COMMUNICATION FROM THE EUROPEAN COMMUNITIES

The following communication has been received from the delegation of the European Communities with the request that it be circulated to members of the Negotiating Group on Natural Resource-Based Products.

I. General principles

1. The European Community considers that the time has come to explore in greater depth the provisions which should be applicable to natural resource-based products. It has repeatedly stressed the special character of these products. Natural resources are by their very nature unequally distributed throughout the world, but equally essential to every country’s economy. The multilateral rules applicable to natural resource-based products must therefore take account of all the conditions affecting trade in such products.

2. The Community proposes that the basic principles of the GATT should be applied to all the problems that characterize the natural resource-based-products sector.

The elements of the General Agreement worth mentioning in this connection are the following:

(a) the principle of non-discrimination, principally embodied in the most-favoured-nation Clause in Article I, and in the criteria for the allocation of tariff and quantitative quotas, as well as in the specific provisions relating to products in short supply;

(b) the principle of transparency;

(c) the determination of the conditions under which derogations may be invoked, which applies in particular to the administration of measures for the conservation of exhaustible natural resources;

(d) the use of negotiation as an instrument for achieving, on a basis of reciprocity and mutual advantage, multilateral agreements aimed at expanding international trade.

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The Community is convinced that the application of these few universally recognized and approved principles would offer a real chance of reaching a comprehensive settlement of problems in the natural resource-based-products sector.

II. Application of GATT principles to trade in natural resource-based products

3. The Community considers that the application of the GATT principles should make it possible effectively to prevent any abuse of natural resource distribution, including in such extreme situations as where a country or group of countries possessing the bulk of a particular resource might be tempted to exploit its dominant position in pursuit of a policy of arbitrary discrimination.

4. The General Agreement is quite explicit as regards the conditions in which quantitative restrictions on exports of natural resource-based products may be imposed (see Articles XI and XX(g)). The principle of non-discrimination in the distribution of limited advantages, which Article XX(j) reaffirms most pertinently with regard to natural resources, should be scrupulously observed within the framework of a procedure based, for example, on Article XIII of the General Agreement.

5. As in any sector where competition may become fierce, the Community considers that it is desirable to reaffirm the principle of transparency for all governmental measures that might affect trade in natural resource-based products.

6. From a multilateral standpoint, finally, the Community considers that contracting parties should be able, if they so desire, to agree on concessions not only in the tariff and non-tariff spheres but also any measure which can affect trade in natural resource-based products, in particular export duties and taxes. The modalities relating to these types of commitment should be studied case by case. The corresponding schedules would be annexed to the text of the General Agreement and governed, mutatis mutandis, by Articles II, XXVIII and XXVIIIbis of the General Agreement. The provisions of Article XXIII relating to the protection of concessions and benefits would also apply to them.

7. In the case of natural resource-based products, the interests of developed contracting parties and developing contracting parties are closely linked. None of the GATT contracting parties can claim to possess all the raw materials it needs for its industrial development. However, many less-developed contracting parties possess natural resources in excess of their processing needs and thus are major suppliers of such products on world markets.

In order to avoid any misunderstanding, therefore, contracting parties must recognize two major principles during the negotiations:
(a) negotiations on natural resource-based products must in no case interfere with the sovereignty of countries over the natural resources they possess.

(b) whatever the outcome of the Group’s work, the contribution to the negotiating objective that will be sought from developing countries, whether they be suppliers or importers of natural resource-based products, must take account of the development, finance and trade needs of each of those countries.

Naturally, developing countries whose economies have reached a higher level of development will be expected likewise to make a greater contribution than that expected from other less-developed developing countries. The practical implementation of these concessions and their modulation will have to be defined in the light of developments in the negotiations.

The Community is mindful that in its contractual relations with certain developing countries it finds that many developing countries continue to depend, as far as their earnings are concerned, on exports of a small range of primary products, and recognizes their special interest in expanding their trade potential.

III. Specific elements relating to certain categories of products

A. Industrial natural resources

8. With regard to industrial natural resources, the negotiations, while based on the principles mentioned above in Parts I and II of this document, should take account of the specific features of this sector.

9. No contracting party, developing or otherwise, possesses sufficient quantities of all industrial natural resources. Consequently, the possibility of acquiring the products they need is vital for all contracting parties. Furthermore, for countries that produce more than they consume of a particular resource, and possess comparative advantages they do not wish to see undermined by import duties or quantitative restrictions, market-access conditions are equally important.

These two viewpoints may nevertheless be reconciled by a search for a suitable balance between the legitimate interests and rights of each of the contracting parties in this sector.

10. Tariff and non-tariff barriers on imports of industrial natural resource-based products in the EEC are among the lowest in the world. The European Community will study the proposals of other interested parties on this subject. The discussions could also cover all the issues relating to tariff escalation. In addition, factors hindering free trade in natural resource-based products should also be the object of negotiations.
11. Without prejudice to the issues raised by other contracting parties, the Community considers it important to study the following problems and find suitable solutions:

(a) excessively high customs duties;
(b) double-pricing practices;
(c) export restrictions;
(d) export taxes;
(e) certain government procurement practices.

B. Fisheries products

12. A comprehensive settlement of the problems affecting trade in fisheries products should be based more especially on the application of the principle of non-discrimination, and the principle that all contracting parties are entitled to an equitable share of the international supply of products in short supply.

13. It is not a question of challenging the national sovereignty of coastal contracting parties. They must be fully recognized the sovereign right to fix total allowable catches (TAC) in their exclusive economic zones according to the requirements of conservation of fish stocks, taking into account the valuable assistance provided in this connection by the scientific data prepared by the competent international organizations. Nevertheless, measures taken by coastal contracting parties for the purpose of conservation of fishery resources may constitute a means of arbitrary discrimination among countries in which the same conditions exist, or a disguised restriction on international trade. Hence, a multilateral discipline based on the provisions of Article XX of the General Agreement should be envisaged in this context.

14. Likewise, it goes without saying that coastal contracting parties must be able, within the limits of the TACs defined above, to harvest the volume of catches corresponding to the capacity of their national fishing fleets. It is only where a coastal contracting party cannot or does not wish to harvest the whole of its TACs that a "surplus" may be said to exist, as a result of the difference between the TAC and the size of the catch reserved for the national fleet. However, the national catch capacity should not be overestimated in such way as to unduly favour national production. This requirement seems in keeping with the concern for non-discrimination underlying the provisions of Articles III and XX(j).

15. The principle of equitable sharing of scarce resources laid down in Article XX(j) would allow criteria to be defined for the allocation of surpluses on a fair basis and in accordance with the principle of transparency.
16. Other special features of the sector (such as non-discrimination in the supply of services to fishing vessels or non-discrimination in participation in joint fishing enterprises) should be studied in due course in this context.

17. Naturally, if the foregoing principles of equity were recognized in full and with all their implications, the Community would be prepared to contribute fully to the liberalization of trade in fishery products, pursuing the negotiating objective agreed on for natural resource-based products at Punta del Este.