

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Multilateral Trade Negotiations

GROUP 3(b) - REPORT TO TRADE NEGOTIATIONS COMMITTEE

Introduction

1. Group 3(b) was established by the Trade Negotiations Committee on 7 February 1974 and instructed to deal with Tasks 2, 8, 9, 10, 12 and 14 of the Programme of Work (MTN/2).

2. This report is divided into the following sections:

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3. As mandated by the Trade Negotiations Committee, the Group was guided in the course of its work by the Ministerial Declaration as it related to developing countries and agreed that future work on non-tariff measures should continue to be guided by the Ministerial Declaration as it related to developing countries.

Task 2: Bringing up to date and completing the documentation and basic data with respect to non-tariff measures assembled in the context of the programme of work adopted by the CONTRACTING PARTIES in 1967 (Industrial Products, Chapters 25-99 BTN).

4. The Group took up this task at its March meeting and held further discussions at technical level on the Inventory of Non-Tariff Measures on 25-27 June 1974. Details of the discussion at the March meeting will be found in a Note by the Secretariat, document MTN/3B/7, paragraphs 2-15.

Inventory of Non-Tariff Measures (MTN/3B/1-5 and Add.1)

5. The Group agreed that the Inventory should be open-ended, i.e. that participants should be free throughout the negotiations to request the inclusion of new notifications or the amendment or deletion of existing notifications, in order to make the Inventory as useful as possible in the negotiations. It was stressed that notifications should contain sufficient detail to make the nature of the problem clear. The Group further agreed that the procedure used in the past should continue to be followed. This procedure provided that the Inventory be based on notifications by countries affected by the measure. When a difference of opinion existed as to whether a notification should be included in the Inventory, the notification would be included, together with a note that such a difference of opinion existed.

6. The Group agreed that, in addition, delegations should, where necessary, be free to discuss individual notifications bilaterally and communicate the result of the discussions to the secretariat for appropriate modification of the Inventory. The Group at its June meeting noted that such bilateral consultations were being held between several delegations.

7. The Group examined at its June meeting problems raised by a number of new or modified notifications of multilateral interest. The notifications¹ so examined are being revised to reflect the main points raised in the discussion.

8. A proposal was made that the notifications contained in the Inventory be broken down into the following three categories:

¹See notifications 11, 50.1, 136, 316, 405, 430, 441, 593 and 629.

- (a) measures of a purely bilateral interest;
- (b) measures of a bilateral interest, but at the same time of general interest and therefore suitable for multilateral consideration; and
- (c) measures already discussed in GATT working groups or requiring multilateral solutions.

According to the proposal, the Group could, at an appropriate time, establish priorities for dealing with those measures so as not to overburden the negotiations. Many delegations were of the opinion that the proposal merited further consideration in the light of future discussion in the Trade Negotiations Committee.

9. The Group examined the categories used in the Inventory, as set out in the Annex to document MTN/3B/6. The Group discussed the treatment of export restrictions in the Inventory, and agreed that this matter should be taken up in the appropriate forum after the Trade Negotiations Committee had taken a decision on the more general issue of export restrictions. In the meantime additional notifications on export restrictions would be compiled in a separate document for consideration by the Trade Negotiations Committee. The point was raised in this connexion that the Inventory had been compiled historically to include all complaints submitted by notifying countries and, in the view of some delegations, its contents therefore no longer coincided exactly with the scope of the Group's tasks.

10. The Group considered the Illustrative List of Non-Tariff Measures (L/3298, Annex 1; MTN/3B/W/8) and agreed that at this stage there was no need to change the list.

11. The Group agreed that the secretariat should give every possible assistance to developing countries, including assistance of a statistical and analytical nature, with the aim of achieving a more precise identification of specific non-tariff measures affecting trade in products of interest to them. The secretariat should also take into account any further information available, within the secretariat or elsewhere¹, in connexion with the identification of additional non-tariff measures for possible inclusion in the Inventory.

12. The Group was aware of the possibility of solving certain difficulties which had arisen in a number of fields by establishing new codes or other agreements designed to interpret, clarify, implement or add to the provisions of the

¹Such as in UNCTAD document TD/B/C.2/115/Rev.1 and section VI of TD/B/C.2/R5/Suppl.1.

General Agreement. Referring to the experiences of the past, several delegations underlined the fact that the negotiation and acceptance of such codes or other agreements was not sufficient in itself but that it was also necessary to ensure that they were effectively applied. In the view of these delegations the best guarantee of this would be for the contents of such codes or other agreements to be transposed into the national legislation of the signatory countries.

Documentation of the Joint Working Group

13. The Group took note of the fact that the Joint Working Group documentation (COM.IHD/W/97, COM.AG/W/92), including the Annexes of particular interest to developing countries, was being revised in accordance with the Council's decision of June 1971, and agreed that this would provide a useful complement to the Inventory of Non-Tariff Measures. It was noted that the document at present covered eighteen developed countries. A suggestion was discussed that information on restrictions maintained by other developed countries should also be included in the revised document.

Special documentation concerning non-tariff measures affecting trade of developing Countries

14. It was noted that the secretariat had already prepared for developing countries a background note analyzing the impact of non-tariff measures on their trade (COM.TD/W/182) and analytical papers on standards (COM.TD/W/191), valuation (COM.TD/W/195), and health and sanitary regulations (COM.TD/W/190). It was agreed that the secretariat should, wherever necessary, amplify and update these notes in the light of the Tokyo Declaration and, in the first instance, identify, where feasible, non-tariff measures affecting the products included in the Generalized System of Preferences. It was agreed that similar papers should be prepared on other non-tariff measures as and when feasible, to bring out the problems facing developing countries and ways in which these problems might be solved. Several delegations suggested that with a view to facilitating the review of non-tariff measures which impede the trade of developing countries, it would be advisable that developed countries which are in a position to do so, prepare documents similar to those prepared by the United States Tariff Commission (1968); these documents would contain the specific legislation relating to each non-tariff measure applied by these countries.

15. On instructions from the Group, a document giving information regarding import restrictions on products of export interest to developing countries (COM.TD/W/203/Rev.1) was issued by the secretariat. The Group agreed that this information was of great interest and should therefore be kept continuously up to date on the basis of all information available to the secretariat.

Task 8: Continuation of the study already begun on quantitative restrictions, including import prohibitions and export restrictions (Industrial Products, Chapters 25-99)

16. The Group took up this task at its March meeting and held further discussions at technical level on 28 May 1974. Details of these discussions will be found in the Notes by the Secretariat, MTN/3B/7, paragraphs 16 and 17, and in MTN/3B/18.

17. The Group discussed whether it would be possible at this stage to take the examination of the two proposals concerning quantitative restrictions, including embargoes and export restraints, which were elaborated on in the preparatory phase of the negotiations and which are contained in Spec(73)17, any further. There was a wide measure of agreement that it would be difficult to take the examination of the two proposals set out in Spec(73)17 any further without entering into the negotiations proper. Some delegations recalled that, while being prepared to continue work on the proposals contained in Spec(73)17, they felt that the so-called voluntary export restraints and some quantitative import restrictions of a safeguarding nature were closely connected with the question of safeguards. Some of these delegations therefore said that these matters should be discussed in the context of safeguards. Some other delegations stated that it was not possible to judge at this stage whether the question of export restraints was a question of safeguards, since the latter question had not yet been discussed.

18. The Group discussed a proposal concerning a standstill on quantitative restrictions and an agreed action programme for further liberalization with respect to products of interest to developing countries (see Annex to MTN/3B/18). This proposal was supported by many delegations from developing countries, and to some extent by some other delegations.

19. There was considerable support in the Group for the idea that the area of quantitative import restrictions was one in which differentiated treatment in favour of developing countries might be feasible and appropriate. Some delegations said that they could agree to special consideration being given to developing countries, but on a most-favoured-nation basis; this meant in practice that priority should be given to the abolition of import restrictions for products of interest to developing countries.

20. The Group requested the secretariat to examine the technical ways and means of implementing the proposals which were made by developing countries for differential treatment to developing countries in the field of quantitative restrictions, including a description of the experience gained in the past with preferential treatment in liberalization of quantitative restrictions among countries. A report on this examination will be issued shortly.

21. It was stressed by some delegations that discriminatory import restrictions still maintained against exports from their countries, whether notified or not, could not be the subject of negotiations, but should be abolished in accordance with the provisions of the General Agreement and the respective Protocols of Accession to the GATT. With respect to non-discriminatory import restrictions one of these delegations reminded the Group that the elimination of restrictions applied vis-à-vis its country would be governed by the provisions concerning non-reciprocity embodied in the Tokyo Declaration for the participation of developing countries in the multilateral negotiations.

22. The Group considered the technical secretariat note "GATT and Export Restrictions" (MTN/3E/9).

23. Some delegations reiterated the view they expressed at the previous meeting of the Group that the task of the Group as set out in Task 8 of the TNC Work Programme did not cover export restrictions other than "export restraints" imposed at the request of importing countries. It had therefore been inappropriate to issue a secretariat note on the subject of export restrictions. These delegations expressed the view that the note was deficient in certain important aspects in that it failed to distinguish between renewable and non-renewable resources, and did not make clear the relationship between import and export measures. They considered that the secretariat note did not sufficiently take into account the interests of exporting countries. These delegations said that the question of export restrictions was not among the more urgent issues to be taken up in the negotiations, and that other issues, e.g. tariff escalation for semi-processed and processed products were of much greater importance.

24. Some delegations pointed out that the problem of export restrictions was an urgent one for all countries, especially in view of the fact that more and more countries resorted to measures of that kind. They also pointed out that the Group, under Task 8 of the Programme of Work (MTN/2), was clearly competent to discuss export restrictions, and that the technical note had been most useful for their consideration of the problem. Some of these delegations took the position that the technical note suggested possibilities for negotiations on a reciprocal basis, and could not be said to be biased against any group of countries. These delegations commented favourably on the historical, economic and legal analysis of the problem of access to supplies.

25. Some delegations from developing countries expressed the view that the technical note gave no consideration to the special problems of developing countries. These countries were most seriously affected by the current rise in raw material prices, and had no alternative but to increase exports so as to be able to meet the rising cost of imports. For these reasons, access to markets continued to be the most pressing problem for which they were seeking solutions

in the Multilateral Trade Negotiations (MTN). These delegations stressed that they were not prepared to accept a link between commitments on access to supplies and commitments on improved access to markets for the exports of developing countries.

26. Some delegations supported a proposal made at a previous meeting to collect information on existing export restrictions on the basis of notifications by countries imposing such measures and any other available documentation. This proposal would make it possible to obtain basic data comparable with those already collected in respect of import restrictions. In the opinion of these delegations such data were necessary to pursue the examination of the matter. Other delegations said that it was necessary to await the decision of the TNC on whether to discuss export restrictions before such data collection could go forward, irrespective of the framework within which such examination was to be conducted. Some of these delegations noted that data collection was going on in other organizations. They expressed the view that duplication of data collection should be avoided.

27. The Group agreed to refer to the TNC the question of its competence concerning export restrictions. In the meantime, countries wishing to notify specific export restrictions would do so by requesting the secretariat to include them in the Inventory of Non-Tariff Measures. The secretariat would compile these notifications, and the one already included in the Inventory, in a technical note for the information of the Trade Negotiations Committee at its next meeting.

Task 9: Continuation of the work already begun on export subsidies in respect of products other than primary commodities (Chapters 25-99)

Task 10: Continuation of the study of a possible code regarding countervailing duties (General Aspects)

28. The Group met on 29-31 May 1974 at technical level to deal with these items. Details of the discussion will be found in a Note by the Secretariat of this meeting (MTN/3B/19). Background documentation included working papers submitted by the United States, the Brazilian and the Canadian delegations (MTN/3B/W/2, 3 and 6), as well as a Note by the Secretariat (MTN/3B/10).

29. The Group discussed the subjects of subsidies and countervailing duties, their trade effects, and whether or not it would be desirable to work towards an overall solution. There was also an exchange of views on the range of products to be covered by possible solutions, as well as substantial discussion of the question of according differentiated treatment to developing countries in the fields of subsidies and countervailing duties.

Export subsidies, domestic subsidies that stimulate exports, and subsidies with import substitution effects

30. The Group exchanged views on the present GATT rules on subsidies, including the product and country coverage and the dual price criterion of the Declaration of 1960. Some delegations said that the present GATT rules had not dealt effectively with the problem of trade distorting subsidies. The Group discussed at length the advisability of drawing up lists of, respectively, export subsidy practices to be prohibited and domestic subsidies with significant trade distorting effects. A variety of views were expressed on this subject. These are contained in document MTN/3B/19.

31. Another question to which the Group addressed itself was that of competitive subsidization of exports in third country markets, and whether or not the various relevant provisions of the GATT (e.g. Article VI:6(b) and Article XXIII) were adequate for the solution of problems in this field.

Countervailing duties

32. The opinion was expressed by some delegations that solutions to the problem of countervailing duties should be sought as a matter of priority, as certain practices in this field were in contradiction with the provisions of Article VI of the GATT, which in fact had trade limiting and distorting effects and were an area of confrontation between governments. According to this opinion it was important that the principle of Article VI that no countervailing duty should be levied without prior application of a meaningful test of material injury be universally respected and that countries should not decide unilaterally whether other countries had breached their GATT obligations.

33. On the other hand, it was maintained by some other delegations that countervailing duties were only imposed to offset subsidy practices by other governments, practices which constituted no less a source of friction between governments than countervailing duties. According to this opinion, export subsidies and some domestic subsidy measures, unlike countervailing duties, had trade distorting effects. Therefore, the solution to the problem of subsidies should be accorded priority.

Possible solutions

34. Many delegations stressed that any possible solution would have to be based on the existing provisions of the GATT and that there could be no formal amendment to the provisions of the General Agreement. Several delegations also stressed that the aim of the negotiations in the area of subsidies and countervailing duties should be to add to and not to reduce the existing obligations

under the General Agreement. In this connexion some delegations emphasized that the addition of obligations should be carried out with great care, as the General Agreement was based on a delicate balance of rights and obligations.

35. Many delegations stated that a balance of rights and obligations of all contracting parties should be established. They said that for this reason an important aim should be the elimination of the Protocol of Provisional Application. They considered that the continued existence of the Protocol gave rise to the intolerable situation that some contracting parties had more obligations than others. This problem arose in particular in connexion with obligations arising under Article VI. Other delegations considered that the Protocol of Provisional Application covered a wide range of problems and was part of the original balance of the General Agreement. Its elimination would create an imbalance of rights and duties. These same delegations agreed, however, that one of the objectives of the MTN should be to develop new rules on subsidies and countervailing duties that would make it possible to eliminate exceptions under this Protocol.

36. A considerable measure of support was received for a proposal to work on a list of export subsidy practices to be prohibited. In the view of some of these delegations this ban should not be qualified by dual pricing or other conditions. It was also suggested that a list of domestic subsidies that stimulate exports might be devised but that these measures would be prohibited only when they had significant trade distorting effects.

37. Various delegations attached great importance to the elaboration of improved notification and consultation procedures under paragraph 1 of Article XVI. These delegations suggested that this might be the most appropriate way to deal with the problem of domestic subsidies having trade distorting effects rather than the drawing up of a list of prohibited practices. These delegations saw particular relevance of such improved notification and consultation procedures to the problem of countervailing duties and particularly the implementation of the material injury provisions of Article VI.

38. In order to express these ideas in concrete terms, a number of delegations expressed the view that a solution would be to bring national legislation into conformity with Article VI, thus creating an equality of rights and obligations of contracting parties in this field. They noted that such an objective could be secured by establishing a code governing the application of countervailing duties or alternatively by including an agreement that national legislation and its application should conform to Article VI. Such a code or agreement would provide for prior notification of imminent countervailing action and subsequent consultations between governments concerned, and procedures for investigations. Other possible solutions to the problem of countervailing duties mentioned by some delegations included the preparation of a Declaration or Interpretative Note expanding on particular provisions of Article VI as they apply to countervailing duties, or an agreement on new bilateral consultative procedures reinforced by multilateral surveillance provisions.

39. Other delegations reiterated that resort to subsidies, rather than the imposition of countervailing duties was the basic problem. According to this opinion, countervailing duties were only imposed in order to neutralize trade distorting effects of subsidies. Therefore, work on a countervailing code prior to the development of effective rules on subsidies was putting the cart before the horse. These delegations, however, did not rule out additional obligations relating to countervailing duties if comparable obligations were undertaken on subsidies in a comprehensive overall solution to these closely linked problems.

40. It was suggested that a possible solution to the problem of countervailing duties in cases of export subsidization to third country markets was to permit the disadvantaged exporting country to retaliate against imports of the export subsidizing country. It was stated, however, that such a solution did not take into consideration the interest of the importing country and that it opened the door to unilateral action and to the risk of dangerous escalation. The opinion was expressed therefore that any problems should be the subject of consultation.

Differentiated treatment for developing countries

41. Many delegations from developing countries supported the Brazilian proposal concerning differentiated treatment, and stated that this proposal, together with paragraph 17 of MTN/3B/10, summarized well the position of developing countries. These delegations said that in the special conditions existing in developing countries government aid was not only legitimate under Part IV of the GATT, but also necessary and indispensable. The Group agreed that the interests of developing countries must be taken fully into account throughout the negotiations. Some delegations considered that concrete proposals on the question of differentiated treatment would facilitate discussion on the subject.

42. There was a wide measure of agreement in the Group that Part IV of GATT should be implemented in so far as developing countries' interests in this field were concerned.

43. Some delegations said that any general solutions to the problems of export subsidies and countervailing duties might at the same time also meet the needs of developing countries for differentiated treatment. This was, in the view of some of these delegations, especially true if appropriate consultation procedures, a meaningful test of material injury, the attribution of discretionary power in the application of countervailing duties, and possibly some other elements, were commonly adopted. In the view of these delegations therefore a clear picture of general principles would be desirable before progress could be made on the question of differentiated measures. The Group generally felt that the discussion on general rules and on differentiated treatment should proceed in parallel.

Task 12: Beginning of the work relating to packaging and labelling (general aspects)

44. The Group took up this task at its March meeting and held two further meetings at technical level on 7-8 May and on 18-19 June 1974. Details of these discussions will be found in the Notes by the Secretariat, MTN/3B/7, paragraph 18 and in MTN, 12. Documentary notes by the Secretariat were, circulated as GCM.IND/W/114, GCM.TD/W/191 and MTN/3E/W/11.

45. There was a difference of opinion as to whether problems relating to marks of origin were covered by the Group's mandate. Many delegations insisted that this matter was within the task already assigned to the Group. Other delegations noted that there was no mention of marks of origin in task 12 and that clearly they were not within the Group's mandate. The Group agreed that this was a matter that could be referred to the Trade Negotiations Committee at its next meeting for a decision.

Clarification of the problems

46. It was pointed out that in some cases labelling was mandatory as such; in other cases it was not mandatory to label products, but if labels were used they had to conform to certain requirements (conditional labelling); in yet other cases labelling was not subject to regulations (voluntary labelling). There were two types of mandatory requirements; in the first it was mandatory to show certain information and in the second it was mandatory to present information in a certain way. Some delegations said that problems might arise in certain cases because, while in theory it might be voluntary to use a label, in practice it was mandatory to do so to overcome consumer resistance or meet consumer tastes.

47. It was pointed out that there were different types of requirement in the area of packaging. These dealt on the one hand with the material to be used with a view to its effect proper, and/or its effect on the contents and, on the other hand with the range of package sizes permitted. These might both have implications for international trade.

48. It was generally agreed that the following classification of packaging and labelling requirements was helpful:

- (a) regulations directly related to product standards, e.g. requirements that beer must contain a certain percentage of alcohol and that this must be shown on the label;
- (b) performance standards for the packaging and labelling itself, e.g. wrapping paper for butter, and water-resistant label;
- (c) requirements relating to design or the manner in which information be shown, e.g. can sizes or requirements that a specific sign be used on corrosive, inflammable or toxic products or their containers, or specific material be used for labels;
- (d) standards of fill, which could take the form either of average requirements or minimum requirements.

49. There was consensus in the Group that the problems which arose in the field of packaging were different from those in the field of labelling. Many delegations pointed out that the former were the more important ones from a trading point of view. However many delegations stressed that the problems in the field of packaging and labelling were similar in many ways to those in the field of standards. The view was widely held that potential problems were likely to be more important than those contained in the Inventory, since the present trend towards more requirements was likely to continue.

50. Many delegations said that problems sometimes arise because more severe requirements were applied to imported goods in clear violation of Article III, than to domestically produced goods. But the more usual case was that although imports were subject to the same requirements as domestically produced goods the practical effects of complying with these requirements were much more burdensome for imported goods. This constituted a barrier to trade and since the treatment accorded to imported goods was less favourable to that accorded to domestically produced goods, it was contrary to Article III:4.

51. There was a wide measure of agreement that disparities between the requirements of different countries could create obstacles to trade. Furthermore the sudden introduction of new requirements could cause shipments to be refused at the border.

52. The Group examined the particular problems which developing countries faced in this area. Some delegations from developing countries said that packaging and labelling requirements created more acute problems for their countries than for others, since it was more difficult for them to both find out what the rules were and to follow them. Some delegations from developing countries mentioned the problem of the additional cost of certain kinds of packaging and labelling, and pointed to the need to take into account the incidence of this on the export earnings of developing countries.

Work of other organizations

53. The Group examined the work of other organizations in this area with the help of a secretariat note on this subject (MTN/3B/17). They noted that such work was going on in many fields and had already led to the international harmonization of requirements in some areas and underlined that this work and harmonization should be supported and continued.

Approach to be adopted

54. There was a wide measure of agreement in the Group that packaging and labelling requirements should be harmonized internationally, that the appropriate international organizations should be used for this purpose, and that the GATT

should do what it could to support this work. There was also a wide measure of agreement that when governments were considering the adoption of new packaging and labelling requirements they should give publicity to this and take account of the comments of affected parties. Other suggestions which received varying measures of support were that the GATT secretariat should be notified of changes in requirements, that there was a need for procedures for prior consultations on mandatory packaging and labelling requirements, that a grace period should be allowed before new requirements were introduced, except where urgent reasons of safety, health, etc. made this impossible, and that in the solution a distinction might be drawn between goods sold to the consumer and other goods. The question was also raised as to whether it would be useful to draw up an inventory of references to national practices, provisions and legislation in the field of packaging and labelling, setting out a summary description of products or areas covered by the provision, whether the provision conforms to international standards, where these exist, or to provisions of other countries and the services which are responsible for the drawing up and administration of the provision.

55. Delegations from developing countries stressed that any solution should provide for:

- (a) the simplification, harmonization and flexibility of enforcement of packaging and labelling requirements;
- (b) closer co-operation among governments and international organizations in this area;
- (c) wide publicity for these regulations;
- (d) technical assistance for developing countries; and
- (e) the need for not raising the cost of exports from developing countries due to excessive requirements in the field of packaging and labelling.

56. Many delegations said that the proposed GATT instrument for preventing technical barriers to trade (the draft Code, COM.IND/W/108 and Corr.1) already contained provisions to deal with most of the issues raised in paragraphs 11 and 12. In fact, several delegations stressed that the intention of the draft Code was to cover the field of packaging and labelling and that, by and large, it did cover the problems which had been identified. It was questioned, however, whether the draft Code dealt with every problem in this field, and it was suggested that delegations which considered that certain problems were not covered should give details of these. This would permit a checklist of outstanding problems to be drawn up which would be useful when the draft Code was

taken up again at an appropriate stage of the negotiations. It was further suggested that small appropriate amendments to the draft Code might solve the problems in this field. For other delegations, it would be premature to decide at the present stage among a number of possible approaches that could be adopted in the course of the negotiations. For these delegations, a number of substantive provisions in the draft Code could be applicable to the solution of problems that have been identified, in particular to those concerning the application of internationally harmonized rules, the publication of new provisions, dissemination of information, institution of a period of grace before new provisions enter into force, consultation in case of difficulty. Some of these delegations considered that the establishment of an arbitration body would also be useful. In addition, those delegations considered that it might be appropriate to solve individually any specific problems that were identified (e.g. by product group).

Task 14: Continuation of the Study relating to Import Documentation (Chapters 1-99)

57. The Group took up this task at its March meeting and held two meetings at technical level on this subject, on 9-10 May and on 20-21 June 1974. Details of the discussion are contained in Notes by the secretariat (MTN/3B/7 paragraphs 19-21 and MTN/3B/11).

58. There was consensus in the Group that an essential goal under this task was the simplification and harmonization of import documents and the data required for customs clearance purposes. Possible approaches were suggested; one would be the establishment of guidelines or sets of principles; another one would be the encouragement of accelerated work on documentation in other international organizations such as the CCC and the ECE and a third one the holding of bilateral negotiations on particular measures existing in this field. It was pointed out that these approaches were not mutually exclusive and might be combined.

59. In connexion with the establishment of guidelines, a proposal was made that future work should continue in two steps, namely by identifying precisely the nature of the trade problems involved and by examining areas where solutions should be sought. In this connexion it was proposed that as a first step the problems could be identified under three categories: those arising from (1) the nature or the form of the documentation (2) the information required in it and (3) penalties or procedures related to documentation requirements. It was also stressed that an essential aim, inter alia, under this task was the elimination of excessive severity of penalties both for failure to give correct replies on a wide range of questions and for inexactitude which might have crept into the documentation forms. There was disagreement, however, as to whether penalties fell within the Group's task.

60. The Group agreed that at this stage there was a need to concentrate on the kind of information required by the customs authorities rather than the nature and the form of the documents in which this information might appear. The hope was expressed that the ongoing work in the Economic Commission for Europe and the Customs Co-operation Council be accelerated. At the same time the work of these organizations was highly appreciated and with regard to the ECE, the hope was expressed that more countries would support its work and would be able to adopt the ECE lay-out key. A proposal was also made that it would be desirable to base future work on paragraph 21 of the draft Annex concerning clearance for Home Use to the GCC's International Convention on the Simplification and Harmonization of Customs Procedures and the ECE Aligned Invoice Requirements (MTN/3B/13 page 7 and MTN/3B/14 pages 2 to 4 respectively).

61. The Group discussed a proposal that customs invoices should be abolished and that commercial invoices and customs entry forms should be the basis for customs clearance. In this connexion, a proposal received a wide measure of support that special declarations concerning the correctness of the invoice and the origin of the goods should be required only in cases where they were strictly indispensable; in such cases the text of these declarations should be harmonized. Some delegations said in this respect that information requirements concerning valuation and origin in customs invoices often facilitated the flow of goods. If this information could be provided in commercial invoices this might obviate the need for special customs invoices. However, it was stressed that it seemed unlikely that the numerous individual commercial entities would be able to agree on a common commercial invoice. The opinion was also expressed that the adoption of the various Brussels Conventions, the implementation of the Kyoto Convention, the adoption of the contents of the GCC Draft Annex on the Declaration of Goods for Home Use and of the ECE Commercial Invoice should make it possible to dispense with customs invoices in countries which used them. Some delegations also said that as long as the customs valuation systems necessitated particular data which were not normally included in a commercial invoice, the countries requiring such data should try to harmonize their customs invoices so that exporters would use the same form when exporting to at least most of these countries.

62. There was general agreement that to a great extent problems in connexion with information required in import documentation resulted from the information needed to administer the requirements of underlying legislation and policy such as valuation for duty. Solutions relating to these requirements should go some way towards solving related import documentation problems. In this regard the Group exchanged views on a proposal according to which the adoption of the Brussels Definition of Value would contribute to the simplification of customs documentation requirements. Mention was made of the fact that under a recent proposal adopted by the Customs Co-operation Council, the acceptance of the Brussels Definition had been made easier for those countries not yet applying it.

However, it was underlined that the Brussels Definition was not necessarily the ideal one and that at any rate under this definition, no standardized documentation existed.

63. It was proposed that the Group examine the possibility of formulating general principles as regards the type of information required for imported goods. This could lead to the establishment of two lists; firstly, a harmonized positive list of items, and secondly a negative list of items which should in no case be included as a permanent feature of import documentation requirements. Clearly, there would remain an intermediate category of items falling outside the two lists but in cases where such information would be required, countries concerned should offer justification for them and for these a consultation procedure could be established upon request to control any possible harmful trade effects. The positive list would be based on the work already carried out in other international organizations. There was general agreement that these ideas should be retained for further reflection and consideration.

64. Delegations from developing countries stressed that priority attention should be given to the elaboration of guidelines for the simplification and harmonization of the requirements for import documentation which create special difficulties for developing countries because of their inability to comply with these requirements. They also stated that developed countries should show greater flexibility in the application of documentation requirements in respect to imports from the developing countries and that technical assistance would be required in this field. This would enable the latter to cope with the increasingly difficult regulations.

65. The attention of the Group was drawn to the provisions of Article VIII:1 and the Recommendation of the CONTRACTING PARTIES adopted in 1952 under which all consular fees and formalities should be abolished. The Group noted with satisfaction that the 1952 Recommendation had been moderately successful in that a number of countries had abolished, or were to abolish, these requirements. The Group also noted that several countries still maintained these restrictions and that a considerable number of the notifications in the Inventory dealt with consular formalities and fees. It was for this reason that a proposal for an interpretative note to Article VIII had been made which would state that consular formalities be abolished by a date to be agreed upon. As against this, it was pointed out that the problem of consular formalities was a relatively minor one and that it was legitimate for countries to request payment for the actual costs of services rendered.