

# GENERAL AGREEMENT ON TARIFFS AND TRADE

Multilateral Trade Negotiations  
Group "Framework"

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## NORDIC STATEMENT MADE ON 30 JUNE 1977

Speaking on behalf of the Nordic countries, Finland, Iceland, Norway and Sweden, I would like first of all to stress the importance we attach to the activities of this Group and express satisfaction with the businesslike start it has made.

The views of the Nordic countries with respect to each of the five points listed in the work programme have been set out in a paper which is annexed. Needless to say, these views are neither exhaustive nor final. They are intended as a contribution to the deliberations in our Group. It may be helpful if I give a brief account of some general considerations forming the background to the specific views in the Nordic papers.

It is our view that GATT has over the years offered a major contribution to the promotion of economic growth and development, fostering through its principles, rules and activities increasing and freer trade among States. The Nordic countries feel for their part that the interests of world trade can best be served through the adherence to, and observance of those rules and principles and through a continuation of the activities of GATT, to develop them further and improve the procedural framework. These rules and procedures have taken much effort and perseverance to elaborate over the years in agreement among the trading partners. They should not lightly be thrown overboard.

There is, however, reason to assess carefully the need for adaptations in the present GATT trading system in order to meet the requirements of the developing countries.

It is against this background that the Nordic countries attach great importance to the references in the Tokyo Declaration concerning the improvements in the international framework for the conduct of world trade which it might be desirable to undertake during the MTN's. We strongly believe that willingness to adopt the rules and procedures in GATT in the light of the evolution of international economic relations is required if we want to maintain and enhance the rôle of GATT as a key instrument of world trade.

This general philosophy will determine the attitude of the Nordic countries in this Group, and, judging from statements made during our last meeting that point of departure seems generally to be common ground for most delegations. The United States representative has referred to a method of work excluding wholesale reformulation of GATT principles, and Brazil has said that a concerted effort should be made to overhaul and bring up to date certain provisions of the GATT. Several other delegations have expressed similar ideas. We believe this augurs well for our work, and that we can proceed on this basis in a pragmatic and constructive spirit. Let me in this connexion voice our agreement with those who advocate an open attitude to the work ahead of us, and warn against adopting firm positions on each issue already from the start. What we want here is not changes for changes' own sake, but, in the words of Ambassador Maciel, to give GATT a more active rôle in promoting the expansion of trade between developed and developing countries, allowing the latter a greater participation in the trading system.

With these introductory remarks, I may refer to the document we have circulated as regards Nordic views on the matters discussed in this Group.

ANNEX

1. The legal framework for differential and more favourable treatment for developing countries in relation to GATT provisions, in particular the MFN clause

We will recall first of all that this is not the first time GATT takes up the legal framework and the MFN clause for discussion. Attempts have been made earlier to amend Article I of the General Agreement in order to introduce into it preferential treatment as a principle in trading relations between developed and developing countries. It was not found useful by everybody at that time to introduce such basic amendments, and, although it can be said that the situation has changed since then, it would seem that the aim of delegations in the MTN's is not to do away with most-favoured-nation treatment as a basic principle in international trade. Indeed, judging from statements made by other delegations, such as Brazil and the United States, the intention is neither to propose to scrap the MFN clause, nor to distort it "beyond all recognition", or "to relegate the MFN clause to some residual rôle".

As the Nordic countries see it, therefore, attempting now to amend in any basic way the MFN clause itself would seem to have to give rise to major difficulties. A more fruitful course of action would be to actively seek more solid foundations for differential and more favourable treatment for the developing countries in the future, in each area under discussion in the MTN's.

We have an open attitude as to how this aim should be achieved.

We should look into GATT in the light of problems pointed to by developing countries. The Nordic countries consider it essential to make an attempt towards an improvement of those GATT provisions which, after examination, are found not to be entirely adequate to the existing realities of world trade. Several speakers both from developed and less developed countries have made the point, which is fully shared by the Nordic delegations, that ways and means should be sought to better integrate, or seek a fuller participation of developing countries in the world trading system. In addition to taking into account the needs of less developed countries in new GATT rules and provisions, one possible approach would be to provide special and differential treatment for less developed countries in the context of various codes and arrangements currently being discussed in the MTN's allowing for the gradual assumption of the various obligations by the developing countries, consistent with the stage of their economic development.

In the statements from various developing countries much has been said about the need of legalizing the GSP and of making this system more binding and secure. We sympathize with the reasoning lying behind these suggestions. We do not think, however, that it is feasible to get a unanimous agreement on a modification of the present legal status of the GSP. The Nordic countries, for their part, are not prepared to accept binding of preferences or margins of preferences in GATT. This being said, we are prepared to discuss the introduction of a procedure linked to the GATT waiver from 1971 which would lead to a more regular and thorough review in GATT of the implementation and development of the GSP. Such procedure should, however, not duplicate reviews undertaken elsewhere. We recognize that this idea also has been raised by India.

These views are also in part relevant to point 4 of the work programme.

2. Safeguard action for balance-of-payments and economic development purposes

A. Safeguard action for balance-of-payments purposes

The GATT Consultative Group of Eighteen has discussed extensively safeguard action for balance-of-payments purposes. In the course of that discussion several interesting suggestions have been advanced, notably by the United States and Argentina. The United States suggestions, now brought to the framework group, as well as those of Brazil, provide a useful basis for our deliberations in this group.

The United States has proposed that the developed countries might consider the adoption of a declaration under which they would not impose trade measures of any kind for balance-of-payments reasons, exploring conditions under which departures from this basic obligation might be required. We would be interested to see more specific ideas from the United States on this point, but our first reaction is to ask whether any such new declaration is necessary. It would seem to us that the GATT rules as well as other existing international obligations in this area cover the same ideas i.e., that trade measures for balance-of-payments reasons is a last resort of a temporary nature, hence that new instruments may be superfluous. In our view the problem really lies in lack of willingness to abide by the existing rules. This objective could perhaps be reached through procedural improvements. The Nordic countries therefore support the suggestions by the United States and Brazil to strengthen existing GATT procedures to ensure more effective and constructive international review of trade measures taken for balance-of-payments purposes. One problem is that there exists a variety of

trade measures, while the GATT balance-of-payments provisions only provide for quantitative restrictions. We would be interested in examining the so-called "sophisticated measures" with a view to establishing rules concerning such measures.

Another question of concern has been the fact that different procedures have been followed in the GATT review of trade measures taken for balance-of-payments reasons and that the treatment has varied in practice. Sometimes measures have not been notified to the GATT at all, and sometimes no GATT provisions have been invoked for restrictions taken for balance-of-payments reasons. The GATT review of similar measures has taken place sometimes in the framework of the Balance-of-Payments Committee, other times in an ad hoc working party. We would like to stress the necessity for uniform procedures to be followed for all developed countries, and increased discipline in this field of the GATT.

We would support the recommendation that any contracting party which imposes any trade measure for balance-of-payments purposes should immediately notify such action to the Contracting Parties. We would furthermore favour a recommendation to the effect that, if a contracting party fails to notify its measures in a reasonable time, any other contracting party may notify the measures concerned to the Contracting Parties.

The Nordic countries would likewise support the United States recommendation that the Balance-of-Payments Committee should review all trade measures taken for balance-of-payments reasons, fully appraise them in terms of their conformity with the GATT, including their effect on the trade of the developing countries. We wish particularly to stress the importance of the last sentence of the proposed recommendation, namely that in the review of the measures referred to above, the Committee should pay due attention to limitations that might exist with respect to the flexibility of the country concerned in adjusting to disturbances in the international economy. This particular recommendation would also cover the concerns of small industrialized countries which often face problems similar to those of the developing countries in this field.

The Nordic countries do not, however, find it possible to support the idea in the United States proposal about examining alternative trade and adjustment measures. If this kind of approach were adopted it would in effect

broaden the scope of GATT into the sphere of giving general economic policy advice and recommendations to its contracting parties. The Nordic countries feel that this is not the direction in which GATT should be developed.

The Nordic countries could, however, consider the recommendations that the GATT secretariat prepare objective studies on the effect of measures taken, particularly on the trade of the developing countries, and that in evaluating actions taken by developing countries the Balance-of-Payments Committee should take account of their special needs.

The recommendation that the Balance-of-Payments Committee ought to examine the implications of trade restrictions imposed by other countries that may have precipitated the specific action in question seems to us to be superfluous in the light of the provisions in Article XII:4(e) of GATT. The purpose of this paragraph is to ensure that all external factors such as changes in the terms of trade, quantitative restrictions, excessive tariffs and subsidies, which may be contributing to the balance-of-payments difficulties of the contracting party applying restrictions, will be fully taken into account. As can be read from the notes to this paragraph, it does, however, not add any new criteria for the imposition or maintenance of quantitative restrictions for balance-of-payments reasons.

The Nordic countries would favour the two final United States suggested recommendations on reporting and enhancing the surveillance rôle of the Balance-of-Payments Committee.

The Nordic countries believe that in connexion with balance-of-payments measures, there would likewise be scope for consideration of the particular interests of developing countries. We are, for our part, when implementing such measures, prepared to take into account the need to seek to avoid imposing restrictions that would to a larger extent than necessary adversely affect the interests of the developing countries. However, we would find it difficult to accept what the Brazilian proposal seems to imply, namely an automatic exemption of developing countries from measures taken for balance-of-payments reasons. We would, nevertheless, be prepared to discuss the possibility of temporary deviations from the principle of non-discrimination under certain circumstances when applying import restrictions under Article XII.

In the contribution by Brazil it is, *inter alia*, stated that current GATT-norms do not reflect the fact that the balance-of-payments difficulties faced by developing countries are mostly of a structural nature. This statement may not entirely reflect the actual situation. We would here like to refer to the discussions held in 1955 in GATT (BISD, Third Supplement, page 183).

According to point 5(a) Brazil proposes that the present simplified procedures for balance-of-payments consultations with developing countries should be adopted as a rule unless otherwise requested by the consulting country. The Nordic countries would like to examine in what respects the present procedures have proved to be inadequate for the developing countries. We believe that a full consultation could be beneficial to both the consulting and other contracting parties. For instance, a full consultation would seem necessary if one wants to meet the purpose of the Brazilian idea that GATT, when examining a balance-of-payment action taken by a developing country, should have a more active and positive rôle and seek means of helping that developing country to overcome its difficulties.

B. Safeguard measures for economic development purposes

Article XVIII:B covering safeguard actions for economic development purposes has now been in existence for more than twenty years. We acknowledge that little use has been made of this Article and that it provides a rather narrow legal basis for action. The reasons for this should in our view be thoroughly analyzed against the background of the Brazilian proposals.

The Nordic countries would like to join in an examination of the provisions of Article XVIII:B with a view to finding solutions to the problems of developing countries as they are now perceived. Specifically, we should take up Brazil's suggestion to create a more solid foundation for actions by developing countries in this respect. The suggestion on the periodical recomposition of schedules of concessions by developing countries, in the light of structural changes in their economies and of other aspects of their development process, merits close study and attention.

Lastly, as regards the possibility of risk of retaliatory action by developed countries, we, like the EEC, question the need for any new rules since there do not seem to have been any cases of this kind.

3. Consultations, dispute settlement and surveillance procedures under Articles XXII and XXIII

In this area the GATT secretariat has already provided us with some very useful background documents in connexion with the work of other groups. We are referring to documents MIN/SG/W/7 and MIN/SG/W/8 as well as CG.18/W/15. The analysis of past practices of the GATT in the area of consultation, dispute settlement and surveillance

procedures clearly indicates that the emphasis has been on the resolution of disputes through conciliation procedures rather than adjudication. We believe that this emphasis has been essential to the good functioning of GATT in the past and should be maintained. Articles XXII and XXIII of the General Agreement are of course the basis for this framework. Certain problems in this area have, however, arisen both in a general sense and in regard to the relationship between developed and developing countries. We therefore think it useful to address these problems in the context of the framework group.

It has been pointed out that there are also under GATT other structures for dispute settlement and surveillance in specialized institutions. Furthermore, additional arrangements of this nature may be envisaged as a result of the MTN in other areas. While recognizing the link between various such specialized institutions and the general framework under Articles XXII and XXIII it is our view that it may not be fruitful to seek to press for uniform procedures in the form of a centralization of the dispute settlement process in GATT. In fact each legal instrument under GATT will differ with regard to the nature of its substantive provisions and it would seem to follow that the surveillance and dispute settlement machinery could take somewhat varying forms.

#### Notification

It has been suggested by the United States delegation that a provision should be negotiated under which all contracting parties would notify restrictive or potentially restrictive trade measures to be taken or, where prior notification should prove impossible, measures that have been taken. The Nordic countries recognize the interest in obtaining in GATT as much relevant information as possible regarding various trade restrictive measures. However, it must be admitted that already existing standing notification procedures such as those relating to subsidies, State trading, border tax adjustments etc., have not been implemented to the extent necessary to provide all contracting parties with the desired information. Our view is therefore that we should rather attempt to ensure a better implementation of these obligations, but not seek to enlarge the obligation to notify measures in a more general way. It will probably prove more useful to build on a mechanism of reversed notifications allowing third countries that consider themselves affected by a particular measure to take the initiative to request information from other contracting parties bilaterally or, if need be, multilaterally.

The proposal by Brazil concerning general prior notification of all government decisions which might adversely affect the trade interests of developing countries seems difficult to implement in practice since history tends to show that governments react quite differently to general obligations to notify on their own initiative. We believe that the concern of developing countries in this respect can largely be met more efficiently by providing the Director-General of GATT with a clear mandate to seek relevant information from individual contracting parties in cases in point.

### Consultation and dispute settlement

The panel procedure has proved useful in resolving many specific disputes under GATT. Nevertheless, certain problems have been identified and suggestions for improvements made. We are prepared to explore further possibilities of improvements such as securing the prompt appointment of panels and ways expediting as far as possible the operation of GATT panels.

With regard to the relationship between developing and developed countries the 1966 decision of the Contracting Parties on procedures for developing countries already provides for a rôle for the Director-General offering his good offices as well as time-limits for consultations etc. It would seem useful to explore the reasons why this procedure has not been formally invoked as well as what measures could be taken to ensure its more effective implementation.

### Surveillance

The Nordic countries recognize that the review of actions, brought to the attention of contracting parties through the GATT Council of ad hoc groups, is carried out in a somewhat irregular and sometimes unsatisfactory manner. We are, therefore, willing to consider suggestions for improved provisions for regular surveillance of measures in areas where specific surveillance procedures are not already in existence. Provisions for such continued surveillance should in our view be elaborated within existing institutions.

4. For the purpose of future trade negotiations: applicability of the principle of reciprocity in trade relations between developed and developing countries and fuller participation of the developing countries in an improved framework of rights and obligations under the GATT that takes into account their development needs

There are valid reasons in many cases for not demanding reciprocity from developing countries for concessions made by developed countries. At the same time it is clear that in other cases developing countries can make contributions to the development of trade relations which are of mutual interest.

These considerations have prompted our full support for the formulations both in Article XXXVI and point 5 of the Tokyo Declaration.

It is often stated that these formulations are too vague and that they should be of a more binding character. We doubt that the reciprocity rules can be made much clearer.

If new formulations shall be attempted we have no major problems with the formula of Brazil that developed countries shall not seek, neither shall developing countries be required to make, equivalent concessions in trade negotiations. In this context we would have to take into account the differing conditions among the developing countries. Furthermore, we would have to bear in mind that the assessment of reciprocity will be more complicated when the results of the negotiations take the form of codes, interpretative notes or guidelines rather than traditional liberalization measures. It follows that in such cases a more precise general definition of the scope of contributions by developing countries will be even more difficult to arrive at.

We understand the point made by Brazil that the concept of trade coverage may have some shortcomings in particular cases. While not denying this, we also feel that in practice, problems in this connexion have largely found their solution.

Brazil has in its paper also suggested some general provisions which should apply to any trade negotiations involving developed and developing countries. Some of these points are admittedly interesting, but we find it difficult to give any comments on most of these principles without further knowledge of specifically to what trade measures or countries these principles are intended to apply.

Some of the views expressed above concerning the m.f.n. principle are relevant to this point of our work programme as well, since it also takes up the question of fuller participation in the framework of rights and obligations. In addition, provision should be sought allowing for the gradual assumption of obligations by less-developed countries where appropriate.

5. An examination of existing GATT rules concerning the application of restrictions at the border that affect exports, taking into account the development needs of developing countries

The Nordic countries recognize the concern regarding developments in this area that is felt in several countries and the possible inadequacy of existing rules. We are therefore prepared to participate in an examination of existing GATT provisions with a view to, where necessary, seeking to negotiate improvements in the multi-lateral discipline in this field.

A pragmatic and gradual approach to this problem should in our view deal with a multilateral framework, in particular with regard to procedural rules. We should assure that such rules - whether already in existence or to be agreed - accommodate the development needs of developing countries.

In our view a review of existing GATT provisions should be followed by an examination of possible rules regarding notification and consultation concerning export restrictions.