

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

Spec(78)17  
31 May 1978

## Multilateral Trade Negotiations

### Group "Agriculture"

#### Sub-Group on Dairy Products

## WORKING DOCUMENT

### POINTS RAISED DURING THE DISCUSSION CONCERNING PROBLEMS RELATING TO CONCESSIONS, HELD ON 30 MAY 1978 ON THE BASIS OF DOCUMENT MTN/DP/W/35

#### Note by the Secretariat

#### Recording of concessions

1. It was noted that the possible methods of recording the concessions
  - (a) either within the body of the Arrangement itself, and more specifically in the annexes to the Arrangement, the latter itself to be annexed to the Final Act (...),
  - (b) or in the schedules annexed to the General Agreement (this method would not exclude the inclusion of these concessions in the Arrangement for information purposes, while the Arrangement itself could be annexed to the Final Act (...)),

did not imply any difference as to the legal status of those concessions. To that end, however, it would be appropriate that in the case of the method considered under (a) it be duly stated in the Arrangement that "any schedule annexed to the Arrangement relating to a contracting party shall become a schedule of that contracting party annexed to the General Agreement as from ..."

#### Non-tariff concessions

2. It was noted that nothing would prevent the recording of non-tariff concessions in the schedules. However, the problem arose as to whether the obligations entered into under the Arrangement concerning

- information,
- consultation,
- price mechanisms,

(hereinafter referred to as the obligations) could be regarded as non-tariff concessions, that is to say whether their legal status would be equivalent to that of the concessions resulting from bilateral or plurilateral negotiations, which constitute part of the schedules annexed to the General Agreement, whose legal status is governed in particular by Articles II and XXVIII of the General Agreement.

3. The question arose, in particular, concerning the protection afforded to the concessions and the obligations respectively. Protection of the concessions is traditionally ensured by the rules of the General Agreement, for example, in respect of their recording (Article II), their duration (Article XXVIII), their suspension (Article XIX), their renegotiation (Article XXVIII), etc. On the other hand, it is clear that the obligations under the Arrangement are not covered by a legal system as elaborate as this set of provisions in the GATT.

4. It was recognized, nevertheless, that these obligations contribute, in the same way as the concessions, to maintaining the balance of advantages which each participant can expect to reap from the negotiations as a whole. That is why it is likewise essential to ensure the protection of these obligations in order to protect this balance and, if necessary, provide for its restoration. The present text of the draft affords such protection in the provisions of Article V(f) of the Arrangement; it was suggested, however, that this might not be sufficient and that the means for strengthening it should be sought.

5. In fact, because of the different nature of the concessions - which are fixed - and the obligations - which necessarily evolve - it is impossible in principle and somewhat undesirable in practice to endow them with an identical legal status. It is appropriate, on the other hand, just as it was noted that the concessions would be maintained if the Agreement were to lapse, just as it was noted that the Arrangement would be maintained if perchance all the concessions exchanged in the dairy sector were to lapse, to recognize clearly that the undertakings expressed by the two types of instruments find their raison d'être in overall balance in the multilateral negotiations and that it should be possible to remedy by legal means any deterioration of that balance caused by non-observance of one of the components of that concession - obligation whole.