

GENERAL AGREEMENT ON TARIFFS AND TRADE

CONFIDENTIAL

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Special Distribution

Multilateral Trade Negotiations

NOTE BY THE SECRETARIAT

This paper is being circulated by the secretariat on its own responsibility in order to try to facilitate the negotiations on this subject.

FRAMEWORK: DRAFT ENABLING CLAUSE

Draft text

1. The provisions of the General Agreement shall not prevent a contracting party from according the differential and more favourable treatment to less-developed countries¹ /with respect to tariffs and non-tariff measures/ /in any aspect of their trade/ described in paragraph 2 without according such treatment to other contracting parties.
2. The provisions of paragraph 1 of this Article apply to the following:
 - (a) non-reciprocal and non-discriminatory preferential tariff treatment accorded by developed contracting parties to products of less-developed countries in accordance with the Generalized System of Preferences;
 - (b) differential and more favourable treatment accorded by developed contracting parties to less-developed countries with respect to non-tariff measures consistently with the provisions of arrangements multilaterally negotiated under the auspices of the CONTRACTING PARTIES or applied to less-developed contracting parties in general, in accordance with criteria or conditions prescribed on this behalf by the CONTRACTING PARTIES;
 - (c) regional or global arrangements entered into by less-developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions prescribed by the CONTRACTING PARTIES, for the mutual reduction or elimination of non-tariff measures, on products imported from one another;

¹The words "less-developed countries" as used in this text are to be understood to refer also to less-developed territories.

[(d) any other arrangement providing for differential and more favourable treatment for less-developed countries which is consistent with the principles and objectives of this Agreement and which is submitted to the CONTRACTING PARTIES and not disapproved by them.]

3. (a) Any differential and more favourable treatment provided under this Article shall be designed to facilitate the conduct of the trade of less-developed countries and not to raise barriers to the trade of contracting parties which do not benefit from such treatment;

(b) Such differential and more favourable treatment shall not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis.

4. (a) The CONTRACTING PARTIES recognize that differential and more favourable treatment may cease to constitute an appropriate means of facilitating the trade of less-developed contracting parties as the economies of these contracting parties become capable of supporting higher standards of living and their financial and trade situation improves. They agree, therefore, that in these circumstances the treatment provided for in paragraph 2(a) and, where relevant, paragraph 2(b) above, may be modified or withdrawn, generally or in respect of particular contracting parties, in accordance with criteria and procedures provided for under this Article, including paragraph 7, due account being taken of the need to avoid causing undue difficulties for the trade of contracting parties benefiting from such treatment;

(b) Any contracting party taking action pursuant to paragraph 4(a) above shall afford to any contracting party or contracting parties concerned full and prompt opportunity for consultations with respect to any matter or difficulty which may arise as a result of the modification or withdrawal of differential and more favourable treatment. Where such modification or withdrawal is made with respect to the whole or part of the trade of one or more contracting parties and not generally, these consultations shall bear on all the factors relating to the financial, trade and development situation of the contracting party or parties concerned and on their need for the additional facilities provided by the differential and more favourable treatment.

5. Should the results of the consultations provided for in the preceding paragraph prove unsatisfactory, any interested contracting party may refer the matter or difficulty to the CONTRACTING PARTIES which will examine it promptly in the light of all relevant factors including any supplementary decisions taken in pursuance of paragraph 7 of this Article and will formulate any recommendations that they judge appropriate.

6. Any contracting party taking action pursuant to paragraph 1 above shall:

(a) notify the CONTRACTING PARTIES and furnish them with all the information they may deem appropriate relating to such action;

(b) afford adequate opportunity for consultations at the request of any other contracting party which considers that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of such action. Should such consultations prove unsatisfactory, the matter may be brought before the CONTRACTING PARTIES by the contracting parties concerned in accordance with the provisions of Article XXIII.

7. The CONTRACTING PARTIES may provide for review of the arrangements introduced under paragraph 2 of this Article. They may also prescribe any criteria, supplementary conditions or procedures which they judge appropriate to ensure the adequate safeguard of the interests of all the contracting parties concerned.