

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NTM/W/178

17 July 1978

Special Distribution

Multilateral Trade Negotiations

Group "Non-Tariff Measures"

Sub-Group "Government Procurement"

SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES

Note from the Chairman

Delegations will recall that at the June meeting of the Sub-Group, there was a wide-ranging exchange of views on the question of special and differential treatment for developing countries in the field of government procurement (MTN/NTM/43, paragraph 4). The hope was expressed that it would be possible to work quickly towards a single text on this matter.

With the objective of facilitating this task, the Chairman has put together in the following paragraphs, a possible approach to special and differential treatment for developing countries in the field of government procurement, having regard to the points raised at the last meeting of the Sub-Group and subsequent consultations with delegations which had generally taken part in those discussions.

The draft, of course, does not prejudice the negotiating position of any delegation with respect to any matter being taken up in the area of government procurement or in other areas of the MTN.

PART III

Special and Differential Treatment for Developing Countries

1. Parties to this Agreement shall, in the implementation and administration of this Agreement, through the provisions set out in the paragraphs below, duly take into account the development, financial and trade needs of developing countries, in particular their need to:

- (a) safeguard their balance-of-payments position and ensure a level of reserves adequate for the implementation of programmes of economic development;
- (b) promote the establishment or development of domestic industries including the development of small scale and cottage industries in rural or backward areas; and economic development of other sectors of the economy;
- (c) assist industrial units wholly or substantially dependent on government procurement;
- (d) encourage their economic development through regional or global arrangements among developing countries presented to the CONTRACTING PARTIES to GATT and not disapproved by them¹.

2. Consistently with the provisions of this Agreement, parties to it shall, in the preparation and application of laws, regulations and procedures affecting government procurement, facilitate the development of exports from developing countries.

¹Or covered by dispositions in this connexion which might be adopted by the CONTRACTING PARTIES.

3. With a view to ensuring that developing countries are able to adhere to this Agreement on terms consistent with their development, financial and trade needs, the objectives listed in paragraph 1(a)-(d) above shall be duly taken into account in the course of the negotiations with respect to the offers by developing countries concerning procurement entities to be covered by the provisions of this Agreement.

4. Developing countries may negotiate with other participants mutually acceptable exclusions from the rules on national treatment with respect to certain entities or products that are included in their schedules of entities for such period of time as may be agreed upon having regard to the particular circumstance of each case. In such negotiations, the considerations mentioned in paragraph 1(a)-(c) above shall be duly taken into account. Developing countries participating in regional or global arrangements among developing countries referred to in paragraph 1(d) above, may also negotiate exceptions to their schedules for such period of time as may be agreed upon having regard to the particular circumstance of each case, taking into account, inter alia, the provisions on government procurement provided for in the regional or global arrangements concerned and taking into account, in particular, products which may be subject to common industrial development programmes.

5. After entry into force of this Agreement, developing countries parties to this Agreement may, in exceptional circumstances, modify their schedules of entities in accordance with the provisions for modification of schedules

contained in this Agreement having regard to their development, financial and trade needs, or may request the Committee to grant exclusions from the rules on national treatment for certain entities or products that are included in their schedules of entities for such period of time as may be agreed upon having regard to the particular circumstance of each case and taking duly into account the provisions of paragraph 1(a)-(c) above.

Developing countries parties to this Agreement may also request, after entry into force of this Agreement, the Committee to grant exclusions for certain entities or products that are included in their schedules in the light of their participation in regional or global arrangements among developing countries for such periods of time as may be agreed upon having regard to the particular circumstance of each case and taking duly into account the provisions of paragraph 1(d) above. Each request to the Committee by a developing country party relating to modification of a schedule shall be accompanied by documentation relevant to the request and by such other information as may be useful for consideration of the matter.

6. Paragraphs 4 and 5 above shall apply mutatis mutandis to developing countries acceding to this Agreement after its entry into force.

7. With regard to tenders submitted by suppliers in developing countries, in comparing bids for the purpose of considering the award of contracts, developed country parties to this Agreement shall apply customs duties in accordance with the provisions of their Generalized Systems of Preferences.

8. On the basis of reports to be submitted by the parties to this Agreement, the Committee shall review periodically the operation and effectiveness of this Part having regard to the objectives of economic development for developing countries. In the light of these reviews and of improvements in the economic, financial and trade situation of developing countries parties to this Agreement, such parties shall give consideration to the possibility of enlarging their schedules of entities in the course of further rounds of negotiations which shall be undertaken /may be sponsored/ by the participants not later than the end of the fifth year from the entry into force of this Agreement and periodically thereafter.

Technical assistance for developing signatory countries

9. Developed country parties to this Agreement shall endeavour, upon request, to provide to developing country parties all possible technical assistance in resolving their problems in the field of government procurement.

10. This assistance shall relate, inter alia, to:

- the solution of particular technical problems relating to the award of a specific contract;
- any other problem which the party making the request and another party agree to deal with in the context of this assistance.

Information centre

11. Each developed country party to this Agreement shall have in its territory an "information centre" capable of meeting itself, or by indicating the name and address of the authority in a position to do so, all reasonable

requests from developing country parties and from any least-developed country for information relating to the matters listed in paragraphs 12-14 below. A group of parties to this Agreement may set up a joint information centre.

12. Information centres shall have at their disposal the following information concerning the party or parties which they cover:

- the rules, procedures and practices relating to government procurement;
- insofar as is possible, the nature and volume of supplies and products purchased or to be purchased by the entities.

13. Information centres shall keep up to date the addresses and other information relating to the entities subject to the provisions of this Agreement in the territories of the party or parties which they cover.

14. Insofar as is possible, information centres shall also have at their disposal, addresses and other information relating to the bodies responsible for international trade in the territories of the party or parties which they cover.

Special treatment for least-developed countries

15. Special treatment may be granted to least-developed countries parties to this Agreement and to the suppliers in those countries, in the context of any general or specific measures in favour of the developing countries parties to this Agreement. Signatories may also grant the benefits of this Agreement to suppliers in least-developed non-signatory countries with respect to products originating in those countries. Developments under this provision may be reviewed by the Committee in the course of the reviews provided for in this Agreement.