

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

Spec(63)300*

14 November 1963

Ad Hoc Group on Tariff Disparities

TARIFF DISPARITIES

Note by United Kingdom Delegation

This note examines the issue of tariff disparities as raised in the preparatory discussions for the Kennedy round and explores the extent to which the problem of tariff disparities might be met within the terms of the ministerial Resolution of May, 1963 and compatibly with the need for a generally acceptable solution.

Origin of the problem

2. The problem of tariff disparities originated with a difference of view between the EEC and the United States on the effects of the application of a substantial and equal linear cut to both their tariffs.
3. The Community argued that to apply a substantial linear cut to the Common External Tariff and to the United States tariff would be unfair to the Community since the CET rates, an average of several tariffs, were mostly in the 10-20 per cent range while the United States tariff had many high peaks. A 50 per cent linear cut therefore would leave nearly all CET rates below 10 per cent while many United States rates would be higher than 20 per cent. This would leave the Community without sufficient bargaining power to negotiate downwards the remaining high United States tariffs. The Community therefore proposed a formula of "écrêtement" which would have the effect of reducing high tariffs more than low ones. This, of course, is not the only problem raised for the Community in this context; others are mentioned in paragraphs 15-17 below.
4. The United States on the other hand maintained that their higher tariffs were few, that halving them would be just as valuable as halving lower tariffs, and that the formula of écrêtement would mean the United States giving more than they would be getting and would thus be incompatible with the undertaking to secure reciprocity placed on the American administration under the relevant legislation.

* English only/anglais seulement.

TO MINISTERIAL MEETING
RE: ...

5. The compromise solution found by the ministerial meeting of May provided that the rules for tariff reductions (to be worked out by the Trade Negotiations Committee) should be based on the principle of substantial and equal linear cuts (with a minimum of exceptions) but with some special rules of automatic and general application to deal with tariff disparities. It was specified that by tariff disparities were meant those "meaningful in trade terms" and that in these cases the purpose of the rules for treatment of disparities would be among other things to reduce such disparities.

The problem

6. The problems of devising rules for tariff disparities therefore falls into two parts:

- (a) the identification of tariff disparities; and
- (b) their treatment.

7. Both these problems are clearly linked. It is difficult to decide what treatment to apply (i.e. the degree of exemption from the full linear cut which can be claimed) without knowing how many cases there are going to be. Equally it is difficult to decide how broad the rules should be (i.e. how many tariff disparities they would allow) without knowing the extent of the exemption from the linear cut which can be claimed. But the more complex problem is clearly the problem of finding generally agreed rules for the identification of disparities meaningful in trade terms.

Identification of tariff disparities: a first step

8. As a first step it has been provisionally agreed that the identification of prima facie tariff disparities should be limited to those cases where:

- (a) the higher tariff is over a certain minimum level; and
- (b) there is between the higher and lower tariff a minimum gap.

9. The Community have proposed for this formula the figures of **thirty and ten** respectively. The United States' view is that figures of sixty and twenty should be used. But further discussion of these figures depends on exploring how many of the disparities established by the formula of thirty and ten can be reasonably claimed to be "meaningful in trade terms".

Disparities established by the 30:10 formula

10. The Community have supplied details of most of those CET sub-headings for which the corresponding United States tariff rate is 30 per cent or over and at least 10 percentage points higher. The total number of CET sub-headings involved (excluding BN Chapters 1-27 and a number of items in other chapters) amounts to 557, of which the principal groups are:

	<u>Chapters</u>	<u>Number CET Sub-headings</u>
Chemical	28-39	189
Textiles	50-63	108
Ceramics, glass and glassware	69-70	33
Optical and other instruments	90	29
Watches and clocks	91	17

(In most of these cases only part of the CET sub-heading is covered by the United States tariff heading.)

Possible criteria for "Meaningful in Trade Terms"

11. These CET headings can be divided into a number of categories according to the statistical weight of:

- (a) imports into the Community from the United States;
- (b) imports into the Community from third countries;
- (c) imports into the United States.

12. But in any attempt to determine those "meaningful in trade terms" it follows with a certain inescapable logic from the Community's objective in raising the question of disparities (paragraph 3 above - to avoid the loss of its bargaining power in relation to the United States if a substantial linear cut were applied equally to both tariffs) that regard must essentially be had to those disparity items (11(a) above) where a smaller cut would preserve some bargaining power for the Community against the United States.

13. It would therefore seem logical to regard as disparities meaningful in trade terms those items which the Community imports in substantial quantities from the United States. If we define substantial in this context as comprising at least 20 per cent of imports into the EEC (and amounting to more than \$50,000) some 190 of the 557 CET sub-headings referred to in paragraph 10 above qualify as meaningful in trade terms (about half the 190 items are in the chemical sector). Since the Commission's statistics referred to only cover about three quarters of the disparities in the CET in relation to the United States tariff under the 30:10 rule it might well be that if complete statistics were available the figure of 190 items meaningful in trade terms would become 250 or so. In addition the EEC might well wish to invoke a number of disparities in relation to the United Kingdom.

Remainder of the 30:10 list

14. Of the remainder of the 30:10 list, 189 CET sub-headings can provisionally be set aside as cases where imports into the Community from all sources in 1960 were very small (less than \$250,000) and a further seven cases where the CET rate is zero. This leaves 171 CET sub-headings of which the principal groups are:

	<u>Chapters</u>	<u>Number of Sub-headings</u>
Chemicals	28-39	27
Textiles	50-63	51
Ceramics, glass and glassware	69-70	15
Clocks and watches	91	11

15. In the case of certain of these sub-headings, it is understood that the Community fear that their market might be exposed to disruptive competition if the CET were halved. If this is so, the proper course in such cases would appear to be for the Community to include them in their exceptions list and to argue their merits, case by case, through the procedures for confrontation and justification provided for in the ministerial Resolution. This view would seem to be reinforced by the consideration that, where such cases were found to be well-grounded, it would be more practical to negotiate on them item by item according to the special circumstances of each case than to apply to them any general and automatic formula of the kind to be applied to cases of tariff disparity.

16. There may however be cases somewhere between disparities proper, as discussed in the earlier part of this paper, and cases of the kind referred to in the preceding paragraph. In such cases, for example, it might be feared that the United States tariff, even after it was halved, would still be sufficiently restrictive to distort the natural pattern of trade and to divert artificially on to other markets an unfair share of the increased exports to be generated by the general reduction of tariffs. The first test for such cases would of course turn on whether the United States tariff, after a 50 per cent reduction, would still in fact be so severely restrictive of imports as to have these effects. But a major difficulty about attempting to deal with this type of case through any formula based (as it would be) on the height and effect of the United States tariff is that, where it justified exempting lower duties from the full 50 per cent cut, it would by the very nature of the case justify this for all countries with low or only moderate duties; and we should have the bizarre situation that third countries e.g. the Community and other countries in Europe, were maintaining duties against one another for no better reason than the height of the United States tariff, even though the United States might not be a material exporter of the goods in question. This is a danger which we feel should be kept very carefully in mind in any attempt to bring such cases within the scope, and under the cover, of the procedures envisaged for tariff disparities. The point made at the end of paragraph 15 would, though to a lesser extent, apply also to these cases.

17. These considerations of course in no way diminish the importance of the issues posed by the Community. They simply underline the difficulties of solving them and the need, to the fullest extent possible, to proceed empirically and with all due caution to prevent the sort of chain reactions which could seriously diminish the overall value of the Kennedy round for all of us, including the Community themselves.

18. Meanwhile useful work could be started by limiting still further the residue of 171 items (see paragraph 14). The first step might be to eliminate (a) items where it would prima facie seem unlikely that halving of both United States and EEC tariffs would in practice lead to a diversion on to the Common Market of increased exports from third countries (possible examples are articles of natural cork (45.03) household utensils of wood (44.24) and fish hooks (97.07A)) and (b) items where there was no production in the Community.

Treatment of tariff disparities

19. Proposals have already been put forward by the United Kingdom delegation (Spec(63)260) (the application of bonus points after the linear cut in cases where tariff disparity treatment is being invoked).