GENERAL AGREEMENT ON
TARIFFS AND TRADE

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WORKING PARTY ON THE REDUCTION OF TARIFF LEVELS

Report by the Sub-Group on the technical aspects of the revised French Plan

I. INTRODUCTION

1. The Sub-Group, composed of experts of Austria, Benelux, Canada, Denmark, France, Germany, Italy, Norway, Sweden, the United Kingdom and the United States, met under the Chairmanship of M. A. Dubois (Belgium), to consider the revised version of the Plan for the Reduction of Tariff Levels which was submitted to the CONTRACTING PARTIES by the French Government, with the support of the Governments of the Federal Republic of Germany, Belgium, the Netherlands and Denmark on 22 July 1953 (L/103).

2. That revised version of the Plan is based on the following principles:

(a) The governments participating in the Plan would undertake to reduce their tariffs by 30 per cent, this reduction being achieved in three years by yearly 10 per cent stages.

(b) This reduction would not be computed for each individual tariff item, but would be based on the weighted average level of customs protection afforded each main branch of economic activity.

(c) The percentage of 30 per cent for the reduction of the average incidence would be reduced whenever the incidence is below a certain level.

(d) The participating countries would also undertake to reduce within a period of 3 years any duty rate exceeding a pre-determined ceiling.

(e) Special terms would be offered to countries or territories which might not be in a position wholly to effect the proposed lowering of tariff rates because they have not reached an adequate degree of economic development.

3. The Sub-Group limited its consideration of the revised Plan to an elucidation of the technical problems to which the implementation of such a Plan would give rise, and to the technical formulation of the revised Plan which, in its opinion, would facilitate the consideration of the principles embodied in the Plan by the CONTRACTING PARTIES at their present session, and by individual governments thereafter.

4. The new version of the Plan takes the form of rules setting out the commitments involved and include an Annex in which the detailed technical regulations are formulated. Comments have been added whenever necessary to enable the reader to obtain a clear idea of the operation of the rules. These rules and comments are contained in Part III of this Report.

5. It will be noticed that the Sub-Group has introduced modifications in the Plan, which without detracting from the main purpose of the scheme, would make its application easier. This applies in particular to Section 1 of the Annex (treatment of goods on which a drawback is refunded upon re-export), and to Rule II, paragraphs (a) and (b) (treatment of fiscal duties).

6. The Sub-Group wishes to stress that the consideration of the revised version of the French Plan proceeded on the understanding that participation in the Sub-Group and in the working out of the Plan did not in any way imply a commitment to take a stand on the questions of substance raised in the Plan or to reach any agreement on the principles embodied in that Plan.

7. The Sub-Group wishes also to point out that the version of the Plan which is contained in Part III of its Report if given more as an illustration of the type of technical development which may be considered, than as a definite suggestion. While it was generally agreed that this version was technically feasible, and that from a practical point of view, most members did not foresee at the present time any insuperable difficulties in implementing such a scheme if it were accepted by their governments as a new method for negotiation, the Sub-Group considered that the selection of this version did not rule out alternatives, and that the French proposal could admit of other versions which would be equally applicable from a technical point of view. This particular version has been selected rather than other alternatives because, in the course of the detailed examination of the French proposal, it appeared that such a technical version would be more acceptable generally than any other alternatives which have been considered so far.

8. As will be seen from the comments contained in Parts II and III of this Report, the Sub-Group was of the opinion that it would be premature to reach definite conclusions, even from a purely technical point of view, on certain detailed provisions of the Plan, such as the precise contents of the sectors and the categories and the fixing of the demarcation lines and ceilings. To facilitate the consideration of the Plan, it had felt it useful to insert in Part III suggestions concerning the composition of sectors and groups of items and tentative figures concerning the demarcation lines and ceiling rate figures submitted by the secretariat on the basis of the material collected during the statistical exercises conducted on tariff incidences.

9. In the determination of the demarcation line the Sub-Group agreed that the following considerations should be taken into account:

(a) The demarcation lines should not be so high as to result in releasing practically some participating countries from any commitment to reduce the average

incidence of its tariff, or so low as to bring no actual advantage to low-tariff countries.

(b) The demarcation lines should be, as far as practicable, determined in accordance with an agreed formula which would be applied in a more or less automatic manner, in order to avoid extensive negotiations between participating countries.

(c) The demarcation lines should be based on the data which have been or may be received in the future by the secretariat on the weighted average incidence of national tariffs.

10. The Sub-Group suggests that the consideration of the technical part referred to in paragraph 8 above should be included in the terms of reference of any international body which the contracting parties may wish to appoint at the Session and that this body should have regard to the consideration set out in paragraph 9 above.

11. In the development of the French Plan, the Sub-Group started from the assumption that "any scheme for an automatic reduction of tariff levels within the framework of the General Agreement would have to be based on the principle of non-discrimination, which implied that any specific reduction of duty resulting from the operation of such a scheme would have to be extended to all the contracting parties, whether they participate in the scheme or not", a principle which is laid down in paragraph 18 of the Report adopted by the CONTRACTING PARTIES on 8 November 1952.[1] The acceptance of this principle led to the conclusion that, unless all contracting parties to the General Agreement chose to accept the commitments contained in the French Plan, that Plan should be embodied in a self-contained instrument which would be governed by its own provisions. Consequently, the elaboration of the French Plan, reproduced in Part III of this Report, is drafted as a collateral agreement. In this connection, the Sub-Group considered that the question of a possible merging of this agreement with the General Agreement was a question of substance which went beyond its terms of reference and which, in any case, could not be settled until it became clearer how far the contracting parties to GATT would participate in such a plan.

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1 Basic Instruments and Selected Documents, First Supplement, page 71.

II. VIEWS EXPRESSED BY MEMBERS OF THE SUB-GROUP ON CERTAIN ASPECTS OF THE FRENCH PLAN

12. Although the discussion in the Sub-Group was limited to the technical aspects of the French Plan, the Sub-Group recognized that it was sometimes difficult to separate the technical problems from questions of substance. The Sub-Group felt, therefore, that it was its duty to draw the attention of the CONTRACTING PARTIES to repercussions which the adoption or rejection of certain technical features of the Plan may have on its acceptability for certain governments. With this object in view, the relevant remarks, made by members of the Sub-Group have been summarized in this part of the Report.

13. In view of this understanding mentioned in paragraph 6 the Sub-Group felt that this was not the place to restate the general reservations by the Italian representative which are set forth in paragraph 3 of document G/31.[1]

14. The general principle laid down in paragraph (b) of Rule I, that, in the case of low tariffs, the reduction required should be less than that required of high tariffs corresponds to the traditional GATT negotiating rule, according to which the binding of a low rate is equivalent to a substantial reduction of a high duty. Some members of the Sub-Group considered, however, that the acceptance of that principle depended to a certain extent on the level at which the demarcation lines and the floor would be fixed. This idea is developed further in paragraph 35 below.

15. In the comments on Rule II it is indicated that a large majority of the Sub-Group were in favour of excluding fiscal duties from the operation. Those members felt that many governments would not be in a position to abandon sources of revenue which often represented a substantial part of their budget. Moreover, it appeared to them that the object of the Plan should be solely to reduce the degree of protection accorded to domestic industries through tariff measures. On the other hand, other members stressed that the proposed exclusion would reduce the scope of actual reductions and impair the benefits which international trade might derive from the operation of the Plan. They also feared that such a decision would make it more difficult for countries interested in the export of commodities such as sugar, coffee, wine, etc. to accept the Plan.

16. While there was general agreement in the Sub-Group that a rule similar to the "principal supplier rule" as applied in the tariff negotiations under the General Agreement should be inserted in Rule II, some members, emphasizing the importance for smaller countries of the inclusion of products playing a major part in their export trade, even if they are not the principal supplier of a particular territory, considered that the provision of paragraph (a) (ii) of that Rule was too rigid and the recommendation contained in paragraph (c) of the Rule did not go far enough to meet the legitimate needs of those countries. They suggested, therefore, that the following addition should be made: "Moreover, if a participating country submits conclusive evidence that at least 35 per cent

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[1] loc. cit. page 73.

of its export trade in a commodity was directed in the base year to another participating country, that country would not be free to exclude that commodity from the operation".

17. The Sub-Group was of the opinion that no further provisions for exclusion should be contemplated; one member however reminded the Sub-Group that his country had reserved the right to ask for the exclusion from the exercise of certain food items of an agricultural origin and of that part of the import duties which is equivalent to an internal tax.

18. As regards Rule III, two members of the Sub-Group stressed that, in their view, the mandatory character of that Rule would give rise to serious difficulties, as it might interfere with the sovereign rights of countries and they suggested that the Rule should be drafted in the form of a recommendation.

19. It was also suggested that the implementation of the "prior approval" procedure contemplated in paragraph (c) of that Rule would be a delicate task for the body entrusted with the task of deciding on waivers and might lead to protracted, difficult negotiations, but no other alternative formula met with the approval of the Sub-Group.

20. The Sub-Group was aware of the special problems raised by the application of the Plan, and, in particular, of Rule III to "specific" duties. The suggestion set forth in paragraph (d) reflects an attempt to find a practical solution for cases where the enforcement of rates exceeding the ceiling would create serious frictions, but the Sub-Group agreed that this question will have to be considered further by the Intersessional body, if appointed by the CONTRACTING PARTIES.

21. The Sub-Group considered next whether it would be desirable to limit in any way the obligations of Rule III if the reductions made under that rule would have the effect of bringing down the average incidence for a sector by more than 30 per cent. It came to the conclusion that it would be more in keeping with the principle set forth in paragraph (b) of Rule III to require a full implementation of that Rule and noted moreover that such a case would seldom occur.

22. After discussion of Rule IV, it was agreed that it would be preferable to give as much freedom as possible to the participating countries in the selection of duties to be reduced. While it would be in the general interest that a high proportion of mandatory reductions under Rule III should be effected during the early stages of the operation, the inclusion of detailed provisions to achieve that object would, in the view of the Sub-Group, give rise to serious practical difficulties.

23. It was suggested, in the course of the discussion of paragraph (c) of Rule V that certain countries would not be in a position to accept an absolute bar on any increase of rates above the ceiling since there may be certain cases in which it would be difficult for them not to raise above the ceiling if such action was necessary in order to avoid the serious economic or social dangers

which the Board had recognized. In order to meet that objection to a certain extent, the Sub-Group inserted tentatively a provision in Rule V allowing for the return of such a rate to the level obtaining before the Plan entered into force.

24. The question was raised whether the escape clause of Article XIX of the General Agreement, or the re-negotiation procedure of Article XXVIII would apply to the bindings under the Plan. The consensus of opinion was that the escape clause contained in paragraph (c) of Rule V should be the only procedure by which the bindings under the Plan could be altered during the five-year period. The Sub-Group recognized, however, that the co-existence of two sets of provisions, those of the Plan and those of the General Agreement, which might apply to items bound under the two instruments complicated the legal presentation of the Plan, but was not able to suggest any practical way of avoiding this duplication, so long as it was not possible to embody the Plan in the General Agreement.

25. The wording of paragraph (c) of Rule V differs from the French proposal set forth in L/103 insofar as it allows for the operation of the escape clause at any time during the five-year period. This amendment was reluctantly accepted by some members.

26. It was agreed that the Board provided for under Rule VI be governed by rules of procedure modelled on the GATT rules, and that for administration purposes it should be considered as a GATT body.

27. It was agreed to introduce some flexibility in Rule VII to enable additions to be made to the list of exclusions for developmental purposes. This was done on the understanding that the exclusion of products covered by a programme of economic development would be limited to those goods, the domestic production of which had already started at the time of accession or was expected to start soon after the exclusion was granted.

28. The Sub-Group did not try to determine the period for which the right to exclude specific items would be granted, as this might depend on the circumstances of the case; it was, however, of the opinion that it would be essential in the interest of the countries concerned that the period for which the exclusion of an item was authorized should be clearly determined in each case.

29. The Sub-Group did not consider in detail what other provisions should be added to the Plan in order to safeguard the concessions granted under the Plan, as it did not feel competent to deal with such problems. It thought it advisable, however, to pose the problem in Rule VIII and to indicate a few provisions which it would appear useful to include in the Plan if were to remain a self-contained instrument.

30. In this connection, the Sub-Group agreed that so long as it was not certain that all contracting parties to the GATT would accept the Plan, it would be premature to consider whether the bindings under Rule V should be embodied in the GATT Schedules. It also felt that it did not come within its terms of reference to examine the procedures by which the concessions could be prolonged or renewed after the end of the five-year period.

31. Serious doubts were expressed by members of the Sub-Group as regards the advisability of enabling participating countries to use notional duties instead of actual duties for the computation of the average incidence in the base year, a possibility contemplated in Section 1 of the Annex. These remarks applied more particularly to the case of countries which have never put into force their legal tariff and to those cases in which duties not bound under the General Agreement had been bound as a result of bilateral negotiations with a non-GATT country.

32. One member indicated that the possibility of using an ad valorem equivalent for a specific duty in the computation of the average incidence which is contemplated in paragraph b) of the comments to section 1 of the Annex, should apply not only to bound items as it is suggested but also to unbound items.

33. As regards the division by sectors, proposed in Section 6 (a) of the Annex, some members of the Sub-Group, while agreeing that from a technical point of view the division into ten sectors would be practicable, stressed again that the Plan would be more easily acceptable to certain governments if the number of sectors were reduced and if the average incidence were to be computed on three or four sectors instead of on ten.

34. Although there was substantial agreement on a division into ten sectors, some members of the group felt that the proposed division should not be considered as final; certain suggestions were made in the course of discussion regarding the splitting of some sectors and the merging of others, with a view in particular to ensuring a balance between the various sectors. Proposals were also submitted regarding the precise contents of the various sectors, but the Sub-Group however did not reach any decision on this point.

35. So far as the lines of demarcation for low tariffs suggested in Section 6 (b) of the Annex are concerned, a substantial number of the members of the Sub-Group were of the opinion that the figures calculated by the secretariat on the basis that they should be equal to the weighted average of the tariff incidences represented roughly the level at which it would be reasonable to set these lines. Some members felt, however, that as a general rule the demarcation lines proposed were too low and they suggested that the figures should be adjusted by taking into account the unweighted averages which would supply an increase by some 20 per cent. On the other hand, some members felt that those figures were too high and, without making any definite proposal, suggested that they should be reduced.

36. It was recognized that the fixing of the demarcation lines, floors or ceiling rates at a particular level would not apply, that this or any other level would constitute a desirable level for the actual determination of individual tariffs, since those figures have been selected only for practical reasons and in order to facilitate the implementation of a scheme for a multilateral reduction of tariff levels.

III. TECHNICAL DEVELOPMENT OF THE FRENCH PLAN AS REVISED IN L/103

Rule I - REDUCTION OF THE AVERAGE TARIFF INCIDENCE

(a) Each participating country shall reduce by 30 per cent, the average incidence of its duties in each sector, as defined in the Annex, of its import trade, this reduction being achieved in 3 years by reductions of 10 per cent each year.

(b) If, for any given sector, the average incidence of the duties of a participating country is lower than a demarcation line, the reduction to be effected under paragraph (a) above will be proportionately reduced, and if that average incidence is equal to or lower than a floor which will be set at 50 per cent of the rate at the demarcation line, that participating country shall not be required to reduce the average incidence of its duties for that sector.

(c) If, in the course of any given year, the reduction made in a sector is larger than the one required under this Rule, the excess shall be credited against the reduction to be made for the same sector in the following year or years.

(d) The reduction of the average incidence under this rule shall be made in accordance with the detailed regulations contained in the Annex.

Comments

1. The definition of the average incidence and the method of computation of that incidence are set forth in Section 1 of the Annex.

2. The practical method suggested for the computation of the incidence during the successive stages is set forth in Section 2 of the Annex.

3. The suggestions for the selection of the base-year for the computation of the weighted average incidence are contained in Section 3 of the Annex.

4. The proposals regarding the method to be used for the valuation of imported goods are contained in Section 4 of the Annex.

5. The formula to be applied for the reduction of any average incidence which is lower than the demarcation line is given in Section 5 of the Annex.

6. The suggested division into ten sectors is contained in Section 6 (a) of the Annex.

7. The suggested figures for the demarcation lines applicable to the ten sectors are contained in Section 6 (b) of the Annex.

8. The provisions relating to the inclusion or otherwise of the trade enjoying preferential treatment are contained in Section 7 of the Annex.

Rule II - AUTHORIZED EXEMPTIONS FROM THE OPERATION OF RULE I

(a) Each participating country shall be free to exclude from the operation of Rule I:

(i) any duty which is recognized as fiscal in accordance with the procedure laid down in paragraph (b) below, as well as the value of the corresponding trade;

(ii) any duty levied on goods of which 50 per cent or more in value were imported by it from non-participating countries in the base year - and the value of the corresponding trade - provided that a participating country is not the principal supplier, in the sense of the rules of negotiations under the General Agreement.

(b) For the purposes of paragraph (a) (i) above, a duty shall be considered as "fiscal" if it was recognized by the Conference Committee or the Board, as the case may be, that the duty is predominantly of a fiscal nature.

(c) The participating countries agree that it is highly desirable that, in the selection of goods to be excluded in accordance with the provision of paragraph (a) (ii) above, participating countries should take into account the interests of other participating countries when the goods in question represent a substantial part of the export trade of those countries.

Comments

1. The Sub-Group recognized that, irrespective of their purpose, which is to secure revenue for the Treasury, fiscal duties could also afford protection for domestic products. If the principle of excluding that part of the duties, which has the same effect as an internal tax is accepted, it would nevertheless be desirable to include in the operation that part of the duty which has a protective effect. The Sub-Group, however, came to the conclusion that certain countries would find it impracticable to make that distinction unless they were able and willing to replace the fiscal element of those duties by a corresponding internal tax which would, in many cases, present serious practical difficulties. In view of this, the practical solution outlined in paragraph (b) of the Rule has met with the approval of many members of the Sub-Group.

2. The Sub-Group was of the opinion that the Conference Committee should establish a list of traditional fiscal duties. This committee might also admit

the predominantly fiscal character of a duty not included in that list if the country concerned can bring sufficient proof. It is suggested that a preliminary list of fiscal duties be compiled by the intersessional body which the CONTRACTING PARTIES may decide to appoint at this Session.

3. The Conference Committee referred to in paragraph (b) of Rule II would be a committee composed of representatives of all the governments taking part in the Conference to which the Plan for the reduction of tariff levels would be referred, and its functions would be similar to those of the Tariff Negotiations Committee of the Annecy and Torquay Conferences. The Board, on the other hand, would be the permanent body, composed of all participating countries, which would administer the Plan after it has entered into force and whose functions are defined in Rule VI. It will be called upon to act under paragraph (b) of Rule II in the case of accession of a new participating country.

4. It is contemplated that each participating country would communicate a list of items to be omitted to the other prospective participating countries at the Conference referred to above, or at an earlier date. A normal function of the Conference Committee might be to resolve any differences of views which might arise regarding the selection of the items excluded, as well as the application of the recommendation contained in paragraph (c) of Rule II.

Rule III - ADDITIONAL COMMITMENTS REGARDING THE REDUCTION OF HIGH TARIFFS

(a) Each participating country shall reduce every individual duty rate, the incidence of which exceeds the ceiling referred to in paragraph (f) below, in such a way that before the end of the third year of the operation of the Plan, the incidence of that duty is brought down to the level of the ceiling.

(b) The undertaking set forth in paragraph (a) above applies to all participating countries irrespective of whether or not a duty higher than the ceiling is included in a sector for which the average incidence must be reduced, in accordance with Rule I.

(c) In exceptional circumstances, the Conference Committee or the Board, as the case may be, may, by a decision approved by a /two-thirds majority of the votes cast_/ authorize any participating country to maintain individual duty rates above the ceiling. Applications to that effect shall be circulated in advance to all participating countries.

(d) Each participating country agrees to introduce, at the request of the Board, an ad valorem maximum for any specific or combined duty, the incidence of which is likely to exceed the appropriate ceiling, unless authority to maintain that rate above the ceiling has been granted by the Board in accordance with paragraph (c) above.

(e) The provision of the Rule shall not be applicable to duties excluded from the operation of Rule I, in accordance with the provisions of Rule II.

(f) For the purposes of this Rule, the ceilings applicable to each category of goods shall be those laid down in the Annex.

Comments

1. The suggested division into four categories is contained in Section 8 (a) of the Annex.

2. The suggested figures for the ceiling rates of the four categories are contained in Section 8(b) of the Annex.

3. The reductions made under Rule III shall be credited against the reductions to be made under Rule I.

Rule IV - IMPLEMENTATION OF THE REDUCTIONS UNDER RULE I

Each country shall be free to select the items on which tariff reductions will be made and to apportion the reductions as between those items for which duty rates have to be reduced in accordance with Rule III and other items, provided that the aggregate average reduction made in the course of each successive year shall amount to the percentage required in each sector in accordance with Rule I.

Comments

1. The Rule has been drafted so as to make it clear that for each sector of their import trade, participating countries have to reduce the average incidence of their tariff by the required percentage in each of the three successive years without being under an obligation to make reductions on the same items in each successive stage. In other words, a duty on an individual item may be reduced during the first year and not be further modified in either of the next two stages. However, once a reduction has been made in one stage, it will not be possible to withdraw this reduction, except in accordance with the procedure laid down in Rule V.

2. In order to enable all participating countries to know in advance the items on which reduction would be made while maintaining a reasonable degree of flexibility in the operation of the Plan, participating countries will be required to communicate in confidence, before the Plan is finally accepted, their programme of reduction for the first year of operation; before the end of each year, each participating country will communicate to the other participating countries the programme of reduction for the following year under the same conditions of secrecy.

3. The Sub-Group agreed that, by leaving to each participating country the freedom to select the items on which reductions have to be made and to determine the degree of reduction for each item, subject to the provisions of Rule III, a wide measure of flexibility would here be given to the Plan. In other words, each participating country would, under the Plan, be obliged to achieve a definite quantum of tariff reductions in the course of each year, but the method by which these tariff reductions are actually effected would be left at the discretion of that country. In certain cases, all the reductions may be effected unilaterally. In other cases, they may be made in accordance with certain agreed principles in order to achieve a specific economic object; in other cases again, the reductions may be the result of bilateral negotiations conducted on the basis of reciprocity. The only commitment of each participating country in the Plan would be to implement the programme of reduction laid down in Rules I and III.

Rule V - BINDING OF THE REDUCTIONS AND OF THE AVERAGES

(a) The participating countries agree to bind against increasing the average incidence of their tariff for each sector of their import trade at the level resulting from the operation of Rule I until .....19.. (Period of five years starting from the beginning of the operation), provided that if the average incidence for a sector is below the floor for that sector, the incidence would be bound against increase at the floor level, and not at the actual level of that incidence.

(b) The participating countries further agree to bind against increase until .....19.. (same period as under (a)) all duty rates which have been reduced in accordance with Rule I or Rule III.

(c) Notwithstanding the provisions of paragraph (b) above, a participating country may modify a rate bound under that paragraph if the Board agrees by a /two-thirds majority of votes cast/ that the maintenance of the rate at the bound level would involve serious economic or social dangers. The participating country will then be free to modify the rate, provided that:

(i) the modification will be compensated by a further reduction on other items, so as to maintain the average incidence for the sector at the level bound under paragraph (a) above, and

(ii) the new rate shall not exceed the ceiling as determined under Rule III or the rate which was in force before the operation of the Plan, whichever is the higher.

(d) Participating countries shall be free to increase any duty which has not been reduced in accordance with Rule I or Rule III, provided that such increase shall not have the effect of bringing the rate above the ceiling determined under Rule III or the average incidence for the sector above the level bound in accordance with paragraph (a) above.

Comments

According to a procedure similar to that outlined for the operation of Rule IV, any participating country wishing to increase a duty in accordance with paragraph (d) of Rule V should communicate, in confidence and for their information, the proposed increases to the other participating countries.

Rule VI - THE BOARD

(a) A Board composed of representatives of the participating countries shall meet from time to time for the purpose of giving effect to the provisions of this Plan, which involve joint action

(b) /Voting requirements/

(c) /Waiver Procedure/

Comments

The Sub-Group has not drafted paragraph (b) and (c). In its opinion those provisions should be modelled on the corresponding provisions of Article XXV of the Agreement.

Rule VII - SPECIAL PROVISIONS APPLICABLE TO COUNTRIES AND CUSTOMS TERRITORIES IN THE PROCESS OF ECONOMIC DEVELOPMENT

Countries or customs territories which the CONTRACTING PARTIES to the General Agreement recognize as being in the process of economic development can elect to be governed by the following provisions:

(a) for the purposes of Rule I, the reduction of the average incidence will be computed on the tariff as a whole and not by sectors; the demarcation line shall be fixed at/10% 7.

(b) for the purposes of Rule II, they will be authorized to exclude:

(i) all their fiscal duties, irrespective of the limitations contained in Rule II, paragraph (b), and the value of the corresponding trade;

(ii) the duties affecting products included in their programme of economic development and the value of the corresponding trade.

(c) the provisions of Rule III shall not be applicable to duties excluded from the operation under paragraph (b) above.

(d) the Conference Committee or the Board, as the case may be, shall approve the list of duties to be excluded under paragraph (b) above; it shall determine the period during which such exclusion would be operative and make arrangements for the submission of reports and other data that may be considered necessary.

(e) applications for the extension of the period of exclusion of individual duties or for the exclusion of duties affecting products included in new or revised programmes of economic development shall be addressed to the Board. The Board may agree to such an extension or to the exclusion of additional items under such terms and conditions as it may lay down.

Comments

1. It was agreed that any participating country might except any separate customs territories from the application of the Plan along the lines of Article XXVI, paragraph 4 of the General Agreement.

2. The wording "countries or customs territories" has been used to indicate that, for the territorial application of the Plan, each customs territory shall be treated as though it were a participating country. This distinction appeared necessary since certain customs territories of participating countries may be in process of economic development and would appear to be entitled to the same advantages as other under-developed countries.

3. It was agreed that an overseas territory qualifying for the special treatment provided in Rule VII could claim the benefit of that Rule even though it belonged to the metropolitan customs territory (as in the case of Puerto Rico and of some French Departments d'Outre-mer). It is

suggested that the Conference Committee or the Board, as the case may be, should consider sympathetically any request to that effect.

4. The figure of 10 per cent suggested for the demarcation line is purely illustrative. This figure could be determined only when the demarcation lines for the sectors for the purposes of Rule I have been finally approved.

Rule VIII - OTHER PROVISIONS

In the operation of the Plan, the participating countries shall be governed by the rules contained in the following provisions of the GATT, which will apply mutatis mutandis:

(a) Article I, paragraphs 2 and 4

(b) Article II, paragraphs 1(b), 3 and 4

(c) Article VI

(d) .....

ANNEX

SECTION 1

DEFINITION OF THE AVERAGE INCIDENCE AND METHOD OF COMPUTATION OF THAT INCIDENCE

(a) For the purpose of Rule I, the average incidence for a Sector shall be a ratio having:

- as its numerator, the total duty actually collected on imported goods cleared for home consumption during the period considered; provided that:

  (i) if the rate of duty actually applied on a given product is lower than the rate bound under the General Agreement, it would be permissible to substitute for the duty actually collected on that product the duty which would have been collected if the rate bound under the General Agreement had been applied, and that

  (ii) if the rate of duty actually applied on a given product is lower than the rate specified in the legal tariff of the country concerned and the rate is not bound under the General Agreement, it would be permissible to substitute for the duty actually collected on that product the duty which would have been collected if the rate specified in the legal tariff had been applied;

- as its denominator, the value of goods on which the duty in the numerator was or would have been changed, plus the value of goods exempt from duty under tariff law which went into home consumption in the period considered, whether or not the granting of the exemption depended on the intended use of these goods or on who receives them.

(b) In computing the average incidence for a Sector, account should be taken of the exclusions made under Rule II.

Comments

1. The method outlined in Section 1 provides that, as a rule, the average incidence shall be computed on the basis of actual duty collections. It does, however, provide for an alternative method of calculation to cover cases where rates actually applied differ from the legal rates or rates

bound under the General Agreement, such as the following:

(i) temporary suspension of the total or partial application of individual duties;

(ii) temporary application of a "tarif d'usage" providing for rates lower than those specified in the legal tariff;

(iii) binding of duties under the General Agreement at a higher rate than the actual rate;

(iv) application, in accordance with bilateral agreements with non-GATT countries, of rates lower than those bound against increase under the General Agreement or than those specified in the legal tariff.

2. For the purposes of (iii) and (iv) above, when the GATT Schedule provides for an alternative binding of a "specific" duty (such as x crown per kg. or 10 per cent), the country concerned will be free to use in the computation of the average, the binding specified for the ad valorem rate in the computation.

3. If a participating country were to reduce rates of duty between now and the base year selected, so that it would be prevented from getting credit for such reductions of the plan, the case should be submitted to the Conference Committee which may authorise the country concerned to make the calculations on the basis of the higher rates in force prior to the reductions.

4. The numerator shall include not only the duty levied on imported goods entering the internal marked immediately upon importation, but also the duty levied on imported goods entering the internal market after passage through a bonded warehouse or a free port or as a result of diversion from transit or other arrangements under which the duty is temporarily suspended. No deduc shall be made for duty drawback.

5. The denominator shall only include the value of goods actually cleared for home consumption. It shall not include the value of goods imported under any arrangement under which the duty is temporarily suspended (such as transit, bonded warehousing, free zones etc.), but the value of any such goods entering the internal market during the period considered should be included. No deductions shall be made from the denominator in respect of goods re-exported on drawback, or of re-exported goods which entered the internal market free of import duties.

6. The Sub-Group suggested the solutions in paragraph 5 although it would have been more logical to exclude from the numerator the duty drawback and from the denominator the value of re-exported goods referred to in the last sentence of paragraph 5. This, however, was regarded as a tentative solution and the Sub-Group was of the opinion that the question should be further examined by the Intersessional Committee.

SECTION 2

COMPUTATION OF THE AVERAGE INCIDENCE DURING THE SUCCESSIVE STAGES OF REDUCTION

The average incidence during the three stages shall be computed on the assumption that the composition of the import trade during those stages remained the same as in the base year.

Comments

The average incidence during the successive stages will be deemed to be a ratio having, as its denominator, the values for the base year and, as its numerator, the rates as reduced, multiplied by the same weights as were used for the computation of the average incidence for the base year.

If, for instance, the amount of duty collected during the base year by a country for a given sector is 100, and if the value of imported goods is 400, the average incidence for the base year amounts to 25 per cent. This figure shall be brought down to 22.5 per cent, 20 per cent and 17.5 per cent respectively during the three successive years. As the value included in the denominator remains the same, i.e. 400, the amount of duty collected to be included in the numerator should be 90 at the end of the first year, 80 at the end of the second year and 70 at the end of the third year so as to complete the 30 per cent reduction by successive 10 per cent stages.

1st Stage: $\frac{90}{400}$ = 22.5 per cent

2nd Stage: $\frac{80}{400}$ = 20 per cent

3rd Stage: $\frac{70}{400}$ = 17.5 per cent

SECTION 3

SELECTION OF THE BASE YEAR

The base year, for the computation of the average incidence, shall be the same for all participating countries.

Comments

The Sub-Group felt that it would be premature to determine here and now the year which should be selected as a base. It wished however to setforth the following points which might serve as a guide to the body which would select that year, presumably the Conference Committee.

1) the base year should be a calendar year for which reliable statistical data are available for all participating countries, if possible the last one for which such data are available;

2) it should be a year in which distortions in the composition of trade as a result of import controls should not be substantial; and

3) it should be selected so as to prevent manipulations of tariffs before the plan enters into force.

SECTION 4

METHOD USED FOR THE VALUATION OF IMPORTS

a) All valuations shall be based on a c.i.f. basis.

b) A participating country using anf.o.b. basis of valuation may compute its average incidence in all sectors on that basis, provided that the same basis is used for the computation of the average incidence in the successive years. However for the purposes of Rule I (b) the f.o.b. incidence may be converted to a c.i.f. incidence by increasing the denominator by 10 per cent. For the purpose of comparing the f.o.b. duties with the ceilings provided for under Rule III the f.o.b. duties may be deflated by 10 per cent.

SECTION 5

FORMULA FOR THE REDUCTION OF AN AVERAGE INCIDENCE BELOW THE DEMARCATION LINE

When the average incidence in a given sector is situated between the floor rate and the demarcation line, the percentage of reduction required shall be determined according to the following formula:

$$x = 30\% \cdot \frac{N - P}{D - P}$$

in which D represents the demarcation line, P the floor, N the average incidence, and x the percentage of reduction to be carried out in the sector.

Comments

This formula has been adopted because it combines simplicity with the requirement that the percentage reduction should be tapered down from 30 per cent at D to zero at P; if the demarcation line in a sector stands at 10 per cent and the floor at 5 per cent, a country whose average incidence for that sector is 7 per cent will be required to reduce that incidence by 30 per cent. $\frac{7 - 5}{10 - 5} = 12\%$ over three years, i.e. by 4 per cent in each successive year.

SECTION 6

A. DIVISION BY SECTORS

The division of import trade into ten Sectors as well as the suggested distribution of the SITC items among those Sectors is given below:

Sector I

Primary Products for Food excluding Fish

Division 00

Groups 011, 012, 021, 025, 026, 041, 042, 043, 044, 045, 051, 052 and 054.

Items 071-01 and 072-01

Groups 074 and 075

Items 081-01

Groups 111, 121 and 921

Sector II

Manufactured Products for Food excluding Fish

Groups 013, 022, 023, 024, 029, 046, 047, 048, 053 and 055

Division 06

Items 071-02, 071-03, 072-02 and 072-03

Groups 073, 081 (excluding 081-01)

Division 09

Groups 112 and 122

Division 41

Sector III

Fish and Fish Products

Division 03

Sector IV

Raw Materials, including Petroleum Products

Sections 2 and 3

Sector V

Products of chemical and allied industries

Section 5

Sector VI

Leather and Products of Leather, Fur Skins, Rubber, Wood, Cork, Paper and Printed Matter

Groups 611, 612, 613, 621, 629, 631, 632, 633, 641 and 642

Items 841-06 and 841-12

Group 842

Division 85

Group 892

Sector VII

Textile Products and Clothing

Division 65

Group 841 (excluding 841-06 and 841-12)

Sector VIII

Base Metals and Manufactures thereof

Divisions 68 and 69

Sector IX

Machinery, Electric and Transport Equipment

Divisions 71, 72 and 73

Sector X

Miscellaneous Manufactures

Divisions 66, 67, 81, 82, 83 and 86

Groups 891 and 899

B. SUGGESTED LINES OF DEMARCATION FOR THE TEN SECTORS

The following table shows the lines of demarcation which have been calculated by the secretariat on the basis of a weighted average of the weighted averages of the tariff of ten countries represented in the Sub-Group, after exclusion of duties considered as fiscal by reporting countries. The table gives also the average incidence on a c.i.f. basis of those ten countries, for the sake of comparison; for most of those countries the figures should not be substantially different from the actual incidences to be reduced under the Plan if it were to come into force in the near future.

Suggested demarcation lines and weighted average incidence by countries and sectors

Sectors	Suggested Demarcation lines	Austria	Benelux	Canada	Denmark	France	Germany	Italy	Norway	Sweden	USA
I	7	30	1	4	1	11	11	27	2	5	2
II	11	21	5	7	1	9	21	23	3	3	10
III	8	1	14	9	0	9	15	19	1	2	6
IV	2	1	0	2	0	2	2	2	1	0	4
V	8	9	4	7	1	17	15	20	6	3	6
VI	6	10	10	11	4	15	14	21	8	5	2
VII	14	21	13	14	4	18	18	22	13	6	18
VIII	7	11	4	10	1	6	10	22	3	3	6
IX	11	23	10	9	4	16	12	23	6	10	6
X	12	11	9	11	5	14	8	20	13	6	16

SECTION 7

PREFERENTIAL TRADE

(a) Participating countries shall be free to include the duty collected at preferential rates as well as the value of the preferential trade (i.e. the goods on which such duty has been levied plus duty-free goods from the preferential area) and to include reductions made on preferential as well as on most-favoured-nation rates in the computation of the successive reductions in the average incidence.

b) The operation of the Plan shall not allow any country to increase margins of preference so as to exceed the level authorized under the General Agreement.

Comments

1. The Sub-Group did not consider whether the provisions of Rule I, paragraph (b) could apply when the average incidence for the total trade (including preferential trade) is below the demarcation line or should only operate when the average incidence for the most-favoured-nation trade fulfils the conditions laid down in this paragraph.

2. Rule III would apply to the most-favoured-nation and preferential rates taken separately.

SECTION 8 (A)

DIVISION INTO CATEGORIES

The division of import trade into four categories as well as the suggested distribution of the SITC items among those categories is given below:

Category I: Industrial Commodities: Crude Materials

Division 21
Item 221-05
Division 23
Item 241-01
Groups 242 and 244
Item 251-01
Division 26 (except Group 266)
Groups 271 and 272 (except items 272-03, 05, and 06)
Division 28
Group 291
Items 292-01, 02, 03 and 04
Items 311-01 and 312-01

Category II: Industrial Commodities: Semi-manufactures (commodities simply transformed or due for considerable further transformation)

Item 241-02
Groups 243, 251 (except item 251-01) and 266
Items 272-03, 272-06 and 292-09
Group 311 (except item 311-01)
Items 313-05, 313-09, 412-01 and 412-12

Group 413 (except item 413-02)
Group 511 (except item 511-09)
Group 512 (except item 512-09)
Group 521
Groups 532, 551, 611, 621, 631, 651, 661, 662 and 664
Division 67 (except Group 673)
Division 68

Category III: Industrial Commodities: Finished Manufactures (Commodities more elaborately transformed or not due for further transformation)

Item 272-05
Group 313 (except items 313-05 and 09)
Groups 314 and 315
Items 511-09 and 512-09
Groups 531, 533, 541, and 552
Division 56
Division 59
Groups 612, 613, 629, 632, and 633
Division 64
Division 65 (except Group 651)
Groups 663, 665, 666, and 673
Division 69
Section 7
Section 8

Category IV: Agricultural Products

Sections 0 and 1
Group 221 (except item 221-05)
Items 292-05, 292-06 and 292-07
Groups 411 and 412 (except items 412-01 and -12)
Item 413-02
Group 921

Comments

The division was made along the following lines:

1. A first sub-division was made into "agricultural products" and "industrial commodities", the first sub-division including products serving as raw materials for the food processing industries as well as the products of those industries, but excluding agricultural raw materials serving mainly for industrial purposes, which were entered with all the remaining items in the second sub-division of "Industrial Commodities".

2. The sub-division "Industrial Commodities" was further arranged into three classes - (1) raw materials, (2) semi-manufactures, generally interpreted as commodities simply transformed or due for considerable further transformation, and (3) finished manufactures, generally comprising commodities more elaborately transformed or not due for further transformation.

3. A similar breakdown of the sub-division "agricultural products" was attempted, but was abandoned after it became clear that the choice of any dividing line between the three categories would be open to valid objections, as a number of products serving as raw materials for the food processing industries were also used by the consumer without any further transformation. Another reason why the attempt was not pursued was that in practice, the determination of tariff rates did not appear to be guided by the stage of processing in the case of agricultural products to the same extent as in the case of industrial commodities.

SECTION 8 (B)

SUGGESTED CEILINGS

Category I.	Raw Materials	5%
Category II.	Semi-manufactures	15%
Category III.	Finished products	30%
Category IV.	Agricultural products	27%

Comments

1. These suggested ceilings have been set at roughly twice the unweighted average incidence reported by the countries represented on the Sub-Group, which offers a more adequate basis for the measurement of the reduction of individual duties under Rule III than weighted averages, which were considered more appropriate for the provisions of Rule I relating to the reduction of weighted average incidences. It may be noted that the ceilings suggested do not differ substantially from those included in the "Low Tariff Club" proposal of the Council of Europe.

2. It has been suggested during the discussion that the adoption of different methods of computation for demarcation lines and ceilings might lead to certain anomalies and that it would be desirable to harmonize these figures to a certain extent.