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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL

STATEMENT BY THE CHAIRMAN OF THE COMMITTEE ON BALANCE-OF-PAYMENTS RESTRICTIONS TO THE GATT COUNCIL, 13 MARCH 1984

I. Introductory Remarks

1. So as to place my report in the proper context, I may recall that the relationship between Trade Policy and the International Financial System was discussed by the Consultative Group of 18 during its meetings in May and October of last year, as reported to the Council in document L/5572 of 1 November 1983. I understand that a more detailed note on the October meeting (CG.18/22) received a wider circulation than usual and that most members of the Council are acquainted with the discussion that took place on that occasion. I therefore need not dwell at length on the magnitude of the balance-of-payments problems confronting a large number of countries and in particular the heavily indebted developing countries amongst them.

2. It is evident that initially much attention is given to the maintenance of financial flows through debt-rescheduling and in a number of cases through standby or extended facility arrangements with the IMF. However, during the necessary adjustment process that has to be launched at the same time, trade has an essential rôle to play and ultimately the indebted countries' capacity to repay their debts will largely depend on the possibility to expand their exports (given the fact that most developing countries have very limited possibilities to improve their current account position by other means).

3. During the initial stages of the adjustment process many of the countries concerned (including some of the developing countries which up to a few years ago helped to reduce the negative effect on world trade of stagnant demand in most industrialized countries) feel the need to introduce or intensify restrictive trade measures and in any case face severe constraints in financing their import needs, including those which are essential to maintaining or improving their own export capacity. This situation constitutes a threat to the multilateral trading system not only because of possible chain reactions but also because there may be a tendency to look for bilateral solutions. In the light of these dangers, there was a consensus in the Group of 18 "that trade expansion and the maintenance and the strengthening of a predictable and stable trading system could make a vital contribution to world recovery" and that "trade problems and trade negotiations should be handled under the aegis of GATT".

4. In view of the efforts that have been made by other international agencies to cope with the present situation, there is in fact an increasing interest in the contribution that GATT might make. In meeting this challenge it should be borne in mind that, although the balance-of-payments situation is in itself not a North-South issue, the presently most indebted countries are developing countries, whose exports, like those of developing countries in general, are for a major part directed at industrialised markets. The response from the side of developed contracting parties will therefore be of paramount importance. In this context it was recalled that the Preamble of the 1979 Declaration on Trade Measures taken for Balance-of-Payments Purposes recognizes that "the impact of trade measures taken by developed countries on the economies of developing countries can be serious".

5. During the discussions in the Consultative Group of 18 a number of suggestions were made concerning, inter alia, the work of the Balance-of-Payments Committee. Some of these were of a more procedural nature and touched upon the institutional link with the IMF, but the main stress was laid on the question as to how the trading environment confronting consulting countries could be given greater weight in the Committee's deliberations. It is with respect to these two sets of questions that I was invited to consult and report to the Council.

6. Four informal meetings have been held on these subjects, in November 1983 and January, February and March 1984. These meetings have been open not only to members of the Committee but also to any other interested contracting parties. I have also benefitted from even more informal contacts with colleagues and from the full support of the secretariat. I must, however, stress that the final drafting of this report has been done on my own responsibility.

II. Institutional and procedural questions

7. In discussing the legal framework for consideration of external factors, there appeared to be no need for a new or extended mandate to enable the Balance-of-Payments Committee to take into account the trading environment facing consulting countries. The following provisions, which so far have been rarely invoked, do not only provide a legal basis but also make it clear that the Committee has a duty to fulfil in this respect.

- (a) Article XIII:4(e) of the General Agreement states that in undertaking consultations, the CONTRACTING PARTIES "shall have due regard to any special external factors adversely affecting the export trade of the contracting party applying restrictions". This principle is also to be found in Paragraph 2 of the 1970 consultation procedures, (18S/49) which applies to all consulting contracting parties, where it is stated, inter alia, that "Account should be taken of all factors, both internal and external, which affect the balance of payments position of the consulting country".

- (b) Paragraph 12 of the 1979 Declaration (26S/208) drawing on Paragraph 3 of the 1970 procedures, instructs the Committee, if a developing consulting country so desires, to give particular attention to possibilities for alleviating the balance-of-payments problems of that country through measures that other contracting parties might take to facilitate an expansion of the export earnings of the consulting country. These provisions are available to any developing country in full consultations, if it so desires.
- (c) While preserving the special character of simplified consultations provided for in the procedures agreed in 1972 (20S/47), there is nothing which prevents countries, under these procedures, from drawing attention to any relevant external factors, and appealing to other contracting parties for remedial action. It would then be for the country concerned and the Committee to decide on the desirability of full consultations in such cases.

8. It was recognised that the basic rôle of the Committee remains the examination, in terms of the relevant provisions of the General Agreement, of measures taken for balance of payments purposes by a consulting country, and that the widely felt need for more symmetry in the Committee's discussions should not detract from this basic function.

9. The suggestion, that measures relating to trade policy agreed upon under standby or extended facility arrangements with the IMF could be notified to the GATT, had already been strongly questioned during the discussions in the Consultative Group of 18. During the present informal discussions, there was also clear opposition to the idea that a formal link might be established between commitments undertaken in such a delicate context and the response of other contracting parties in the form of measures designed to facilitate an expansion of the export earnings of the consulting country. It is, however, clear that, under Paragraph 4 of the 1970 consultation procedures, consulting parties are required to keep the GATT secretariat regularly informed of any changes in trade measures, whether or not such measures are related to commitments vis-à-vis the Fund. Against this background, there was no evidence of support for the suggestion that there should be greater synchronization between consultations in the Committee and the consultations undertaken by the IMF. Given the already existing difficulties in timing balance-of-payments consultations, this idea would in any case be difficult to put into practice.

10. The need for more active participation in the Balance-of-Payments Committee by both developed and developing countries was recognized. In this connection, it may be recalled that the Committee is open-ended and that any contracting party may become a member of the Committee simply by informing the Director-General of its wish to do so. The level of representation in the Committee was considered as a matter for individual governments' decision.

11. As regards the preparation of documents for balance-of-payments consultations, it would be advisable for consulting countries which wish to have particular attention paid to their external trading environment to indicate this to the secretariat in good time. In these cases, the consulting country should, in its basic document, provide the Committee with any information on external factors which it deems relevant and indicate specific measures and products, relative to any external market, on which it would consider action to be of particular importance. In this connection it was recalled that the technical assistance of the secretariat is available, under Paragraph 10 of the 1979 Declaration, to any developing country consulting under Article XVIII:B. The secretariat would also provide adequate information on the trading environment, including any relevant measures affecting the trade of a consulting country, as part of its background note. In the preparation of this material, the secretariat should draw on and refer to existing documentation resulting from on-going activities in other GATT bodies, without reproducing this material in extenso. While, as at present, background notes would be prepared on the basis of all relevant information available and in full consultation with the consulting country, the secretariat would retain full responsibility for the content of the note, including the information provided on external factors.

12. In the present consultations, the general view was taken that the Committee's task in relation to "external factors" should be to identify, in its reports to the Council, possible areas in which action might be taken by contracting parties, with a view to alleviating the trade aspect of balance-of-payments problems. It would not be the Committee's intention to duplicate any work in other GATT fora or engage in a negotiating process, but rather, to highlight particular areas and encourage those contracting parties which are in a position to do so, to respond in a positive manner. Such responses might in practice be given on an individual and on-going basis. In view of the fact that most of the countries which are to consult in the coming years are faced with an adjustment process which will take a number of years, the Committee could, from time to time, register the actions taken by other contracting parties.

III. Possible areas for action

13. In its discussion, the Consultative Group of 18 had regarded it as essential that any action taken in the balance-of-payments field should be consistent with the multilateral principles embodied in the General Agreement. This view was fully endorsed during the recent informal consultations.

14. In clear language this means that actions should be taken on a most-favoured nation basis, or, pursuant to the provisions of Part IV of the General Agreement (particularly Article XXXVII) and the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries, in a manner consistent with that decision, including special treatment for the least-developed among the developing countries. It was noted that Paragraph 2(C) of the 1979 Decision allows for the possibility of more favourable treatment to be accorded among developing contracting parties.

15. It goes without saying that where a consulting country's export possibilities are affected by discriminatory trade measures, the removal of such discriminations would not only strengthen the consulting country's trading position, but also have a beneficial effect on the multilateral system.

16. In view of the consensus to respect multilateral principles in responding to the needs of countries experiencing severe balance-of-payments difficulties, the possibility of focussing trade action on such countries would depend on the choice of products for which a particular country is a principal or substantive supplier to a particular market, or on the choice of specific measures which would particularly benefit that country, it being understood that the implementation of each particular measure would be consistent with the multilateral principles referred to.

17. It was recognized that observance of the multilateral principles referred to would leave room for actions aimed at alleviating the trading problems of individual consulting countries. On the basis of suggestions made during the discussions, the following indications of general areas which could lend themselves to such actions may be given:

(a) Quantitative restrictions and non-tariff measures

Quantitative import restrictions form the most obvious example of measures which hamper the exports of other countries. The rollback of such restrictions and measures with similar effects (without prejudice to their legal status in GATT) on products of interest to consulting countries would therefore deserve particular attention. The possibility of removing or reducing other non-tariff obstacles to trade on products exported by consulting countries could also be considered, taking full account of special provisions in favour of developing countries contained in the General Agreement and related NTM Codes.

(b) Safeguard, anti-dumping and countervailing action, market disruption

Current actions under Article VI and related agreements, as well as under Article XIX, concerning products for which a consulting country is a principal or substantial supplier, could be given particular attention in examining the need for their continued existence and possibilities for phasing them out. Great caution should be exercised in launching new actions concerning such products, taking full account of existing provisions in favour of developing countries. In view of the importance of trade in textiles and clothing to many consulting countries, the need to adhere strictly to the rules of the Arrangement Regarding International Trade in Textiles was emphasized.

(c) Tariffs

Suspension of m.f.n. duties, advance implementation of tariff concessions as well as improvement of GSP treatment for products of importance to consulting developing countries could be given serious consideration.

18. It is clear that the situation facing individual countries consulting in the Committee should form the basis of an assessment by each of their trading partners concerning action in the context of their own legislative and administrative possibilities and the economic situation prevailing in their own markets, while consulting countries might wish to indicate specific priorities with respect to particular markets. This could lead to consultations at a bilateral level between the parties concerned. At this stage however there appeared to be a consensus that negotiated commitments should be avoided and that the possibility of taking action autonomously could facilitate a rapid and positive response by trading partners. Such action would in principle be of a temporary character and would not prejudge the outcome of ongoing more comprehensive programmes undertaken by other GATT bodies or of future negotiations.

19. Finally, I would like to underline that even in cases where the initial response would only be modest, any action aimed at improving the export earnings of countries facing balance-of-payments difficulties would represent a sign of highly needed encouragement to governments in the course of the adjustment process.