

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Consultative Group of Eighteen
Third Meeting
22-23 June 1976

NOTE ON THE THIRD MEETING OF THE CONSULTATIVE GROUP OF EIGHTEEN: 22-23 JUNE 1976

Introduction

1. The Consultative Group of Eighteen held its third meeting on 22-23 June 1976. An annotated provisional agenda was circulated in document CG.18/W/10 and a list of participants in document CG.18/INF/3.

Agenda

2. The Group adopted the following agenda:

- (1) Trade measures taken for balance-of-payments purposes;
- (2) The international trading system and the rôle of GATT;
- (3) World trade in agricultural products;
- (4) Recent developments in trade policy and international trade;
- (5) Other business.

3. Notice was given that the question of the report which the Group was required to make to the Council would be raised under item 5 of the Agenda.

Trade measures taken for balance-of-payments purposes

4. As background material the Group had before it: the Note by the Balance-of-Payments Committee reviewing the work of the Committee over the period 1970-1974 (document L/4200); a Background Paper for Discussion of GATT Rules and Procedures Governing Trade Measures for Balance-of-Payments Purposes (document CG.18/W/5); a list prepared by the secretariat of issues raised at the second meeting of the Group (document CG.18/W/7); a memorandum by the Argentine Delegation concerning balance-of-payments aspects to be considered within the framework of GATT (document CG.18/W/8); a memorandum by the United States representative on GATT Rules and Procedures Governing Trade Measures for Balance-of-Payments Purposes (document CG.18/W/9).

5. In accordance with the invitation of the Group at its meeting in February the representatives of the Managing Director of the International Monetary Fund, Mr. Ernest Sturc, Director, Exchange and Trade Relations Department, and Mr. Edgar Jones, Director, Geneva Office, were present for the discussion on this item of the Group's agenda.
6. The Fund representative outlined the policies and practices of the IMF on trade restrictive measures taken for balance-of-payments purposes and the existing co-operation arrangements between the IMF and the GATT. Member countries of the IMF which maintained exchange restrictions under the provisions of Article XIV were required to consult annually on their maintenance. Member countries which had adopted the obligations of Article VIII (concerning the avoidance of current payments restrictions and discriminatory currency practices) had agreed voluntarily to consult periodically with the Fund. Any country which adopted a new restriction was required to obtain approval under Article VIII. Article I of the IMF provided for the resources of the Fund to be made temporarily available to members under adequate safeguards, thus providing them support for the correction of maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity. Frequently resources of the Fund were made available to countries under "stand-by arrangement", which was a commitment on the part of the Fund to a country to provide resources of the Fund in support of policies conducive to the achievement of equilibrium in the country's balance of payments. In this context attention had been directed to restrictions in the trade field: of 168 stand-by arrangements entered into about 54 per cent had clauses referring to restrictive measures in the trade field. Under the IMF "oil-facility", funds were borrowed by the IMF and re-lent to affected member countries on conditions which included a commitment not to intensify existing restrictions or impose new restrictions on current international transactions without prior consultation with the Fund.
7. Clauses relating to restrictive measures in Fund programmes were based on legal provision of the Fund designed to safeguard the revolving character of its resources through the pursuance of adjustment policies on the part of borrowing countries which permitted them to reach equilibrium and to meet their financial obligations without undue recourse to restrictions on trade or payments. In this regard a flexible approach had been adopted by the Fund which recognized that some countries were able to make the necessary adjustments more quickly than others. Where the Fund, in connexion with the use of its resources, had not objected to trade restrictions on a temporary basis it had been stressed that in no way did this impair the legal or other responsibilities under GATT of the country concerned. An area where further work needed to be done, and where there was scope for co-operation between the two institutions, as well as in other related spheres, was in determining whether a trade restriction was imposed for balance-of-payments or for protectionist or other purposes. While there were no clear-cut rules in this respect.

in the conduct of its activities the Fund had endeavoured to reinforce the purposes and intent of other international organizations. In the trade field while the Fund and the GATT had developed close working relations there was scope for further improvement.

8. As regards exchange of information and co-operation between the secretariats of the two institutions the Fund representative stated that the existing arrangements had been carefully developed over a period of some twenty-five years and that the Fund looked forward to further deepening its collaboration with the GATT. At present copies of the reports on the regular consultations under Articles VIII and XIV of the Fund were made available for the confidential use of the GATT secretariat. For the purpose of examinations under Articles XII and XVIII of the General Agreement as well as examinations by GATT working parties of trade measures introduced for balance-of-payments reasons, the Fund supplied factual reports and the latest decision of the Executive Board on the consulting country for use by the contracting parties. In addition, the Fund presented a statement, which was approved by the Executive Board, giving its views on the measures taken and on possible alternative corrective measures. In the initial stages these statements tended to be limited to the strictly legal considerations but subsequently more detailed and analytical statements in respect of matters within the jurisdiction of the IMF had been provided.

9. In response to questions by members of the Group, the Fund representative commented further on the policies and practices of the IMF in dealing with balance-of-payments adjustment problems and on the scope for improved collaboration between the two institutions. The package of monetary, fiscal, trade and exchange rate measures which a member country in balance-of-payments difficulties adopted was determined by a range of economic as well as political factors. An important guideline of the IMF in this area was that the situation should be rectified or equilibrium restored within a given timespan and in such a way as to minimize resort to exchange and trade restrictions. In such cases the Fund's assistance was granted for a specific period and on conditions in respect of consultation and review designed to emphasize the temporary nature of the restrictions and the need to justify their adoption or continuance. There had been instances where the Fund had stated that the measures adopted by a member country were either not justified or that they should be replaced by more appropriate measures. Furthermore, as a matter of Fund policy, countries maintaining quantitative restrictions for balance-of-payments reasons were not encouraged to assume the status of Article VIII under the Articles of Agreement of the Fund. Once floating rates of exchange became a widespread phenomenon the Fund adopted guidelines which, inter alia, provide that countries with floating exchange rates, like other countries, should refrain from introducing restrictions on current account transactions for balance-of-payments purposes, and should endeavour to remove progressively such restrictions

as may exist. As regards member countries in a continuing surplus balance-of-payments situation, the Fund had on various occasions stressed the obligation of such countries to pursue policies which would facilitate the efforts of deficit countries to achieve equilibrium in their payments position, and in some instances specific recommendations to this effect had been made to such countries. The Fund did not differentiate between one class of member country and another in terms of their rights and obligations. Its approach in dealing with policy problems and programmes was geared or adapted to the particular circumstances of individual member countries.

10. In the course of this exchange a number of areas were mentioned where the scope for closer co-operation between the two institutions and their staffs could be pursued. These included the question of arrangements for the exchange of information and arrangements to enable a proper assessment to be made of trade measures which countries proposed to introduce in order to determine whether a given measure was discriminatory in effect on third countries, and whether it was unjustifiably or unduly restrictive.

11. The resumed debate on this agenda item was introduced with an outline by the members for the United States and Argentina of the papers which they had presented on the reform respectively of the GATT procedures and rules governing trade measures taken for balance-of-payments purposes (documents CG.18/W/9 and CG.18/W/8). In the ensuing discussion the following observations and comments were made with respect to the suggested recommendations to the GATT Council for improvement of GATT procedures governing trade measures for balance-of-payments purposes as proposed by the member for the United States at page 4 of document CG.18/W/9, with the addition of a further recommendation concerning "notification procedures". For convenience these observations and comments are summarized seriatim here below.

12. "(i) the Balance-of-Payments Committee should review all trade measures taken for balance-of-payments purposes, and examine whether alternative trade measures or adjustments to reduce distortions might not be possible;"

The view was expressed that all measures, both quantitative restrictions and other measures, should be subject to examination and evaluation if the GATT were to function properly, even though this might entail the risk of "legitimizing" measures not currently permitted under the relevant GATT articles. A number of members expressed their general support for the approach embodied in the recommendation but considered that the procedural changes ought to be handled with particular care in order not to modify the substance of the existing GATT rules. It was suggested that while the procedures would apply to all trade measures, in

practice this should be taken as meaning all trade measures having a significant impact on the trade of other countries. Another view expressed was that the first limb of the recommendation would mean either that countries would invoke purposes other than balance-of-payments purposes in order to avoid the examination or, alternatively, that so many measures taken for balance-of-payments purposes would be remitted to the Committee that the relevant article would be turned into something it was never intended to be. By enabling countries to invoke the jurisdiction of the BOP Committee in respect of measures which would otherwise be contrary to other GATT rules and which would otherwise be subject to examination under other GATT rules the result, to a certain degree, would be to legitimize such measures. As regards the second limb of the recommendation, which was considered to involve a great deal more than appeared at first sight, the reaction in practice could be that the BOP Committee might very well come up with alternative trade measures or adjustments which governments would find, or at least claim, were entirely outside the province of the Committee.

In relation to the scope of the measures under review it was suggested that the secretariat might prepare an inventory of restrictions of the type adopted for balance-of-payments purposes which were not expressly justified under other articles of the General Agreement and which could be considered as restrictions similar to those applied for balance-of-payments reasons. Such an inventory would make it possible to analyze the situation with respect to countries which are not submitted periodically to a review concerning the justification for the maintenance of such restrictions.

It was proposed that the following sentence be added at the end of the first recommendation: "In so doing the Committee should pay due attention to the limitations that may exist with respect to the flexibility of the country concerned in adjusting to the disturbances in the international economy." The member for the United States indicated that an amendment along these lines would be acceptable.

In general it was suggested that the proposed procedures could be handled by the Balance-of-Payments Committee itself or by sub-committees established by it on an ad hoc basis, although some members considered that the current arrangements might be adhered to.

13. "(ii) the GATT secretariat should prepare objective trade-policy-oriented studies on the measures taken;"

The need for such studies, which could be undertaken with modest secretariat resources, was stated to be related to the fact that at present the Committee had to rely on information from the IMF which did not deal with trade policy

implications as such, and on information provided by the country under review which was not necessarily sufficiently objective. It was suggested that any such studies should cover all aspects relevant to the interests of developing countries. Another view was that this proposal required further examination and was an example of a substantive rule change in the guise of a procedural change.

14. "(iii) in evaluating actions taken by developing countries the Balance-of-Payments Committee should take account of the special needs of those countries;"

It was stated that the basic point was the recognition of the structural problems of the developing countries and of their particular development needs, and that this should be taken into account by the Committee. A number of suggestions were made as to the manner in which these concepts should be reflected in the proposed recommendations; suggestions in this regard being that account should be taken, where appropriate, of the position of developing countries in the various sections of the recommendation, or that these matters could be covered in a preamble to the recommendations. Another point in this connexion was that there should not be a stark differentiation between developing and all other countries, since there were other classes of countries whose position should also be taken into account.

15. "(iv) as part of its in-depth analysis the Committee ought to examine the implications of long-term trade restrictions imposed by other countries that may have precipitated the specific action in question;"

Several members considered that while this was a relevant consideration care would be needed to ensure that the Committee's review did not become too wide-ranging. In this respect it was suggested that there should be an apparent cause and effect relationship between the measures under review and the actions of third countries which might have precipitated them. On one analysis it was considered that the proposed recommendation involved a contradiction according to its own terms since there appeared to be no necessary link between a long-term trade restriction and what by definition was a short-term or temporary balance-of-payments imbalance. In this connexion it was pointed out that what was relevant was that the impact of long-term restrictions varied from time to time depending on the import requirements of the country maintaining the long-term restriction and this had an immediate effect on residual suppliers. The member for the United States indicated that in the light of the discussion the qualifying words "long-term" could be deleted it being sufficient that there should be a demonstrable cause and effect relationship between the trade restrictions imposed by other countries and the specific balance-of-payments action under review.

16. "(v) the Committee should report its conclusions and state fully the reasons behind its decisions so as to build up a body of commentary that could facilitate the development of guidelines governing future trade actions for balance-of-payments purposes;"

It was explained that the objective would be to develop informal guidelines as opposed to binding precedents. One view expressed was that history had not demonstrated, in GATT or elsewhere, that committees in fact adopt such a reasoned approach in reaching or reporting their conclusions and decisions: on the contrary, the tendency had been for committees to employ phraseology which relieved them from having to do so.

17. "(vi) the surveillance rôle of the Committee should be enhanced to enable it to follow up and review actions that are taken in the light of the Committee's recommendation or conclusions;"

It was explained that an elaborate surveillance process was not involved. In this regard, it was suggested that the country concerned could be required to report at regular intervals on the status of the restrictions and on progress made in complying with the Committee's recommendations, or the Committee itself could meet at regular intervals to review the situation. The view was expressed that much would depend on the authority which the CONTRACTING PARTIES would be prepared to give the Committee once all the other issues had been examined and settled.

18. "(vii) the GATT and the IMF secretariats should be encouraged to develop procedures for improved co-ordination and exchange of information between the CONTRACTING PARTIES and the Fund;"

It was explained that the objective in this regard would be to enhance the complementarity of the two institutions through expanded and enhanced co-ordination of their activities in the trade field and the mutual exchange of information. It was noted, however, that the secretariat should not take initiatives which properly belong only to Contracting Parties or which had significant budgetary implications.

19. "(viii) any contracting party which imposes any trade measure for balance-of-payments purposes should immediately notify such action to the CONTRACTING PARTIES. In the event such contracting party fails to immediately notify the CONTRACTING PARTIES of such action, any other contracting party may so notify the CONTRACTING PARTIES;"

Whilst it was considered that such a procedure was necessary, some observations were made concerning the scope of the measures to which the procedure would apply, and in this regard it was suggested that the precise wording of the recommendation should be carefully examined.

20. In presenting the paper concerning balance-of-payments aspects to be considered within the framework of GATT (document CG.18/W/8) the member for Argentina stated that hitherto the BOP Committee had been carrying out tasks which were neither substantive nor relevant to the essential concerns of the developing countries. However, the procedural proposals under consideration represented a step in the right direction and could be regarded, with some modifications in respect of differential treatment, as complementary to and as providing an acceptable basis for progress towards the sort of reforms outlined in document CG.18/W/8.

21. A number of representatives expressed their support for the proposals outlined in the paper by the member for Argentina and stressed the importance of going beyond procedural changes and of implementing reforms which would effectively influence the direction of trade policies in the industrial countries. It was noted that this was a task which could not be dealt with in isolation from other relevant GATT rules and should therefore be pursued within the Multilateral Trade Negotiations, possibly in parallel with efforts being undertaken on the procedural issues.

22. In the view of some members certain aspects of the proposals for longer term reform appeared to have more to do with international monetary matters than with trade, although those aspects of the paper concerning trade matters in regard to the developing countries could be given further consideration, in particular in the continuing work of the Multilateral Trade Negotiations.

23. Referring to the three specific proposals outlined in the conclusion to document CG.18/W/8 the member for the United States stated that something less than a blanket exemption of developing countries from the scope of the restrictive measures imposed by developed countries might be a more viable proposition; that greater flexibility and tolerance with regard to the measures adopted by developing countries could be accommodated within the provisions for differential treatment to be included in the procedural recommendations; but that in general there ought to be provision for an in-depth examination of the measures imposed by developing countries. As regards other aspects of the paper dealing with reform these could be considered in the Multilateral Trade Negotiations or elsewhere.

24. Differing views were expressed as to how the Group should proceed further on this subject. One member considered that, according to its terms of reference, the Group was not competent to make recommendations, particularly on a matter which in essence involved more than just procedural issues and which overlapped with matters being dealt with in the Multilateral Trade Negotiations. In these circumstances, and given that the discussion and exchange of views had been taken as far as they could, it was, in this view, appropriate that the Group

should not discuss the matter any further and limit itself to reporting to the Council. Some other members considered that it was appropriate and within the competence of the Group to seek to reach a consensus on the procedural changes under consideration with a view to submitting recommendations to the Council. The point was made that it would be open to the Group to continue its discussions on the subject of trade measures taken for balance-of-payments purposes at its next meeting.

It was agreed that the secretariats of the GATT and the IMF should work out jointly the practical means for improving co-ordination between the two institutions and that the GATT secretariat should report to the Group on this subject at its next meeting.

25. The member for the United States indicated that he would probably submit a revised paper on the proposed procedural changes for the next meeting.

The international trading system and the rôle of GATT

26. The member for Brazil, in presenting the papers outlining the proposed objectives and programme of work of a framework group (documents CG.18/W/12 and Add.1) stated that no specific terms of reference for the group had yet been proposed but the elements on which such terms of reference might be established by the TNC had been outlined. It was envisaged that, once established, the group would determine its own programme of work. Four broad areas for reform which could be usefully examined by the group were identified in document CG.18/W/12/Add.1. These were: the applicability of the MFN clause to the trade between developed and developing countries; safeguard measures not within the purview of the existing MTN Group on Safeguards; consultation and dispute settlement procedures; and, the principle of reciprocity or relative reciprocity. Although the establishment of a framework group was a proposal of the developing countries the papers presented to the Group of Eighteen were the responsibility of the Brazilian delegation.

27. In general there was a large measure of support for the proposal that a framework group should be established by the TNC with clearly defined and balanced terms of reference. Several members stated that although they were not persuaded by the proposal, if a sufficient number of countries wanted to establish such a group the proposal should be taken up in the appropriate MTN negotiating body. There was a consensus that prior to this the proposal could usefully be discussed further in the usual informal consultations. Some other members supported the proposal but on the basis that this did not prejudice their position with regard to the substantive issues. One member stated that it was unable to support the proposal as currently formulated and another member said that it would make its position clear at a later stage.

28. Several members expressed the view that the tasks assigned to the framework group should be such as to enable it to carry out its work within a reasonable period of time and, in particular, without impeding the momentum of work in

other groups. In this regard it was emphasized that it was important that there should be no duplication of the work of existing MTN groups, a matter which implied that the terms of reference of the group would need to be clearly defined. It was also pointed out by one member that it would not wish to see a framework group produce results which from the outset were likely to be unacceptable in domestic political terms. The Group should therefore deal with a limited range of major issues which could be taken to a conclusion.

29. Several members drew attention to the fact that the General Agreement in its present form represented a balance of rights and obligations. Proposals for reform in one area, however limited they might be, necessarily affected the balance as a whole as perceived by contracting parties individually as well as collectively. One of the group's aims should therefore be to keep this notion of balance in view when considering individual changes. The need for such a global approach in the work of a framework group was also reinforced by the unique contractual character of the General Agreement which implied that the interests which countries attached to its provisions as a function of their present development needs should not obscure their longer term interests in an open trading framework.

30. In addition to the other provisions of the Tokyo Declaration to which reference had been made in connexion with the work of the framework group, it was suggested that account should also be taken of paragraph 6 relating to the particular situation and problems of the least developed of the developing countries.

31. It was generally agreed that the further discussion on this subject could be pursued in informal consultations with a view to consideration of the proposal at the next meeting of the Trade Negotiations Committee. Nevertheless should it be considered appropriate to do so the Group could revert to this subject at its next meeting.

World trade in agricultural products

32. The discussion on this subject was introduced by the representative of Australia at whose request this item had been placed on the Group's agenda. Referring to that part of the terms of reference of the Group of Eighteen which provides for "following international trade developments with a view to the pursuit and maintenance of trade policies consistent with the objectives and principles of the General Agreement", the representative of Australia observed that it would be difficult to find any area of trade where policies and practices have been so inconsistent with the objectives and principles of the GATT as that of trade in agricultural products. The representative stated that complacency regarding restrictions and unfair practices in trade in agricultural products,

which was an area of prime importance to the majority of GATT member countries, could prove to be dangerously short-sighted for GATT and for the international trading system. Australia had sought the inclusion of this item on the agenda in the hope, firstly, that it would raise the level of consciousness of what is happening, and not happening, in agricultural trade; secondly, that it would engender some rethinking, outside the negotiating forum of the MTN, on the sort of changes which could serve the longer term interests of low-cost and high-cost agricultural producing countries, as well as producers and consumers everywhere; and thirdly, that it would enable GATT to become a forum where there is a readiness to discuss and attempt to resolve problems affecting all areas of trade, and not just trade in manufactured products.

33. The representative of Australia presented the following questions for reflection by the Group, and stated that it would be the intention of the Australian delegation to present a document for consideration at the next meeting:

- (i) Is there room for improvement in the rôle being played by the GATT secretariat in relation to institutional issues and arrangements for international liaison on supply, demand and prices of agricultural products?
- (ii) What is the effect on the level and stability of world commodity prices and levels of low-cost agricultural production, of the application of import restrictions in some major commercial markets which relegate low-cost producers to the position of residual shortfall suppliers?
- (iii) To what extent would the limitation of levels of protection or volume of production in high-cost countries, so as to accord efficient producers a share in market growth, contribute to a more rational allocation of resources?
- (iv) What "in principle" changes may be desirable if import and distribution systems are to ensure that prices charged to consumers are more equitable (and more in line with the operation of market forces) when compared with market returns received by efficient producers?
- (v) Should international trade in agricultural products be excluded from the GATT system of negotiated and bound maximum levels of protection?
- (vi) What are the obstacles to achieving negotiated levels of protection for agricultural industries?

- (vii) What action and what sort of supplementary arrangements might be necessary to overcome these obstacles?
- (viii) Should not the durability of such concessions as may be negotiated on agricultural trade in the MTN be equivalent to, and be guaranteed as being equivalent to the durability of concessions negotiated on trade in manufactures?

34. Some members considered that it would be more appropriate that the kind of issues raised by Australia be taken up in the MTNs in the Group which had been established specifically to deal with trade in agricultural products. In supporting the inclusion of this item on the Group's agenda, a number of members observed that in the view of some countries Group "Agriculture" had been established in order to treat agriculture separately from other areas of the negotiations whereas the object of the Australian initiative was to consider the issue as a whole and not in isolation. In this connexion, reference was also made to the importance of a balance of rights and obligations under the General Agreement in relation to agricultural as well to industrial trade, and also to the possibility of the inclusion in the work of the proposed framework group of the question of discrimination in the application of GATT rules to agricultural trade.

35. At the conclusion of the discussion of this item, the Chairman noted that the representative of Australia had reserved the right to revert to this matter at a subsequent meeting of the Group.

Recent developments in trade policy and international trade

36. The purpose of this item was to permit delegations to raise questions of specific interest to them and to have an exchange of views on the wider aspects of recent trade policy developments. As background material the Group had before it a note by secretariat on recent trends in world trade (document CG.18/W/11).

37. It was noted that under the recent restrictive measures imposed by the United States and Italy no provision had been made for the exemption of developing countries. In addition, although the United States quotas on specialty steels made provision for new entrants, no distinction was recognized in favour of developing countries. The member for the United States stated that there had been prior consultations with all major suppliers and with developing countries as well, and that the quotas had been allocated on as fair a basis as possible. There was some flexibility in the administration of the quotas and the concerns expressed would be borne in mind in this regard. One member whose country was a net importer of specialty steels from the United States noted that the application of Article XIX in such a situation had probably not been contemplated when the

Article was drawn up. Another member noted that changes in the pattern of trade could take place before the three-year period for which the quotas were valid had expired.

38. The representative of Egypt recalled his statement made at the second meeting of the Group (document CG.18/W/6) and invited members of the Group to respond to the proposal that action be taken by the GATT on a programme of emergency relief for the developing countries in general and for the most seriously affected among them in particular.

Other business

39. Under this item the Group discussed the question of the annual report it was required by its terms of reference to submit to the Council of Representatives. It was agreed that the Chairman, on his own responsibility, would submit to the Council, following the next meeting of the Group, a comprehensive report on the activities of the Group during the first year of its existence. It was also confirmed that, in accordance with the usual procedures, the agenda for the next meeting would be settled in consultation with members of the Group.

40. The Group agreed that a brief press release on the meeting should be issued by the secretariat.

Date of next meeting

41. It was agreed that the Group would hold its next meeting on 25 and 26 October 1976, beginning at 10 a.m. on the 25th.