TARIFF DISPARITIES

Draft Report on Position Reached

1. The position so far reached on this issue has been set out in detail in the report of the Sub-Committee on the Tariff Negotiating Plan (TN.64/NF/8). The following note sets out briefly, in relation to the more important of the problems involved, the points on which agreement has been reached and those on which there are still differences of view.

Prima facie identification of disparities

2. It is generally agreed that, as a first step in the identification of significant disparities, prima facie cases of disparity should be regarded as existing only where certain arithmetic criteria are met.

3. While most delegations would in this connexion prefer a formula based on a seuil or cut-off, all have agreed to see if it is possible to find a solution based on the double-écart proposal of the European Economic Community under which a prima facie case of disparity would be regarded as existing wherever, first, the high rate is at least double the low rate and where, secondly, there is a gap between the two rates of at least ten percentage points.
The main problem: position of third countries

4. It is generally agreed that, in addition to purely arithmetic criteria, further criteria or principles are required. In this connexion the most important unresolved problem relates to the position of third countries.

5. The Community have indicated that they would be prepared to deal in a pragmatic way with cases where the application of the disparity rule might have serious consequences for exporting third countries, and would hold discussions with the countries particularly affected with a view to reaching satisfactory solutions.

6. One delegation other than that of the Community, while they would prefer the use of an automatic criterion in this field, feel it might be advisable to follow the pragmatic approach suggested by the Community.

7. This approach would not be acceptable to other delegations. A solution generally acceptable to them would be based on:

(a) substituting an automatic criterion in place of the pragmatic procedure suggested by the Community;

(b) devising a criterion the effect of which would be to exclude from disparity treatment all products where third countries are major suppliers to the low rate country.

8. It has, however, been suggested by one of these delegations that if, for reasons of principle, it would not be possible for the Community to accept a solution of this nature, it might be provided that it should be recognized that the country with the "low" duty would have the right to invoke the disparity rule wherever the provisions of the arithmetic formula and the agreed additional criteria were met, but that, without prejudice to that right, it would be understood that it would not normally be invoked where a third country was the principal supplier of the country with the "low" duty; and that where exceptionally, the latter wished to invoke the right, it would consult first with the principally interested third countries.
Other problems

(i) Application of double-écart formula to semi-processed products

9. Under the Community proposal, the ten percentage points minimum gap requirement would not apply to semi-processed products. All delegations other than that of the Community feel this requirement should apply to all products. The Community delegation have indicated that they may be able to accept the use of a smaller minimum gap requirement in the case of semi-processed products (say two or three percentage points). Other delegations have indicated that they would not regard this as acceptable, since, in terms of the number of products which would satisfy the requirements of the formula, the use of such a smaller gap would be very little different from having no such requirement at all. Several delegations have supported a possible compromise under which, while the ten percentage points minimum gap requirement would apply to semi-processed products, it would nevertheless be open to a country to claim that a disparity exists where this requirement is not met, but where a case is made on the basis of the special circumstances of that product.

(ii) Key countries

10. It is generally agreed that, for the purpose of establishing significant disparities, the identification of high rates should be confined to the three main tariffs, namely those of the United States, the European Economic Community, and the United Kingdom only.

(iii) Criterion relating to absence of imports into low rate country

11. The Community have proposed that disparities provisionally identified by the arithmetic criteria in A should not be regarded as significant where there are no, or only negligible, imports into the country with the low rate, provided that the absence of imports or their low level is not due to the existence of quantitative restrictions or measures with equivalent effect. There is general agreement with the first part of this proposal, but all delegations other than that of the Community support a proposal that the proviso relating to quantitative restrictions should be dropped.
(iv) **Criterion relating to absence of production in low rate country**

12. Subject to further discussion of the meaning of the term "short-rate" there is general agreement with a Community proposal that disparities should not be regarded as significant where there is no production, and no short-term plan for production in the country with the low rate.

(v) **Criterion or principle relating to a high level of imports into the high rate country**

13. The Community have indicated that, notwithstanding the existence of significant disparities in cases which satisfied the arithmetic and qualitative criteria so far described, the Community would be prepared to discuss with the high rate country the possibility of not invoking the disparity rule where that country imported substantial amounts from the Community, taking into account all the relevant factors, such as the proportion of imports in domestic consumption.

14. Most other delegations agree with a United States' proposal that the principle proposed by the Community should be stated in terms of an automatic criterion and that, provided they are subject to the high rate in question, imports from any source should be taken into account and not just imports from the low rate country.

(vi) **Rules for tariff reductions where meaningful disparities are identified**

15. Precise proposals have not yet been put forward on this point.