

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Multilateral Trade Negotiations

GROUP 3(b) - REPORT TO THE TRADE NEGOTIATIONS COMMITTEE

Draft Section on Tasks 9 and 10

Task 9: Continuation of the work already begun on export subsidies in respect of products other than primary commodities (Chapters 25-99)

Task 10: Continuation of the study of a possible code regarding countervailing duties (General Aspects)

1. The Group met on 29-31 May 1974 at technical level to deal with these items.

Details of the discussion will be found in a note by the secretariat of this meeting (MTN/3B/19). Background documentation included working papers submitted by the United States, the Brazilian and the Canadian delegations (MTN/3B/W/2, 3 and 6), as well as a note by the secretariat (MTN/3B/10).

2. The Group discussed the relationship between subsidies and countervailing duties, the relative importance of their trade limiting or distorting effects, and whether or not it would be desirable to work towards an overall solution. There was also an exchange of views on the range of products to be covered by possible solutions, as well as substantial discussion of the question of according differentiated treatment to developing countries in the fields of subsidies and countervailing duties.

Export subsidies, domestic subsidies that stimulate exports, and subsidies with import substitution effects

3. The Group exchanged views on the present GATT rules on subsidies, including the product and country coverage and the dual price criterion of the Declaration of 1960. It also discussed at length the advisability of drawing up lists of, respectively,

prohibited export subsidy practices and domestic subsidies with trade distorting effects. A variety of views were expressed on this subject, but no agreement could be reached at that time - some delegations, for example, being of the view that the working out of such lists would be equivalent to opening negotiations, while others said that it would undermine the balance of rights and obligations of the General Agreement.

4. Another question to which the Group addressed itself was that of competitive subsidization of exports in third country markets, and whether or not the various relevant provisions of the GATT (e.g. Article VI:6(b) and Article XXIII) were adequate for the solution of problems in this field.

Countervailing duties

5. The opinion was expressed by some delegations that solutions to the problem of countervailing duties should be sought as a matter of priority, as certain practices in this field constituted serious trade barriers and were an area of confrontation between governments. According to this opinion it was important that the principle of Article VI that no countervailing duty should be applied without a clear determination of material injury be universally accepted.

6. On the other hand, it was maintained by some other delegations that countervailing duties were only imposed to offset subsidy practices by other governments, practices which constituted no less a source of friction between governments than countervailing duties; therefore, the solution to the export subsidy problem should be accorded priority.

Possible solutions

7. The view was widely expressed that possible solutions would have to be based on the provisions of the General Agreement. The need for a fair balance of rights and obligations under GATT was also emphasized. A considerable measure of support

was received for the proposal to work on lists of banned export subsidy practices and of domestic subsidies with trade distorting effects.

8. The Group discussed the possibility and desirability of aiming, in the course of the negotiations, at the elimination of the Protocol of Provisional Application. Importance was also attached to improving the notification and consultation procedures both under Article VI and Article XVI:1. The idea of a code governing the application of countervailing duties received support, as did other possible solutions in this field. These included the preparation of a Declaration or Interpretative Note to Article VI as it related to countervailing duties, and development of new bilateral consultative procedures reinforced by multilateral surveillance provisions. A possible solution to the problem of export subsidization to third country markets could be to provide the possibility for retaliatory action by the disadvantaged exporting country against imports of the export subsidizing country.

9. Another view expressed, combining some of the ideas set out in paragraphs 7 and 8, did not rule out additional obligations relating to countervailing duties if comparable obligations were undertaken on subsidies in a comprehensive overall solution to these closely linked problems.

Differentiated treatment for developing countries

10. The Group agreed that the interests of developing countries must be taken fully into account throughout the negotiations. The Brazilian proposal in document MTN/3B/W/3 received wide support in the Group, some delegations nevertheless pointing out that concrete proposals on the question of differentiated treatment would facilitate discussion on the subject.

11. There was consensus in the Group that Part IV of GATT should be implemented in so far as developing countries' interests in this field were concerned. It was stated that general solutions to the problems of export subsidies and countervailing duties might simultaneously meet the needs of developing countries, and that therefore a clear picture of general principles would normally facilitate discussion of differentiated measures. The Group generally felt that the discussion on general rules and on differentiated treatment should proceed in parallel.