

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

NTM/16

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Limited Distribution

Group on Quantitative Restrictions and Other Non-Tariff Measures

MEETING OF 7 JULY 1986

Note by the Secretariat

Chairman: Ambassador M. Huslid (Norway)

1. The Group met on 7 July 1986. The following agenda, contained in GATT/AIR/2286, was adopted:

- A. Taking stock of the notifications and written proposals made;
- B. Preparations for the multilateral review to be held in October 1986;
- C. Other tasks within the Group's mandate;
- D. Other business.

A. Taking stock of the notifications and written proposals made

2. The Chairman suggested that this constituted the main point on the agenda for the meeting since success in the Group's work depended on the quality of the notifications and proposals. He recalled that the Group had decided that contracting parties should submit by the end of April 1986, their notifications and proposals (NTM/W/15). He noted that proposals had been received from South Africa, New Zealand, Japan and Canada. These proposals had been circulated in documents NTM/W/16 and addenda. He asked delegations which had not provided information whether the Group could expect from them notifications and proposals.

3. The representative of Egypt informed the Group that his government was in the process of preparing a set of economic reform measures which would come into effect within a short period and which would be of relevance to the substance of the notification which he hoped his delegation would be able to submit soon.

4. The representative of the European Economic Community informed the Group that the secretariat had received a notification from the Community relative to quantitative restrictions in accordance with the request for information contained in GATT/AIR/2254. However, this notification was not complete because the new configuration of the Community had created a number of complexities. He hoped to be able to notify the remaining data before the summer break.

B. Preparations for the October multilateral reviews

5. The Chairman recalled that in accordance with the recommendations contained in the Group's last report to the CONTRACTING PARTIES (L/5888), the Group would have to proceed in October to:

- (a) review the accuracy and adequacy of the documentation, and (ii) grounds on which measures are maintained and their conformity with the General Agreement (L/5888, paragraph 12);
- (b) review progress in implementing the 1982 Ministerial mandate (L/5888, paragraph 47).

6. The Chairman recalled that in line with its mandate, the Group had agreed to have before it documentation that would be complete as to product coverage. It had also agreed to avoid duplicating work carried out in other GATT bodies, namely in the areas of agriculture and of textiles covered by the MFA, and to re-examine the situation at a later date in the light of developments in these bodies (NTM/W/4, paragraphs 16 and 20). This had meant in practice that the Group's review had in the past concentrated on industrial products other than textiles covered by the MFA.

7. The Chairman also reminded the Group that the basic documentation for the review of the data would be the same as last time. This documentation would be accompanied by secretariat analyses similar to those done in the past. In addition, the secretariat would prepare a unified analysis of the basic documents which would give a clear overall picture on a country-by-country basis as agreed by the Group last year (NTM/W/15, paragraph 8). The Chairman also said that in order to prepare the required analyses, the secretariat would proceed on the basis of the notifications received to date, including the various addenda issued since the last multilateral reviews. Any further notifications or written proposals would be issued as addenda to the basic documentation but would not be included in the analyses.

8. The Chairman said that the analyses to be prepared by the secretariat would enable the review of the documentation to be conducted in a number of ways. However, the Group would, for the first time, have at its disposal a unified document, dealing both with quantitative restrictions and with other non-tariff measures. Since this would be a new document, the Chairman felt that the Group should go through it and that the best way of organizing the review would be to do that and then take up any other points that might be raised on the documentation.

9. The Chairman also pointed out that for the review of progress made towards the objectives laid down by Ministers in 1982, the Group would have before it the proposals made by delegations, an analysis by the secretariat of recent changes in quantitative restrictions, and an analysis of sectors of export interest to developing countries - canned products, leather, footwear, tableware, electronic products, as for last year's review in the Group. At the Group's last meeting, it had been agreed that the secretariat should consult interested developing countries on the possibility of adding sectors to this list (NTM/15, paragraph 18). After consultation, the secretariat proposed that one additional sector should be analysed - non-MFA textiles.

10. The Chairman suggested that, as during the Group's last review of progress towards the objectives laid down by Ministers in 1982, the Group should first deal with quantitative restrictions. It would examine the written proposals one by one together with the secretariat's survey of recent changes; and then examine sectors of export interest to developing

countries on the basis of a secretariat analysis of sectors agreed upon by the Group. He recalled that the 1985 review of other non-tariff measures also had two facets. During the review, the Group had first noted some country statements on action taken to liberalize such measures. There was also a more general discussion on procedures and priorities for dealing with other non-tariff measures, out of which came the recommendations to carry out the two tasks that were next on the agenda for the present meeting. The Chairman suggested that the same procedure be used in October: as some of this year's written proposals also referred to other non-tariff measures, an opportunity would first have to be provided to examine them. The content of the second aspect would largely depend on the outcome of the discussion on the next item on the agenda.

11. The representative of Argentina asked whether in the new documentation which was being prepared by the secretariat for the reviews, there would be an evaluation of the trade effects involved in the proposals for liberalization made in 1985 by some contracting parties. He recalled that this had been the object of comments during the course of the previous meeting.

12. The representative of the secretariat confirmed that discussions had taken place in the Group about the possibility of analysing the trade effects of measures maintained by contracting parties. Some delegations had indicated interest in such an analysis, but at the same time a number of practical difficulties had been noted. It had been agreed that those delegations which were in a position to do so, should in their notifications make an assessment of the trade effects of the measures they maintained. Australia, which had originally proposed that the analysis of trade effects be prepared, had attempted to make such an assessment in its own notification. The secretariat for its part would do its best with the information supplied to it.

13. The representative of the European Economic Community said that while the multilateral reviews were conditioned by the need to report to the next meeting of the CONTRACTING PARTIES, it was important to have as full a set of information as possible. The documentation available to the Group indicated that a number of countries had not notified anything. Other contracting parties had made notifications to other GATT bodies and in an effort to avoid duplication, this information would be made use of. However, the total absence of information on a number of contracting parties would necessarily result in a lopsided new presentation for the multilateral review. Since it was desirable to base the presentation on as complete a coverage as possible, he requested delegations to be as accurate and as complete as they could. While he recognized the difficulties faced in arranging for notifications to be complete, he also felt that the work of the Group would be improved if transparency could be achieved. In the absence of transparency, the worth of future work in the Group would be limited.

14. The representative of Australia asked for information on the comprehensive data base which was being prepared, and particularly on what it would contain and when it was expected to be made available. She also wondered about the relationship of the work of the Group to the proposed new round of multilateral trade negotiations which might set up a new group to cover the same ground. The representative of Chile said that the work

of the Group would be closely linked to a new round. Therefore, the possibility of such a round being launched had to be borne in mind.

15. The representative of Hungary expressed the hope that the documentation for the reviews would be made available as long as possible before the reviews were due to take place. He suggested that the basic documentation should come out first to be followed when ready by the evaluation of it prepared by the secretariat.

16. The representative of New Zealand said that his delegation had notified in May 1985, the list of existing quantitative restrictions (NTM/W/12/Add.8). Quantitative restrictions which had been eliminated or liberalized since then had been the object of a new notification (NTM/W/16/Add.1). Moreover, proposals which were set out in the earlier document remained on the table. However, if one looked at documents submitted by other contracting parties and also considered the fact that some had not submitted anything, it was fair to say that there had not been an overwhelming reaction to the decision taken by the CONTRACTING PARTIES in relation to the work of the Group. His delegation therefore had doubts as to how effective the multilateral reviews would be if the situation were maintained.

17. The Chairman agreed that the success of reviews depended on the documentation being as complete as possible. Stock-taking of the documentation was the objective of the meeting and he therefore urged delegations to comply at the earliest opportunity with the requirements for notification. His request went particularly to countries which accounted for a substantial part of world trade. It was clear that in some cases, what was needed was to update the information already available in the documentation since some of it might be old. The usefulness of this work had been questioned since contracting parties were actively preparing a new round. There existed different views on this question. In the opinion of some delegations, it was necessary to take account of the fact that a new round was approaching. Others put emphasis on the need to pursue the work of the Ministerial Declaration according to decisions which had been taken by the Group. He considered that it was the intention of delegations to conduct the reviews as scheduled. Looking at what had been done by the Group in the past, he felt that the preparation, compilation and systematization which had been effected, would be useful either in a new round or in the continued implementation of the Work Programme contained in the Ministerial Declaration of 1982.

18. The representative of the secretariat said that if no new notification were received from a contracting party, it was assumed that the old one was still valid. Therefore, information was available on the restrictions maintained by contracting parties of importance in world trade. On the question of a comprehensive data base, he recalled that it had been agreed by the Group that the secretariat should issue a detailed unified analysis of the information available. This would give a clear overall picture on a country-by-country basis and would cover all products. The aim was to produce the documentation about a month before the next meeting of the Group. In the meantime, the information available at the secretariat was open to those delegations which might express an interest to see it.

C. Other tasks within the Group's mandate

19. The Chairman recalled that at the last meeting of the Group (NTM/15, paragraph 28) it had been agreed to address at the present meeting two further tasks within the Group's mandate, both undertaken in response to the Ministers' request that the Group examine how progress should be achieved in the liberalization of other non-tariff measures. There were two main courses of action on other non-tariff measures: to tackle specific restrictions of interest to a limited number of countries on a bilateral or plurilateral basis; or to draw up, multilaterally, rules of general application relating to types of measures. The Group had therefore recommended in its 1985 report (L/5888, paragraph 52): (i) that consideration should be given to drawing up bilateral request-and-offer procedures, subject to multilateral surveillance, that could be used to eliminate or liberalize non-tariff measures; (ii) that the Inventory of Non-Tariff measures (Industrial Products) should be examined with a view to identifying areas that might warrant multilateral action, and if so, what action might be taken. The note circulated in 1985 by the secretariat and included as Annex D in NTM/W/13 might serve as a basis for a discussion of both topics.

20. Paragraphs 4 and 5 of this Annex were relevant to bilateral request-and-offer procedures. The procedures set out there were based on past experience and provided for multilateral surveillance, which had always been a particular feature of bilateral procedures in the GATT. The Chairman proposed that the secretariat's presentation in paragraphs 4 and 5 of Annex D to NTM/W/13 be annexed to the note on the present meeting for reference and future use as appropriate (see Annex).

21. The representative of Hong Kong said his delegation agreed that the work of the Group should proceed independently of a new round. However, it was not clear how to achieve concrete results. The Tokyo Round experience indicated that bilateral request-and-offer procedures had limitations in that requests from smaller contracting parties tended to be accorded little attention. This time Hong Kong would place its hopes in multilateral surveillance although they still saw merit in bilateral consultations and had already held some with Japan. His delegation also recognized the need to identify areas which might warrant multilateral action. He reminded the Group that the Ministerial mandate of 1982 required that adequate attention be given to the need for action as measures affecting products of particular export interest to developing countries. If the Group were to take the view that the nature of non-tariff measures was such that action could not be product-specific, then he would request the secretariat to identify areas or categories of measures of particular concern to developing countries. On page 39 of NTM/W/13 attention had been drawn to three types of measures, namely State-trading enterprises, fees and charges, and rules of origin. He requested the secretariat to explain whether it considered these areas to be general problems or specific ones having a greater bearing on the trade interests of developing countries.

22. The representative of the secretariat stated that it had agreed to try to identify further areas of interest to developing countries in non-tariff measures. When preparing its unified analysis of the information available, which would be circulated before the next meeting, it had attempted to identify the product coverage of the measures listed in the

Inventory. However, it was clear that since the inventory was not complete, this put a limitation on what could be done by the secretariat.

23. The Chairman recalled that in paragraphs 6 to 12 of Annex D to NTM/W/13, the secretariat had suggested three possible candidates for multilateral action: State-trading enterprises, fees and charges, and rules of origin. The Group should consider whether these and/or others might warrant multilateral action, bearing in mind the fact that such action might aim simply at providing greater transparency but that it might also be more far-reaching. In examining these questions, the Group might bear in mind the work going on in other GATT bodies in which the subjects of State-trading enterprises and rules of origin had been referred to. He reminded the Group that paragraphs 6 to 12 of Annex D of NTM/W/13 contained reasons why these items had been suggested for discussion. He felt that reflection might be necessary for delegations. These proposals might therefore be taken up as part of the multilateral reviews which would be conducted in the autumn.

24. The representative of the European Economic Community said that although Annex D of NTM/W/13 might be considered incomplete, it remained the best available analysis and therefore it deserved to be given prominence in the work of the Group. It was also clear that not enough analysis had been made so far of the three areas identified by the secretariat for multilateral action. One reason for this was that delegations might be more conscious that action in these areas belonged to the negotiating phase since setting out techniques for liberalization of other non-tariff measures presupposed that a process of negotiation would take place. While it might not strictly be required that a multilateral negotiating framework be set up for liberalization to be achieved, it was clear that attention had veered while such a framework was awaited. Nevertheless, as mentioned by the representative of Hong Kong, bilateral negotiations might also be held, some of them over matters covered by the MTN codes, and these had a useful contribution to bring to the work of the Group. He therefore suggested that attempts should be made to take further the process of identifying possible areas for multilateral action, with a view to negotiating liberalization in non-tariff measures and hoped to have a contribution to make to this process in the October review. However, since much was dependant on what was going to happen in other areas before then, it was difficult to undertake commitments.

D. Other business

(i) Japan: prior confirmation system for imports of silk fabrics

25. The representative of Hong Kong recalled that at the March meeting of the Group he had raised the question of the prior confirmation system introduced by Japan for imports of silk fabrics from Hong Kong. Since the notification on this measure and Japan's comments on it had been included in the Inventory (NTM/INV/I-V/Add.11), he would not repeat the details of the case. However, he wanted to stress that while his authorities did not dispute the view that domestic problems might justify trade measures, such measures as were taken had to conform with the General Agreement. The question of legality which was of relevance to the Group's work had not been addressed in Japan's comments but if the measure were lifted by the time of the next meeting his delegation would not need to raise the matter during the multilateral reviews in October.

26. The representative of Japan replied that because of changes in taste, overall imports of silk fabrics had declined. The system was only directed at preventing imports of false origin. Bilateral contacts were being held with the Hong Kong authorities in order to explore some aspects of the problem. He hoped that through these exchanges a bilateral way of understanding the situation could be found.

(ii) Proposal by the European Communities (NTM/W/12 and Rev.1)

27. The representative of Hungary recalled that in 1985 the European Economic Community had made a liberalization proposal (NTM/W/12) which partially excluded Hungary from its coverage. His delegation had expressed in the Group its concern about the discriminatory aspect of the proposal which was contrary to the basic provisions of the General Agreement as well as to the mandate and recommendations of the Group. Since then, two EC Member countries out of the four whose liberalization was done on a discriminatory basis, had rectified the situation and the other two had partially done so (NTM/W/12/Rev.1). He therefore was taking this opportunity to ask the Community to eliminate this discriminatory element.

28. The representative of the European Economic Community said that his authorities had undertaken to review the situation. The Community had been able to make substantial moves in the direction of Hungary's request and net effective liberalization had arisen out of the proposals.

(iii) Progress report to the Council

29. The Chairman proposed that, in conformity with the request contained in the CONTRACTING PARTIES decision concerning the work of the Group (L/5929), he make a brief progress report on his own responsibility to the Council at its meeting scheduled for 15 July 1986.

30. The Group agreed to the Chairman's proposal.

(iv) Dates and agenda of the next meeting

31. The Chairman recalled that at its last meeting, the Group had agreed to set aside 7-9 October 1986 to carry out its multilateral reviews and 23-24 October 1986 for consideration and adoption of its report to the CONTRACTING PARTIES, which would be presented to the Council at its meeting of 4-6 November 1986. However, other meetings scheduled for the date envisaged for the reviews required that the date be brought forward to 1-3 October 1986. Although it was pointed out by a few delegations that other GATT meetings were due to be held on the same days, the Chairman proposed that, given the pressure of other meetings, these dates be adopted provisionally.

32. The Group agreed to the Chairman's proposal.

ANNEX

4. Bilateral procedures have, in the past, contained the following elements:

- (a) The presentation to developed countries of requests by a specified date (it being understood that the possibility of additional requests was not foreclosed);
- (b) the presentation to developing countries of indicative lists of measures maintained by those countries by a specified date (it being understood that the possibility of additional lists was not foreclosed);
- (c) requests and indicative lists drawn up in accordance with an agreed format suggested by the secretariat to indicate the specific measure which is the subject of the request including, where possible, the products to which it applies, and the specific action which the country maintaining the measure is requested to take;
- (d) copies of these bilateral requests and indicative lists to be forwarded to the secretariat for distribution to all participating governments, subject to requirements of confidentiality;
- (e) offers by governments in response to requests and contributions by governments in response to indicative lists to be presented by a specified date;
- (f) progress to be reviewed multilaterally with a view to ensuring that the agreed time-table is met, to ensure transparency, to take such action as may be needed to achieve the objectives of the negotiations, in particular with respect to developing countries;
- (g) upon request, the secretariat to prepare documentation for the developing countries concerning non-tariff measures of particular interest for these countries.

5. There are a number of possibilities with regard to plurilateral procedures:

- (a) governments could also ask to be joined in a specific request made by another government;
- (b) the presentation of requests relating to specific measures in specific countries by a number of governments acting together;
- (c) an offer by one government could be made conditional on specific action by a government other than the government making the request in question.