
2. The Chairman recalled that the purpose of the meeting was set out in GATT/AIR/2028 dated 25 June 1984; namely, the examination of questions, if any, relating to Stages I and II and the continuation of discussion of the Group's findings and conclusions in the two areas of quantitative restrictions and other non-tariff measures.

3. In accordance with the procedures agreed at the meeting of October 1983 (NTM/4), under each item the Group dealt with quantitative restrictions and with other non-tariff measures.

A. Examination of questions, if any, relating to Stages I and II

4. The Chairman informed the Group that the documentation on quantitative restrictions would be revised once more before the conclusion of the Group's work. It was agreed that delegations who had further information to supply on quantitative restrictions maintained by them for incorporation in the final revision of the NTM/W/6 documentation and the draft informal paper analysing the data should do so immediately or, in any case, not later than 30 July. It was, however, understood that delegations would retain the right to submit additional information at any stage of the Group's work.

5. The Chairman referred to the secretariat's draft informal paper analysing the data collected in Stages I and II. Clarifications had already been received from a number of members regarding the nature and justification of measures maintained by them. A corrigendum taking into account these clarifications had been prepared and was distributed. As agreed in the last meeting, delegations who had specific comments to make or clarifications to seek with regard to the paper were invited to contact the secretariat. Some delegations reserved their right to submit comments later once they had completed examination of the paper.

6. Referring to this draft informal paper, one delegation suggested that further analytical work be undertaken by the secretariat to evaluate the impact of restrictions on the trade of developing countries. The Chairman recalled the obstacles to such an evaluation, as outlined in paragraph 6 of the secretariat's draft informal paper.
7. One developing-country delegation stated its intention to notify further products for inclusion in the list of products of export-interest to developing countries.

8. The Chairman referred to the draft paper on symbols to be used for the classification of quantitative restrictions. The objective was to improve the future quality of information and to facilitate comparability of data. It was recalled that some clarifications had been sought on the paper in the last meeting and these had been given in the meeting. It was agreed that the proposals in the draft paper would be further considered by members with a view to recommending to contracting parties that they should use an agreed set of symbols for future notifications.

9. The Chairman recalled that the documentation on other non-tariff measures consisted of the Inventories of Non-Tariff Measures (NTM/INV/I-V and Addenda 1 to 7, excluding those sections of Part IV which were devoted to quantitative restrictions) and AG/FOR. The updating of the inventories remained an on-going process.

10. One delegation suggested that a significant contribution by the Group would be to put together a comprehensive data base on all quantitative restrictions and other non-tariff measures in all product sectors. The Inventory needed to have the same format as the NTM/W/6 documentation with product specifications up to the 4-digit CCCN level.

11. It was recalled that at the last meeting, the Group had agreed to discuss further analytical work on other non-tariff measures in the context of specific proposals from members. Delegations were invited to put forward their ideas in this connection.

12. The representative of a group of delegations recalled that his delegation had advanced a proposal at the last meeting. He felt it would be necessary that the measures selected should affect a reasonable cross-section of contracting parties and that the particular interests of developing countries be borne in mind. The representative suggested that an analytical review of selected other non-tariff measures, by type, should focus on a number of elements: their relative importance (the number of contracting parties maintaining measures under the selected type); differences and similarities of measures maintained; claimed effects and impact, to the extent measurable; justification claimed; and relationship with GATT provisions or Codes.

13. The Group noted the points raised in the discussion and agreed that the secretariat should prepare a further analysis of available information in the Inventory of Non-Tariff Measures. The analytical paper would be informal and take into account the views and proposals of members. It was felt that the objective of the analysis should be to assist the Group on arriving at findings and conclusions in the area of other non-tariff measures.

B. Continuation of discussion of the Group's findings and conclusions

I. Quantitative restrictions

14. The Chairman observed that it was important to have suggestions and specific proposals on the table so that delegations could give thought over
the summer break to how various ideas and positions might be reconciled and
discussions would enable the secretariat to prepare a first draft
report for the Group to consider at its September meeting.

15. The Chairman recalled his earlier reference to the informal
secretariat paper analysing the data collected in stages I and II. The
Group agreed to his suggestion that it should remain informal, for use by
delегations, if they so wished, in making their own preparations for the
discussions on findings and conclusions.

16. It was recalled that the Group had earlier agreed to keep aside, for
the time being, the question of the Group's competence to deal with
measures in the agriculture and textiles areas and to see how an
understanding may be developed at a later stage, keeping in view
developments in other fora.

17. The Group focussed its attention on two main points: the
identification of quantitative restrictions that were not in conformity
with the GATT; and conclusions relating to the elimination of these
quantitative restrictions and the liberalization of other quantitative
restrictions.

18. The Chairman observed that the identification of illegal restrictions
had been the subject of earlier discussions. He noted that although the
Group had not arrived at a completely clear and absolute differentiation
between "legal" and "illegal" measures, a number of points had become
fairly clear in the course of the deliberations. The fact that no GATT
article or provision had been cited to justify the existence of a
quantitative restriction did not automatically mean that the restriction
was not in conformity with the GATT. It was only the CONTRACTING PARTIES
which could pronounce definitively on this matter. However, it was, in the
context of the Group's work, the responsibility of contracting parties
maintaining quantitative restrictions to cite justifications for them if
they wished to argue that they were in conformity with the GATT and, if no
justification was advanced by a date to be agreed, there would be a prima
facie case that the measures were not in conformity with the GATT. On the
other hand, the fact that a GATT justification had been advanced by the
contracting party maintaining the quantitative restriction did not
necessarily mean that the measure was in conformity with the GATT. In the
context of the Group's work, it was the responsibility of other contracting
parties to challenge a particular justification if they considered that the
measure concerned was not in conformity with the GATT and to state their
reasons for so doing. If a justification was not challenged by a date to
be agreed, there would then be a prima facie case that the measure was in
conformity with the GATT.

19. Some delegations expressed doubts regarding too clear-cut and absolute
a differentiation between "legal" and "illegal" measures. The real
situation was more complex. The matter of GATT conformity should be left
open so that the Group could examine, in the course of its work, the degree
to which GATT cover was available for individual restrictions. There were
also measures for which GATT justifications had been claimed but, in
considering these measures, the Group would have to bear in mind that
justifications had to be tested in accordance with GATT procedures in order
to be acceptable to all contracting parties.
20. Some other delegations felt that detailed discussions on the question of GATT conformity of such a large number of measures should not be a pre-requisite for moving forward in formulating findings and conclusions.

21. Some delegations expressed support for the reasoning advanced by the Chairman for the identification of measures not in conformity with the GATT.

22. Comments were invited on possibilities for the elimination or progressive liberalization of quantitative restrictions. Reference was made, in this connection, to the informal technical paper prepared by the secretariat listing possible techniques for the elimination or progressive liberalization of quantitative restrictions or their being brought into conformity with the GATT.

23. It was pointed out that in discussing possibilities for elimination or progressive liberalization, the Group should bear in mind the special position of measures maintained by the developing countries for balance-of-payments reasons and justified in terms of the appropriate GATT procedures.

24. A number of delegations felt that it would not be realistic necessarily to expect an immediate elimination of restrictions and that a combination of techniques mentioned in the informal secretariat paper or other techniques might be appropriate depending upon the nature of the quantitative restrictions, e.g. whether it was seen to be in conformity with the GATT. Detailed discussions were needed to arrive at an understanding in this area.

25. Some delegations stressed the need for priority attention to the elimination of illegal quantitative restrictions particularly those affecting the export interests of developing countries. If immediate elimination was not possible, there should be a standstill agreement with a well-defined time-bound programme of action. Reference was made in this context to the commitments of contracting parties under GATT and in terms of the Ministerial Declaration, in particular paragraph 7(i) thereof.

26. A number of delegations welcomed the informal secretariat paper on techniques.

27. Several delegations made comments or suggestions in relation to the secretariat paper.

28. Some delegations felt that in the context of the mandate a clear distinction between "legal" and "illegal" measures was necessary in connection with consideration of techniques for elimination and liberalization.

29. One delegation referred to the need to strengthen the general principle that quantitative restrictions could not be maintained under the GATT except under specific conditions. The broad categories of restrictions were: those not in conformity with the GATT - these would have to be eliminated or brought into conformity; those which were justified, e.g. under Article XVIII:B - these could be liberalized over time as the underlying conditions which led to their being instituted or maintained improved; and those which were not in conformity but also not
"illegal", e.g. measures under the Grandfather Clause - these should also be progressively liberalized under the GATT.

30. One delegation considered that the techniques listed at 2(b), 2(c) and possibly 2(d) might be considered for dealing with "illegal" quantitative restrictions whose elimination could not be the subject of any negotiations. A modified form of 2(e), i.e. a request and offer procedure directed towards liberalization might be appropriate for handling other quantitative restrictions.

31. One delegation suggested that a concerted effort be made by all contracting parties to eliminate, by an agreed date, e.g. 1 January 1985, as many quantitative restrictions as possible. In respect of the remaining quantitative restrictions, contracting parties should agree to a standstill arrangement and periodic reviews directed towards liberalization and elimination, the possibility being provided for the introduction of moderate tariff protection where justified and in accordance with GATT procedures. Permission might be granted for temporary increases in the bound rates in respect of the relevant items on the understanding that there would be progressive reductions to the level of the bindings. Should contracting parties be unable to implement the agreed progressive reductions on bound items, Article XXVIII negotiations would be initiated for the modification of bindings, where necessary.

32. A number of delegations saw conceptual and practical difficulties with the technique of replacing quantitative restrictions by tariffs of equivalent protective effect followed by progressive reductions of the tariff. One delegation pointed out the danger of additional difficulties if the tariff proved too restrictive or not restrictive enough in relation to the quota restriction it replaced. The representative of a group of delegations felt that the procedures would impose an unequal burden on contracting parties the majority of whose tariffs were bound. Another delegation considered the technique unacceptable as it merely replaced quantitative restrictions with another form of protection and did not fulfil the Group's mandate of achieving trade liberalization.

33. One delegation considered that 1 January 1986 would be more realistic as the agreed deadline for the elimination of quantitative restrictions not in conformity with the GATT.

34. Some delegations considered that structural adjustment was a vast and complex issue in which work had been conducted elsewhere in the GATT. In this context, they felt that the work of the Group should not be linked to the ongoing or future work on structural adjustment.

35. Some delegations said that the possibility of effecting changes in the GATT was excluded by the Group's mandate and expressed concern at the possibility that existing GATT rules and disciplines might be modified to accommodate existing restrictions. Some delegations could consider the possibility in the context of an evolving GATT. Reference was made in this connection to the NTM Codes concluded in the Tokyo Round. Some other delegations expressed the need for caution in this area.

36. The Group took note of the points made. The Chairman noted that further discussion would be necessary to arrive at an understanding on these matters.
II. Other Non-Tariff Measures

37. The Chairman referred to the informal note analysing the information available to the Group and to the notes NTM/W/8 and NTM/W/8/Add.1 prepared by the secretariat, pulling together the ideas on future work put forward by delegations. He referred to the agreement reached previously by the Group that a further analysis be undertaken of information available in the Inventory of Non-Tariff Measures with a view to assisting the Group in arriving at findings and conclusions. He stated that the Group continued to lag behind in this area of work. It was particularly important to have ideas on methodologies to deal with the measures listed in the Inventory.

38. A number of delegations referred to the importance of other non-tariff measures in terms of their effect on international trade, and the need for the Group to ensure that the work on other non-tariff measures proceeded in parallel with the work on quantitative restrictions.

39. Some delegations stated that the Group had a two-fold responsibility: firstly to establish a continuing and long-term procedure for dealing with other non-tariff measures in the GATT; and, secondly to initiate such a continuing procedure and to make it operational. The consideration of types of measures and individual measures in parallel would be preferable as a procedure for future work. One method might also be to select some representative non-tariff measures from the Inventory - on the basis of objective criteria, e.g. their relevance to international trade, their relevance to GATT, their relevance to the interests of a sufficiently large number of contracting parties. Such selected non-tariff measures could then be subject to an in-depth, but general discussion, concentrating, inter alia, on the reasons for their maintenance, their effects on trade and their conformity with the General Agreement. The question of their relevance to the NTM codes might also be explored. Furthermore, due account should be taken of the interests of the developing countries. The information emanating from such discussions might be referred to the capitals so that the concerned national authorities could consider what could be done about these measures. Such an approach would also facilitate the use of any bilateral request and offer procedures directed towards the elimination of other non-tariff measures, which was the ultimate objective of the mandate.

40. One delegation suggested that the Group should also focus its attention on other non-tariff measures in areas where less international discipline presently existed e.g. State trading, where a number of notifications were also of interest to developing countries. The Group might recommend that the CONTRACTING PARTIES establish an institutional framework for examining notifications made by contracting parties under Article XVII with a view to ascertaining the conformity of the measures with the GATT.

41. One delegation stated that, in accordance with the mandate, measures in the agriculture area would have to be included in any work relating to other non-tariff measures.

42. The Group took note of the points made.

43. In concluding the discussion of the Group's findings and conclusions on quantitative restrictions and other non-tariff measures, the Chairman
stated that, though further discussions were obviously necessary, the Group did not have much time in terms of the schedule it had set itself.

General

44. The Chairman made some suggestions, on his own responsibility, to assist the reflection of members. He observed that these were neither definitive or exhaustive and that delegations may have other ideas and proposals. He hoped that these and the other ideas put forward by the members would be given serious consideration so that the Group could address them in the next meeting in September. The main elements of the suggestions put forward by the Chairman are set out in the following paragraphs:

He felt that the Group could not content itself with reproducing in a report the various well-known positions of different delegations; while respecting these positions he felt that the Group must reach a consensus in order to achieve tangible progress within its terms of reference. The Group could readily agree on the idea that disciplines in the field of quantitative restrictions and other non-tariff measures should be strengthened. The Group should try to formulate specific recommendations in this area. This would be an expression of the political will and the readiness of each member of the Group to take further steps towards the final objective of total elimination of illegal quantitative restrictions and progressive liberalization of other quantitative restrictions and non-tariff measures.

As the present documentation on quantitative restrictions and other non-tariff measures was indispensable for future work, it should be kept up-dated regularly and further efforts made to improve its coverage and quality, scope and presentation. In this connection, the Chairman recalled the suggestion made earlier for one comprehensive data base for all quantitative restrictions and other non-tariff measures.

The Group should recommend that all contracting parties be invited to notify regularly details of their quantitative restrictions. With a view to establishing a clear obligation for contracting parties in this area, the notification procedures should be made more specific: the periodicity of notification should be defined (annual or biennial); the Group should agree on a system of symbols to be used; notifications of quantitative restrictions and of their grounds and GATT conformity should be made simultaneously; and allowance should continue to be made for reverse notifications.

The list of products of special export interest to developing countries would play an important rôle in future work and should remain open to amendments.

Periodic reviews of the documentation as a whole would have to be envisaged and the Group might therefore suggest the creation of a body to carry out this task. This might be either the present group with a new mandate or some other body.

Concerning action to be undertaken, the Chairman recalled that the objectives had been clearly stated in the Ministerial Declaration. Referring to the earlier discussion on techniques for eliminating and
progressively liberalizing quantitative restrictions and other non-tariff measures, he felt that no possibility should be excluded or rejected that might, in some circumstances, lead to real progress towards the stated aim.

The Group might recommend that contracting parties be invited to consider the means of bringing their quantitative restrictions into conformity with GATT. Various possibilities might present themselves—for example the elimination of elements of discrimination which are not in conformity with the rules of GATT or a request for a waiver under paragraph 5 of Article XXV: contracting parties might be invited to indicate their intentions and make proposals by a date to be agreed.

It was not necessary that action in this area should await the formulation of recommendations by the Group. The Chairman felt that if any contracting party should feel itself in a position to announce, even before the November meeting of the Contracting Parties, a programme of elimination or liberalization of their quantitative restrictions, it should do so. Such a gesture would signify the existence of genuine political will and constitute real progress in the work of the Group. They might also have a snowballing effect.

Turning to quantitative restrictions of which the conformity with the GATT had not been challenged, the Chairman suggested that procedures be established to discuss their progressive liberalization. A process of bilateral requests and offers should be explored for the elimination of these measures, a process which could be monitored by the same body as proposed earlier for the review of the data base.

Concerning other non-tariff measures, the Chairman foresaw similar proposals: a strengthening of disciplines, a more precise notification procedure, and also a procedure for further discussions leading to proposals for the liberalization of existing non-tariff measures. The proposed central body could perform similar tasks in this area to those in the area of quantitative restrictions.

45. The Group agreed to the Chairman's proposal that the secretariat be asked to proceed with the preparation of a first draft report for discussion at its meeting in September. This draft would take into consideration the views expressed in the meetings and discussions of the Group.

46. It was agreed to hold the next meeting in September, the main purpose of which would be discussion of the Group's report, including findings and conclusions.