavour, care shall be taken to ensure that any measures introduced as a result are consistent with the overall objectives and principles of the trade negotiations and particularly of trade liberalization."

The Japanese delegation is of the view that in the course of discussions of this Group, we should bear in mind that the provisions of the GATT have been the backbone in maintaining the trend of expansion and liberalization of world trade and that difficulties arose on many occasions not because of the shortcomings in those provisions themselves, but rather in the implementations and applications of the provisions due to non-observance or failure to fully abide by these obligations. Therefore, we will be strongly inclined not to seek any revision of the present provisions of the GATT even in the name of improvement. This is because by doing so we might be opening a way to erosion of the high principles of the GATT instead of ameliorating them and because such a course of action could also become inconsistent with the intent of paragraph 9 of the Tokyo Declaration which I have just quoted. The Japanese delegation is of the view that this reminder of paragraph 9 of the Tokyo Declaration covers all the fundamental principles of the GATT and the provisions of Part IV of the GATT. It is also our basic view that, in particular, as far as "developed countries" are concerned, they should attempt, within the framework of the MTN, to endeavour to achieve further trade liberalization, while reaffirming the principles, rules and disciplines provided for under the General Agreement.

From its inception, GATT has evolved by flexible adaptation to changing circumstances, and this has been possible without amending the provisions. However, this does not imply that this delegation is against any improvement whatsoever of the present situation. In our view caution should be exercised when we decide on change; for the Japanese delegation cannot share the view that change in itself represents an improvement. We must bear in mind that revision of provisions, even with good intentions, does not necessarily lead to an improvement, but rather, it could lead to the worse in its actual effect.

My delegation wishes to reiterate its readiness to pursue in this Group as well as in the other Groups the possibility of differentiated and more favourable treatment in the trade with developing countries on a case-by-case or merit-by-merit basis. But, in our view, such pursuit would be appropriately carried out by finding practical ways to secure additional benefits for the international trade of developing countries.

In carrying out the work of this Group, we should keep in mind the relevant part of the Chairman's Note of the Trade Negotiations Committee for the last November meeting. The Note stated, inter alia, that "the Group shall not interfere with work in other Groups of the Trade Negotiations Committee, or seek to re-open issues or agreements settled in other Groups".

With regard to the programme of work, the Japanese delegation wishes to reaffirm its position that it is prepared to go along with the lines of the Chairman's Note; that the Group will need to keep in mind the time-table for the conclusion of the Multilateral Trade Negotiations; that there was sufficient convergence of views on the programme of work outlined by the Chairman of the Trade Negotiations Committee as a whole, though not on all points, to enable the Group to start its work. It is of our view that we would need to limit ourselves, for practical consideration, to the five areas stated in that Note by the Chairman. If those five areas are taken up together, we are prepared to proceed with discussions on them.

Mr. Chairman, let me now touch upon our basic positions on the five areas.

1. "The legal framework for differentiated and more favourable treatment for developing countries in relation to existing GATT provisions, in particular the MFN clause"

First, I would like to take up the item of the legal framework for differentiated and more favourable treatment for developing countries in relation to GATT provisions, in particular the MFN clause. The Japanese delegation is of the view that we should appreciate within a proper perspective the fact that the MFN principle, as one of the basic principles of GATT has made an important contribution in promoting the world prosperity. The MFN principle has provided all the contracting parties with the benefits of trade liberalization introduced by any contracting party

and, by serving as an important deterrent against backslide to protectionism. Thus, the MFN principle has served, in our view, to prevent the proliferation of trade blocks in the world and to expand the multilateral flow of free trade. My delegation deems it essential that we continue to uphold this MFN principle as one of the principal pillars that support the smooth flow and liberalization of international trade. While maintaining the MFN principle, we have seen the fact that the Contracting Parties have managed to find practical ways to provide additional benefits to developing countries. Practical approach with regard to the relations of developing countries with the MFN principle has been sought as evidenced in the enactment of the Generalized Scheme of Preferences. We should exercise such flexibility in accordance with provisions of Part IV of the GATT. We believe we can continue to maintain such a practical approach without truly jeopardizing the MFN principle.

Needless to say, it is Japan's intention to expand its trade with developing countries in line with the provisions of Part IV of the GATT.

2. "Safeguard action for balance of payments and economic development purposes"

Turning to the subject of trade measures for balance-of-payments purposes, my delegation firmly believes that monetary difficulties should not hinder the efforts for further trade liberalization nor should they nullify the efforts thus far made.

In the past we have experienced a number of critical occasions when the world came close to the brink where introduction of trade measures for balance-of-payments purposes could have lead to a chain reaction of protectionism and may have brought world trade into a chaotic situation of diminishing equilibrium.

We believe it cannot be denied that on such occasions the strict construction of GATT Article XII have had a rôle in restraining countries from temptations to resort to trade measures for balance-of-payments purposes.

In our view it would be inappropriate to consider revising Article XII which only permits introduction of quantitative restrictions for balance-of-payments reasons. In our view, the provision has had a de facto deterrent effect, and has enabled those administrations who found it necessary to introduce such measures both to exercise restraint and to dismantle them at the earliest possible opportunity. Revision of GATT Article XII or knowledge that the international community is in the process of revising such rules, is likely to have the undesirable effect of creating an impression that these measures are in fact sanctioned and therefore make it harder for governments to resist the temptation to introduce such measures.

Needless to say, the ultimate form of such restraint on trade measures taken for balance-of-payments reasons is a declaration not to have recourse to such measures provided by Article XII. Such a declaration, if adopted, would be effective in reinforcing the discipline on this matter.

In practice, however, we cannot exclude the possibility that some administrations may find it necessary to take trade measures not sanctioned by the GATT. It is our view that it may be necessary for GATT to tighten grips on such measures, when taken, and not leaving them free of multilateral disciplines. And it may be also appropriate to strengthen GATT and enable it to make a proper appraisal of the trade measures taken according to the GATT provisions from the viewpoint of their trade effects.

In order to achieve this objective, it is our view that it would not be necessary to revise GATT Article XII itself, but it could be met through the improvement of the procedures and by making more effective the functions of such forum as the Balance-of-Payments Committee.

As to the relation with the developing countries it is this delegation's view that appropriate consideration should be given to their particular requirements

3. "Consultations, dispute settlement and surveillance procedures under Articles XXII and XXIII"

Let me now turn to the subject of consultations, dispute settlement and surveillance procedures under Articles XXII and XXIII. On this subject, this delegation would like to point to the fact that the provisions of Articles XXII and XXIII have thus far provided a basically sound framework for dispute settlements which have enabled the Contracting Parties to carry out the difficult conflicting tasks of restraining those induced to take measures that may cause disputes and those tempted to retaliate against them. Therefore, this delegation believes that if any discussion should be made at all on the question of dispute settlement we should start from the review of the manners of actual applications of Articles XXII and XXIII so that it may contribute to the development of appropriate procedures to enable more effective application of these Articles.

We all know that there are some other structures for dispute settlement in such specialized institutions as the Anti-Dumping Committee or Textile Surveillance Body and probably there may be new arrangements to be made in each of the various areas of multilateral negotiations that are under way. Those dispute settlement mechanisms, if similar in name, are different in substance or areas where they relate. This delegation is of the view that this difference should be borne in mind when we proceed with the discussions on this subject.

4. "For the purpose of future trade negotiations: applicability of the principle of reciprocity in trade relations between developed and developing countries and fuller participation by the developing countries in an improved framework of rights and obligations under the GATT that takes into account their development needs"

As to the fourth area in the Chairman's Note, in particular to the question of reciprocity, it has been Japan's position that we do not expect reciprocity for commitments that we have already made or may be in a position to make in these negotiations or future negotiations to reduce or remove tariff and other barriers to the trade of developing countries. We, however, do expect the developing countries, in the course of the trade negotiations, to make contributions which are not inconsistent with their individual development, financial and trade needs.

Given the diversity of the development stages among developing countries and of conditions among products, we have to consider reciprocity on a case-by-case basis. Therefore, we cannot subscribe to the view that the so-called "non-reciprocity" be made a general rule. To accept non-reciprocity for all the developing countries in all the products would limit the scope of concessions that developed countries can offer. And by the same token, it would result in making concessions overly beneficial for some of the most advanced developing countries and less valuable for others.

With regard to fuller participation by the developing countries, the Japanese delegation is of the view that it is not only fair but appropriate for developing countries, who are in a position to do so, to take on increased responsibilities and obligations as the stage of development advances, and to make appropriate contributions to the objective of the Tokyo Declaration and those that may guide us in the future, namely, to the achievement of the expansion and further liberalization of world trade.

An apparent equality in the treatment of all developing countries would in fact produce unequal benefits depending on the country. We consider it appropriate to work out a way in which developing countries may enjoy the benefits of differentiated and more favourable treatments on an equitable basis in the light of the needs of each developing country.

5. "An examination of existing GATT rules concerning the applications of restrictions at the border that affect exports"

Lastly, I would like to touch upon the question of "examination of existing GATT rules concerning the applications of restrictions at the border that affect exports". The GATT, in its conception, assumed exports would move freely without restrictions. It is not that the GATT provisions are imperfect on export restrictions, but that the GATT, in conceiving its founding principle of free trade, took it to be self-explanatory that promotion of freer trade requires as its pre-condition the free flow of exports. This is why provisions of the GATT limit to the bare minimum exceptional cases where exports may be restricted under specified conditions. This delegation deems it of utmost importance that the participants of this round of new trade negotiations reaffirm those founding principles in pursuing further trade liberalization but at the same time seek to develop procedures on the export side that are comparable to those already developed on the import side.

It is for this reason that this delegation has a keen interest in the deliberation of the question of export restrictions. This concern has been much prompted by the growth in recent years of resort to export restrictive actions. We have seen moves toward export restrictions in the trades of such items as fossil fuels, mineral resources, foodstuffs, feeds and forest products.

Finally, in directing the work on this subject of export restrictions for the reason of supply shortages and other reasons, it is this delegation's view that, while it is perhaps too early to propose a concrete programme at this stage, as a preliminary step we would be prepared to examine the issue in the direction of developing guidelines or a code of conduct in respect of general prohibition of such export restrictions. In this process, it would be appropriate to include procedures for notifications and consultations on export restrictive measures that may be introduced on such limited circumstances as foreseen by the GATT provisions. In this course of detailed examination, we should not lose sight of the basic concept of the GATT that flow of exports be free.

The Japanese delegation would add that a general reaffirmation on export restrictions for the reasons mentioned should not hinder the product-by-product examination in the existing fora aiming at stabilization of market conditions.

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This concludes my review of Japanese positions on each of the five areas mentioned in the Chairman's Note and before I close my statement, I would like to reiterate my delegation's conviction that the work of this Group should be conducted and oriented to pursue the overall objective of achieving further liberalization of world trade, reaffirming the principles, rules and disciplines provided for under the GATT.