

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Agriculture Committee

## WORKING GROUP ON TECHNIQUES AND MODALITIES

### Preliminary Examination of Implications for Developing Countries of Various Suggested Techniques and Modalities for Negotiations on Agriculture

Note by the Secretariat

#### I. Introduction

1. At its meeting of 24 to 27 July 1972, the Working Group decided to ask the secretariat to submit to the Agriculture Committee at its next session a study on the implications for the developing countries of the various techniques and modalities for the future negotiations relating to agriculture.
2. The present paper therefore attempts to analyze the possible implications on the basis of the various suggestions contained in working paper COM.AG/W/77 and in the light of the discussions held in the Groups, as recorded in the report of the Working Group on Techniques and Modalities to the Agriculture Committee (COM.AG/W/88).
3. In paragraph 9 of its report, the Working Group recalled the understanding reached in the Agriculture Committee that "the Working Group shall pay special attention to the particular interests of developing countries". It also recalled that in this connexion the hope had been expressed that these countries would actively participate in the Working Group and that their representatives would make known their views on each technique and modality as it was being examined, especially as regards any adaptation that might be required. Adaptations which certain developing countries would like to make to the application of certain techniques and modalities have been noted in that report. The present paper also touches on some of these suggestions bearing in mind that, as pointed out in the report, they are of a preliminary nature.
4. In assessing the possible implications, the following points might also usefully be borne in mind. The present paper necessarily discusses techniques one by one; however, the implications of a technique applied singly might not be the same as if the technique were applied simultaneously or in conjunction with other techniques in the agricultural sector. Secondly, the implications of a technique may depend on how many and which countries would participate in applying it. Thirdly, to the extent

that the agricultural and industrial sectors are interrelated, an assessment of the implications of different approaches may require considering the changes resulting from the total package of measures taken in the two sectors. Fourthly, and very importantly, while many developing country economies may share a number of basic characteristics - a relatively undiversified pattern of exports, structural rigidities or revenue and balance-of-payments constraints - which may limit policy choices and options, the specific trade interests differ from country to country, depending not only on the stage of development, but also, among other factors, on a country's actual and potential production and trading patterns. The present analysis, however, must necessarily be drawn up in general terms, which correspondingly limits its usefulness as a guide to individual governments who will, no doubt, wish to determine their future negotiating positions in the light of the specific needs and interests of their respective countries.

## II. Techniques relating to export assistance

5. It was suggested that developed countries might consider eliminating on a priority basis export aids on products of particular export interest to developing countries (COM.AG/W/88, paragraph 27). Whether such abolition is effected in one operation or is progressively phased, the implications for developing countries seem bound to be very complex. For exporting developing countries it seems at first sight that such a measure would have a favourable influence on export prices of the products concerned. Also this technique would have a particular appeal because at the present time developing countries do not in general subsidize their exports of primary products.

6. Nevertheless, this favourable influence may depend on the existence of certain conditions. For example, the abolition would have to be effected by all developed countries, without any noteworthy exception; the prohibition of aids would also have to apply to all competing or substitutable products, otherwise there would follow trade distortions and a shift in demand toward products exempt from the prohibition; the elasticity of demand must be such that higher prices for the products concerned would not cause any appreciable or durable contraction in demand, etc.

7. In addition, if the developing countries as a whole were to use export subsidies so as to take advantage of the restraint of other countries, they could perpetuate the downward pressure on prices to the detriment in particular of the least developed countries which cannot sustain such competition based on financial strength, even if the particular production conditions for a specific product gave them a higher degree of efficiency at the outset. Certain developing countries may be in a position to subsidize exports of certain agricultural products simply because these products account for a smaller share of their export trade than that of another developing country.

8. Though attractive in theory, the method consisting in prohibiting export subsidies in respect of industrialized countries or selected developing countries soon becomes very complex if one wants to apply it in practice to certain products or to define certain eligibility criteria. The criterion of "balance-of-payments difficulties" or "protection of infant industries" is not in itself sufficient for avoiding the dangers mentioned above. One can conceive, nevertheless, that a procedure of notification and rapid and efficacious consultation could to some extent, offset some of the disadvantages that might arise in the developing countries as a whole had the possibility of resorting, subject to certain conditions to be determined, to forms of export aid (COM.AG/W/88, paragraphs 29 to 31).

9. For the importing developing countries the advantages of the method would no doubt be much more problematical to the extent that their imports from developed countries would tend to become more expensive. It could also lead to greater difficulties in obtaining agricultural produce on non-commercial terms. Here the long-term effects may be different from those which make themselves felt over the short-term. In the short-term surpluses that accumulate in developed countries, once export subsidies can no longer be used, may have to be dealt with through stock-piling which would permit deliveries to continue on non-commercial terms. Over the longer-term, without the safety valve which export subsidies constitute for certain developed countries, the latter would be obliged to adopt a much stricter attitude in regard to methods for controlling supply and therefore to try to prevent the accumulation of surpluses which until now have constituted one of the major sources of food aid. If this "accidental" source were to dry up the developed countries would in parallel have to establish much more substantial food aid programmes than is the case today, with a view to producing on a continuing basis specifically for those programmes

10. Another possibility might be to introduce, alongside the general prohibition of export subsidies, an escape clause associated with certain criteria that would allow an exception from the prohibition where the foreseeable market situation for a particular product indicated that certain developing countries were likely to encounter supply difficulties.

11. In general minimum price system could have the same effects on the direct elimination or limitation of subsidies and export aids except that minimum prices must in each case be negotiated commodity by commodity and sometimes for different qualities for the same commodities. To the extent that the minimum price is related to the costs of the most efficient producer without benefit of subsidies, it could protect the developing countries from subsidized competition in export markets. On the other hand, it would appear to be an essential feature of such arrangements that at least all important exporters should participate in it or that there should be provisions for application of restraints by importing countries to exports made by non-participants at prices below the established minima.

### III. Techniques relating to tariffs

12. The implications of the techniques and modalities for negotiation on industrial tariffs were discussed in document COM.IND/W/85 prepared for the Committee on Trade in Industrial Products. Some of the considerations set forth therein are equally valid for the agricultural sector and will not be reproduced in this paper.

13. As regards the item-by-item approach which a large number of delegations considered more appropriate than the linear approach, the suggestion was made that customs duties and other charges should be substantially reduced on primary products and semi-processed and processed products derived from them where they account for a large share of the trade of developing countries and where those countries have evidenced their ability to produce them in competitive conditions, whether at present or in the future (COM.AG/W/88, paragraphs 70 to 73).

14. Here again the implications of this method are very numerous and complex. It should be noted that it does not differ appreciably from the conventional method according to which the negotiators try to obtain duty reductions on products which represent a certain percentage of their export trade. One could not therefore deduce from this modality any implications substantially different from that of the conventional methods except in the case of two very important differences which both concern the "principal supplier" rule.

15. It would indeed result from this modality, if it were used in the negotiation, that a developed country could not cite the fact that it is not negotiating the tariff on a certain product with the principal supplier (developed country) as grounds for refusing to enter into negotiations on the same product with a less-developed supplier which may sell ten times less but for which this product represents a large percentage of its aggregate foreign sales. And if one takes account of potential exports, it is clear that the "principal supplier" rule and the "substantial interest" rule should in many cases be ignored and be replaced by the criterion of "large share in the trade of a developing country".

16. One may wonder whether, as formulated in paragraph 73 of document COM.AG/W/88, this method would not have the practical effect of narrowing the field of the agricultural negotiation from the outset, that is to say from the establishment of offer lists. A better method might perhaps be to take account, not of the percentage which exports of a product represent in the sales of one particular developing country, but of the share of total trade accounted for by the developing countries as a whole.

17. Pursuing this idea further and applying it to the "complete abolition of tariffs" modality, one may wonder whether the applicability of this technique might not gain in credibility if certain conditions were associated with it. For example, the elimination of customs duties by a developed country would be automatic where a certain percentage (e.g. 75 per cent) of supplies comes from developing countries.

18. The implications of the harmonization of duties as between primary products and semi-processed and processed products are very important because their natural effect would be to promote domestic processing of the primary products exported by developing countries. The harmonization needed would have to be determined through an evaluation of the effective protection accorded in developed countries to the processing of certain imported primary products. Clearly, however, this method would have to be tested product by product, because though valid for certain products or countries it might prove to be questionable for others (CCM./AG/W/88, paragraph 76).

19. Preferences. Even if, taking together the lists of all the countries that have granted preferences under the generalized system of preferences, one arrives at the conclusion that all the products in the first twenty-four chapters of the BTW are involved, one must recognize that, in practice, agricultural products are very largely excluded from the application of the generalized preferences scheme. One might deduce that generalized MFN reductions in the tariffs on these products are not likely to affect special treatment from which the developing countries benefit only exceptionally.

20. The implications of the suggestions in CCM.AG/W/88, paragraph 73, that all products falling within BTW Chapters 1 to 24 should be included in the Generalized System of Preferences would be extremely complex and one can only outline them briefly. The first consequence concerns the developed countries themselves which would find themselves in a situation of fairly considerable inequality because of the variety of the protection systems established, some of which are based on the tariff only in respect of a marginal share of agricultural trade. This remark leads on to a second: even supposing that certain non-tariff measures can be negotiated so as to afford preferential treatment for the developing countries, there are many others that are not amenable to such treatment; for example, how can preferential access be assured in a sector where the main protection is based on a set of health regulations? There is a danger that the results of preferential treatment reserved for products under simple tariff régime would be to shift them progressively into the much more compact and much less controllable category of products under mixed legislation. That is why one of the participants in the Working Group on Techniques and Modalities was able to suggest that to be of real significance, the inclusion of agricultural products in the generalized system of preferences should be preceded by complete abolition of non-tariff barriers and their replacement by customs duties at moderate levels.

21. Many of the difficulties in establishing across-the-board preferences in agriculture are indeed contained in those that have been cited against the techniques of m.f.n. linear reductions in this field. An alternative approach might be to provide for preferential clauses within certain sectors, which would not involve as a prerequisite the far-reaching and radical transformation of protective régimes required by a generalized system of preferences. This point is examined under the chapter on international stabilization arrangements.

#### IV. Techniques relating to variable levies and other charges

22. The developing countries suggested (paragraph 88 ff.) certain modalities for the possible negotiation of variable levies and other charges. They first expressed the view that the binding of a maximum levy, expressed in terms of a maximum ad valorem incidence, would be of interest for them. The implications inherent in that modality did not seem substantially different from those attaching to negotiating techniques for customs duties; after this operation, moreover, the levy would tend to resemble a customs duty, though with one important difference: the amount charged would, no doubt, not vary in the same direction as the c.i.f. price until the bound maximum incidence was reached.

23. The levy-free or reduced-levy quota does not imply consequences very different from the tariff quota to the extent that it is administered on a non-discriminatory basis and, for example, in accordance with the principle of commercial transactions taking place freely until such time as the quota is exhausted. Nevertheless, some developing countries expressed the opinion that this particular modality could be used to implement the preference, through priority allocation of the levy-free or reduced-levy quota to exporters in less-developed countries. There would then be a certain analogy between these quotas and the quota amounts or volumes through which the generalized tariff preference is implemented in certain industrialized countries.

24. A more sophisticated technique was also suggested, according to which the reduced levy would be reserved for exporters who undertook to observe a minimum c.i.f. price; such a technique exists moreover within the framework of bilateral agreements and it is interesting to note that it implies a certain degree of reciprocity in the very structure of the concession. For exporters who are signatories to agreements of this kind, the effect of the clause is that the exporter of a given product is not subject to the maximum levy that would be applicable to the product because of a low-priced offer from a non-signatory country. So far as one knows, in its present operation this system does not distinguish between developed or developing suppliers, but it could assure developing country suppliers greater stability in volumes and prices.

V. Techniques relating to quantitative restrictions

25. It was suggested in the Working Group that all quantitative restrictions should be abolished. In this context the suggestion was made that an advantage of particular value to developing countries could be derived by giving urgent consideration to priority elimination of quantitative restrictions on products of export interest to these countries (COM.AG/W/88, paragraph 111). This suggestion implicitly recognizes that a country may not find it possible to eliminate all restrictions at the same time or phase them out at the same rate. If a selection has therefore to be made, export interest to developing countries may be a useful criterion for establishing an order of priorities for elimination. In the case of restrictions on commodities produced exclusively or almost exclusively in developing countries, a sharing of responsibility among the countries eliminating the restrictions would result from the fact that they were all taking a step in the same direction. The benefits of the elimination would accrue entirely (or almost so) to developing countries.

26. A link between the abolition or gradual elimination of quantitative restrictions and corresponding action on export aids was pointed out in the Working Group. This could be of particular interest to developing countries where the products subject to quantitative restrictions are also produced in developed countries, but even where the product is of predominant interest to developing countries it might serve to accelerate the dismantling of particular restrictions or to ensure that benefits are equitably distributed among the exporting countries.

27. Another criterion suggested for the elimination of quantitative restrictions was that of insufficient economic justification (paragraph 116). While this criterion has the merit of logic and might lead to improved access conditions if implemented, it is difficult to see on what basis or by whom the existence of insufficient justification would be determined. In this respect it was suggested to eliminate quotas that had not been fully utilized for a given period, especially those on products of interest to developing countries (paragraph 117). It would no doubt be relatively easy to abolish such quotas. Given, however, that suppliers had not exhausted even the existing quota, the benefits they might derive from its abolition would depend on their ability to supply larger quantities of the product than in the past, as well as on the growth of demand beyond the limits of the original quota.

28. Proposals directed towards improvement of the administration of quantitative restrictions where these cannot be eliminated, could take account of some of the special difficulties of developing countries along the lines of suggestions already developed in the Industrial Products Committee Group on Licensing.

29. Attention was drawn to cases where developed countries claimed that existing quantitative restrictions were used only to protect their own agriculture against products from other developed countries, and the suggestion was made that these restrictions could be removed vis-à-vis developing countries on a preferential and priority basis (paragraph 117). As a transitional step towards the complete elimination of quantitative restrictions, it was also suggested that the size of quotas should be enlarged by fixed annual percentages, or according to an agreed time-table. Further, it was suggested that the increases might be related to consumption in the importing countries, and provision might be made to ensure an increase in the market share of developing countries (paragraph 122). Ignoring any legal issues that may be involved, it is difficult to comment on the first suggestion without some prior identification of the restriction in question and factors affecting supplies from developing countries. With regard to the second suggestion the important problem would be the establishment of a basis for the allocation of quotas.

30. Where the allocation of import quotas becomes a matter for negotiation or the opening of markets is linked to undertakings by exporting countries to observe restraints (paragraph 134), the issues that arise including that of obligations by developing countries may be of the same kind as those involved in the working out of international stabilization arrangements. Some of these are commented on in later sections of this paper.

#### VI. Techniques relating to health and sanitary regulations

31. The Working Group recognized the competence of specialized technical bodies in the field of health and sanitary regulations, but considered that GATT had a rôle to play as regards the trade aspects of such regulations, taking full account of the work done in these bodies (COM.AG/W/88, paragraph 136).

32. Three basic ways of dealing with the trade aspects were discussed in the Working Group. One way suggested was to negotiate on individual health and sanitary regulations, possibly starting with an exchange of request lists, to be followed by bilateral or multilateral concessions (paragraph 143). If such a method were adopted, benefits would also accrue to countries which had not themselves made concessions, including developing countries, from the abolition or relaxation of unnecessary or unnecessarily strict regulations by others.

33. Some members considered, however, that health regulations were not negotiable: if they were appropriate and necessary, they could not be relinquished; if they were unjustified they should be abolished without payment (paragraph 143). It is evident that this approach would require some other form of inducement; one such form might be a compulsory consultation procedure which in fact is one of the other approaches discussed in the Working Group and referred to later in this section.

34. As an alternative to direct negotiations on individual measures, it was suggested that a code or a set of general guidelines might be drawn up (paragraph 144). Among the elements suggested for incorporation in such guidelines were the following: elimination of health and sanitary regulations that no longer met the requirements of the situation which had motivated their establishment; relaxation of existing measures that were more stringent than necessary; equal treatment for imported and domestically-produced goods; consistency of measures taken by State or local authorities with national and international regulations; application of health and sanitary regulations on a non-discriminatory basis; and provision for more co-operation between exporting and importing countries with regard to importation procedures, testing and issuance of certificates. It was also suggested that the relevant principles of article XX might be further elaborated.

35. The implementation by importing countries of a code containing one or more of the elements outlined above would be of advantage to those developing or developed suppliers who are being (or might in the future be) adversely affected by the kind of measure that the code would outlaw. The existence of the code would, of course, not dispense supplying countries from taking the necessary steps to conform to the genuine health and sanitary requirements of importing countries, but provision might be made for any technical assistance developing suppliers might need in this respect. Arrangements for such assistance in fact already exist between certain importing countries and their suppliers.

36. While a code would no doubt have to be accompanied by provisions for supervision and consultation so as to make it fully effective, a third way put forward in the Group consisted in having consultation procedures alone (para. 148). The procedures might be those already provided for in the General Agreement, or alternatively, might be based on an elaboration of these.

37. The more liberalization takes place on other barriers to trade, the more important it will be to deal with the trade aspects of health and sanitary regulations so as to prevent the liberalization being nullified by increased resort to such regulations. If this problem is effectively dealt with, the developing countries will be among those to benefit most.

#### VII. Techniques relating to production measures

38. In the discussion of techniques and modalities for negotiations on production measures, the view was expressed that the main problem within the agricultural sector was the surplus production in most industrialized countries and that it was the increase in production that had created many of the problems of a trade policy nature (COM.AG/W/88, para. 150). This view, if generally accepted, would lead to the assumption that commitments in the area of production measures might primarily be taken by industrialized countries, and that one objective of such commitments would be to limit the growth of production in those countries.

39. If this objective is attained, the pressure on prices in third markets of the commodities concerned might be reduced and prices there might rise; secondly, the scope for imports into industrialized countries might be enlarged. This would represent an improvement in the market situation for a developing country which exports the products concerned. A developing country which is a commercial importer might not derive any benefits from the new situation. In this situation the position of an importing developing country would depend on the balance of advantages to be derived from the negotiations as a whole including the higher prices it might in turn receive for its own exports.

#### VIII. Techniques relating to international stabilization arrangements

40. Among the points made by one or more members of the Working Group as regards the possible effects of international stabilization arrangements on the trade of developing countries were that such arrangements could ensure price stabilization and access conditions conducive to the expansion of developing countries' trade, allow orderly growth to be achieved, and help these countries to obtain their own financial resources to develop their trade; and that particular elements could be incorporated in an arrangement so as to take account specifically of the interests of developing countries (COM.AG/W/38, paragraph 221).

41. The implications for an individual developing country of an international stabilization arrangement would, of course, depend on a large number of factors, including the following, among others: the product or products to be covered by the arrangement; whether the country concerned is an exporter or an importer; the elements to be incorporated in the arrangement, and their relative rôles in the operation of the arrangement; the structure or extent of participation; and the likely future development of the market situation as a whole and of the situation of the country concerned. International stabilization arrangements could provide a framework within which the allocation of quotas and other elements relating to production and stock-piling policies might be related to the situation of individual participating countries. It is therefore evident that a reasonably realistic assessment of the implications of an international stabilization arrangement can only be made when the various factors involved become clearer.

42. There is, nevertheless, one aspect that might be mentioned at this stage. International stabilization arrangements are generally self-balancing, that is to say that the obligations assumed by the signatories result, on the whole, in a corresponding counterpart in the form of rights and advantages with, as an ideal aim, benefits for all participants. While the obligations assumed by individual participants need not be of equal weight, it is hardly conceivable that any one participant might be entirely free of any obligation whatsoever. An arrangement in which some participants had to observe, for instance, minimum prices or export quotas, while others were free of such obligations, would simply not be viable. A situation of this kind would be tantamount to an arrangement among certain

partners, for the benefit of non-participants. From this it would seem clear that developing countries should be ready to assume certain obligations if they hope to derive benefits from international stabilization arrangements, and indeed if they wish to enable such arrangements to be concluded. This does not mean to say, on the other hand, that the benefits they might derive from an arrangement might not very well be greater than the obligations to which they might need to subscribe.

IX. Techniques relating to a common denominator or to common criteria for the assessment of commitments

43. The techniques discussed under this heading concerned self-sufficiency ratios and margins of support (COM.AG/W/88, paragraph 228 and following). To the extent that these techniques are directly or indirectly related to the techniques on specific measures or to the results of such techniques, the remarks made earlier in this paper in respect of specific measures (in particular production measures) would also apply to the possible implication of negotiating techniques in this area.

X. General remarks

44. Concluding this preliminary examination of the possible implications for less-developed countries of the future adoption of one or other modality in the negotiation of products falling within Chapters 1-24 of the BTN, it is easy to see protectionism in this sector takes highly elaborate and diversified forms in which the non-tariff measures imposed by governments play a predominant rôle. The solutions, therefore, may cover a wide variety of measures related to the situation of individual producers and importers.

45. One can see that there is no simple uniform technique satisfactory for everyone and for all products. Countries, taking into account the composition of their existing export trade and their trade expansion plans or projects, will have to seek the most appropriate negotiating method for obtaining in the market in which they are interested and for the product that they wish to sell the most reliable guarantees in respect of access, price, quantities, stability, etc.

46. In carrying out the task of identifying, as far as possible, the particular trade interests of each developing country vis-à-vis their principal partners, the secretariat is naturally fully disposed, to the extent of its knowledge, to assist the developing countries in the technical preparation of the negotiation.