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GENERAL AGREEMENT ON TARIFFS AND TRADE

Multilateral Trade Negotiations

Group "Framework"

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STATEMENT BY THE REPRESENTATIVE OF THE EEC ON 21 FEBRUARY 1977

We can welcome today the resolve that all speakers have shown to adopt a constructive attitude in the work of this Group, and the Community wishes to express itself likewise. A year ago, when the establishment of this Group was being discussed, enthusiasm was far from being general and the Community itself was not a proponent. We allowed ourselves to be persuaded and those of you who remember the vicissitudes that surrounded the establishment of this Group will have realized that the Community made efforts to secure its institution. This preparatory phase, though perhaps being a little long, has at least enabled us to have a good idea about the topics that participants want to take up and the topics that some participants do not wish to take up. For our part, we have hesitations on certain points in the "programme of work". We consider that one of the topics is inappropriate at this stage, and that another of them should be dealt with elsewhere. Nevertheless, the EEC does not want to set out by excluding or censoring, and while we believe that we are right in maintaining reservations on certain points, we are quite willing that other participants should seek to convince us of the contrary.

In this spirit, in the light of paragraph 9 of the Tokyo Declaration and as we have been instructed to do by the Trade Negotiations Committee, we are ready to examine the international framework for the conduct of world trade, but while bearing in mind that in that same paragraph 9 the contracting parties have reaffirmed their support for the principles, rules and disciplines of the General Agreement. The EEC is ready to make a concerted effort on the issues proposed by Brazil and to present, even at this stage, some comments on the various topics set forth in your note, Mr. Chairman. First of all, however, I should like to make a few remarks of a general character.

The Brazilian proposals are interesting and we shall study them closely. The EEC considers that it will be possible to make progress on certain topics, not by any upheaval of the GATT but through an adaptation of the texts or procedures in the light of the evolution of international economic relations. Let us bear in mind carefully, however, that the General Agreement is a contractual instrument comprising rights and obligations. Now, rights cannot exist without obligations and even if a balance is not feasible in each case, it does not seem possible to increase the rights

on all sides without also and in parallel increasing the obligations. Everyone must contribute according to his capacity; that means that we cannot just simply divide the contracting parties into two groups - those who have a contributory capacity and those who have none or virtually none.

The situation of the various partners in international trade is developing. Some of them are making rapid progress from the economic aspect, others are stagnating or endeavouring not to drop back, and this is the case for "developed" as well as for "developing" countries. It does not seem possible to consolidate situations in texts or arrangements without allowing for this evolution, for otherwise tensions would very rapidly develop that would lead to brutal revisions, such as that which would result from the fact that the parties enjoying differential treatment would be in a more favourable economic situation than those granting such treatment. In this connexion, I should like to remind you that the Tokyo Declaration stipulates in paragraph 6 that in the context of any general or specific measures in favour of the developing countries, special attention should be given to the needs of the least developed among them.

Lastly, one should not disregard the aspect of relations not only between developed and developing countries but also among the developing countries themselves. Whereas the GATT applies fairly broadly in its rights and obligations to relations between developed countries at different levels, the rules and advantages of the General Agreement operate very little between developing countries notwithstanding the fact that in many cases these countries are situated in the same geographical region and would benefit from applying the same discipline vis-à-vis each other in order to increase their trade. Thirty years ago the countries of Western Europe were in a disastrous situation. They nevertheless accepted obligations that were very stringent at the time but that contributed to the rapid recovery of their economies. In the work of this Group, account will have to be taken of the advantages that the developing countries could obtain by applying to themselves certain disciplines of trade policy. It is in their interest, and also in that of the developed countries to the extent that economic advancement of the developing countries will be beneficial to all.

As regards the first point in the "programme of work" - differential treatment in relation to the MTN clause - the Community considers this a promising topic and we are ready to study ways and means to meet the urgings of the developing countries for recognition of this principle in more appropriate legal terms. That does not mean that the EEC is ready to engage in a binding of advantages that might rapidly be overtaken by developments and could lead to the tensions we have already mentioned. Furthermore, in the view of the Community, additional benefits for developing countries will result not only from what the developed countries do in regard to differential treatment, but also from what they have done or can do in the future in relation to the MTN clause.

As regards point 2, the Community can consider that there is a difference in the balance-of-payments problems arising for developed countries on the one hand and for developing countries on the other hand. Indeed GATT has recognized this since 1955. It has been said that the balance-of-payments consultations of developing countries give the impression of a court that passes judgement on the consistency of measures with the GATT rules, that the biennial consultations procedure was too burdensome in this regard, that it demanded too much of the administrative sources of the countries concerned which had difficulty in meeting the relevant requirements, etc. In fact, a balance-of-payments consultation is to a considerable extent what the consulting country makes it. The consultation affords an opportunity to expound the difficulties encountered not only at internal level but also in the consulting country's trade relations with other countries, to convince its partners that the measures it takes are fully appropriate, and in some way to "score points". Should not the countries that consider themselves well placed to defend their case find an interest in these consultations, on the contrary? In practice, these consultations have never resulted in condemnations but rather in suggestions that are frequently very acceptable for the countries concerned. The EEC is ready to study the kind of measures to which developing countries could legitimately have recourse in this field. The EEC is likewise disposed to examine whether certain provisions can be envisaged for the benefit of developing countries in the event of the application of balance-of-payments measures by developed countries; in actual fact, in many cases these measures already exempt a large part of the exports of developing countries, by virtue of their product coverage.

Regarding the balance-of-payments problems of developed countries the position of the EEC is well known. Experience of stable but adjustable exchange rates is still too recent to allow conclusions to be drawn on the balance of payments and its trade aspects. This seems to be the view of the International Monetary Fund itself, which in April is to re-examine some modalities of the present system; it would be paradoxical at the least for GATT to be ready to make decisions now whereas it deals with only part of balance-of-payments problems, as the monetary specialists are always reminding us.

As regards the Brazilian proposal for reviewing sections A and C of Article XVIII, the EEC is prepared to envisage this and in particular, as the United States delegation has suggested, to examine the reasons for non-use of these provisions. As an initial reaction, the reason could be a very simple one: it is perhaps not necessary for developing countries to submit themselves to such procedures when there are so many other measures that can be taken consistently with the General Agreement or virtually so, and without many procedural difficulties - for example an increase in unbound duties, introduction of import surcharges, or recourse to State-trading measures. Lastly, as regards the possibility of risk of retaliatory action by developed countries, this could be a rather

theoretical matter because there do not seem to have been any cases of this kind, at least not for a very long time. It is perhaps a fortunate consequence of the pragmatism prevailing in GATT that the developed countries have refrained from taking such measures vis-à-vis developing countries.

The third point concerns notifications, consultations and dispute settlement. The question of notifications is dealt with in the Group "Safeguards". The EEC is ready to examine the proposals made concerning notifications that have been or may be made in respect of all restrictive measures. One can suppose that such a procedure should be of general application, by developing as well as by developed countries, since in principle the measures concerned affect all trading partners, whether developed or developing countries. As regards consultations, no very specific proposals seem to have been made to date. Lastly as regards dispute settlement, the EEC does not wish to reiterate in detail what it stated on 5 November last before the Trade Negotiations Committee. That topic is under discussion in the Group of 18 which constitutes the most appropriate forum for examination by the contracting parties of practices that are not formally defined and that determine their behaviour in this field.

The Community has been applying the texts of Article XXXVI concerning reciprocity since 1964-1965, and has no knowledge of any particular difficulties in this respect with developing countries. The Community has not sought equivalence of concessions in the negotiations. It is accordingly open to any suggestion that would tend to endorse what it considers to be the practice it has adopted for its part. Certain suggestions made today, however, give grounds for misgivings over the introduction in the structure of the General Agreement of an element that could be disquieting, taking into account this fundamental concept that each country must be obliged to make contributions corresponding to its capacity, each of its partners having the right to require this. Inclusion in the GATT of a specific rule providing that no reciprocity is required of developing countries except when they think fit would lead inevitably to rapid erosion of obligations and hence of rights under the General Agreement.

On the last topic - "export restrictions" - the EEC can go along with the suggestions made by the United States delegation for making a factual examination and then considering whether there are lessons to be drawn from it. Since it goes without saying that each import corresponds to an export, it would be paradoxical for GATT, which for the past twenty-five years has been concerning itself with import problems, to refuse to deal with exports whereas by this means one can nullify the results attained in the import field. In this connexion it is

appropriate to point out, as the Japanese delegation has reminded us, that apart from a few rules regarding restrictions, in 1947-1948 the contracting parties started from the assumption that exports were duty free, which was quite obviously not the initial assumption in respect of import duties.

In conclusion, the EEC wishes to reiterate that while resolutely supporting the existing rules and practices of GATT, it is in favour of improvements that could be agreed by all concerned and that, be it said in passing, would encourage certain countries represented here to become contracting parties to the GATT, to avail themselves of the advantages it offers, and to make the appropriate contribution. Present-day economic difficulties highlight the necessity of setting as a common objective to strengthen, by a contribution from all parties, the rules and principles defined in mutual agreement and likewise the disciplines deriving therefrom which constitute the structural basis for expansion of international trade.