

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Agriculture Committee

WORKING GROUP 1 - MEASURES WHICH AFFECT EXPORTS

Report on Meeting of 6 to 10 April 1970

1. The Agriculture Committee has directed Working Group 1, dealing with measures which affect exports, to seek mutually acceptable solutions to the principal problems affecting international trade in agricultural products, and for this purpose to complete such further identification of these problems as is necessary (L/3320, paragraph 5). It was understood that this work would be essentially of an exploratory nature and that the definition of a range of possible solutions did not imply a commitment to conform to any of these solutions (L/3320, paragraph 6). In the Conclusions adopted at their last session the CONTRACTING PARTIES further directed that conclusions be formulated on possibilities for concrete action that might appropriately be taken to deal with the problems that arise and that this task should be completed during 1970 (L/3366, paragraph 4).
2. The Working Group met from 6 to 10 April 1970 under the chairmanship of Mr. A.R. de Felice (United States). This report sets out the proposals or suggestions as to how the principal problems might be dealt with and the main points raised in the discussion. It is emphasized that the discussion at the first meeting was not exhaustive, that in many cases the views recorded were only tentative and that delegations would have full latitude to supplement and clarify them when the report was discussed by the Agriculture Committee at its July meeting.
3. The Group noted that problems on the proposed resolution on concessional transactions had been referred back to the Agriculture Committee for further consideration (SR.26/7). It noted that these problems were still under consideration in the Food and Agriculture Organization and agreed to revert to them at a later stage.

Basic issues

4. A proposal which had the support of a number of delegations was that contracting parties adopt as a guiding principle the complete elimination of all governmental aids to exports.
5. The delegations supporting this proposal shared the view that such a policy would have the following advantages:
 - it would put agricultural trade on a commercial basis;
 - it would tend to reduce incentives for uneconomic production;

- it would stop competition between national treasuries which can be to the detriment of all countries, especially the developing countries;
- it would eliminate a source of contention in international relations.

6. It was recognized that this proposal would involve re-examination and possibly some restructuring of basic national agricultural policies and, since this would naturally be time-consuming, this might be regarded by some as a disadvantage.

7. The delegation which had put forward this proposal noted that his country had unilaterally moved far in this direction. He suggested that other countries relying even more heavily than his own on agricultural production and trade should also find it practicable to abolish governmental aids to exports.

8. A number of other delegations considered that the withdrawal of government aids to exports in isolation would not necessarily lead to the advantages outlined in paragraph 5 above. The removal of export support alone would not result in agricultural trade being conducted on a truly competitive basis since individual countries would still be free to provide additional support through their domestic and import policies and the proposal would not, therefore, necessarily reduce incentives for uneconomic production nor stop competition between national treasuries. Prices on the international market would tend to reflect the level of support afforded to agriculture in exporting countries. Prices in importing countries would thus, in some instances, be higher than at present but the pattern of trade then established may still not reflect the most efficient production. Moreover, before any steps could be taken to proceed to their elimination it would be necessary to define exactly what measures should be considered as governmental aids to exports. The problem of food aid was also mentioned.

9. Another delegation expressed the view that export aid measures were not an end in themselves but the outcome of each country's domestic agricultural policies with which they were closely linked, having regard to conditions in markets that were unorganized or artificially segregated. The basic aim of those policies and therefore of export measures was the maintenance of producer incomes at a certain level. That view was shared by many other delegations. According to the delegation referred to above aids to exports could influence the world market for the product concerned, in particular where the product was in a state of over-supply; where it was in balance, export aids could, by lowering prices, lead to additional effective demand. This delegation suggested that solutions should be sought in the light of the nature of the problems, and that a distinction should be drawn between solutions:

- (a) that did not involve a change in existing legislation or policies; and
- (b) those that did involve such changes.

The first category included solutions based in particular on price discipline, on harmonization of export aid measures and on strengthened international co-operation. The authorities which that delegation represented were disposed to act in this area - as was shown in the case of wheat and dairy products - and were ready to examine the possibility of envisaging price discipline for all products where the market situation proved this necessary. Solutions in the second category, due to the large number of elements of agricultural price and production policies involved, required the search for a common negotiating basis and a negotiating method which would allow all countries to participate meaningfully. Such a basis was particularly necessary, taking into account the fact that export aids were often an inseparable constituent of an overall agricultural policy. In that case, any criterion of purely and simply reducing aids could not be objective and equitable and other elements would have to be taken into consideration, such as the self-sufficiency ratio, for example, and other instruments that might lead to equivalent and acceptable commitments. In other words, an appropriate negotiating method would have to be found. The delegation in question considered that its proposals had the advantage of being capable of concrete implementation, unlike other proposals which, while being perhaps more ambitious, might not be accepted by many contracting parties.

10. Several delegations took the contrary view that in practice export aids in general do not contribute to the expansion of demand for products subject to such practices, but they may have adverse consequences for other contracting parties, cause unjustified disturbances to trade and constitute an obstacle to the objectives of the General Agreement.

11. Some delegations said that they could accept without hesitation the objective suggested in paragraph 4 but that consideration should also be given to solutions which could provide a substantial amelioration in the situation since it was clear from what had been said that the total elimination of export aids might not be achieved within a reasonable span of time.

12. The following proposals were put forward by one delegation as a means of limiting and hopefully eliminating export aids (as earlier made in the Annex to COM.IG/11):

- (a) limits covering, for example, overall cost ceilings of export assistance, or cost ceilings for individual products or product groups;
- (b) a maximum cost per unit of subsidization for particular products;
- (c) the establishment of a fair relationship between the price of the primary product and the processed product; and
- (d) the establishment of minimum prices on international markets.

13. Some of the delegations that urged the acceptance of a guiding principle of complete elimination of export subsidies said that there was no inconsistency in seeking action on governmental export aids as such, whether or not countries simultaneously look for some more fundamental solutions based on supply management. These delegations suggested that a series of intermediate steps could be postulated that would be cumulative in their effect leading to the complete elimination of subsidies over a period of time. These intermediate measures could include, following further study, some of those suggested in paragraphs 9 and 12 including minimum price arrangements applying to products such as certain dairy products. Although the best solution would be the application of paragraph 4 of Article XVI to primary products pending a decision to this end there was a need to define more precisely the concept of the equitable share of world markets contained in paragraph 3, and to cover specifically the prevention of injury to those countries which did not have recourse to export aids. A valuable contribution in this direction could be made by accepting an obligation not to grant export subsidies which result in prices lower than those of countries that did not grant subsidies.

14. One delegation, while recognizing that the problem of export aids was complex and was closely linked with other elements of agricultural policies, thought that action could and should be undertaken with a view to the progressive elimination of aids. In the context of that objective, the most harmful effects of such aids should be tackled as a matter of priority. To that end, certain guidelines could be drawn up which would have to be discussed by the Group; a few of these were already suggested in the present document.

15. One delegation in pressing for the elimination of all export aids, said that solutions which fell short of total abolition of export aids were unsatisfactory because they either left the relationship between the prices of different exporting countries the same, in which case they achieved nothing, or they altered this relationship, in which case they created an unfair advantage where unequal assistance remained. This delegation, referring to the distinction made in paragraph 9, pointed out that a solution which did not involve a change in existing legislation for one country might involve such a change in another, and that this was not a theoretical problem only. So long as some countries maintained governmental aids to exports for whatever reasons, others might feel it necessary to retain the option of assisting their exports. This delegation noted that the main products on which export subsidies were granted were still those listed by the Panel on Subsidies in 1961 (BISD, Tenth Supplement, page 210). Grains, dairy and livestock products were the commodities most widely subsidized and it appeared that the root cause was the difference between prices received by producers in various countries.

16. Some delegations, expressing support for the aim of an early elimination of aids to exports, stated that priority consideration should be given to the elimination of such aids to products in which developing countries accounted for a significant share of world trade, such as tobacco, vegetable oils and oilseeds, cereals, meat and others.

17. Several delegations stated that as export aids were closely linked with other elements of agricultural policies, they could not be dealt with in isolation without taking these other elements into account, such as those related to production and income policies. Concern was also expressed as to the assessment of export aid measures in the light of specified criteria laid down in advance. Experience had shown that criteria of this kind were of a rather theoretical interest and hardly of any practical value. The important thing was the damage resulting from the use of export aids and any consultations that might be agreed upon should concentrate on this issue.

18. Certain delegations pointed out that their countries were major agricultural importers with only small exports which were not directly aided. They stated that while their interest in the matters concerning exports was thus marginal, they were nevertheless ready to consider the various proposals on their respective merits.

Notification procedures

19. The Group drew up a list of practices which might be the subject of notification. This is annexed. It was understood that the list was open-ended and further types of practices might be added if appropriate. It was also understood that the establishment of the list did not imply a judgment as to whether or not these practices were covered by Article XVI of the GATT, nor did it imply any judgment about the significance of the effects on exports of these practices.

20. One delegation suggested that a group of experts should examine all practices on the list.

21. Referring to item 14, some delegations considered that sales under bilateral clearing agreements not involving price concessions should not be notified.

22. It was noted that it would be necessary to define the product coverage of the notification procedure. Some delegations said that Brussels Nomenclature chapters 1 to 24 inclusive should be used for this purpose. It was suggested, however, that it might be necessary to include certain products outside the twenty-four chapters, and attention was drawn to the understanding of the coverage of primary products in the context of Article XVI.

23. Certain delegations considered that notifications might appropriately be made annually and that, in addition, any changes should be notified as they arise. Other delegations pointed out however, that, while earlier Article XVI procedures called for more frequent notification, the present procedures under that Article were for full notifications once every three years. Some delegations considered that an interval of two years might be suitable.

24. It was suggested that the aim of the notification should be to give other interested contracting parties a basis on which they could decide whether they wished to pursue the matter further by means of consultation. It was agreed that

the notifications should describe the measures used and show the effect of these measures by the use of the latest statistics available. It was understood that the headings used for Article XVI notifications (BISD, Ninth Supplement, page 193) would provide a useful starting point in this regard.

25. The point was raised of the relationship between notifications of measures under the procedures of Article XVI and possible new notifications under those in respect of the List of Practices. It was noted that Article XVI procedures covered measures which affected both imports and exports, while the List of Practices related to measures which affected only exports. Notification requirements under Article XVI of subsidies affecting imports would remain unaffected by the proposed new procedure. On the other hand it was also noted that, as regards the export side, the List of Practices covered measures which had not so far been notified under Article XVI procedures.

26. One Delegation suggested that all notifications should be made under the procedures relating to the List; since the List coverage was wider than that of Article XVI, the reporting requirements under Article XVI would automatically be fulfilled.

27. After having considered the above points, there was a wide measure of support for the suggestion that export subsidies and other practices included in the List contained in the Annex be notified under the existing Article XVI procedures which provided that this be done irrespective of whether in the view of individual contracting parties they were notifiable under Article XVI.

28. Certain Delegations suggested that a standing committee should be established to receive and oversee the notifications. Some delegations stated that it would be necessary to reach an understanding on the objectives to which the notification and consultation procedure was directed before this question could usefully be discussed.

Consultation procedures¹

29. Several delegations said that experience had proved that existing procedures were inadequate to meet the objectives of the consultations under discussion.

30. Some delegations considered that there was a need for a permanent body which would conduct consultations. Such consultations would take place at regular intervals, for instance annually, but provision would also be made for holding additional consultations at short notice when required. In this connexion these delegations pointed to the proposal annexed to document COM.IG/11.

¹See also paragraph 40.

31. Several delegations supported the proposals set out in the last three paragraphs of the Draft Resolution contained in document COM.AG/W/41. These provisions concerned adequate opportunity afforded by each contracting party for bilateral consultation regarding representations made by another contracting party; consultations by the CONTRACTING PARTIES, at the request of a contracting party, with any contracting party or parties in respect of any matter for which it had not been possible to find a satisfactory solution bilaterally; and the establishment of a standing committee to ensure the adequacy of the relevant information and to conduct any multilateral consultations referred to above.

32. Some delegations considered that before examining the possibility of establishing any new consultative body or procedures, it was necessary to determine the objectives of the consultations and that existing procedures already constituted an adequate framework for bilateral or multilateral consultation. These delegations were of the opinion that the disorder existing to date under existing notification procedures explained the difficulties encountered in the application of Article XVI and that it might be appropriate to group the notifications at present made under different procedures under Article XVI procedures.

Issues regarding Article XVI and other relevant GATT provisions

33. Some delegations said that the provisions of Article XVI were inadequate and that they should be reviewed. It was pointed out in this connection that paragraph 5 of the Article itself provided for a review of the operation of the Article from time to time. One delegation said that changes could be made either by an amendment to the Article, or by means of interpretative notes or of a Declaration adopted by the CONTRACTING PARTIES.

34. Some delegations drew attention to the lack of balance in the Article and said that this should be corrected, preferably by bringing primary products under the provisions of Article XVI:4. If this was not possible the imbalance should be reduced by strengthening the provisions of Article XVI:3.

35. One delegation pointed out that as long as primary and non-primary products were treated differently under the Article there would be a problem at the border-line. His delegation felt that many export subsidies did not decrease the price of non-primary products contrary to the provisions of Article XVI:4 in cases where it was claimed that it was only the primary product content of the exported non-primary product which was subsidized. His delegation suggested that such subsidies should not result in export prices below prices on the domestic market.

36. Several suggestions were made regarding paragraph 3 of the Article. One suggestion was that the concept of "an equitable share of world export trade" should be given greater precision. One delegation suggested that it should be made clear that this covered harmful effects to a particular contracting party in a particular market even if world trade as a whole was developing satisfactorily.

One delegation pointed out that the "equitable share" criterion should not be taken as authorizing a country to subsidize in order to gain or maintain a given share of a market. One delegation felt that a country's wish to maintain its share of a particular market was not justified in cases where this share was reserved through measures adopted by the importing country. It was pointed out by another delegation that such action was sometimes taken as an alternative to action under Article VI:6(b). Some delegations suggested that the idea of "a previous representative period" should be re-examined and given more precision. One delegation questioned whether a country's historical share in trade should be taken if other countries were subsidizing exports. The criterion should not freeze trade patterns. In addition there should be an obligation that if subsidies were used, they should not have harmful effects on the trade of countries which did not use export aids. This delegation also recommended the adoption of the criterion that a subsidy should not result in the export sale of products at a price lower than that of countries which did not grant subsidies.

37. Some delegations said that the present operation of the "equitable share" criterion in Article XVI had led to inequitable results for developing countries, as in some cases the grant of export subsidies were justified by developed countries on the ground of decline in their share of world trade, even though absolute levels of their exports had shown substantial increases. They therefore emphasized that any revision of Article XVI would have to have regard to Article XXVI, in particular to paragraph 3 of that Article.

38. One delegation suggested that the "harmful effects" referred to in Article XVI:2 should be defined.

39. Some delegations suggested that the intent of Article XVI should be complemented by making mandatory the use by importing countries of countervailing duties under Article VI when export subsidies had harmful effects on third supplying countries. They recalled that this idea had already been discussed at the review sessions. Some delegations further proposed that if a third supplying country was harmed in this way it should have the right to retaliate by withdrawing concessions of interest to the subsidizing country. Other delegations pointed to the danger that this might lead to the withdrawal of concessions in series. It was felt by some delegations that the continued use of export aids was the greater danger to the General Agreement. They pointed out that in the event that exports of a third supplying country were prejudiced, adjustments would normally be expected to be achieved by the elimination or reduction of the export aids, or failing that the grant of compensatory new concessions. Only if neither of these preferred solutions proved feasible, would the ~~CONFLICTING PARTIES~~ be expected to authorize the withdrawal of concessions.

40. One delegation said that Article XVI:3 and any changes made in it should apply to the practices listed in the Annex. This delegation asked whether possible agreement to notify practices listed in the Annex under the Article XVI procedures would also mean that these would fall under the consultation procedures laid down in the Article and asked in this connexion what the implications were of the reservation on the definition of subsidies in terms of obligations under Article XVI. Another delegation said that the reservation was a matter of principle but that consultations could take place on the basis of the notifications.

ANNEX

List of Practices

1. Direct subsidies to exporters.
2. Export restitutions.
3. Double-pricing practices, including home-market schemes, pooling arrangements and equalization funds.
4. Deficiency payments and comparable producer price support arrangements when they apply to products which are exported.
5. Currency retention schemes or any similar practices which involve a bonus on exports or re-exports.
6. The remission or exemption, calculated in relation to exports, of direct taxes or social welfare charges on commercial enterprises.
- or
- The remission or exemption, calculated in relation to exports, of taxes or charges.
- or
- Incentives being taxation measures related to exports and not covered by the first interpretative note to Article XVI.
7. The exemption, in respect of exported goods, of charges or taxes, other than charges in connexion with importation or indirect taxes levied at one or several stages on the same goods if sold for internal consumption; or the payment, in respect of exported goods, of amounts exceeding those effectively levied at one or several stages on these goods in the form of indirect taxes or of charges in connexion with importation or in both forms.
8. Sales in which, as a result of government intervention or of a centralized market scheme, prices are lower than prevailing world prices or, in the case of multi-year contracts, than can reasonably be expected to prevail in international markets for the duration of the contract.
9. In respect of government export credit guarantees, the charging of premiums at rates which are manifestly inadequate to cover the long-term operating costs and losses of the credit insurance institutions.

Note: Bracketed phrases in this Annex indicate wording to which some delegations felt it particularly important that additional thought should be given before the next meeting.

10. Sales on credit in which, as a result of government intervention or of a centralized marketing scheme, the interest rate, period of repayment (including periods of grace) or other related terms do not conform to the commercial rates, periods or terms prevailing in the world market and where the period of repayment is up to three years.¹

11. The government bearing all or part of the costs incurred by exporters in obtaining credit.

12. Sales in which the funds for the purchase of commodities are obtained under a loan from the government of the exporting country tied to the purchase of those commodities and in which the period of repayment is up to three years.¹

13. Government-sponsored barter transactions:

- (a) involving price concessions;
- (b) not involving price concessions.

14. Sales for non-convertible currency:

- (a) involving price concessions;
- [(b) not involving price concessions.]

¹This would include commercial and quasi-commercial transactions.