

GENERAL AGREEMENT ON TARIFFS AND TRADE

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NON-TARIFF MEASURES AFFECTING TRADE OF DEVELOPING COUNTRIES - AGENDA ITEM 2

Statement by Mr. I.S. Chadha (India)

1. At the outset I would like to congratulate the secretariat for the excellent documentation which they have prepared for this Session. I would in particular like to commend them for the wealth of information which they have provided in document COM.TD/W/182 which contains a very good summary of the work undertaken so far in various GATT bodies on some of the important non-tariff measures affecting the trade of developing countries. It also brings out the implications of this work from the point of view of developing countries and draws attention to some of the important suggestions which have been made at various stages of the work with regard to their problems. I am sure that the document will provide a good basis for our consideration of this item.
2. The increasing attention which is now being devoted to non-tariff barriers is a clear recognition of the importance of the relaxation and the progressive elimination of such barriers for the liberalization of world trade. The importance of such measures from the point of view of developing countries is also widely recognized. The International Development Strategy for the Second Development Decade, for example, called for measures for the relaxation and progressive elimination of non-tariff barriers affecting the trade of developing countries. The Strategy had set the target date of 31 December 1972 for the implementation of such measures. It is a matter of concern for developing countries that this deadline has passed without much progress being achieved in the direction contemplated in the Strategy.
3. It is, therefore, the legitimate expectation of the developing countries that the removal or relaxation of non-tariff barriers affecting their trade would receive special attention during the forthcoming multilateral trade negotiations and that these negotiations would lead to the adoption of concrete measures in their favour. It is clear from the discussions which have been held so far, particularly at the last Session of the CONTRACTING PARTIES and at the first meeting of the Preparatory Committee for Multilateral Trade Negotiations that non-tariff measures would figure prominently during the forthcoming negotiations. In accordance with the objectives already approved by the CONTRACTING PARTIES, the problems of developing countries must receive special attention in the negotiations. The need for such special attention is highlighted by the fact that the adverse effects of such non-tariff barriers as standards, health and sanitary regulations etc. are far more serious in the case of developing countries because of their inability, due to various reasons such as the lack of technical and other resources, to comply with such regulations.

During the preparatory work it would be necessary to identify those non-tariff barriers which have a serious impact on the trade of developing countries, as well as the type of measures required for their removal or relaxation.

4. Before I comment in detail on the individual non-tariff measures dealt with in the document before us, I would like to make a few remarks of a general nature. As we have had occasion to state in earlier discussions we believe that there must be a clear acceptance of the concept of according preferential treatment for developing countries in the removal of non-tariff barriers. I must, however, make it quite clear that the acceptance of this concept does not imply that the developing countries should be exempted from fulfilling the requirements of quality and performance standards, health and sanitary regulations, etc. But it does imply:

- (i) The need to reformulate such requirements, which pose special problems to the trade of developing countries, taking into account the production and other processes prevailing in these countries.
- (ii) The need for providing technical assistance to developing countries to enable them to fulfil such mandatory requirements.
- (iii) The need to take into account the special situation of the developing countries in the consideration, which is now in progress of ad-referendum solutions in various fields.
- (iv) Priority consideration of similar solutions in relation to other non-tariff measures of importance to developing countries which have so far not received adequate attention.

5. I must emphasize the general feeling which is, I believe, shared by all developing countries that their interests have not been fully taken into account in the work undertaken so far in the various GATT bodies with regard to non-tariff measures. One of the important factors which has contributed to this has been the inability of the developing countries due to their limited resources to participate effectively in the discussions. As a consequence the various texts which have been prepared on an ad-referendum basis do not fully reflect the special problems of the developing countries. They would be facing similar handicaps in examining these ad-referendum solutions with a view to their possible acceptance by their governments. There is, therefore, obvious need to assist the developing countries both in the process of elaborating such ad-referendum solutions as well as in the examination of their implications for developing countries. I would, therefore, suggest that a study be undertaken on this subject which would:

- (i) bring out clearly the implications for the developing countries of the various ad-referendum solutions,
- (ii) make suggestions for modifications, if any, required to be made in these ad-referendum solutions so as to enable the developing countries to accept the obligations contained in them.

6. Another general consideration which I would like to emphasize is the need to pay special attention to the problems of the least developed among developing countries in the removal of non-tariff barriers. Resolution 62(III) adopted by UNCTAD at Santiago contains some concrete suggestions in this regard. We hope that these suggestions would be implemented as a matter of priority.

7. The Annexure to document CCM.TD/W/182 contains an illustrative list of non-tariff barriers drawn up by the Committee on Trade in Industrial Products. This list includes most of the non-tariff barriers which affect the trade of developing countries. As pointed out in paragraph 2 of the document the list excludes health and sanitary regulations which are being considered in the Agricultural Committee. I need hardly emphasize the importance of the problems relating to health and sanitary regulations in so far as developing countries are concerned and the need for priority action to solve these problems.

8. I would now like to make a few brief comments on the issues raised in the secretariat document with regard to some of the important non-tariff measures. With regard to customs valuation, as pointed out in the secretariat document, many developing countries face problems in this field arising out of the valuation procedures prevailing in some developed countries. The nature of these problems has been clearly brought out in paragraph 10 of the document and I do not, therefore, wish to go into details. During the discussions of the relevant problems in Working Group 2 of the GATT Committee on Trade in Industrial Products, there was a fair degree of appreciation of the problems of the developing countries. The ad-referendum solutions evolved by the Working Group contained a number of suggestions to deal with these problems as pointed in paragraph 11 of the secretariat document. These are contained in the draft principles on which valuation systems should be based and in the draft interpretative notes to Article VII. We would urge that these solutions be given effect on an urgent basis.

9. Some developed countries have maintained that they would consider the possibility of making the necessary modifications in their valuation systems provided they can secure satisfactory concessions with regard to other non-tariff measures on the basis of reciprocity. We believe that the requirement of reciprocity for negotiations among developed countries should not result in the postponement of solutions being found to the problems of developing countries particularly in situations where specific solutions have been suggested in the Working Group. We would, therefore, urge the developed countries to take interim measures to modify their valuation systems as appropriate to take into account the special problems of developing countries. Such interim measures might take the form of modifications in the valuation procedures so as to take into account:

- (a) invoice prices of the exporting country of like merchandise to its major export markets, or
- (b) invoice prices generally obtained by the exporting country for like merchandise for exports to other third country markets.

10. As regards imports licensing, the work done so far in the Working Group 4 of the Committee on Trade in Industrial Products has been very well summarised in paragraph 12 of the secretariat document. In paragraph 13 our attention has been drawn to the important provisions of the two drafts prepared by the Working Group relating to automatic licensing and licensing to administer import restrictions. We would like to urge that the provisions of these drafts be implemented by the developed countries as a matter of urgency. In so far as the developing countries are concerned, as I have already mentioned, it would be necessary to examine the implications of the texts, with a view to determining the extent to which the developing countries would be in a position to comply with the obligations embodied therein.

11. I now come to the important question of standards. The divergence in mandatory standards adopted by different countries pose special problems for the exports of developing countries, particularly due to the lack of technical and other resources and their inability to participate effectively in the formulation of international standards and quality assurance schemes. The main issues being dealt with by the Working Group on Standards and their implications for developing countries have been well brought out in paragraphs 14 to 16 of document COM.TD/W/182. Unfortunately the developing countries have not been able to participate effectively in the work of this Group. I would not take up too much time of the Committee by going into the details of the draft Code being prepared by the Working Group but would only like to mention some of the more important aspects of the Code which are of concern to developing countries. These are:

- (i) the recognition of the special needs of the developing countries and the provisions for technical assistance to them to enable them to play a rôle and to participate effectively in the activities leading to the formulation of international standards.
- (ii) the procedure for notifications to GATT secretariat by countries adopting mandatory standards prescribed by Central Government bodies which are not substantially the same in technical content as international standards. Such a procedure will enable the GATT secretariat to draw the attention of the developing countries concerned to important developments of interest to them.
- (iii) special consideration of the problems of developing countries and the examination of the extent to which the Code would assist developing countries in overcoming technical barriers to their exports: the inclusion of an appropriate provision in the functions of the Committee on Prevention of Technical Barriers to Trade proposed to be set up for considering matters relating to the implementation of the Code.

12. In this case also it would be desirable to examine how far the developing countries would be in a position to accept and fulfil the obligations of the Code; particularly those relating to development, enforcement, testing and certification of standards.

13. As mentioned in paragraph 17 of document COM.TD/W/182, health and sanitary regulations constitute a serious obstacle to the trade of developing countries due to their stringent application in the developed countries. They not only create procedural problems in obtaining import permits and producing the necessary certificates but also sometimes result in a complete ban on exports from developing countries.

14. The problems relating to health and sanitary regulations have been considered in the GATT Agricultural Committee as well as by the Group of Three. We would like to reiterate the various suggestions made by the developing countries in the earlier discussions for dealing with the problems. We would, in particular, emphasize the need for:

- (i) Direct negotiations with regard to specific health and sanitary regulations which constitute barriers to trade.
- (ii) Drawing up of a Code or set of general guidelines for the formulation and administration of health and sanitary regulations.
- (iii) Strengthening and giving greater precision to the provisions of Article XX(b).

15. We would also urge for the early implementation of the recommendation of the Group of Three that developed countries should provide assistance to developing countries in connexion with any specific problems which they might be facing in complying with health and sanitary regulations.

16. With regard to export subsidies, paragraph 2 of Article XVI of GATT recognizes that export subsidies may be harmful to the trade of other contracting parties. Paragraph 4 of this Article prohibits export subsidies on products other than primary products if the exports result in sales at prices lower than the domestic prices. However, most of the contracting parties, including all developing countries, have not yet given effect to the provisions of this paragraph.

17. Current work in the GATT is focussed on the strengthening of Article XVI, to include as wide a range as possible of subsidies and incentive measures and to gain wider enforcement of its provisions. In so far as developing countries are concerned, the provisions of Part IV, Articles XXXVI and XXXVII, are particularly relevant in the context of Article XVI. Paragraph 5 of Article XXXVI contains the following provision:

"need (of developing Contracting Parties) for increased access in the largest possible measure to markets ... for processed and manufactured products currently or potentially of particular export interest".

Paragraph 3(c) of Article XXVII provides that:

"The developed Contracting Parties shall:

"have special regard to the trade interests of less developed countries when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures where they would affect essential interests of those Contracting Parties."

Countervailing duties are among the "measures permitted ... to meet particular problems" referred to above.

18. In the light of the above provisions I would like to urge the following:

- (i) As the developing countries are still in the early stages of the development of their export industries, their special position must be acknowledged in the matter of incentives to promote their exports.
- (ii) Export subsidies or incentives should be recognized as a special promotional device for the exports of developing countries.
- (iii) There is need for including specific safeguards in any elaboration of Article XVI to take into account the trade and development needs of developing countries.

19. As I have already mentioned, the provisions of Part IV to which I have referred are relevant in the context of the proposed Code on Countervailing Duties. We fully support the suggestion in paragraph 23 of COM.TD/W/182 that any such Code would have to take into account the special position of developing countries.

20. As mentioned in paragraphs 24 and 25 of document COM.TD/W/182, there has not been much progress in the consideration of the problems relating to import documentation and packaging, labelling and marking requirements. And yet these problems are of special concern to developing countries. The diversity and complexity of import documentation create special difficulties for developing countries. The stringent application of packaging, labelling and marking requirements in developed countries also creates difficulties for the exports of developing countries who are not always able to comply with the requirements. It is our hope that the consideration of these problems would be expedited with a view to finding concrete solutions.