

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## REPORT OF THE CONSULTATIVE GROUP OF EIGHTEEN TO THE COUNCIL OF REPRESENTATIVES

### Introduction

1. The present report is submitted to the Council of Representatives in accordance with that part of the terms of reference of the Consultative Group of Eighteen which provides that the Group "shall submit once a year a comprehensive account of its activities to the Council" (document L/4204).
2. As agreed by the Group of Eighteen the present report has been prepared and submitted by the Chairman of the Group on his own responsibility.
3. In the period under review the Group has held four meetings: on 24-25 November 1975; 24-25 February 1976; 22-23 June 1976; and on 25-26 October 1976. For the purposes of this report the Group's activities at these meetings are summarized, so far as possible in a non-attributable manner, under the following general headings:

- I. Organizational matters
- II. Recent developments in trade policies and international trade
- III. The international trading system and the rôle of GATT
- IV. Trade measures taken for balance-of-payments purposes
- V. World trade in agricultural products
- VI. Other matters.

### I. Organizational matters

4. At the first meeting the Group took a number of decisions implementing those parts of its terms of reference relating to periodic reports to the Council and to the participation of contracting parties, which are not members or alternates, in discussions on agenda items of particular importance to them. In addition, decisions were taken with respect to such matters as press communiqués and the circulation and availability of the annotated provisional agenda for each meeting.

## II. Recent developments in trade policies and international trade

5. At each of its meetings the Group has discussed recent developments in trade policies and international trade so as to enable members to raise questions of specific interest or concern to them, and to have an exchange of views on the wider aspects of recent trade policy developments. Background notes for those discussions have been prepared by the secretariat.

6. A major preoccupation of the Group throughout its discussions has been the impact of monetary instability, widespread inflation and recession on the international economic community and the implications for the international trading system. In this regard it was noted that in many countries persistent balance-of-payments pressures and severe sectoral unemployment had given rise to protectionist pressures which were politically difficult to resist, and which were unlikely to recede quickly as conditions improved, since industries had traditionally sought to consolidate and protect their competitive position in the recovery phase of previous cycles. In view of the importance of safeguarding the existing degree of liberalization and of avoiding trade restrictive measures and practices to the maximum extent possible, there was general agreement within the Group that there was an urgent and continuing need to follow policies of joint responsibility and mutual assistance through the better and more frequent use of the existing provisions of the General Agreement, including its Part IV. In this connexion it was noted that balance-of-payments pressures and difficulties relating to unemployment tended to be particularly severe for the developing countries given the structural problems affecting their economies.

7. In the course of these discussions a number of suggestions were made with regard to improvements in the application of the existing provisions of the General Agreement in order to mitigate the immediate difficulties confronting the international trading community and the developing countries in particular. In this regard it was suggested that special attention should be given to the GATT notification and information procedures, so as to ensure transparency of countries' trade measures and policies, and that full use should be made of the opportunities for prior consultation afforded by the General Agreement and in particular by paragraph (b) of the terms of reference of the Consultative Group of Eighteen. Suggestions for short-term means of assisting developing countries, and in particular those most seriously affected by the crisis, included: better and more rigorous application of the provisions of Part IV, particularly its standstill provisions; improvements in various GSP schemes; action to secure concrete benefits from the MTNs, particularly in respect of tropical products; and the suggestion that products of export interest to developing countries should be exempted from restrictions already imposed or contemplated. In this general context it was proposed by one member that the Council should study the ways and means, and take action to adopt a programme, to provide emergency relief to the developing countries in general and to the most seriously affected among them in

particular. A further suggestion was that the Group could appropriately consider the relative vulnerability to external disturbances of the small industrialized countries whose position tended to be obscured by the polarization of international discussions on trade between developed and developing countries.

8. The Group discussed the possible impact, especially on developing countries, of certain trade or trade-related measures that had been taken or were contemplated.

### III. The international trading system and the rôle of GATT

9. In its consideration of the international trading system and the rôle of GATT the Group has discussed the continuing rôle of GATT in fostering and regulating trade relations between member governments, and has reviewed developments in other international fora relevant to present and future GATT activities.

10. As regards other international fora the Group has discussed developments in and secretariat action with respect to various United Nations bodies, such as the Task Force on the implementation of General Assembly Resolution 3362 and the Ad Hoc Committee on Restructuring of the Economic and Social Sectors of the United Nations System, as well as the International Monetary Fund and the Paris Conference on International Economic Co-operation. In the light of these discussions the Group confirmed the general approach adopted by the Director-General in relation to the activities of these various bodies, and also endorsed his comprehensive statement to the Ad Hoc Committee which stressed the distinctive contractual nature of the GATT and the important implications this had both for relations between contracting parties and between the GATT and other international institutions.

11. As regards the general question of the improvement of GATT procedures and framework, the Group has engaged in an exchange of views on a range of general issues as well as on a number of specific areas of concern or interest to contracting parties generally, such as the proposal for the establishment by the Trade Negotiations Committee of a "framework" group and the question of dispute management. The activities of the Group in relation to each of these subjects are outlined in the following paragraphs.

#### Improvement of GATT procedures and framework - general

12. In the course of the Group's discussion on the rôle of GATT in fostering and regulating trade relations and in the reform of the structure of international trade attention was drawn to a number of areas of interest, in particular to developing contracting parties, such as the problems of inflation, commodities and the structure of international prices, which it was suggested were not dealt with

or not dealt with adequately by the General Agreement in its present form or as currently interpreted and applied. It was suggested that while these were not new problems a dialogue on them in the Consultative Group would facilitate progress being made in these areas within GATT, and might also contribute to work going on in other international fora. On one view it was felt that many of the problems referred to lay less in the General Agreement itself, which remained of unique value as a contractual and multilateral instrument, than in the extent to which some of its provisions were not fully observed or utilized. Another view expressed was that caution was indicated in any expansion in the rôle of GATT since certain aspects of the problems mentioned could and should be left to other fora. On the other hand it was noted that, in view of the proliferation of organizations working in the field of international trade, there was a need to co-ordinate efforts in order to avoid a dispersion of responsibilities in this area.

13. In this general context one member suggested that a group of competent persons be appointed to consider the experience of the last twenty years and to make recommendations on the further realization of the objectives of the General Agreement. As an interim step in the implementation of this suggestion it was subsequently proposed by another member that the Group of Three (the Chairmen of the CONTRACTING PARTIES, the Council and the Committee on Trade and Development) might consider what could be done to improve the rôle of GATT and the General Agreement itself.

Proposed establishment of a "framework" group

14. At two successive meetings the Group engaged in a broad exchange of views on the suggestion, already put forward at the TNC in December 1975, that urgent consideration be given, through establishment of a negotiating group for this purpose, to improving the international framework for the conduct of world trade, particularly with respect to trade between developed and developing countries. It was generally agreed that the exchange of views on the proposed group had been instrumental in clarifying a range of inter-related questions and had usefully contributed to its further consideration in the usual informal consultations.

15. Some of the main points discussed in relation to the proposed group concerned its relationship with other MTN groups, in particular the need to avoid duplication of, or interference in, the work of other MTN groups; the scope of the work programme of the proposed group; and, the need to preserve an overall balance of rights and obligations under the General Agreement.

16. In its discussions of this proposal the Group was careful to confine itself to a preliminary and informal exchange of views, with the aim of clarifying the broad issues involved without impinging on the decision-making responsibilities of the Trade Negotiations Committee.

Improvement of GATT procedures and framework - dispute management

17. The subject of dispute management was introduced into the Group's discussions at its fourth meeting on the basis that, having regard to the work being undertaken on this subject in various MTN groups, a preliminary discussion and exchange of views on how this matter might be dealt with, and on points requiring consideration, might facilitate a coherent and co-ordinated approach to the general question of dispute management. For this purpose the Group had before it a note by the secretariat which outlined a number of headings under which the matter might be discussed, including certain specific issues which could be examined in more detail.

18. The Group's preliminary exchange of views on the question of dispute management covered two broad areas, the adequacy and efficiency of the present rules and procedures, and the desirability of a consistent approach in the specialized arrangements for dealing with disputes which might be negotiated in the Multilateral Trade Negotiations. In the latter case the Group discussed the suggestion that there would be merit in having common procedures and rules for dealing with disputes, and a number of views were expressed as to where and when this general question might be taken up. Points concerning the present rules and procedures related to the need for improved notification procedures; the avoidance of delay in the various stages of the procedures, including the possible establishment of a standing list or body of qualified persons to serve on panels; the difficulties encountered in reaching agreed interpretations of relevant GATT provisions; and, the disadvantages from the point of view of economically less powerful countries of a system of rules whose efficacy ultimately depended on retaliatory action and the withdrawal of concessions.

IV. Trade measures for balance-of-payments purposes

19. One of the main themes of the Group's discussions throughout the period under review has been the question of trade measures taken for balance-of-payments purposes, and in particular the question of possible changes in the internationally agreed scope for such measures, and the inter-related question of possible improvements in the framework and procedures of consultation and in the current working relationship between the GATT and the IMF.

20. Following a preliminary but wide-ranging discussion of these questions at its first meeting the Group, at subsequent meetings, examined in depth the question of trade measures taken for balance-of-payments purposes on the basis, inter alia, of a number of papers presented by individual members of the Group.

21. In a step-by-step approach advocated by one member it was suggested that the question of short-term improvements in the current GATT procedures could be taken up and dealt with fairly quickly, whereas the questions of possible revision of the terms of reference of the Balance-of-Payments Committee, and the reform of Articles XII and XVIII, and possibly other articles as well, were matters which required to be dealt with in a somewhat longer-term perspective and in the appropriate fora. As a basis for action in the short term a number of procedural improvements were put forward for consideration. In summary form the procedural improvements provided for full appraisal by the Balance-of-Payments Committee of measures taken; examination of whether alternative, less trade-distorting measures might not be possible; reasoned reporting by the Committee of its conclusions with a view to developing guidelines for future trade actions taken for balance-of-payments purposes; improved surveillance in respect of the Committee's recommendations or conclusions; and improved co-ordination and exchange of information between the GATT and IIF secretariats. Related improvements provided for account to be taken of the special needs of developing countries, and of the flexibility of countries concerned in adjusting to disturbances in the international economy; examination of restrictions imposed by third countries that may have precipitated the measure under review; and the preparation by the secretariat of objective trade-policy-oriented studies on the measures under review.

22. The suggested amendments to the General Agreement to provide for differential and more favourable treatment for the developing countries, as outlined by another member, were: (a) that developing countries should be exempted from the scope of restrictive measures imposed by developed countries; (b) that the developing countries should be allowed greater flexibility and tolerance with regard to the measures they are forced to adopt; and, (c) that the simplified procedures currently applied in consultations with developing countries should be institutionalized and regarded as the rule for developing countries, to which the proposed in-depth consultation procedure would be regarded as the exception.

23. The Group's debates on the proposed procedural improvements covered a wide range of matters and the following commentary is of necessity limited to a resumé of some of the more important points raised. As regards the scope and objectives of the proposed in-depth review the intention was that while the procedures would apply to all trade measures, in practice this should be taken to mean all trade measures having a significant impact on the trade of other countries. One view expressed was that the result could be either that countries would invoke purposes other than balance-of-payments purposes to avoid the in-depth examination or, alternatively, that so many different trade measures would be remitted to the Committee that the relevant GATT articles would be turned into something they were never intended to be. In addition, by making it possible for countries to invoke the balance-of-payments provisions in respect of measures contrary to or

examinable under other GATT rules, the result to some extent would be to legitimize such measures. On this view it was also considered that a power to recommend alternative less trade-distorting measures could meet with difficulties so far as acceptance by Governments was concerned. As regards the institutional framework for the proposed procedures it was suggested that these 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 were adequate.

24. In the Group's exchange of views on the general question of the applicability of the current rules and procedures to the problems confronting the developing countries in this field reference was made to the structural character of their balance-of-payments problems and to a lack of symmetry in the existing provisions of the General Agreement: for example, it was stated that the current arrangements permitted certain countries to solve their balance-of-payments problems at the expense of, and by putting a brake on, the trade of the developing countries, whereas there was currently no requirement that countries whose balance of payments were in surplus should eliminate or relax restrictions which were often inconsistent with the GATT. On the other hand, with respect to the specific suggestions outlined in paragraph 22 above, it was suggested that something less than a blanket exemption of developing countries from measures imposed by the developed countries might be a more viable proposition. Further, while greater flexibility and tolerance with regard to the measures adopted by developing countries could be accommodated within the improved procedures, such measures should in principle be subject to examination in accordance with the proposed procedures. Other members indicated that the proposed procedures should not make a stark differentiation between developing and all other countries, since there were other classes of countries, such as the small or less-industrialized countries, whose position should also be taken into account.

25. On the question of improvements in the current arrangements for co-operation and exchange of information between the GATT and the IMF, it was agreed, following discussions at the third meeting, in which a representative of the Managing Director of the Fund participated at the invitation of the Group, that the respective secretariats should jointly work out the practical means for improving co-ordination between the two institutions. At the fourth meeting of the Group, the Director-General reported on the stage reached in his discussions with the Managing Director of the Fund on a number of possible measures to improve co-ordination between the two institutions in such matters as the exchange of information, the account to be taken by the Fund of trade considerations in the conduct of its activities, the nature and content of the reports provided by the Fund under Article XV of the General Agreement, and closer co-ordination between the Fund and the GATT in the exercise of their respective jurisdictions.

V. World trade in agricultural products

26. The subject of world trade in agricultural products was taken up in the Group's discussions at its third meeting and was the subject of further discussion at its fourth meeting on the basis of a paper presented by one member. This proposed that the Group should address itself to the longer-term prospects for agriculture in the multilateral trading system. The paper suggested that the General Agreement had largely been disregarded in relation to agriculture; that such concessions as had been negotiated had often subsequently been nullified; and suggested that new forms of commitments, such as limited-term bindings, consultative arrangements and codes of conduct, would be an appropriate and realistic means of taking account of past experience but in ways which continued to promote trade liberalization.

27. Although there was a large measure of support with regard to the need to undertake a discussion along the lines suggested, there were differences of view as to when and where this might appropriately be undertaken having regard to the fact that most of the specific issues in this field were being taken up, or could be taken up, in the Multilateral Trade Negotiations. Differing views were also expressed as to the nature of the problems to be dealt with, their causes, and the extent to which the GATT rules were applied to agricultural trade. It was suggested that, to facilitate further consideration of the proposal, the important and complex issues raised might be narrowed down to a selected number of priority topics.

VI. Other matters

28. At the last meeting of the Group members took the opportunity to express their personal views on the value of the Group's activities in the first year of its existence on the basis that, in considering this report and in deciding whether the Group should be maintained, members of the Council would expect to have the benefit of such views. These views have accordingly been included in the present report for the purposes of information only, and their inclusion is not intended to prejudice the position which those contracting parties which are members of the Group might ultimately adopt with respect to the Group's future.

29. All members of the Group believed that the first year's activities had been useful and justified further continuation of the Group's work. In this connexion the importance of reinforcing the high-level character of the Group and the question of how the Group should deal with the results of its discussions, were mentioned as being relevant to how the Group might evolve. Several members expressed the view that the balanced and representative membership of the Group, its size, the participation of high-level representatives in a personal capacity

and the informality of its proceedings, had enabled the Group to engage in a practical and meaningful dialogue which would not have been possible in other GATT bodies. In this regard it was noted that traditionally GATT had tended to concentrate on very specific issues and that the Consultative Group provided a much needed forum in which to discuss concrete issues in a somewhat broader context and to generate ideas which could be taken up elsewhere in GATT. Against this background, it seemed to members that the Group was of value to the CONTRACTING PARTIES as a whole.