

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

Spec(85)46  
26 September 1985

## THE LAUNCHING AND ORGANIZATION OF TRADE NEGOTIATIONS IN THE GATT

### Introduction

The General Agreement does not lay down any special procedures for the launching of negotiations nor any rules for their organization. Under Article XXV:1 the CONTRACTING PARTIES have the general power to take joint action "with a view to ... furthering the objectives of the (General) Agreement", and under Article XXVIIIbis:1 they are authorized to sponsor tariff negotiations. Decisions under these Articles can be taken by a majority of the votes cast (Article XXV:4). However, in practice the CONTRACTING PARTIES have launched negotiations without a specific reference to these Articles and without resorting to voting.

The contracting parties and other governments have taken decisions to launch trade negotiations at ad hoc meetings outside the framework of a GATT body and subsequently invite the CONTRACTING PARTIES to incorporate the results of such negotiations into the institutional and legal framework of the GATT. The Tokyo Round, while held under the auspices of the GATT, was not conducted within the framework of a GATT body. It was formally launched by a ministerial conference in 1973 in Tokyo and supervised by a body set up by that conference (the Trade Negotiations Committee).

In Article XXVIIIbis:2(b) the "contracting parties recognize that in general the success of multilateral negotiations would depend on the participation of all contracting parties which conduct a substantial proportion of their external trade with one another". However, there is no provision in the General Agreement which obliges the individual contracting parties to participate in GATT-sponsored negotiations. The CONTRACTING PARTIES may invite non-contracting parties to participate in the negotiations and have regularly done so in the past. Countries which have expressed an interest in negotiating for accession to GATT have always been invited to participate in negotiations. In the Tokyo Round, seventy of the then eighty-four contracting parties notified their desire to participate as well as twenty-nine non-contracting parties (see Annex A).

While the CONTRACTING PARTIES may, with a simple majority, decide to conduct, sponsor or support multilateral negotiations, they they do not have the power to oblige individual contracting parties to accept new substantive obligations as a result of such negotiations. Tariff protocols, codes supplementary to the GATT, and even amendments to the General Agreement bind only those contracting parties that have accepted them. Any formal amendment to a GATT article would, furthermore, have to be approved under the procedures established in Article XXX.

The last three rounds of GATT trade negotiations were launched and organized as follows.

Tokyo Round (1973-79)

In February 1972 the United States issued a joint declaration with the EEC, and a further joint declaration with Japan, in which they undertook "to initiate and actively support multilateral and comprehensive negotiations in the framework of the GATT" and invited other countries to join. This proposal was discussed in the Council in March 1972.

At the following session of the CONTRACTING PARTIES in November 1972 the United States suggested the formation of a Preparatory Committee. The Chairman summed up the discussion by finding a consensus for the establishment of a Preparatory Committee with the task to "to analyse and interpret in common the essential facts of the situation" and to "develop methods and procedures for the negotiations". The membership in the Committee was open to all contracting parties and to developing countries not contracting parties that wished to participate in the preparatory work for the negotiations. The Chairman also noted a consensus for the scheduling of a ministerial meeting in September 1973.

The Preparatory Committee, chaired by the Director-General, met during the first half of 1973 and submitted a report and a draft declaration to the ministerial meeting. The ministerial meeting was held from 12-14 September 1973. It was chaired by the Minister for Foreign Affairs of Japan. Ministers or ministerial representatives of seventy-one contracting parties and of thirty-one developing countries non-contracting parties attended the meeting. The ministers unanimously adopted the Tokyo Declaration (Annex B) which served as the formal beginning of the Multilateral Trade Negotiations. In the Tokyo Declaration a Trade Negotiations Committee was established with authority, inter alia,

- to elaborate and put into effect detailed negotiating plans and to establish appropriate negotiating procedures, including special procedures for the negotiations between developed and developing countries; and
- to supervise the progress of the negotiations.

In October 1973 and in February 1974 the Trade Negotiations Committee established six working groups for tariffs, non-tariff measures (including five sub-groups), sector approach, safeguards, agriculture (including three sub-groups), and tropical products. A seventh Group, the Framework Group, was created in November 1976 (see Annex C).

The Tokyo Round led to two tariff protocols through which contracting parties concerned added new concessions to their GATT schedules. It further resulted in nine agreements on non-tariff measures, and on trade in bovine meat, dairy products and civil

aircraft. In November 1979 the CONTRACTING PARTIES, noting that these agreements had been drawn up in the Multilateral Trade Negotiations, reaffirmed their intention to ensure the unity and consistency of the GATT system and decided to oversee the operation of the system as a whole and to take action as appropriate. They agreed that for this purpose the Councils and Committees established under the agreements would keep the CONTRACTING PARTIES informed on the operation of the agreements through regular reports and that they would, if requested, provide additional reports on any aspect of their work.

The texts elaborated in the Framework Group - in particular the Enabling Clause, the declaration on balance-of-payments measures, the decision on safeguard action for development purposes and the Understanding on dispute settlement - were incorporated into the legal framework of the GATT through unanimous decisions of the CONTRACTING PARTIES.

#### Kennedy Round (1964-67)

At their twentieth session in November 1962 the CONTRACTING PARTIES considered a proposal made jointly by the United States and Canada for the convening of a meeting of ministers early in 1963. The proposal referred to the recently enacted US Trade Expansion Act and to the desirability of holding a tariff conference in 1964. The CONTRACTING PARTIES agreed that the ministerial meeting should be held at a date to be determined by the Council. The Council should also propose an agenda and make adequate preparations for the meeting.

The Council, at its meeting of February 1963, initiated the preparatory work for the meeting of ministers and agreed to recommend that the meeting should give directions for the effective liberalization and expansion of trade. Extensive preparatory work was carried out also by the Working Party on Procedures for Tariff Reductions, the Special Group on Trade in Tropical Products and Committee III of the Trade Expansion Programme. The Meeting of Ministers was held from 16-21 May 1963. The meeting was attended by fifty-four ministers or ministerial representatives of the contracting parties and by twenty-five representatives, including two ministerial representatives, of observer countries. The meeting adopted conclusions and resolutions on 21 May 1963 which, inter alia provided for the establishment of a Trade Negotiations Committee, with the task of elaborating a trade negotiating plan and supervising the conduct of the trade negotiations.

The Trade Negotiations Committee met at ministerial level on 4-6 May 1964 to formally open the negotiations and endorsed a plan for the negotiations, elaborated by the Committee.

As a result of these negotiations four legal instruments relating to tariffs, chemicals, grains trade and anti-dumping as well as four accessions protocols were drawn up. The round ended with the adoption of a Final Act by the CONTRACTING PARTIES in which they authenticated the text of these instruments.

Dillon Round (1960-61)

As a follow-up to the Haberler Report, the CONTRACTING PARTIES, at their thirteenth session in November 1958, decided to establish three committees to examine various types of action towards an expansion of international trade. Committee I was given the task of examining the possibility of arranging a further general round of multilateral trade negotiations. It recommended that a tariff conference be convened on 1 September 1960. The Committee's report was adopted by the CONTRACTING PARTIES at their fourteenth session in May 1959. A further report of the Committee recommended the establishment of the Tariff Negotiations Committee and proposed rules and procedures for the trade negotiations. It was adopted by the CONTRACTING PARTIES at their fifteenth session in November 1959, and the negotiations opened on 1 September 1960.

As a result of the round, a protocol incorporating tariff concessions and three accession protocols were drawn up. The round ended with the adoption of a Final Act authenticating the text of these legal instruments.

ANNEX A

COUNTRIES PARTICIPATING IN "TOKYO ROUND" TRADE NEGOTIATIONS

*Algeria	Finland	Peru
Argentina	Gabon	**Philippines
Australia	Ghana	Poland
Austria	Greece	Portugal
Bangladesh	*Guatemala	Romania
Benin	Haiti	Senegal
*Bolivia	*Honduras	Singapore
*Botswana	Hungary	*Somalia
Brazil	Iceland	South Africa
*Bulgaria	India	Spain
Burma	Indonesia	Sri Lanka
Burundi	*Iran	*Sudan
Cameroon	*Iraq	*Swaziland
Canada	Israel	Sweden
Chile	Ivory Coast	Switzerland
**Colombia	Jamaica	Tanzania
Congo	Japan	*Thailand
*Costa Rica	Kenya	Togo
Cuba	Korea, Rep. of	*Tonga
Czechoslovakia	Madagascar	Trinidad and Tobago
Dominican Republic	Malawi	**Tunisia
*Ecuador	Malaysia	Turkey
Egypt	*Mali	Uganda
*El Salvador	Malta	United Kingdom (on behalf of dependent territories)
*Ethiopia	Mauritius	United States of America
European Communities and member States	*Mexico	Uruguay
Belgium	New Zealand	*Venezuela
Denmark	Nicaragua	*Viet-Nam
France	Nigeria	*Yemen, Democratic
Germany, Fed. Rep. of	Norway	Yugoslavia
Ireland	Pakistan	Zaire
Italy	*Panama	*Zambia
Luxembourg	*Papua New Guinea	
Netherlands	*Paraguay	
United Kingdom of Great Britain and Northern Ireland		

TOTAL

99

\* Not Contracting Parties to GATT) 29  
\*\* Acceded provisionally to GATT )

ANNEX B

MINISTERIAL MEETING TOKYO, 12-14 SEPTEMBER 1973

Declaration

1. The Ministers, having considered the report of the Preparatory Committee for the Trade Negotiations and having noted that a number of governments have decided to enter into comprehensive multilateral trade negotiations in the framework of GATT and that other governments have indicated their intention to make a decision as soon as possible, declare the negotiations officially open. Those governments which have decided to negotiate have notified the Director-General of GATT to this effect, and the Ministers agree that it will be open to any other government, through a notification to the Director-General, to participate in the negotiations. The Ministers hope that the negotiations will involve the active participation of as many countries as possible. They expect the negotiations to be engaged effectively as rapidly as possible, and that, to that end, the governments concerned will have such authority as may be required.

2. The negotiations shall aim to:

- achieve the expansion and ever-greater liberalization of world trade and improvement in the standard of living and welfare of the people of the world, objectives which can be achieved, inter alia, through the progressive dismantling of obstacles to trade and the improvement of the international framework for the conduct of world trade.

- secure additional benefits for the international trade of developing countries so as to achieve a substantial increase in their foreign exchange earnings, the diversification of their exports, the acceleration of the rate of growth of their trade, taking into account their development needs, an improvement in the possibilities for these countries to participate in the expansion of world trade and a better balance as between developed and developing countries in the sharing of the advantages resulting from this expansion, through, in the largest possible measure, a substantial improvement in the conditions of access for the products of interest to the developing countries and, wherever appropriate, measures designed to attain stable, equitable and remunerative prices for primary products.

To this end, co-ordinated efforts shall be made to solve in an equitable way the trade problems of all participating countries, taking into account the specific trade problems of the developing countries.

3. To this end the negotiations should aim, inter alia, to:
  - (a) conduct negotiations on tariffs by employment of appropriate formulae of as general application as possible;
  - (b) reduce or eliminate non-tariff measures or, where this is not appropriate, to reduce or eliminate their trade restricting or distorting effects, and to bring such measures under more effective international discipline;
  - (c) include an examination of the possibilities for the co-ordinated reduction or elimination of all barriers to trade in selected sectors as a complementary technique;
  - (d) include an examination of the adequacy of the multilateral safeguard system, considering particularly the modalities of application of Article XIX, with a view to furthering trade liberalization and preserving its results;
  - (e) include, as regards agriculture, an approach to negotiations which, while in line with the general objectives of the negotiations, should take account of the special characteristics and problems in this sector;
  - (f) treat tropical products as a special and priority sector.
4. The negotiations shall cover tariffs, non-tariff barriers and other measures which impede or distort international trade in both industrial and agricultural products, including tropical products and raw materials, whether in primary form or at any stage of processing including in particular products of export interest to developing countries and measures affecting their exports.
5. The negotiations shall be conducted on the basis of the principles of mutual advantage, mutual commitment and overall reciprocity, while observing the most-favoured-nation clause, and consistently with the provisions of the General Agreement relating to such negotiations. Participants shall jointly endeavour in the negotiations to achieve, by appropriate methods, an overall balance of advantage at the highest possible level. The developed countries do not expect reciprocity for commitments made by them in the negotiations to

reduce or remove tariff and other barriers to the trade of developing countries, i.e.. the developed countries do not expect the developing countries. in the course of the trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs. The Ministers recognize the need for special measures to be taken in the negotiations to assist the developing countries in their efforts to increase their export earnings and promote their economic development and, where appropriate, for priority attention to be given to products or areas of interest to developing countries. They also recognize the importance of maintaining and improving the Generalized System of Preferences. They further recognize the importance of the application of differential measures to developing countries in ways which will provide special and more favourable treatment for them in areas of the negotiation where this is feasible and appropriate.

6. The Ministers recognize that the particular situation and problems of the least developed among the developing countries shall be given special attention, and stress the need to ensure that these countries receive special treatment in the context of any general or specific measures taken in favour of the developing countries during the negotiations.

7. The policy of liberalizing world trade cannot be carried out successfully in the absence of parallel efforts to set up a monetary system which shields the world economy from the shocks and imbalances which have previously occurred. The Ministers will not lose sight of the fact that the efforts which are to be made in the trade field imply continuing efforts to maintain orderly conditions and to establish a durable and equitable monetary system.

The Ministers recognize equally that the new phase in the liberalization of trade which it is their intention to undertake should facilitate the orderly functioning of the monetary system.

The Ministers recognize that they should bear these considerations in mind both at the opening of and throughout the negotiations. Efforts in these two fields will thus be able to contribute effectively to an improvement of international economic relations, taking into account the special characteristics of the economies of the developing countries and their problems.



8. The negotiations shall be considered as one undertaking, the various elements of which shall move forward together.

9. Support is reaffirmed for the principles, rules and disciplines provided for under the General Agreement.<sup>1</sup> Consideration shall be given to improvements in the international framework for the conduct of world trade which might be desirable in the light of progress in the negotiations and, in this endeavour, care shall be taken to ensure that any measures introduced as a result are consistent with the overall objectives and principles of the trade negotiations and particularly of trade liberalization.

10. A Trade Negotiations Committee is established, with authority, taking into account the present Declaration, inter alia:

- (a) to elaborate and put into effect detailed trade negotiating plans and to establish appropriate negotiating procedures, including special procedures for the negotiations between developed and developing countries;
- (b) to supervise the progress of the negotiations.

The Trade Negotiations Committee shall be open to participating governments.<sup>2</sup> The Trade Negotiations Committee shall hold its opening meeting not later than 1 November 1973.

11. The Ministers intend that the trade negotiations be concluded in 1975.

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<sup>1</sup>This does not necessarily represent the views of representatives of countries not now parties to the General Agreement.

<sup>2</sup>Including the European Communities.

ANNEX C

ORGANIZATION OF THE TOKYO ROUND

- (a) Group: Tropical Products (Chairman, Ambassador G. Martinez, Argentina);
- (b) Group: Tariffs (Chairman, Mr. G. Patterson, Deputy Director-General, GATT secretariat);
- (c) Group: Non-Tariff Measures (Chairman, Mr. M.G. Mathur, Deputy Director-General, GATT secretariat);
  - (i) Sub-Group: Quantitative Restrictions (Chairman, Mr. Chadha (India) followed by Mr. Mathur);
  - (ii) Sub-Group: Technical Barriers to Trade (Chairman, Mr. P. Williams, GATT secretariat);
  - (iii) Sub-Group: Customs Matters (Chairman, Mr. K. Kautzor-Schröder, GATT secretariat);
  - (iv) Sub-Group: Subsidies and Countervailing Duties (Chairman, Mr. A. Lindén, GATT secretariat);
  - (v) Sub-Group: Government Procurement (Chairman, Mr. R. Tooker, GATT secretariat);
- (d) Group: Agriculture (Chairman, Mr. G. Patterson);
  - (i) Sub-Group: Grains (Chairman, Mr. G. Patterson);
  - (ii) Sub-Group: Meat (Chairman, Mr. J.-M. Lucq, GATT secretariat);
  - (iii) Sub-Group: Dairy Products (Chairman, Mr. J.-M. Lucq);
- (e) Group: Sector Approach (Chairman, Dr. P. Tomić, Yugoslavia);
- (f) Group: Safeguards (Chairman, Mr. H. Colliander (Sweden) followed by Mr. K. Kautzor-Schröder).

A seventh Group, described as the Framework Group, was established in November 1976, under the Chairmanship of the Director-General of GATT, with the task of considering "improvements in the international framework for the conduct of world trade which might be desirable in the light of progress in the negotiations".