

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Trade in Industrial Products

MEETING OF MAY 1973

Note by the Secretariat

1. The meeting was held under the chairmanship of Mr. G. Stuyck (Belgium) on 10-11 May 1973. This note, which has been prepared by the secretariat on its own responsibility, sets out the main points raised at the meeting.

2. Australia was welcomed as a full member of the Committee.

Techniques and modalities

3. Tariffs. The Committee held further discussions on various techniques and modalities for the trade negotiations, namely the techniques for achieving duty-free trade in industrial products, for linear tariff reductions and for harmonizing tariffs, bearing in mind the possibility of a combination of these techniques. Other techniques, i.e. the item-by-item technique, the elimination of low or nuisance duties, as well as the establishment of tariff ceilings, were also discussed briefly. The Committee agreed to submit a report on the present status of its work in July, combining the previous comments made on the question of techniques and modalities with the points made at this meeting. The Committee also agreed that no technique should be definitely excluded. It was further decided that the examination of the implications of the various techniques should continue, both in capitals and collectively.

4. Non-tariff measures. The Committee was informed that the up-dating of the inventory of non-tariff measures was going forward. Delegations which had not yet sent in their replies to GATT/AIR/986 were urged to do so as soon as possible. Delegations would be contacted directly in writing in connexion with any problems encountered by the secretariat in the performance of its work.

5. The Committee took note of a paper prepared by the secretariat, entitled "Balance Sheet of Notifications" (COM.IND/W/102).

6. The Committee held a first exchange of views on the preparation of a common list of priorities attached to dealing with the various categories of non-tariff measures. Most delegations thought that it would be useful, both for the Preparatory Committee meeting in July and the Ministerial meeting in Tokyo in September, to have such a list, although some of them thought it would be difficult to arrive at a

common list before the end of June. Some other delegations thought it would be difficult to do so without entering into the negotiations themselves.

7. One delegation favoured, in particular, the inclusion of three such categories, namely export subsidies including domestic subsidies that stimulate exports, government procurement, and standards, in the priority list. Regarding standards, he hoped that there would be sufficient countries which considered that implementation of the code would be possible before the end of multilateral trade negotiations.

8. Another delegation suggested that a priority list should include export subsidies, countervailing duties, standards and quantitative restrictions, including embargoes.

9. A third delegation suggested that, in order to facilitate the work on the priority list, (1) a link should be established between related categories of non-tariff measures, e.g., between export subsidies and countervailing duties; quantitative restrictions and licensing; standards and packaging and labelling requirements; and (2) certain specific NTBs could be dealt with bilaterally or among a limited number of countries within the context of the General Agreement. Other NTBs, the solution of which involved the acceptance of codes or general guidelines or rules, would require multilateral negotiations.

10. Another delegation stated that the eight categories which had already been considered by the existing Working Groups, i.e. (1) export subsidies, including domestic subsidies that stimulate exports and countervailing duties, (2) valuation, (3) consular formalities, (4) import documentation, (5) standards, (6) labelling and packaging, (7) quantitative restrictions including embargoes and export restraints, (8) licensing, provided a good basis from which to begin.

11. Another delegation supported that view, but added that this list was not necessarily an accurate reflection of country priorities, since the list comprised only those categories on which full agreement could be reached for inclusion in the work programme.

12. As not all delegations who spoke on the subject were in a position to submit a definite list of priorities, the Committee agreed to retain this item on the agenda of its next meeting. The views expressed at this meeting would be duly reflected in the report of the Committee on the present status of its work. The Committee also agreed not to close the priority list of non-tariff measures at a given moment, nor to exclude a priori any of the measures not on that list.

13. Sector approach. The Committee agreed to a proposal by the Canadian delegation to postpone further discussion of the sector approach until the next meeting of the Committee. In the intervening period the Canadian delegation would submit a detailed paper on sector negotiations, for examination by the Committee. The paper would review past experience with the sector approach, elaborate on the technique itself, and suggest possible areas where it could be used in the forthcoming negotiations.

14. Safeguards. The Committee took note of the Factual Note on Safeguards for the Maintenance of Access (COM.IND/W/104), prepared by the secretariat following a request made at the previous meeting of the Committee. In commenting on this note, one delegation said that unbound rates appeared to be a greater source of uncertainty and a threat to maintenance of access than the use of Articles XXIII and XXVIII. He noted that some developed countries have one third or more of their imports entering under unbound rates and said that one of the objectives of the future multilateral trade negotiations should be to bind these rates. Another delegation expressed doubt about the accuracy of the figures given in the factual note for its tariff and said that they would review this point in collaboration with the secretariat.

The Committee decided to establish a Working Group on Safeguards, to be chaired by Mr. A. Dunkel (Switzerland) and open to all members of the Committee. The terms of reference would be the following:

"To examine, in the context of the work of the Committee on Trade in Industrial Products on various techniques and modalities for effective and comprehensive future negotiations, the adequacy of the multilateral safeguard system of the General Agreement

- (i) in the light of present conditions and efforts to achieve and preserve a further liberalization and expansion of trade, and
- (ii) for ensuring the maintenance of access,

and to report in due course to the Committee on Trade in Industrial Products. In carrying out this task the Group should give due consideration to the adequacy of the multilateral safeguard system of the General Agreement to the special situation, development problems, and needs of developing countries, bearing in mind the objectives of the negotiations agreed at the 28th session of the CONTRACTING PARTIES."

15. It was agreed that the date of the Group's first meeting would be set by its Chairman, in consultation with delegations.

16. During the discussion of this matter, some delegations pointed out that they had agreed to the setting up of a Working Group on Safeguards on the understanding that at this stage of the preparatory work the Group would be simply a technical one which would look at the factual situation and perhaps proceed to a preliminary exchange of views. According to these delegations, the Group should base its work on the documentation already provided by the secretariat.

17. Another delegation said that its views on the question of safeguards were well known, and were contained in paragraph 62 of document L/3756 and in paragraph 20 of document COM.IND/W/96. On the understanding that the word "system" used in the

terms of reference was sufficiently broad to include all modalities of safeguards, this delegation was prepared to agree to that wording. This representative said that while it was, of course, for the Group to decide how to conduct its work, it could start with an assessment of the present GATT safeguard system and with an objective and concrete examination of the various elements of the safeguard system. His delegation had proposed, in paragraph 20 of COM.IND/W/96, three such elements, to which he wished to add the duration of the application and the modality of the safeguard measures. These five elements provided, in his view, some examples of elements which might be examined by the Group.

18. Implications for developing countries of various suggested techniques and modalities. Developing countries were of the opinion that an examination of the implications for them of specific negotiating techniques would be facilitated when a better understanding was reached regarding the principles and objectives of the negotiations.

19. One delegation from these countries stated that, notwithstanding the work done on preferences in other fora, e.g. UNCTAD, it was important for developing countries that additional information on the relationship between the GSP and the future negotiations be provided. In this context, he reiterated his delegation's request at the Committee's last meeting for the secretariat to prepare a study in this respect.

20. Another delegation from the developing countries, supported by others, pointed out that the interests of developing countries were rarely mentioned in the context of techniques and modalities. Referring to the objectives of the negotiations, agreed to at the last session of the CONTRACTING PARTIES, he singled out the need to provide additional benefits for the developing countries as an important objective to be pursued. This representative added that he could not see clearly what repercussions the various techniques would have on the interests of developing countries. He was satisfied, however, to hear some other delegations state that the solutions for developing countries should be preferential. In the context of the balance of concessions, he added that one should not expect the developing countries to be able to provide such balanced reciprocity. As to tariffs, he hoped that the Working Party on the Tariff Study would examine the link between the techniques and the GSP, in order to see how the erosion of the preferences would affect the interests of the developing countries. In the meantime, one should think of the nature of the compensation and possibly the improvement of the GSP. Regarding the techniques for tariffs, in so far as the products outside the scope of the GSP were concerned, his delegation could accept combined methods and the sector approach. As to non-tariff measures, he said that the developing countries needed to be assured of certain rules or techniques in order for them to be in a position to accept the proposed solutions. Concerning safeguard criteria, he thought that developing countries had often, in the past, suffered the arbitrary use of safeguards and he was consequently interested in the forthcoming discussion in the Working Group on Safeguards. In particular, the use of Article XIX should not imply a reduction in the volume of trade previously achieved. He added that the criteria and circumstances for taking safeguard action should be defined, that their use be temporary, and that exporters should receive prior notice.

21. A third delegation from the developing countries stated that if an important objective of the negotiations was to obtain additional benefits for the developing countries - and assuming they did obtain them - the cardinal point was how to preserve these benefits. That, he said, depended on the scope and the nature of the safeguards to be applied to the exports of the developing countries. The Working Group on Safeguards, when it began its discussion, should inter alia take the following points into consideration: (1) rules should be set for preserving the additional benefits gained by the developing countries in the negotiations; (2) no safeguard action against exports from developing countries should be imposed by developed countries, and if market disruption entailed the imposition of safeguard measures the developing countries should be consulted beforehand; (3) safeguards should be used in exceptional circumstances only; (4) safeguard action should be accompanied by domestic adjustment measures; (5) safeguard action against developing countries should be allowed only when serious injury is created by a sudden rise in imports from these countries alone; (6) the previous export volume of developing countries should not be reduced and there should be provision for increases; (7) provisions should be made for adequate compensation for developing countries.

22. The Committee agreed that the secretariat should examine the possibility of conducting a study of the relationship between the Generalized System of Preferences and tariff reductions in the future negotiations.

Progress reports by chairmen of subordinate bodies

23. The Committee heard oral reports by the chairmen of Working Groups 1, 2, 3 and 4, concerning the state of work of their Groups. These reports are reproduced in the Annex to the present note.

24. The Committee decided to enlarge the terms of reference of Working Group 1 (Export subsidies, domestic subsidies that stimulate exports and countervailing duties) to include subsidies which have import substitution effects.

25. The Chairman of Working Group 3 (Standards) recalled that the question of packaging and labelling was also within the terms of reference of the Group, and would be taken up after completion of the work on standards. The secretariat was asked to prepare a paper describing the international work done so far on packaging and labelling.

Programme of meetings

26. The Committee tentatively agreed to meet again on 3-4 July 1973 to adopt a report on the present status of its work, which would be based on the last report of the Committee to the Council (L/3756) and would take account of the discussion held in the Committee at the January and the present meetings, to continue the discussion on a common list of priorities attached to dealing with the various non-tariff measures in the forthcoming trade negotiations, to consider the Canadian paper on sector negotiations, and to hear a report by the Chairman of the Working Party on the Tariff Study.

27. The Committee confirmed the date for the next meeting of Working Group 3 (Standards) for 4-8 June 1973. It further agreed that the next meeting of Working Group 2 (Import Documentation including Consular Formalities) should be held after the progress report of the Economic Commission for Europe on the outcome of its work on the standard invoice has become available. Dates for the next meeting of this Group as well as for Working Group I (Export Subsidies, domestic subsidies that stimulate exports, subsidies with import substitution effects, and countervailing duties), and Working Group 4 (Quantitative Restrictions including embargoes and export restraints) would be set by the Chairmen in consultation with delegations.¹

¹After the meeting had been concluded, agreement was reached between the Chairman of Working Group 1 and delegations that Working Group 1 meet again on 26-27 June 1973.

ANNEX

Statement by Chairman of Working Group 1 -
Export Subsidies, Countervailing Duties
and Domestic Subsidies that stimulate Exports

1. Working Group 1 of the Committee on Trade in Industrial Products met on 10-12 April 1973 to continue its work on developing ad referendum solutions for the problems of export subsidies. It also had a first exchange of views on the question of countervailing duties and domestic subsidies that stimulate exports. A note on the meeting is contained in Spec(73)18.
2. On Export Subsidies the Group continued its examination of possible general criteria for determining which measures should be prohibited in the context of Article XVI:4. The Group adopted as a working technique an approach that would involve the general principle that countries should not institute or maintain export subsidy measures that distort trade and that would draw up a list of prohibited practices. A list of such practices which was submitted by one delegation was examined and points of substance that emerged from the list were debated. The Group then turned its attention to the 1960 indicative list of export subsidies, and the modifications thereto, which had been proposed at the October 1972 meeting of the Group, and drew up a text for further consideration at a later meeting. A degree of overlapping between these two lists was noted; it is the Group's intention to merge the two lists and incorporate any further additions that could be made, at a subsequent meeting.
3. The Group, according to the mandate given to it by the Committee on Trade in Industrial Products, had an exchange of views on the question of Domestic Subsidies that stimulate Exports. While some delegations were of the opinion that a solution would consist of devising improved procedures and that, at any rate, the issues of general subsidy measures and export subsidies should not be confused, another view put forward was that export stimulating measures and export subsidies, while possibly requiring a different treatment, did not really constitute separate problems.
4. A decision by the Group whether or not to expand its mandate to cover subsidies with an import replacement effect was postponed.
5. The discussion of Countervailing Duties centered on the relationship between the provisions of Article VI:6(a) and Article XVI:4. Divergence of views was noted on the desirability of the existing provision requiring the proof of injury as a condition for the application of countervailing duties. Some delegations stressed that the acceptance of an injury criterion by all contracting parties should be the fundamental element of any solution. It was suggested that the work of the Group should centre around the elaboration of a code on countervailing duties that would be a further interpretation of Article VI. Other delegations pointed out that the basic problem for which solutions should first be sought was that of export subsidies. Countervailing duties would then cease to be a problem.

6. Representatives of developing countries stated that as they were not bound by the GATT provisions on export subsidies, their exports should be sheltered from possible countervailing duties.
7. Another question which was raised was that of the inadequacy of Article VI provisions, as they stood, to protect exporting industries from injury caused by competition from subsidized exports in third country markets.
8. It was generally felt by the Group that further progress on all three items on its agenda might be achieved in a more detailed discussion at a subsequent meeting of the Group.

Statement by Chairman of Working Group 2 -
Import Documentation including Consular Formalities

1. The Committee on Trade in Industrial Products, at its meeting in January 1973, decided that Working Group 2 dealing with Import Documentation including Consular Formalities should hold a meeting in April 1973, if progress reports were available from the Customs Co-operation Council and the Economic Commission for Europe. The Committee will remember that Working Group 2 agreed in October 1972 that in order to avoid duplication with the work conducted by these two bodies the technical work of compiling data and preparing draft standard forms of an all-purpose entry document and of a standard invoice be left to the CCC and ECE, respectively. Those members of Working Group 2 that participate in these organizations were asked to take active part in the work of the CCC and ECE.
2. I wish to report to the Committee that Working Group 2 had not held a meeting in April because I was informed by both the Customs Co-operation Council and the Economic Commission for Europe that progress reports would not be available in April on the items under discussion. Indeed, from the information received recently, it appears unlikely that the CCC will be able to furnish us with a progress report before the spring of 1974. The ECE, on the other hand, hopes to be in a position to submit a progress report to the GATT in the second half of June on work undertaken to establish an international commercial standard invoice.
3. It seems to me that under these circumstances it might be advisable for the GATT to await the outcome of the work on the standard invoice undertaken in the ECE. The next meeting of Working Group 2 should therefore be held after the progress report of the ECE has become available.
4. As to the drafting of an all-purpose entry document, the important thing in my view is to know whether the CCC is in a position to tackle this question during the next winter. If this is the case, I doubt that we could do this technical work any quicker. Should it be clear that the CCC will not be able to present at least interim results before the spring of 1974, I think that the Working Group should embark upon the work at hand itself, rather than wait for the outcome of the work in the Customs Co-operation Council. This work of drafting an all-purpose entry document could be undertaken with the assistance of customs experts. I would therefore like to propose that on this particular question we should ask the CCC to inform us of their position in this respect. The Working Group would then have also this information available at its next meeting.

Statement by Chairman of Working Group 3 - Standards

1. At the last meeting of the Committee in January I reported that Working Group 3 had not been able to finalize its work on standards at its meeting of December 1972, as had been hoped, and that it had decided to suspend the meeting and resume it in the new year.
2. The resumed meeting was held from 15-22 March, and the secretariat has distributed a note on the meeting as Spec(73)16, setting out the text of the instrument on which the Group has been working to take account of the discussions at the meeting, and a number of points raised during the meeting for inclusion in the cover note which would accompany the text when this is forwarded to the Committee on Trade in Industrial Products.
3. The Working Group accomplished a good deal during the meeting.
4. On some points where there had previously been differences of opinion the Group was able to agree on a single text. A single text has, for instance, been found for the provision, which occurs in numerous places throughout the text, laying down that standards "shall not have the effect of creating an unjustifiable obstacle to international trade". The result is that the Group has drawn up a relatively clean text.
5. Differences of opinion remain, however, on a limited number of issues. The Group was able, at its March meeting, to find an agreed presentation for the majority of these, which set out clearly what the differences are.
6. Towards the end of the meeting, however, it became clear that it would not be possible to agree on a presentation of Section 12 of the Operative Provisions dealing with international and regional quality assurance systems and arrangements, and that it would be necessary to have another meeting of the Working Group to deal with this matter. Some delegations said that since the Working Group had, unfortunately, not been able to finish its work at the meeting, as had been foreseen, any matter would be open for discussion at the next meeting.
7. The date of the meeting has been tentatively set for 4-8 June, and I hope that this date will be confirmed by this Committee when we come to the item on our agenda dealing with the Programme of Meetings. The Working Group suggested that delegations which wished to make suggestions for substantial changes in the text might circulate these in advance of this meeting.

Statement by Chairman of Working Group 4 -
Quantitative Restrictions including Embargoes and Export Restraints

1. Pursuant to its mandate, Working Group 4 of the Committee on Trade in Industrial Products met on 26-28 March to prepare a solution on an ad referendum basis to quantitative restrictions, including embargoes and export restraints.
2. In approaching its task of finding an ad referendum solution, the Group reviewed a number of proposals made in the course of 1970 when the Group had held a discussion on an exploratory basis of these problems. As can be seen from the note by the secretariat on the meeting (Spec(73)17), the Group has succeeded in narrowing down the various possible solutions to two basic alternatives. It might be of assistance to the Committee if I were to outline some of the main features of the two alternatives.
3. One distinction between the two alternatives relates to whether there should be separate treatment for legal restrictions and illegal restrictions, or whether both types of restriction should be dealt with on the same basis. The first alternative does not propose any distinction between legal and illegal restrictions, but that all types of restriction should be covered in an overall gradual liberalization programme. The second alternative, on the other hand, proposes elimination of illegal restrictions before the commencement of the multilateral negotiations, and countries still maintaining illegal restrictions after that time would be required to seek waivers, or pay appropriate compensation. The second alternative also proposes that restrictions inconsistent with the General Agreement but legal under waivers or protocols of accession be the subject of negotiations.
4. Another distinction is to be found in the fact that while the first alternative provides for liberalization of the restrictions maintained by developed countries only, the second alternative envisages action with respect to restrictions of all countries.
5. A third point of divergency relates to the question of what action should be taken with respect to export restraints. According to the first alternative, export restraints should be treated in the same manner as quantitative restrictions. The bracketed reference to export restraints in the second alternative is due to the fact that in the view of certain delegations supporting this alternative the Group has not yet had the opportunity of conducting a thorough examination of the question of export restraints and it was not therefore possible to decide at this stage whether they should be treated on the same basis as restrictions on imports.
6. In its work the Group has paid special attention to the interests of the developing countries. As you will see, both alternatives contain proposals for granting priority to restrictions affecting exports of developing countries as well as to discriminatory restrictions which, I might add, in many cases affect particularly the trade of these countries.
7. It was noted during the meeting of the Group that further discussions might be useful once the two alternatives had been examined in capitals. Our Committee may therefore consider whether another meeting of Working Group 4 should be envisaged for the near future in order to make further progress in the direction of reconciling the remaining divergencies of view.