Committee on the Legal and Institutional Framework of GATT in Relation to Less-Developed Countries

MODEL CHAPTER ON TRADE AND DEVELOPMENT

Revision

At the meeting of the Committee held from 14-18 October 1963, it was agreed that the secretariat should attempt to prepare an outline of a new Part of the General Agreement designed specifically to cover the work of the CONTRACTING PARTIES in relation to the development of the economies and trade of less-developed countries.

The new chapter should, it is suggested, be designed to achieve three principal purposes:

first, to define in clear and unambiguous language the direct relevance of economic development to the general objectives of GATT as set out in Article I (Revised);

second, to define the principles which are considered appropriate for furthering these objectives in the field of trade and the commitments which contracting parties, by virtue of their adherence to the GATT, accept in furtherance of these principles;

thirdly, to provide for collective action by the contracting parties to devise measures to further the development objective and to ensure that other provisions of the General Agreement shall not operate so as to prevent the implementation of such measures.

The chapter should also contain provisions to ensure that the less-developed countries have appropriate flexibility with respect to their commitments as contracting parties to be able to take necessary measures to
promote the development of their economies and to meet difficulties arising from their shortage of foreign exchange to finance imports. It is considered that Article XVIII, as substantially revised in 1954-55, already provides considerable flexibility, and that having regard to the other urgent tasks in relation to economic development it is not a matter of urgency to revise these provisions, even though they may be considered somewhat prolix and complicated. If this approach is adopted the new chapter would take the form described below.

If the countries concerned so desire, a simplification of the provisions of Article XVIII could be undertaken. If such a revision were undertaken, it should be borne in mind that the safeguards which Article XVIII contains are for the benefit of all contracting parties and that they will be of increasing importance to less-developed countries themselves as more less-developed countries embark on extensive programmes of development. In a revision of Article XVIII account might be taken of the suggestion in Spec(63)266 that temporary import surcharges might be authorised as an alternative to the use of quantitative restrictions by less-developed countries. There might also be merit in including some interpretation and application of the new principle of non-reciprocity to the provisions about compensation in connexion with renegotiations, which would otherwise become a somewhat anomalous legacy of an earlier time when reciprocity was the rule. The consultations on measures being applied under the Article would become part of a broader joint consultation discussed in Point V of this Model.
I

Recalling that the basic objectives of the General Agreement include the raising of standards of living and the progressive development of the economies of all contracting parties, and considering that the attainment of these objectives is particularly urgent for those contracting parties which are in an early stage of development and whose economies can support only low standards of living, the contracting parties recognize that individual and concerted action by contracting parties to further the development of the economies of these countries is essential.

II

Accordingly the contracting parties agree:

(1) that there is need for a rapid and sustained expansion of the export earnings of the less-developed countries;

(2) that every effort should be made to ensure that the less-developed countries share equitably in the growth of international trade;

(3) that, given the continuing dependence of many contracting parties on the export of a limited range of primary products, there is need to provide more favourable access to markets for such products and to devise joint measures to ensure stable and remunerative prices for such exports;

(4) that the rapid expansion of the economies of the less-developed countries will be facilitated by a diversification of the structure of their economies, thus avoiding an excessive dependence on the export of primary products;

(5) that the contracting parties must therefore help to create such a situation as to assure less-developed countries of access to external markets for semi-processed and processed products under favourable conditions;

(6) that there is need for less-developed countries to have the necessary flexibility in the application of the provisions of the Agreement so as to be free to use special measures to promote their development and to meet special difficulties arising from a shortage of foreign exchange in relation to growing imports needs associated with their progressive economic development.

(7) that the adoption of measures to give effect to the foregoing principles shall be a matter of conscious and purposeful effort on their part both individually and jointly.
III

To give effect to the foregoing principles the contracting parties might undertake commitments on the following lines:

(a) to accord high priority to the reduction and elimination of barriers to exports of particular interest to less-developed countries;
(b) to refrain from imposing new import barriers on export products of particular interest to less-developed countries;
(c) to refrain as far as possible from imposing or maintaining fiscal measures which may hamper growth of consumption of products of interest to less-developed countries and which are applied specifically to those products;
(d) to examine sympathetically the adoption of domestic measures designed to provide greater scope for the development of imports from less-developed countries;
(e) to have special regard to the trade interests of less-developed countries when considering the application of special measures permitted under the General Agreement to meet particular problems;
(f) to give priority in trade and tariff negotiations to concessions of interest to less-developed countries and not to expect reciprocity in the form of tariff concessions.

It is proposed that the following explanatory notes should accompany the provisions outlined in Section III above:

Ad paragraphs (a) to (f)

The provisions (a) - (f) might be accompanied by an explanatory note which would recognise that much of the action which these provisions would require would be inappropriate for less-developed countries which could more appropriately give primary consideration to measures of commercial policy designed to promote their economic development on rational lines.

Ad paragraph (d)

A note to (d) might indicate that the domestic measures envisaged would include steps to promote structural change (for example, through adjustment assistance), efforts to promote consumption of products of interest to less-developed countries, and measures of trade assistance.
Ad paragraph (e)

A note to (e) might indicate that the highly developed countries in particular would exhaust the possibilities of constructive remedies before resorting to the use of measures such as anti-dumping and countervailing duties, escape-clause action or export assistance measures, which could have adverse effects on the trade interests of the less-developed countries.

Ad paragraph (f)

An explanatory note to (f) might note that as the less-developed countries accept a measure of discipline in their commercial policies through their participation in the General Agreement, it is to be expected that reciprocity for tariff concessions would be expressed in the increased capacity to import, generated by such concessions, rather than through reciprocal tariff concessions by the less-developed countries.

IV

Article XVIII, (amended or unamended)

V

In addition the contracting parties might agree to collaborate jointly within the framework of the General Agreement and elsewhere to further the objectives outlined in Section I above. In particular they might agree:

(a) to take action to improve conditions of access to markets for primary products and to seek stable and remunerative prices for exports of such products;

(b) that nothing in the General Agreement shall prevent effect being given to arrangements agreed upon in the furtherance of the commitments outlined in Section III above;

Work is currently in progress in a working group in an effort to develop criteria and procedures subject to which developed countries would accord preferences to products exported by less-developed countries and also to govern preferential arrangements between less-developed countries in furtherance of their economic development. If
such criteria are established the provision in sub-paragraph (b) should be so worded as to cover specifically arrangements complying with the agreed criteria. On the other hand, if there were no agreed criteria and preferential arrangements were left to be negotiated by all interested contracting parties, sub-paragraph (b) would provide a legal basis for giving effect to such negotiated arrangements even if those arrangements included deviations from other provisions of the General Agreement.

(c) to collaborate in analyzing the development plans and policies of individual less-developed countries and in examining trade and aid relationships with a view to devising concrete measures to promote the development of export potential and to facilitate access to export markets for the products of the industries thus developed. In this connexion they shall seek appropriate collaboration with governments and international organizations, and in particular with organizations having competence in relation to financial assistance for economic development in systematic studies of trade and aid relationships in individual less-developed countries aimed at obtaining a clear analysis of export potential, market prospects and any further action that may be required;

(d) the consultations provided for in paragraph 12(a) and (b) of Article XVIII shall be expanded to cover all basic elements in the trade and development problems of individual less-developed countries, including consideration of structural factors which may limit the possibility of expanding the exports and maximizing the earnings of the country in question. Every effort shall be made to devise and suggest remedial measures to overcome the problems identified in the course of such consultations.

(e) to keep under continuous review the development of world trade with special reference to the rate of growth of the trade of less-developed contracting parties and to make such recommendations to contracting parties as may, in the circumstances, be deemed appropriate.
Ad paragraph (d)

An explanatory note to (d) might indicate that the CONTRACTING PARTIES would establish a plan of consultation under which the consultations provided for in paragraph 12(a) and 12(b) of Article XVIII should be expanded to include such elements as consideration of the basic economic conditions within which the consulting country's development is taking place, consideration of development problems of such country which are relevant to its trading position, the measures which the country has adopted to promote its economic development, and action by other contracting parties to assist the consulting country's development.