

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

NTM/2  
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Group on Quantitative Restrictions  
and Other Non-Tariff Measures

MEETING OF 10 MARCH 1983

Note by the secretariat

Chairman: Ambassador A. Onkelinx (Belgium)

1. The Group elected Ambassador A. Onkelinx (Belgium) as its Chairman.

A. General statements

2. The representative of the United Kingdom on behalf of Hong Kong sought confirmation that the Group's establishment and any work carried out by it, including the presentation, examination and discussion of any quantitative restrictions or other non-tariff measures was without prejudice to the consistency or otherwise of such measures under the General Agreement, and without prejudice to the rights and obligations of any contracting party to the GATT. He added that his delegation needed a confirmation of this understanding before it could participate in the work. Some delegations, including that of the United Kingdom on behalf of Hong Kong, made clear their understanding that the notification of measures to, or their review by, the Group could not be claimed as conferring on them any legality under the GATT. A delegation added that neither could the fact that a measure had been in existence for a long time.

3. Some delegations stated that it was evident, and without need of confirmation by the Group, that the establishment of any GATT body and its work could not prejudice the rights and obligations of any contracting party. A delegation also said any legal question could not be prejudged at this stage. A representative recalled that the confirmation which had been sought concerning rights and obligations had already been given by the Chairman of the CONTRACTING PARTIES at the Ministerial Meeting, as set out in SR.38/9, page 2.

4. The representative of the United Kingdom on behalf of Hong Kong stated that in the light of statements made it was clear that all members of the Group agreed that the work would not have the effect of prejudicing the rights and obligations of any contracting parties under the GATT. In regard to the statements by the Chairman of the CONTRACTING PARTIES at the time of the adoption of the Ministerial Declaration, he recalled the statement of his delegation at that time, contained in SR.38/9, page 7.

5. A representative said that the work of the Group was especially important since the issue of quantitative restrictions and other non-tariff measures had been an outstanding problem for nearly three decades. The CONTRACTING PARTIES had addressed it on a number of occasions and a number of statements had been made at Ministerial level with a view to both the elimination of illegal quantitative restrictions and the liberalization of restrictions in general. The deliberations of the Group would therefore

have an important bearing on the credibility of the multilateral trading system and its functioning based on the GATT.

6. The Group took note of the statements made.

B. Organization of work

7. The Group's discussion of how to organize its work was based on suggestions contained in a secretariat note (NTM/W/3). The Group had also before it two factual background notes listing the main documentation available in the GATT on quantitative restrictions and other non-tariff measures (NTM/W/1) and summarizing previous work in these areas (NTM/W/2).

(i) Three-stage approach

8. The Group agreed with the suggestion that it should adopt a three-stage approach to its work, as follows:

Stage I   Compilation of an adequate information base for the work of the Group;

Stage II   Review of existing quantitative restrictions and other non-tariff measures, the grounds on which these are maintained, and their conformity with the provisions of the General Agreement, so as to achieve the elimination of quantitative restrictions which are not in conformity with the General Agreement or their being brought into conformity with the General Agreement, and also to achieve progress in liberalizing other quantitative restrictions and non-tariff measures; and

Stage III   Consideration of the Group's findings and conclusions, and preparation of its final report.

The Group agreed that adequate attention would be given to the need for action on quantitative restrictions and other measures affecting products of particular export interest to developing countries at each stage of the Group's work.

(ii) Stage I - Information base

9. There was broad agreement in the Group with the general approach suggested in NTM/W/3. General statements as well as more specific points on that document are summarized below.

10. A number of delegations stated generally that, in compiling its information base, the Group should avoid duplicating the work of other GATT bodies. Some delegations, while agreeing that any unnecessary duplication should be avoided, said that the Group should also ensure that its data base was as complete and comprehensive as possible.

11. Some delegations noted that under Article XI:1 of the General Agreement export restrictions of a unilateral character clearly fell within the provision concerning general elimination of quantitative restrictions, and said that this fact ought to be reflected in the programme for data

collection. Some other delegations said that they had never foreseen that this question would be raised and stated that further reflection was needed. Some of these delegations held that if export restrictions were to be included in the data collection exercise, "voluntary" export restraints should also be covered. One of these delegations added that price-undertakings made in the anti-dumping context were also possibly relevant in this connection. In response to a question, the secretariat confirmed that notifications on export restrictions were included in the Inventory of Non-Tariff Measures and would thus form part of the Group's information base.

12. With reference to paragraph 3(c)(ii) of NTM/W/3, some delegations argued that it would not be sufficient to obtain information on "relevant GATT provisions" but that the conformity of measures with the GATT should be indicated at this stage of the work. Some delegations also suggested that information on the possibility of liberalization of restrictions should be submitted. Some other delegations did not share these concerns, referring to paragraph 7(i) of the Ministerial Declaration, to the likelihood that information on relevant GATT provisions would provide a basis for examining GATT conformity, and to the fact that the action to be taken would need to be considered in the light of the status of each measure. In reply to a question, the secretariat stated that it had been thought that an indication of relevant GATT provisions would provide the basis for the Group's consideration of the question of GATT conformity, which was one of the principal tasks that the Group was expected to undertake. The secretariat had also considered that liberalization possibilities might be a matter most appropriately taken up in the Group itself.

13. It was generally recognized that duplication should be avoided in the collection of information. Questions were, however, raised regarding implications, if any, for the second stage of the Group's work (see paragraphs 17-20 below) of the suggestions contained in NTM/W/3. Some delegations felt that it could not be assumed that the Committee on Trade in Agriculture would collect all the information required by the Group, particularly in regard to GATT conformity; such additional information as was necessary to meet the requirements of the Group, as outlined in paragraph 3 of NTM/W/3, should be requested. Some other delegations were of the view that the information to be assembled by the Committee on Trade in Agriculture should prove adequate for the purposes of the Group. In this connection, the point was made by some delegations that information to the Committee on Trade in Agriculture would cover all agricultural products. It was noted that, under the procedures suggested in paragraphs 6 and 12 of NTM/W/3, the Group would be able to consider at an appropriate time whether any further information should be collected.

14. In regard to quantitative restrictions, it was noted that paragraph 9 of NTM/W/3 suggested that the secretariat should present the information in a document comprehensive both in regard to product and country coverage. In this connection, it was suggested that a product-by-product and country-by-country presentation like that of the Joint Working Group might be used with appropriate adaptations, one being cross-references for particular products to other documents. By that technique duplication would

be avoided, while at the same time providing the Group sufficient flexibility to carry out its mandate in the further stages of work.

15. Concerning textiles, referred to in paragraph 7 of NTM/W/3, one delegation stated that tariff quotas should be included in the data base as they were clearly covered by Article XIII:5. Some delegations noted that existing information on textiles might not be adequate especially in respect of the checklist contained in paragraph 3 and that this might be looked into before entering the review stage. It was also pointed out that parties to the MFA maintained quantitative restrictions on textile products not covered by the MFA and that the information gathering should include this. Concerning information on textiles, the secretariat stated, in response to a question, that paragraph 7 was intended to relate only to products covered by the MFA and that other textile products would be subject to the normal procedures suggested for the collection of information. If all necessary data should prove not to be available in the secretariat, paragraph 7 provided for the possibility of requesting further data.

16. The Chairman concluded that the secretariat would prepare, in the light of the discussions and in consultation with delegations, a note setting out points emerging from the present meeting of the Group concerning the next steps to be taken. He added that additional meetings or consultations could be held at any time, if necessary; that the secretariat would keep in close contact with delegations during the information gathering phase, and that, in the light of the information that would become available, questions concerning further information might be reverted to.

(iii) Stage II - Review

17. Some delegations stated that duplication should be avoided in Stage II, with work proceeding in other bodies. In their view there had been an understanding to this effect during the work on the Ministerial Meeting. Some of these delegations recalled that they had stated at many junctures, also in the statements by their ministers at the Ministerial Meeting itself, that as far as agriculture was concerned, the Committee on Trade in Agriculture was the competent body. It followed from this that they could not give support to anything which would prejudge the issue, leading to the opposite conclusion.

18. Some delegations stated that nothing in the relevant Ministerial decision excluded consideration by the Group of restrictions in the agricultural sector. Although duplication of efforts should be avoided and a pragmatic approach be adopted, this Group had a different focus to that of the Committee on Trade in Agriculture and its work should be seen as complementary to that of that body. Therefore, the Group should pursue its own mandate using as necessary the information which was to be supplied to the Committee on Trade in Agriculture.

19. Some delegations stated that attention should be focussed on restrictions of major importance in trade between countries rather than the great mass of various measures of lesser trade importance. This was particularly relevant for the large number of diverse barriers or measures included in the Inventories. Another delegation agreed with this approach

but stated that priority should be given to residual quantitative restrictions.

20. It was also recalled that the Ministerial Declaration itself stipulated that adequate attention should be given to the need for action on restrictions affecting products of particular export interest to developing countries. The point was made that procedures would be needed to ensure that adequate attention be given at the review stage to trade barriers affecting products of particular export interest to developing countries.

21. The Group took note of the statements made.

(iv) Time-table

22. The Group agreed that the tentative time-table suggested by the secretariat in NTM/W/3 was a good starting basis. On the understanding that additional meetings might be held as necessary, it further agreed that the next meeting would be held in the week of 10 October 1983. The purpose of that meeting would be to conclude Stage (I), discuss procedures for review, initiate review and adopt a progress report to the Council.

(v) Other business

23. The observer from UNCTAD informed the Group that UNCTAD maintained a computerised data base on non-tariff measures which, in his opinion, might serve as an additional source of information for the Group, being available to all interested parties.