

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Agriculture Committee

WORKING GROUP ON TECHNIQUES AND MODALITIES

Working Paper Prepared by the Secretariat

1. The working paper below has been prepared by the secretariat, with the aim of facilitating the discussions of the Working Group regarding techniques and modalities for negotiations as they relate to agriculture.
2. For this purpose, an attempt was made to regroup in a certain order the various proposals, suggestions and views which have been put forward in different meetings of the Agriculture Committee, its working groups, the Joint Working Group on Quantitative Restrictions, etc.
3. In connexion with these lists of various techniques and modalities for negotiation, members of the group might possibly wish to examine problems including in particular:
 - respective advantages and disadvantages of one or other approach;
 - changes in legislation or regulations which some of them might or might not imply;
 - further specifications to be made in respect of the definition of one or other method;
 - possibility of illustrating the validity of certain methods by giving practical examples of their application to certain products or sectors of the BTN;
 - questions linked to the concept of equivalence of commitments, etc.

Section 1

Examination of Techniques and Modalities
for Negotiations on Export Assistance

1. The information on measures which affect exports is contained in the following documents:

Spec(69)9/Rev.1 to 15/Rev.1	- Inventory of measures and mechanisms influencing exports
Spec(69)136	Export credits
L/3472, Annex I, p.21	List of practices
L/3513 and Addenda	Subsidies. Notifications pursuant to Article XV:1 (year 1971)
L/3655 and Addenda	Subsidies. Notifications pursuant to Article XVI:1 (year 1972)

2. In the list of solutions put forward by various governments in the past four years for solving the problem of export aids, two types (which are not exclusive) can be distinguished:

- (a) direct techniques for the abolition or limitation of such aids;
- (b) indirect techniques.

3. Direct techniques

Two types of direct techniques have been suggested to date - those which concern the abolition of aids, and those which would simply aim at limiting them; both can be diversified according to the products and sectors concerned.

4. Techniques and modalities for abolishing export aids

There are five of these:

- (a) negotiation of an agreement providing for a general and unconditional prohibition of export aids in respect of all products; the negotiation would, of course, also cover a definition of nomenclature of such aids;
- (b) techniques for progressive abolition;
 - (1) Take each exporting country's total of subsidy payments in a base year (say 1970) and provide that it shall be diminished by, say, 20 per cent per annum.
 - (2) For each product, take each exporting country's total subsidy payments in a base year (say 1970) and provide that total subsidy payments for export of that product be diminished annually by, say, 20 per cent of the base year subsidy.

(3) For each contracting party find the unit subsidy per product at the base year (say 1970) average unit subsidy level and provide for the annual reduction of the unit subsidy by, say, 20 per cent of the base year level.

(4) Consider annual world prices for each product. The 1970 average world market price would be ascertained. In succeeding years the world market price would be estimated for 1971, 1972, etc. ("world market price" being defined in the same terms for 1970 and succeeding years). The 1970 subsidy ceiling per unit would then be defined for each country as the average domestic unit price less the 1970 average world market price. For 1971, the domestic price ceiling per unit for each country would be the 1971 estimated world market price (i.e. the world market price as estimated by competent designated authority, say, FAO) plus 80 per cent of that country's 1970 subsidy ceiling per unit. In 1972, the domestic price ceiling per unit would be the 1972 estimated world market price plus 60 per cent of the country's 1970 subsidy ceiling. And so on. In each year, beginning with 1971, no country's actual unit subsidy would be permitted to exceed the specified percentage of the 1970 unit subsidy ceiling.

(5) Priority consideration should be given to the elimination of such aids to products in which developing countries account for a significant share in world trade.

5. Techniques for limiting export aids

Two types of method have been mentioned; the one would rely upon a ceiling for overall expenditure or expenditure per unit of export assistance; the other would rely on price conditions.

(a) Financial techniques for limiting aids

These are the solutions mentioned in 3(b) above, but without the progressive annual reduction clause.

(b) Techniques for limiting aids involving price clauses.

Five such techniques can be identified:

- The technique mentioned in 4(b)(4) without the progressive annual reduction clause.
- Limitation of export aids to the difference between the domestic price of a product, at a marketing stage to be determined, and an international price for the same product, at a marketing stage and a level to be negotiated.
- The determination of an absolute floor for export aids, at the level of the lowest price quoted in the international market by the best placed competitor not relying on export aids.

- Export aids should not have the effect of altering in international markets, the price relationships adopted for the same products on the domestic market.
- The establishment of a fair relationship between the price of the primary product and the processed product.

6. Indirect techniques for limiting or eliminating export aids

The modalities suggested in this respect hinge more or less on Article XVI of the General Agreement. It seems feasible to group them around three main propositions: to supplement Article XVI; to add a procedure of consultation and possibly arbitration; to adopt a scale of penalties for non-compliance.

7. Amendments to Article XVI

The following suggestions have been made:

- Contracting parties should notify items in the list of practices given in document L/3472 Annex I, the notification to be under the existing Article XVI procedures but without prejudice as to whether or not the practices notified are considered to be covered by Article XVI;
- Adoption of an agreed definition of export aids, possibly on the basis of the practices listed in L/3472, Annex I (reproduced on page 6 in the present document);
- Negotiation of a more precise criterion for determining injury than the present "equitable share" rule;
- More precise definition of "previous representative period" than that mentioned in Article XVI:3;
- Application of paragraph 4 of Article XVI to primary products;
- Provisions to prevent injury;
- Inclusion in Article XVI of the concepts underlying Article XXXVI, in particular paragraph 3 thereof.

8. Apart from the possibility of negotiating amendments or agreed interpretations for Article XVI, it has been suggested that one indirect means of limiting export aids might be to establish a simplified procedure of notification and consultation. Some essential features of such procedures might be:

- Notification at regular intervals of export practices listed by the negotiating parties, and review of those practices by a standing committee;
- Continuing consultation procedure with a view to prompt investigation of specific cases upon complaint being lodged by a contracting party. The procedural sequence; format for the complaint; onus of proof; possibility of taking interim protective measures; criteria for determining the existence of injury; eligibility of third countries having an indirect interest, nature of the decision, etc., could be the subject of negotiation.

9. Lastly, some delegations have emphasized the need to provide penalties designed to strengthen observance of the rules to be negotiated in the field of export aids.

- Possibility of providing for the application of countervailing duties after completion of various procedures, relating to public notice, with a view to establishing the reality of financial assistance to exports.
- Obligation to impose compensatory measures in cases where a third country benefits from export aid.
- Possible exceptions in favour of developing countries.

Annex

List of Practices

(see L/3472, Annex I pages 21 and 22)

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.

Note: Bracketed phrases in this annex indicate wording to which some delegations felt it particularly important that additional thought should be given.

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.

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 concessions¹.

¹This would include commercial and quasi-commercial transactions.

Section 2

Examination of Techniques and Modalities of Negotiations on
Tariffs, Variable Levies and Other Special Charges

1. The information available at present is contained in the following documents:

COM.AG/W/68	Import measures, Summary table
COM.AG/W/68/Add.1	Tariffs
COM.AG/W/68/Add.3	Variable Levies and Other Special Charges

2. No specific proposals regarding techniques for a negotiation on tariffs have been made in past discussions in the Agriculture Committee. An examination of possible techniques of negotiating tariffs might need to distinguish between two basic situations. In the first, the tariff is the sole (or predominant) protection measure at the frontier; in the second, it is applied in conjunction with other frontier measures, such as quantitative restrictions, levies or other special charges, minimum prices, or others.

3. In the first case, individual sectors might be identified which are protected solely (or predominantly) by the tariff in a number of countries (sectoral approach). Alternatively one might identify sectors which are protected solely by tariffs but which might differ from country to country (cross-sectoral approach). Under either approach, the following techniques might be examined:

- elimination of all tariffs
- linear reduction of all tariffs by same percentage
- elimination of tariffs with an incidence of less than x per cent, reduction of all other tariffs
- downward harmonization of tariffs
- tariff-free quotas
- if necessary, a time schedule might govern any of the above.

4. The second case, where tariffs co-exist with other barriers, would require a degree of agreement on a broad method for assessing equivalences of commitments on different elements, but presumably with some built-in flexibility. In this connexion, it should be recalled that, in the course of earlier discussions, certain delegations pointed out that "it is impossible to make a comparison between levies and customs duties without taking account of another essential aspect which concerns the quantitative restrictions that are often applied simultaneously with customs duties, whereas this is not the case as regards the levies applied elsewhere", while other delegations "have also underlined the fact that it is not possible to make a straight comparison between the ad valorem incidences of levies

and other special charges applied by the different countries since the measures applied by these countries "differ widely" (COM.AG/W/68/Add.3, page 2). A proposal for establishing average duty equivalents of quotas is dealt with in the section on techniques for quantitative restrictions.

5. As regards variable levies, the following techniques might be examined:

- establish ad valorem equivalents of variable levies for 1970 by ascertaining, for each commodity, the average unit differential between domestic price and landed cost (c.i.f. plus any fixed duties and/or charges). For each commodity require that this ad valorem equivalent be reduced by, say, 20 per cent for 1971, 40 per cent for 1972, etc.
- binding of the height of a levy to a maximum ad valorem incidence
- levy-free quotas or quotas at reduced levies
- levy-free entry or entry at a reduced levy subject to observance of a minimum c.i.f. price by the supplying country
- differentiation of the height of levies according to each supplier's offer price
- administrative measures in the application of levies (e.g. lengthening the period of validity of a given height of levy).

Section 3

Examination of Techniques and Modalities for
Negotiations on Quantitative Restrictions

1. The information regarding quantitative restrictions is contained in the following documents:

COM.AG/W/73 and Addenda 1 to 13	- Quantitative restrictions applied by countries covered by the Joint Working Group.
COM.AG/W/74	Summary table to the above document.
COM.AG/W/68/Add.2/Part 2	quantitative restrictions (countries other than those covered by Joint Working Group).
L/3514, and addenda	State Trading. Notifications pursuant to Article XVII:4(a) (year 1971).
L/3653, and addenda	State Trading. Notifications pursuant to Article XVII:4(a) (year 1972).

2. The contracting parties have identified a dozen or so types of quantitative restrictions. The most important among them, applied by eighteen developed countries, are reported in document COM.AG/W/73 and the thirteen addenda thereto and are listed in a summary table in document COM.AG/W/74.

3. Among the various techniques suggested for negotiations on these restrictions, whether in Group 2 of the Agriculture Committee or in the Joint Working Group, some propose a direct attack on the problem while others envisage indirect methods of relaxation or abolition.

Lastly, two main types of techniques have been suggested:

- one would aim at achieving through negotiations the abolition or progressive elimination of certain quantitative restrictions which have been identified;
- the other suggests the negotiation of certain common international rules designed to govern the restrictions still remaining after the negotiations.

4. Techniques and modalities for negotiations designed to achieve the abolition or progressive elimination of quantitative restrictions.

The following proposals can be grouped among these techniques:

- abolish all restrictions generally and replace them by customs duties, established at non-prohibitive levels;
- abolish all illicit quantitative restrictions;

- eliminate quantitative restriction having insufficient economic justification;
- eliminate all prohibitions;
- establish average duty equivalents of quotas by ascertaining for each commodity the average unit differential between domestic price and landed cost (c.i.f. plus any fixed duties and/or charges) for 1970; where this differential is greater than zero, the quota should be enlarged so as to reduce the differential by, say, 20 per cent for 1971, 40 per cent for 1972, and so on;
- negotiate formulae for automatic enlargement and negotiation of liberalization time-tables.

5. Negotiating techniques aimed at achieving the adoption of a code of principles to govern the administration of remaining restrictions.

The following suggestions can be grouped among these:

- rules on the elimination of all discriminatory elements;
- rules on the progressive globalization of all bilateral quotas;
- criteria for non-discriminatory administration of quotas;
- legalization of remaining restrictions under provisions of the General Agreement;
- undertakings by exporting countries to observe ceiling levels;
- criteria for establishment of previous representative periods to be used in calculating quotas;
- agreement on administrative principles for issue of licences, public announcement of quotas, etc;
- annual procedure for reporting, review and justification for maintenance of quotas.

Section 4

Examination of Techniques and Modalities for Negotiations on Health and Sanitary Regulations, Marketing Standards and Licensing

1. The health and sanitary regulations notified to the Agriculture Committee are listed in document COM.AG/W/68/Add.4; the marketing standards notified are listed in COM.AG/W/71.
2. The Committee generally agreed that it was necessary to avoid duplicating the work of other international bodies. Several delegations said, however, that the trade effects of health and sanitary regulations were certainly within the competence of the Committee and that there would be no duplication if it concentrated on this particular aspect.
3. It has been proposed to draw up general guidelines for the formulation and administration of regulations and standards so as to reduce or eliminate as far as possible any harmful trade effects. Several elements to be included in such guidelines have been suggested, including the following:
 - Elimination of health and sanitary regulations where they no longer meet the requirements of the situation which had motivated their establishment;
 - Relaxation, where necessary, of measures currently in force so that they would not be more stringent than necessary;
 - New measures should not be made more stringent than necessary;
 - Equal treatment for imported and domestically produced goods;
 - Measures taken by State or local authorities should be consistent with national and international regulations;
 - Health and sanitary regulations should be applied on a most-favoured-nation and non-discriminatory basis;
 - Provision for more co-operation between exporting and importing countries with regard to importation, testing and issuance of certificates;
 - Many of the above considerations also apply to marketing standards. Furthermore, marketing standards should not be based on characteristics peculiar to national production.
4. Other suggestions were:
 - strengthening and giving greater precision to Article XX(b); in this connexion it might be considered to establish a particular procedure for notification of, and consultations on, measures maintained under that Article;
 - establishment of an arbitration procedure.

5. Attention has been drawn to the fact that new import restrictions relating to the conservation of exhaustible natural resources may be imposed. Such measures might be justified under Article XX(g), though only "if such measures are made effective in conjunction with restrictions on domestic production and consumption". An adequate control procedure might well be required in this respect.

6. It is recalled that, at the appropriate time, the Committee will have to review the applicability to the agricultural sector of any solution evolved in the Committee on Trade in Industrial Products in respect of measures of general application. In particular, it will have to examine any results which emerge from the groups on licensing and on standards and to consider whether modifications are necessary to make these results applicable to the agricultural sector.

Section 5

Examination of Techniques and Modalities for Negotiations
on Production Measures

1. The information available at present is contained in the following documents:

Spec(69)35/Rev.1 - Self-sufficiency ratios
Spec(69)36/Rev.1 - Prices received by producers
L/3472 and Annex IV - Report to the Council

2. The various suggestions made to date can be classified as follows:

A. Specific measures

- Explore which specific production measures might technically lend themselves to meaningful commitments, and the form that such commitments might take.
- Explore the technical possibilities of separating "production-neutral" farm income maintenance measures from production and price policy measures; and explore the technical feasibility and meaningfulness of negotiating techniques for the encouragement of production-neutral measures and the elimination of measures that unduly stimulate production.
- Examine possibility of allocating responsibility for the creation of surpluses.
- Supply management through stock maintenance measures: explore possible types of commitment and their suitability according to product.
- Other possible forms of harmonization of production measures.
- Any farm income maintenance measures should be separated from production and prices in order to ensure that such measures are production neutral.

(a) Possible techniques for the negotiated encouragement of income support measures (such as farmers' retirement pensions and long-term land retirement payments) that withhold resources from the production of particular commodities might include the following: Estimate the value of the 1970 [average/ [marginal] unit produced per man or hectare in the use from which the inputs (labour or land) are withdrawn. Multiply result by total number of units withdrawn, so as to get the estimated value of the total product reduction. If country is a net importer of the product, calculate duty that the producing country would have collected on a like value of imports. Convert to ad valorem duty equivalent, using actual total import values as

the base. If the importing country binds itself not to increase acreage or farm labour force in producing a specified commodity from which resources have been taken, the country may claim negotiating credit as if the tariff had been bound at a reduced level.

(b) Possible techniques for the negotiated elimination of income support measures (e.g. premia, or deficiency payments, per unit of output) which reward increased production of particular products might include:

Estimate the 1970 volume of production attributable to the support measures (i.e. subtract from 1970 actual production the estimated production in the absence of the income support measure). Determine the domestic market price reduction which would have increased consumption by this amount. Convert this price reduction to ad valorem percentage terms. Provide for staged abolition of the domestic producer income supports in question, giving negotiating credit as if duties had been reduced by the ad valorem percentage calculated above.

B. General measures

International stabilization arrangements

- Possible coverage: selection of products or product groups;
- elements to be included in arrangement (including possibly some listed elsewhere in the present paper).

C. Common denominator or criteria for the assessment of commitments

(a) Self-sufficiency ratios

- Possible coverage: agricultural sector as a whole; selected groups of product sectors; individual product or product sectors;
- measurement: units, time period;
- type of obligations of importers and of exporters;
- types of action in case of non-observance;
- possible use as indicator rather than commitment.

(b) Support margins

- Possible coverage;
- definition and measurement: in particular, selection of upper and lower benchmarks;
- type of obligation: freezing, reduction over time, etc.

D. Combination of the three techniques

It might well become apparent that a viable and practical solution to the problems in the agricultural sector as a whole or in certain sub-sectors might reside in a combination of various elements selected from the three broad techniques.

To give a hypothetical and purely illustrative example: one might envisage that, while recognizing as a long-term objective the replacement of production - stimulating support measures by production-neutral measures, a practical and acceptable solution for the shorter term might possibly consist of stock management obligations accepted multilaterally, triggered by a surplus situation (determined by the relation of current world prices to an agreed benchmark with the size of individual obligations related to changes in self-sufficiency ratios (which would serve as a yardstick and not a commitment).