

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Consultative Group of Eighteen  
Twenty-eighth Meeting  
8-9 July 1985

NOTE ON THE TWENTY-EIGHTH MEETING OF  
THE CONSULTATIVE GROUP OF EIGHTEEN

1. The Consultative Group of Eighteen held its twenty-eighth meeting on 8-9 July 1985. The list of participants was circulated in CG.18/INF/29.
2. It was agreed that the agenda should be confined to the inter-relationship between the implementation of the GATT Work Programme and the proposal of a new round of trade negotiations, the subject discussed at the Group's meetings of February and May 1985. There was no other business.
3. Introducing the discussion, the Chairman said that the earlier meetings had revealed substantial support for the proposal that preparations should be started with a view to a new round of trade negotiations. There was in fact general agreement that negotiations in some form were urgently needed, but not yet on the subject matter and modalities of such negotiations. A proposal had been made that a meeting of senior officials should be convened before the end of the summer to discuss, and if possible reach consensus on these matters, and this would no doubt be one of the elements for discussion at the present meeting. The same issues were also on the agenda of the GATT Council.
4. Since the Group's May meeting a number of countries had announced their intention to submit written statements of their present views on the new round proposal. Four such statements had already been received and others were imminent; these too would be a useful input to the Group's discussion.
5. During the meeting the Group took note of the following written statements on the subject of the new round, all of which have been distributed to contracting parties, with the document numbers indicated: from the Nordic countries (L/5827), from New Zealand (L/5831), from Japan (L/5833), from Canada (L/5834 and L/5836), from the European Economic Community (L/5835), from Switzerland (L/5837) and from Australia (L/5842). In addition, the United States submitted a communication on trade in services, which is distributed as L/5838; it was announced that a statement by the US on the new round as a whole would be submitted shortly.
6. Each of the written statements was introduced to the Group by the member representing the country in question, and subsequently discussed. The main points made in discussion are recorded below.

7. In the discussion of the paper submitted by the Nordic countries (L/5827) it was suggested that the objectives for the new round, as envisaged in the paper, differed from those of the Tokyo Round and other earlier rounds in saying very little about the interests of developing countries: the Tokyo Declaration, for example, had specified the attainment of additional benefits for developing countries as one of the objectives of negotiations. In response it was said that the Nordic countries had no intention of departing from the objectives or the achievements of earlier rounds and indeed wanted to preserve them by strengthening the trading system for the benefit of all contracting parties, including developing countries. The paper called for particular attention to the interests of developing countries, especially the least developed, in improved access to markets. In general, it sought to strike a proper balance between the interests of countries at different stages of development.

8. With respect to the paper submitted by New Zealand (L/5831), it was said that the emphasis on rolling back protectionist measures, as opposed to merely resisting protectionist threats or pressures, was welcome. However, the proposal in paragraph 9(d) regarding non-tariff measures, including grey area measures, said nothing about their elimination; it rather suggested that they should be made non-discriminatory, thus extending to all contracting parties the damage caused by discriminatory illegal measures. It was accepted that this point was valid, and that the paper should call for the elimination or phasing out of restrictions.

9. In reply to a question about the paper's reference to the needs of developing countries (paragraph 7) it was made clear that trade liberalisation by developing countries was not regarded as a pre-condition for special and differential treatment. However, in some areas developing countries had comparative advantage and would not need preferential treatment if GATT rules were properly applied. It would not be expected, for example, that New Zealand should acquiesce in a derogation for competitive developing countries from the export subsidy rules in areas of fundamental importance to its own agricultural exporters.

10. It was also agreed that the links between trade and financial flows (paragraph 9(g)) were very real, and not merely conceptual; this did not imply, however, that the progress and results of a new round should be conditional on progress in resolving monetary problems.

11. With reference to paragraph 4(d) of the New Zealand paper, it was made clear that the last phrase was intended to cover services, inter alia.

12. In amplification of the Japanese submission (L/5833) it was stated that the concern of developing countries that the standstill and roll-back commitment should be made effective was shared by industrialised countries, as had been made clear in declarations at the Bonn Summit and elsewhere. Japan had also given practical form

to this concern in its programme of action on tariffs and non-tariff measures which was described in part in L/5833. In implementation of the programme, the Government had announced on 9 July further improvements in the areas of standards and certification and government procurement. Further measures would be announced by the end of July. Japan accepted that improving the economic environment for developing countries should be a major objective of a new round, but not that better market access for developing countries should be the major objective: better access was needed by everybody. Japan also accepted that full reciprocity could not be expected of developing countries, but believed that developing countries should make some contribution in terms of market access, as their economic circumstances permitted. In regard to services, Japan hoped that Brazil's recent interesting proposal, as Japan understood it, of separate but parallel negotiations on goods and services could be discussed in the proposed high-level meeting.

13. In reply to a question regarding Japan's views on participation in a new round, it was stated that Japan favoured a liberal approach, with participation not necessarily restricted to contracting parties, but was open to other views on this matter. It was accepted that the last phrase of the paper probably went too far: it was of course very much to be hoped that participants in the negotiations would accept their results. It was also made clear that the paper's reference to the "adaptation of the General Agreement" as being among the four basic aims of a negotiation should be understood as implying the need for the GATT system to evolve to meet changing conditions, including the expansion of trade in services. It did not necessarily imply amendment of the General Agreement. Japan had no specific intentions on these matters as yet, but believed that it would improve and strengthen the GATT system if services were brought within it. Finally, the fact that non-tariff barriers were not mentioned in the submission's reference to agriculture was not deliberate; there was no intention to exclude these matters from negotiation.

14. The two submissions presented by Canada, L/5834 and L/5836 respectively, were introduced as presenting initial Canadian views on the new round proposal and as responding to the statement made by India on behalf of a number of contracting parties on 5 June (L/5818). The former was based on consultations with the Canadian private sector and with provincial governments. In addition to setting out Canada's preliminary objectives and priorities for the new round it made some suggestions as to the conduct and management of the negotiations. It suggested that the new round should deal with all the key issues of interest to those countries which are expected to make a contribution to the success of the negotiations and emphasised the high priority attached by Canada to the broadest possible participation.

15. The European Community's communication (L/5835) was presented as a contribution to the acceleration of the preparatory process leading to a new round of multilateral trade negotiations and thus reflecting, in large measure, recent statements by Community spokesmen in the CG.18 and the Council. It was suggested that the

document's treatment of the issue of services confirmed the complexity of the subject and that any discussion of negotiation in an area which, for many developing countries, involved important questions of sovereignty and national infrastructure would be premature. It was also asked what was meant by the assertion that negotiations on services should take place "in the framework of the GATT" and how this would serve to revitalise the GATT. In reply, it was accepted that the introduction of services was not the only possible way of revitalising the GATT, but it was suggested that only the GATT among existing international organisations had a working ethos and negotiating techniques which could usefully be applied to trade in services, much of which was closely related to trade in goods. The phrase "in the framework of the GATT" did not imply the direct application to services of the General Agreement as it stands but since an institutional framework was necessary for any purposeful talks it seemed logical to start by using the facilities of the GATT. The development of the talks would reveal whether new institutions, structures or legal instruments were needed.

16. It was suggested that paragraph 2(c) of the EEC communication could be read as implying that bilateral or sectoral reciprocity should be an objective of the negotiations, and that this would be a dangerous proposition: developing countries in heavy deficit could well be tempted to apply it. The point was made in the reply that the EEC was not arguing in favour of bilateral balancing, but did believe that huge and persistent surpluses, like huge long-term deficits, created dangerous pressures in the system. The case of Japan demonstrated that it was not only border measures that affected trade flows - a principle that was now generally accepted in the context of agriculture. On the issue of the trade/money link - whose importance the Community had been stressing since 1980 - the Community remained convinced that exchange rate fluctuations could have an important effect on trade flows: some current problems made this very obvious. Even if not much could be done about these matters in the GATT, the problem should be recognised.

17. One member said that the Community's position on agriculture, and particularly on the maintenance of the fundamental objectives and mechanisms of the CAP, demonstrated little readiness to negotiate seriously. The spokesman for the Community replied that no contracting party would give up the essentials of its agricultural policies; the Community's position was therefore realistic and positive.

18. It was announced that the submission of United States' views on the new round would be made very shortly, after the completion of consultations with industry and the Congress. The strength of protectionist sentiment in the Congress was still growing and gave rise to intense concern. An absolute majority of both Congressmen and Senators had sponsored the Jenkins Bill on Textiles and the Natural Resources Subsidy Bill also had a good chance of passing in both Houses. It was essential to demonstrate that the multilateral system was still capable of producing results. To start a negotiation required a sufficient consensus, both nationally and

internationally; at neither level was it necessary for consensus to be universal, though participation should include all interested contracting parties. The US was thinking more in terms of transforming the GATT into a permanent negotiating forum than of a negotiating round in the classical sense. It was clear that the issues for negotiation - most of which were contained in the 1982 Work Programme - would vary in their degree of ripeness and it would seem reasonable that if agreement could be reached on a given set of issues, they should be concluded, without waiting for agreement on the totality.<sup>1</sup> The submission would make clear US priorities for negotiation.

19. In answer to the question whether the US would accept, for a new round on goods, the Tokyo Round objectives relating to developing countries, it was said that the US did not believe that all countries now benefitting from special and differential treatment should necessarily do so in perpetuity, but would of course be willing to discuss these matters.

20. It was asked whether to begin discussions on the development of a multilateral framework for services, as proposed by the US, would not prejudice the decision called for by Ministers in 1982 as to whether multilateral action was appropriate and desirable. The reply was that the US was not seeking to decide rules before principles, but made no secret of its belief that negotiations should be held on services under GATT's auspices, aimed at agreement on a set of rules or principles which would serve as the framework for future negotiations based on the exchange of reciprocal concessions. Participation in this work should be open to all interested contracting parties, but it was understood that no country could be obliged to participate.

21. One member commented that the US concept of GATT as a permanent negotiating forum seemed to conflict with the Community's belief that in principle items should be negotiated and results implemented in parallel, and not in succession. It was also suggested that the revitalisation of GATT depended on strict adherence to stable rules, which would be difficult to reconcile with permanent negotiation on systemic issues. In response it was stated that while the value of the "package" approach in earlier rounds was fully recognised, it might not be applicable now, given the difficulty of reaching agreement within the same time-frame on issues of very different degrees of ripeness. Advanced implementation of partial packages should not therefore be ruled out ab initio. Permanent negotiation need not imply instability: GATT must not be condemned to immobilism.

22. The view that universal consensus was not necessary to inaugurate negotiations was held by one member to imply resort to conditional m.f.n., as in the MTN Codes, whereas one objective of a new round ought to be the restoration of the m.f.n. rule. It was pointed out, however, that while conditional m.f.n. was not necessarily desirable, countries could not be obliged to negotiate or to accept the results of negotiations: even the standards code, which was relatively uncontroversial, still had only thirty-six signatories.

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<sup>1</sup>US submission since distributed as L/5846.

23. In introducing the submission by Switzerland (L/5837) it was stressed that restoration of the proper functioning of the multilateral system, which could only be achieved through negotiation, was essential if the new round were to produce worthwhile results in terms of market access or any other objective. For this reason the Swiss submission laid particular emphasis on the "normative activities", involving the updating or elaboration of rules, which would have to be undertaken. Such tasks would include the formulation of rules covering new issues. The new round would also include negotiations on market access through the classical process of exchanging concessions. The Swiss submission also stressed the urgency of the need to initiate negotiations. Asked what was implied by the submission's reference to "more dynamic application of Part IV", the speaker said that the application of existing rules relating to developing countries could be made more dynamic without calling into question the status of Part IV.

24. In discussion of the communication by Australia on its objectives for a new round (L/5842), particular attention was paid to the proposal that, given the urgency of the problems facing the trading system, the new round should be completed at latest before the end of 1988. It was explained that this termination date was expected to apply to all elements of the negotiations - though unresolved issues could be negotiated subsequently in a strengthened GATT framework - and was intended to obviate unreasonable and damaging delays such as had occurred during the Tokyo Round. A number of speakers welcomed the idea of a terminal date - it was pointed out that this had been a useful technique in earlier rounds - but some doubt was expressed as to the feasibility of meeting such an ambitious target.

25. A number of members announced that although their countries would not submit written statements, they were firmly of the view that a new round should be held without delay. One member said that in his view the GATT system could be strengthened only through a new round, building on the unique contractual nature of the GATT. The starting point for the agenda of a round should be the 1982 Work Programme. Trade in counterfeit goods and services should also be covered. A meeting of high officials from capitals was necessary to raise the present somewhat circular debate to a level appropriate to the political importance of the issues at stake. Such a meeting should preferably be held in the second half of September, and in any case before the October meetings of the Interim and Development Committees in Seoul.

26. Another member said that his country's interest in participation in a new round, and therefore in a preparatory high-level meeting, was closely bound up with the ongoing reform of its economic system, which was aimed at increasing international competitiveness through increased access for imports, greater transparency and decentralised planning. The new round, which should be open to all interested countries, was also necessary to prevent further erosion of the GATT system. Progress in the classic areas would facilitate discussion of other issues, including services.

27. A member, expressing the point of view of a group of developing countries, said that they favoured a new round provided that the concerns of developing countries were given due attention and priority. To be beneficial, however, the round must be based on a wide, if not universal, consensus. Though it was understood that a high level meeting would be without commitment, the concept of consensus would also help to reassure developing countries which were hesitant about the possible implications of the meeting. The extension of GATT to new areas was not opposed, but the resolution of long-standing problems on goods should not depend on results on services.

28. Following the discussion of national submissions, the Chairman suggested that the debate should focus on two issues, one procedural and one substantive, which must be pursued further in preparation for the July Council meeting. First, all of the submissions discussed at this meeting had called for the convocation in September of a meeting of senior officials whose purpose, as he understood it, would be to enlarge the consensus on the subject matter and modalities of a new round. In order to facilitate a decision on this in the Council, it would be very helpful to have a common understanding of the purpose or mandate of the high-level meeting. Secondly, the question whether or not the negotiation should cover services had been raised in all submissions. The Council would probably be able to agree without difficulty to convene a high-level meeting confined to trade in goods. The Group should therefore consider what would be implied, or not implied, if services were to be discussed at the meeting.

29. Several members stressed the urgency of a decision during July to convene senior officials in September, and the very negative consequences that would flow from GATT's inability to agree on a procedural decision which would carry no commitment to engage in negotiations. One member suggested that the meeting might take the form of a special session of the Council; other possibilities mentioned were a special Session of CONTRACTING PARTIES or an ad hoc meeting. However, most members took the view that the form of the meeting was less important than an early decision to hold it. Though the meeting would be without commitment, it was suggested that a number of difficult decisions now facing governments - relating to textiles, GSP and roll-back, for example - would be facilitated by the start of preparations for a new round. The point was made that informal meetings outside GATT, however useful - and it was clear that the involvement of ministers did move matters forward - must not supplant the normal process of decision-making in GATT, which was the only protection for the trade interests of small countries. For this reason it would be in the interests of such countries to participate both in a new round and in the preparations for it.

30. It was pointed out that nobody had opposed the convening of a senior officials' meeting, but that some developing countries had serious reservations, largely reflecting lack of clarity on the objectives of the meeting. A solution must be found which preserved the fundamental positions of all countries. It would be unwise to fix a date for a meeting of senior officials before

reactions of capitals to the recent submissions by developed countries were available - hopefully by the time of the next Council meeting. However, it might be necessary to pursue discussion of the high-level meeting beyond 17-18 July.

31. One member argued that participation in such a meeting necessarily implied some commitment, politically if not legally, particularly if the agenda were to include a major new issue such as services. Other members said that for their countries participation would imply no commitment of any kind.

32. There was some discussion of the need for a mandate and an agenda for a high level meeting. It was suggested that to try to draw up a formal agenda would be unnecessary and undesirable: the meeting would have to consider all the position papers received, together with any other matter raised by any participant. However, the point was also made that there would have to be some prior consensus on the subjects to be addressed at the high-level meeting. The Chairman observed that as he understood it, the purpose of the high-level meeting would be to pursue consensus on the subject matter and modalities of a new round.

33. On the possible implications of a discussion of services at the high-level meeting, it was said that since the inclusion of services would involve a basic change in the General Agreement, merely verbal resolution of the differences between countries would lead to misunderstanding and further difficulty. The substance of the problem should be confronted now and could not be left to high officials alone; they would not, in any case, take autonomous decisions. The decisions taken in 1982 and 1984 regarding services, under which work was now proceeding satisfactorily, were still binding, and to go beyond them would require a further decision by the Contracting Parties. However, it was pointed out that most national submissions had stressed the importance of services; was it now suggested that it would be necessary to achieve consensus on questions relating to services before a high-level meeting could be convened? In reply it was said that a broader consensus than now existed would be needed if services were to be taken up at high level.

34. Another member stated that the service industries were now a major source of growth for both developed and developing economies, particularly because of the increasing tendency for companies to buy in services rather than develop them in-house. The lack of effective international disciplines in this area threatened to stifle that growth. Any international framework must recognise the legitimate regulatory role of governments, and it was clear that liberalisation could not be an immediate process. However, such GATT principles as non-discrimination, national treatment and transparency should be considered, without prejudice to the ultimate shape of the framework, to see whether they could be applied to services. Separate negotiations on services would be acceptable on the understanding that they would form part of the new round and would be supported by the GATT secretariat. Work on services at this stage should concentrate on conceptual problems

and statistical lacunae. This would not duplicate the work now being done on the basis of national studies of the service sector, since these did not amount to a conceptual framework. However, other members took the view that the essential question - whether or not there was matter for negotiation in the service sector - should be addressed directly.

35. It was suggested that since services were not currently covered by the GATT, as a number of submissions had recognised, their inclusion in negotiations might involve amendment of the General Agreement. Since Part I of the GATT, which refers to "products", could only be amended with the agreement of all contracting parties, it might be easier to pursue the regulation of services outside GATT. In reply it was argued that Part I had already been amended, by the introduction of the Enabling Clause, without any formal process of amendment, and that Article IV dealt with services in the form of cinema films.

36. Several members made the point that, although services was in no sense a North/South issue, the interests of developing countries would be best protected if any process of rule-making on services were to take place openly inside the GATT rather than in more restricted fora outside.

37. Several members expressed interest in the proposal by Brazil that negotiations on services should be clearly separated from those on goods. It was stated that this would not be incompatible with the provision of GATT facilities for negotiations on services.

38. The Chairman concluded that the submission of national statements, which was an important sign of goodwill, had greatly facilitated the narrowing of gaps between different national positions. There were also many similarities between them, notably the shared commitment to the 1982 Work Programme - notwithstanding the belief of many members that it would only bear fruit if carried to the stage of negotiations. However, the submissions should not be seen as definitive, since it was to be hoped that the views of governments would evolve as the discussion proceeded. This meeting had revealed a growing consensus behind the wish to see the July Council meeting agree on a high-level meeting in September. For practical reasons a decision was necessary in July if this was to take place. In his view, it was important to show that GATT was addressing trade problems in a purposeful manner, and to do so in advance of the IBRD/IMF meetings in October.