

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

AG/W/10
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Special Distribution

Committee on Trade in Agriculture

SUMMARY OF POINTS RAISED DURING THE MEETING OF THE COMMITTEE HELD ON 6 AND 7 JUNE 1984

Note by the Secretariat

1. The main points raised in the course of the Committee's 6 to 7 June meeting have been summarized under the following headings in order to facilitate the work of the Committee in its further consideration of the recommendations which it is called upon to make to the Council and the CONTRACTING PARTIES:

- (a) Résumé of the meeting;
- (b) General observations on the draft recommendations;
- (c) Comments on specific aspects of the draft recommendations.

Résumé

2. At its meeting on 6 and 7 June 1984 the Committee embarked on an initial consideration of recommendations on the basis of the draft text presented in document AG/W/8, it being noted that consideration of other alternatives was not in any way precluded.

3. In the course of the Committee's discussions a number of views were expressed regarding the text of the draft recommendations and the general approach embodied in AG/W/8. It was generally agreed that AG/W/8 provided an appropriate framework for further consideration and discussion, and that with some modification the text in AG/W/8 might serve as a basis for an eventual consensus. In this regard it was pointed out in the Chairman's concluding remarks that, in the light of the observations and comments made, there were several areas where greater precision in the AG/W/8 text would be required. In particular, it was noted that the general thrust of the recommendations should reflect more explicitly that greater liberalization is an important overall objective of any general approach aimed at improving the rules and opportunities for trade in agriculture; and, that the special needs and problems of developing countries should be reflected in the recommendations in a more articulated and prominent manner.

4. In accordance with the Chairman's concluding remarks the intention was that, in addition to the present summary note, the secretariat should prepare, in consultation with the Chairman, an explanatory note on the general approach embodied in the draft recommendations (issued as AG/W/9), and a revised version of the draft recommendations (to be issued as AG/W/8/Rev.1).

General Observations

5. A range of views were expressed regarding the acceptability of the draft recommendations and the extent to which the various elements highlighted in the Committee's earlier deliberations were or were not taken adequately into account. One view was that the draft text addressed all the concerns expressed and that having regard to the urgent need, as recognized in the Ministerial Declaration, to find lasting solutions, the process of elaboration or negotiation should be embarked upon as soon as possible. Another view expressed was that the negotiating objectives and the techniques or approaches to be employed should be such as to enable the difficult problems recognized in the Ministerial Declaration, including access, export competition and the emerging imbalance of rights and obligations, to be effectively addressed. In this and a number of other views expressed it was considered that improved or greater liberalization of trade in agriculture should be more clearly referred to in the recommendations so as to give greater precision to such formulations as "strengthened and more operationally effective rules and disciplines", which might otherwise appear to privilege certain attitudes and which could also subsequently engender problems of interpretation. At the same time it was noted that there was a limit to how far certain matters could be formulated more precisely without prejudicing individual negotiating positions.

6. The view was also expressed that the Ministerial Declaration had avoided privileging particular objectives and that all the objectives contained in the preamble to the General Agreement were equally applicable to trade in agriculture. In this context it was indicated that the Committee should direct itself to achieving a clearer appreciation of the approach embodied in the draft text, in order to facilitate the necessary decision-making process in capitals prior to the November session of the CONTRACTING PARTIES. Participation on this basis in the subsequent work of the Committee would be conditional, according to this view, on it being accepted that matters relating to trade in agriculture were dealt with in the Committee on trade in agriculture and not elsewhere.

7. It was also pointed out that while the draft text corresponded well to the Ministerial mandate and provided a good basis for the formulation of recommendations, it was not necessarily the complete answer and that it was necessary that all options on how measures affecting trade in agriculture could be brought under more operationally effective GATT rules and disciplines, should remain open. In this regard, it was noted that the various elements in the Ministerial mandate, including the specific characteristics and problems of agriculture, were equally important and that a balance had to be maintained in order to achieve consensus. In this context it was stressed that measures affecting both exports and imports were, as had been highlighted in document AG/W/5, integral elements of national agricultural policies and were also linked to other important national policies or objectives.

8. In a number of general observations made it was emphasized that while the draft text was broadly acceptable, a more balanced and clearly stated reference to improved and more secure access for trade in agriculture was required if the recommendations were to reflect the broad range of concerns and interests involved, including those of developing countries. In this context it was indicated that in developing further the rules for agricultural trade, an important objective must be to reinforce the GATT principles of non-discrimination, trade liberalization and reliance on market forces. It was also stressed in a number of the views expressed that the particular concerns and interests of the developing countries should be reflected more substantively in the draft text. In this general context, it was noted that account would also need to be taken of the work in other areas of the Ministerial work programme, both generally and in relation to matters of particular interest to developing countries.

Specific Aspects

9. In the course of the Committee's initial discussions on the draft text, a number of issues and questions were raised concerning specific aspects of the draft text in AG/W/8. As the observations and comments offered by the secretariat are recapitulated in the explanatory note AG/W/9, the following summary relates mainly to points raised by delegations.

Paragraph 1(a)

10. In relation to paragraph 1(a) of the draft text, it was noted that, unlike paragraph 1(b) on subsidies, the approach to be adopted in order to bring substantially all measures affecting imports under strengthened and more operationally effective rules and disciplines, had not been spelled out. It was suggested that this could be taken to imply that certain measures were to be legitimized on the basis of uncertain disciplines. It was suggested that recommendations more clearly oriented towards greater liberalization might help to dispel such misgivings. Reference was also made to the difficulties inherent in achieving consensus on rules and their interpretation. In this general context, it was pointed out that Article XI, which was already framed on the basis of a qualified general prohibition, contained provisions which were intended to limit the impact of national policies on trade. At present the disciplines of Article XI were not being universally or effectively applied. It was suggested that one of the key objectives in bringing substantially all relevant measures under the disciplines of Article XI, in particular, residual restrictions and measures maintained under waivers and other derogations and exceptions, would be to effectively implement the minimum access provisions of the last paragraph of that Article.

11. In several of the views expressed, it was emphasized that the approach envisaged under paragraph 1(a) of the draft text should not result in a weakening of Article XI, with the suggestion being made that there was a case for strengthening the existing prohibition in Article XI:1. Attention was also drawn to the experience of various forms of supply management and to the adverse effects that such measures

could have on the competitiveness of domestic producers, as well as on the demand for both the domestically produced and imported product. As a general observation in this context, it was pointed out that a proper application of Article XI:2(c) would necessarily involve disciplines arising from the operation of domestic production measures, as well as from the operation of the access provisions of the last paragraph of Article XI, since the latter implied that when internal production rose, so too would imports.

12. One view expressed in this regard was that it was difficult to see how balance could be achieved under such an approach having regard to the varying levels of self-sufficiency which prevailed amongst countries. It was also observed that balance should be sought on an across-the-board basis rather than within sectors or in terms of particular products. It was further suggested that, in principle, there would be nothing to prevent the negotiation of a ratio of imports to domestic production greater than that which might be justified under the provisions of the last paragraph of Article XI, but that in such a case some quid pro quo for the additional access would be required. It was pointed out, however, that in the case of developing countries properly so-called reciprocity would not necessarily be required. Some reservations were expressed with regard to the applicability of this reasoning to products in respect of which tariffs were already bound.

13. Several queries were raised regarding the applicability of the disciplines of Article XI to measures other than quantitative restrictions, and in particular to measures such as variable levies. In this regard it was noted that although variable levies might be regarded in some cases as having characteristics in common with measures that were prohibited by Article XI:1, such as minimum import prices, a number of practical and other considerations could be taken to suggest that, at this stage at least, it would be more appropriate to envisage an approach under which the variable levy might be associated with the proportionality provisions of the last paragraph of Article XI but without being subject to the prohibition in Article XI:1. The question was also raised whether there might be scope under Article XVI:1 for dealing with certain measures affecting imports which could not be covered by Article XI, with reference being made in this regard to variable levies and unbound tariffs. Another matter raised was the question of subsidies affecting imports, with the suggestion being made that this question may also need to be looked at in the context of paragraph 1(a) of the draft text as well as under Article XVI:1.

14. With regard to voluntary restraint agreements differing views were expressed as to whether the formulation in paragraph 1(a) of the draft text tended to prejudge the approach to be followed. One view expressed was that voluntary restraint agreements, which had no juridical basis in the general agreement, should have to comply with the provisions of Article XI:2(c). It was pointed out in this regard that exporting countries should not be called upon to pay for the suppression of VRAs and other illegal measures.

15. As a general comment it was noted that Article XI should not be considered in isolation from Article XIII, since the latter article had a significant bearing on how QRs, VRAs, MIPs and other equivalent measures were applied.

16. Finally in this connection, it was stated that the reference to state trading in paragraph 1(a) of the draft text appeared to be too widely drawn having regard to the strong justifications which had been advanced in favour of this method of trading in some developing countries.

Paragraph 1(b)

17. Initial comments on the approach embodied in paragraph 1(b) of the draft text related mainly to the general concept involved and to the nature and scope of the proposed qualified general prohibition on export subsidies.

18. With regard to the general concept involved, it was explained that, as had been discussed in the course of the Committee's earlier deliberations, what was suggested in the case of subsidies affecting trade in agriculture was an approach symmetrical with that of Article XI. This would involve, by analogy with Article XI, the introduction of a general prohibition on export subsidies and other forms of export assistance, the negotiation of a number of carefully circumscribed exceptions to this prohibition, and the negotiation of limits to the extent of these exceptions. In the latter case by making the limitations, actual or potential, contained in the existing disciplines relating to serious prejudice and equitable share, more operationally effective than was the case at present.

19. With regard to the scope of the suggested general prohibition, it was pointed out that the jargon of the GATT was concerned with subsidies generally including, under Article XVI:3, any form of subsidy granted directly or indirectly which operates to increase exports. In these circumstances, it was considered that there could be no basis for singling out direct export subsidies. Moreover, in this view, it was submitted that as everyone subsidized, and since their exports were thereby either increased or maintained, regardless of whether the subsidy involved was one or a hundred dollars, everyone should have to respect GATT disciplines as they currently existed or in the form in which they might be developed. It was also suggested that an attempt should not be made to completely transform existing GATT obligations, which in the field of exports were not particularly strong, and that it should be more clearly reflected in paragraph 1(b) that a qualified general prohibition was only one possible approach at this stage.

20. In another view expressed, it was noted that, while supporting a general prohibition, the concept of bringing all subsidies affecting agriculture under strengthened and more operationally effective rules and disciplines, required further clarification in relation to domestic income or price support programmes. In this regard, it was pointed out that domestic programmes were not necessarily export subsidies and that to treat them as such could give rise to concerns that decisions on such programmes might be made in the GATT. Article XVI:1, it was noted, already provided for a standard of serious prejudice in relation to domestic programmes. In this view, it was considered that, in parallel with a new provision prohibiting the use of export subsidies, the existing rules relating to serious prejudice, equitable share and market displacement, should be strengthened and continue to govern the use of export subsidies under exceptions to a general prohibition. But merely

clarifying the existing rules would not be useful without a new rule which would lead to the elimination of export subsidies. In this view it was considered that the real objective should be to limit the use of export subsidies and make it more difficult to use them consistently with GATT rules and disciplines. In this context, the further observation was made that paragraph 2 of the Annex I Note to Article XVI:3 was subject to certain conditions and that in principle, domestic stabilization programmes were not excepted from Article XVI:3.

21. On the question of possible exceptions to any general prohibition, reference was made to exceptions analogous to those contained in Article XI:2(c), as well as to other possibilities. In this context, it was suggested that some, but not necessarily all developing countries should as a matter of principle be dispensed from any comprehensive prohibition. The view was expressed that the question of exceptions to a general prohibition was a matter which would be more appropriately taken up at a later stage. It was also suggested that any exceptions should be circumscribed as to their justification, application and duration and that paragraph 1(b) of the draft text might be improved by incorporating these qualifications.

Paragraph 1(c)

22. In relation to paragraph 1(c), it was pointed out that there were advisable limits to the extent to which existing GATT procedures might be improved in the area of plant quarantine measures. In this regard, it was noted that established dispute settlement procedures were available within the framework of the International Plant Protection Convention.

Paragraph 2

23. It was noted that the notification and consultation procedures envisaged in paragraph 2 of the draft text went somewhat beyond what was required under the existing GATT rules including Articles X, XI, XVI:1. In particular, it was considered, in one view expressed, that it should be made clearer that it was only those policies and measures affecting trade in agriculture which should be subject to regular review and examination. It was further noted that the approach embodied in paragraph 2 of the revised text would result in agricultural trade policies and measures being subject to more rigorous notification and consultation requirements than were applicable to other areas of trade. In this context the observation was made that the general approach embodied in AG/W/8 envisaged a number of situations in which exceptions would be negotiated subject to conditions, including conditions related, for example, to the operation of domestic supply management and other measures. In these circumstances, it was suggested that the adequacy of the GATT notification and consultation procedures would assume a particular importance.

Paragraph 3

24. In a number of the views expressed it was indicated that the reference to differential and more favourable treatment in paragraph 3 of the draft text did not adequately reflect the concerns of developing countries.

In this regard it was noted that liberalization of trade was conducive to the principles and objectives of Part IV of the General Agreement. At the same time, it was also considered that the particular needs of developing countries had to be considered in relation to each aspect of the approach as it was elaborated. If, for example, specific agreements modifying contractual standards were to be developed, the interests of developing countries should be taken into consideration at each and every point. It was further noted that a more extensive and concrete application of differential and more favourable treatment should not prejudice the basic GATT provisions relating to such treatment.

25. A number of points were raised concerning the precise content or meaning of the reference to specific characteristics and problems of agriculture, with suggestions being made that a reference to the importance of comparative advantage and to the role of market forces in trade in agriculture should also be incorporated in paragraph 3. In this regard, it was noted that food security and land conservation and utilization were important aspects of the specificity of agriculture. The observation was also made that in relation to comparative advantage a distinction should be made between those who isolate their markets and export with the aid of export subsidies and those, on the other hand, who take measures to curtail or limit production in excess of domestic needs. The different situations prevailing in each producing country were also mentioned as being relevant in the context of the specific characteristics and problems of agriculture. It was also reiterated that all elements mentioned in the Ministerial work programme were equally important and that this had to be taken into account if maximum results were to be achieved on a consensus basis.

Paragraph 4

26. Several views were expressed on questions related to paragraph 4 of the draft text. One view was that the process of elaborating the general approach embodied in AG/W/8, which could be considered to be synonymous with negotiation, should begin in early 1985 with a deadline being specified for the completion of the task. Another perspective was that the Committee might indicate a view that negotiations should begin as soon as possible, on the basis that it was for the CONTRACTING PARTIES to decide, in the light of other broader considerations, when, in fact, negotiations should get underway. It was also suggested that the Committee should frame its recommendations in this respect so as to facilitate the start of negotiations at the most appropriate time in 1985. A further suggestion was that paragraph 4 of the draft text should stipulate that the objective of the report to the 41st Session should be to provide the framework for the commencement of agricultural trade negotiations to be continued in parallel with, or in association with, wider negotiations as and when such negotiations are initiated.

Next meeting

27. The dates for the next meeting, to be held in the latter half of September, are to be advised in due course.