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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
22 November 1979

MINUTES OF MEETING

Held in the Centre William Rappard on 22 November 1979

Chairman: Mr. E. FARNON (New Zealand)

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The Chairman said that since the last meeting of the Council intensive informal consultations had taken place, both among delegations and with the Director-General. These consultations had demonstrated that the four items on the agenda were closely interrelated. The consultations had led to the distribution to all delegations of six documents (C/W/329-C/W/334), relating to the individual items on the agenda.

1. Safeguards (C/W/333)

The Chairman recalled the discussions that had taken place in the Council on safeguards in July and subsequently at its meeting on 6 November. On the basis of these discussions and the consultations held thereafter a draft text had been distributed in document C/W/333.

The representative of Australia stated that his delegation had considerable difficulties with the proposed text and would not be in a position to join a consensus in its favour. He said that his delegation had earlier stated that it could not accept further work on safeguards being confined solely to Article XIX, and not taking into account safeguard actions taken under other GATT provisions or indeed outside the General Agreement. Moreover, while his delegation was prepared to examine whether there was a need for improvements, it could not accept a priori that an improvement of the safeguards system was necessary. He suggested that the first paragraph of document C/W/333 should read: "THE CONTRACTING PARTIES acknowledge the need for an examination of ways in which existing safeguard arrangements could be improved". Secondly, the third paragraph should in the view of his delegation read as follows: "A Committee is established to continue discussions and negotiations, taking into account the work already done, which would examine safeguard procedures taken by contracting parties

with the aim of elaborating, as appropriate and necessary, rules and procedures, in order to ensure greater uniformity, certainty and equity in the application of safeguard measures whether taken within or outside of the GATT." Finally, with regard to the last paragraph, his delegation held the view that membership of the Committee should be limited to contracting parties and that the text should be amended accordingly.

He said that if these points could not be taken into account, his delegation would have to register a reservation.

The Chairman said in conclusion that following consultations on the matter over an extended period of time it seemed to be broadly agreed that the text in question should go forward to the CONTRACTING PARTIES for their consideration.

The Council agreed that the matter be referred to the CONTRACTING PARTIES for their consideration on the basis of the text in document C/W/333.

The Council took note of the statement made by Australia.

2. Implementation of UNCTAD Resolution 131(V) (C/W/332)

The Chairman drew attention to document C/W/332 containing a draft text entitled "Examination of Protective Measures Affecting Imports from Developing Countries". He said that this document was the result of intensive informal consultations among a number of delegations.

The Council agreed that the text contained in document C/W/332 be forwarded to the CONTRACTING PARTIES for their adoption.

3. Relationship between the agreements evolved in the MTN and the GATT (C/W/329, 330, 331)

The Chairman drew attention to three draft texts which had been drawn up as a result of informal consultations: Action by the CONTRACTING PARTIES on the Framework texts (C/W/329); Action by the CONTRACTING PARTIES on the Multilateral Trade Negotiations (C/W/330); and Action by the CONTRACTING PARTIES on the MTN tariff concessions (C/W/331).

He said that in further consultations on C/W/330 it had been agreed to delete the latter part of paragraph 3 and to finish the paragraph after the word "Agreements" in the third line.

The representative of Jamaica said that his delegation was not in a position to join in a consensus on the text in document C/W/330 since it had been unable to authenticate the agreements which had been arrived at following the negotiations during the earlier part of 1979. Furthermore, his delegation could not be certain that Jamaica's existing rights and benefits under the GATT would not be affected until the implementing legislation of the parties to the agreements was known.

The representative of Australia, referring to document C/W/329 - Framework - said that his Government had not yet made an assessment of all the aspects of the MTN. As the constitutional proceedings had not yet been concluded, it was, at this point in time, not in a position to go along with a consensus to formally adopt the Framework text. Referring to export restrictions and charges, he emphasized that Australia did not consider itself bound by any consensus that might emerge in this regard. Australia would decide in due course whether or not it would participate in any future work on this subject. With regard to the MTN agreements and referring to document C/W/330 he emphasized Australia's position that these agreements could not infringe GATT rights of non-participants and, in particular, that no contracting party could take refuge in the codes in order to deny another contracting party any or all of its GATT rights. In respect of the question of initial negotiating rights, he recalled that Australia had reserved its position on full GATT rights in respect of certain contracting parties in the context of their protocols of accession.

The observer for Bulgaria raised the question of the position of non-GATT members and the MTN Agreements. He said that under several agreements the non-GATT members which had participated in the MTN had to enter into further negotiations with the contracting parties signatories of the agreements in order to become parties to the agreements. The guidelines and objectives of such negotiations had been agreed upon at the TNC in April, and it was his understanding that non-GATT members should be able to carry out such negotiations before the agreements would enter into force. He pointed out, however, that from a legal point of view this would not be possible until after the agreements had entered into force. The result was that there would be a considerable interval of time between the application of a non-GATT member country for negotiation and its actual accession to the agreements. He therefore proposed a paragraph 6 to be added to document C/W/330 with the following text:

> "The CONTRACTING PARTIES further understand that difficulties which may arise during the period between the application for accession of non-GATT member countries and the finalization of the necessary negotiations, should as favourably as possible be overcome on the basis of temporary arrangements between the members of the agreements and the respective applying countries, with the understanding that the balance of rights and obligations will be preserved."

The representative of Czechoslovakia, speaking on document C/W/330, said his country attached great importance to the integration of the codes into the GATT legal system. His country intended to become a party to a number of these codes. Since some of the codes had a bearing on the provisions of GATT it was of major concern to his delegation that the existing rights and obligations of contracting parties under the GATT, including those resulting from Article I, would be fully maintained.

The representative of India recalled his delegation's statements at the Trade Negotiations Committee meeting in April. His delegation would revert to this matter at the session of the CONTRACTING PARTIES.

The Council took note of the statements made and agreed that this matter should be referred to the CONTRACTING PARTIES for their consideration and approval on the basis of the three texts contained in documents C/W/329, 330, 331.

4. Consultative Group of Eighteen (L/4869, C/W/334)

The Chairman said that the terms of reference of the Group of Eighteen required once a year a comprehensive report on its activities.

The Director-General, Chairman of the Group of Eighteen, said that he had been asked to submit the report (L/4869) on his own responsibility. He stated that the primary focus of the Group's attention during the past twelve months had been the GATT Work Programme. The Group believed that the CONTRACTING PARTIES should give as early as possible clear guidance on the issue areas that should be dealt with after the Tokyo Round. The Group had had a full exchange of views on this matter. The discussions in the Group and subsequent consultations between delegations had prompted him to make the proposal for a GATT work programme, which had been circulated in document C/W/334.

He also recalled that the Council had decided in November 1977 to extend the Group's mandate until the end of the Tokyo Round, and that it would then take a decision on the future of the Group. He said that the Group, after having reviewed its activities over the past four years, had decided to recommend to the Council that it should now establish the Group of Eighteen as a permanent GATT body. If this were the case no substantive changes in the mandate of the Group would be necessary. A proposed mandate was contained in Annex B to the report.

The Council agreed to the establishment of the Consultative Group of Eighteen as a permanent body of the GATT with the mandate as proposed in Annex B of the report L/4869 and with the following membership for 1980: Argentina, Australia, Brazil, Canada, Egypt, European Community and member States, Hungary, India, Japan, Malaysia for ASEAN, Nigeria, Norway for the Nordic Countries, Pakistan, Peru, Spain, Switzerland, the United States and Zaire.

The Council took note of the report.

The Chairman then drew attention to the Director-General's proposal relating to the GATT Work Programme contained in document C/W/334.

The representative of Jamaica said that it was his understanding that the Consultative Group of Eighteen was essentially an advisory body. He noted that the Group would advise the Council as regards the carrying out of the future work for export restrictions and charges as agreed in the Group "Framework" and the Trade Negotiations Committee. As he believed that the points agreed upon in "Framework" should be supervised by the Committee on Trade and Development, he suggested that such advice through the Council be forwarded also to the Committee on Trade and Development.

Turning to agriculture, he drew attention to the earlier recommendation on Multilateral Agricultural Framework that the CONTRACTING PARTIES would address themselves to this issue before the end of 1979. He noted, however, that the Council on 16 November had taken a decision that this question of agriculture would be addressed by the next regular session of the CONTRACTING PARTIES in 1980. He supported those delegations who said that the question of agriculture was a priority subject and believed that it should not be left for consideration until the next regular session of the CONTRACTING PARTIES. He suggested therefore that a decision should be taken at next week's session of the CONTRACTING PARTIES to set up some kind of mechanism, within the GATT Work Programme to be established, to look at the question of agriculture in a multilateral framework. He stressed that agriculture continued to be a highly protected sector in many of the industrialized countries and that there was a crisis in agriculture in the world today. The question of agricultural adjustment was a matter in which the GATT had competence and responsibility to work alongside the other competent organizations. He expressed the hope that this matter would not be deferred to the session of the CONTRACTING PARTIES in 1980. He noted in this connexion that developing countries depended upon the imports from the developed countries for a great deal of their food requirements, especially cereals. He also noted that an international grains agreement was to have been part of the multilateral trade negotiations package, but that it was not part of the work programme.

He then referred to the point in the work programme on work on structural adjustment and trade of developing countries, which fell under the Committee on Trade and Development, and the point on structural adjustment and trade policy, which was for the Consultative Group to examine. He emphasized the need for structural adjustments to be made in the markets of the industrialized countries, rather than in developing countries. He expressed concern about the lack of urgency with which the question of establishing machinery in GATT to deal with structural adjustment as part of the work programme was considered.

Finally, referring to trade negotiations among developing countries, he believed that account should be taken of the programme of action on economic co-operation among developing countries. He believed that GATT had the competence and expertise to be the central mechanism for these trade negotiations, which should be recognized by a wider number of developing countries, including non-contracting parties.

The representative of Hungary expressed his delegation's satisfaction that work on trade in agricultural products would continue to be an important part of the GATT Work Programme. He expressed the hope that the consultations referred to in the work programme would not prevent the CONTRACTING PARTIES from dealing with substantive matters and would not delay the consideration of substantive matters so far not resolved by the MTN. He considered his delegation to be an interested delegation for the participation in these consultations.

The representative of Czechoslovakia said that the results of the MTN did not fulfil the expectations of a number of countries with respect to the problems relating to quantitative restrictions. He believed that the predominantly bilateral approach to this question in the MTN had prevented the search for multilateral solutions. He recalled the proposal made in the Group of Non-Tariff Measures, that the CONTRACTING PARTIES should address themselves to the problem of quantitative import restrictions as one of the priority issues to be taken after the MTN were concluded. His delegation was of the opinion that this proposal should be properly reflected in the GATT Work Programme.

The representative of Australia reiterated his views expressed at the meeting of the Council on 16 November and his delegation's disappointment that no agreement had been reached for more active forms of co-operation on agricultural issues and that in contrast to other areas of the negotiations there was a complete lack of commitment or guidelines to work towards improvements in agricultural trade. Despite the stated misgivings as to likely value and outcome of the proposed high level consultations his delegation was willing to go along with this section of the work programme. It was his delegation's understanding that the proposed high level consultations on agricultural trade would not be used as a means for preventing Australia from raising substantive issues on agriculture in other appropriate GATT fora. His delegation shared the remarks made by the representative of Czechoslovakia on quantitative restrictions and also referred to the importance of satisfactory attention being given to the question of market access in various parts of the proposed work programme. He also recalled his earlier statement on export restrictions which was relevant to the work programme.

The representative of India said that it was his delegation's understanding that the mandate of the Group of Eighteen would not imply either that any of the matters to be substantively discussed in any of the bodies of the GATT had first to be considered by the Group of Eighteen, or, because a matter was under discussion in the Group of Eighteen, it could not be considered or decided upon in any of the substantive bodies of the GATT.

The representative of the European Community said that the GATT Work Programme was a work programme and not an action programme. If a number of problems had not been solved in the MTN this did not mean that negotiations should continue on a permanent basis. His delegation felt that the work programme was well balanced and that this balance should not be upset.

The Council took note of the comments made and agreed that the GATT Work Programme proposed in C/W/334 be referred to the CONTRACTING PARTIES for their consideration.