

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 275 final

Brussels, 16 June 1978

GATT

MULTILATERAL TRADE NEGOTIATIONS

(Communication from the Commission to the Council)

COM(78) 275 final

Introduction

Since the beginning of the substantive phase of the GATT Multilateral Trade Negotiations, following the presentation of the initial offers by the main participants (see Commission Communication I/10/78 (COS 1) of 10 January 1978), intensive talks have led to progress in most of the fields covered by the negotiations.

The majority of the matters to be negotiated have been delimited and identified on the basis of the "working hypotheses" which emerged at the end of 1977. Lists of tariff offers (including, naturally, the Community's) were presented in mid-January (Council Conclusions of 17 January 1978 I/25/78 (COS5)).

Subsequently, in the light of the offers of the other parties, particularly the United States and Japan, which did not go far enough, the Community asked those countries to improve their offers and submitted a list of possible withdrawals (Commission Communication : COM (78) 126 and Council Conclusions of 4 April 1978 : I/102/78 (COS 12)).

The crucial phase of the negotiations is now at hand, with the need to put together by mid-July an overall outline agreement, a global compromise which should:

- i. make it possible to decide on the major options in the negotiations, it being understood that a number of points can be finalized at a later date;
- ii. constitute a balanced set of concessions, involving participation in the negotiation thereof by a reasonable number of key countries;
- iii. demonstrate the political will of the countries engaged in the MINs, at any rate those which are to take part in the Western Economic Summit in Bonn, to maintain.

as free a system of world trade as possible, thus bearing witness to their will to resist protectionist pressures and persevere with international economic cooperation and the liberalization of trade.

With these ends in view, this Communication offers the Council a number of guidelines for the Community's negotiators.

I. General Remarks

1. The MTNs, officially launched in 1973, actually got under way in 1975, and are now clearly at a stage where, in view not only of the time factor but also of the general economic background, their final outcome is balanced between success and failure. This not to say that the Community, whose prosperity is largely dependent on the healthy state of its external trade, should remain passive; what is necessary, in this particularly crucial phase, is to have a clear view of the Community's fundamental, long-term interests.

2. Reaching an overall outline agreement would mean that a number of major problems had been solved; it would not mean the end of negotiations.

In some areas, there will merely be agreement on basic concepts, which will need to be put into legal, operational form; in others, there will be the broad outlines of fundamental elements providing the framework for agreements, or again, agreements on specific arrangements or codes, with perhaps certain points still to be worked out in detail.

In any event, the Council will obviously have to take decisions on all this at the formal close of negotiations, which could be some months away yet. Nevertheless, the overall outline agreement will have a decisive influence on the final contents and detailed provisions of the various agreements or arrangements.

3. Since what is being considered is an overall outline agreement, it will have to deal with, and if possible resolve, all matters regarded by the main participants as major points. Not only have the negotiations been considered since the outset as one undertaking, the various elements of which must move forward together⁽¹⁾, but given the interrelatedness of the interests at stake, it is hardly realistic to expect agreement to be reached on individual items of the "package", in isolation; on the contrary, participants must look at the advantages and concessions in the different areas as a whole.
4. In any event, given the course of negotiations in the GATT since its foundation, it is clear that solution of non-tariff problems assumes ever greater relative importance compared to traditional tariff problems.
5. In the present economic state of affairs an agreement, however modest, which covered the essential areas of negotiation, might be preferable not only to failure, but even to a more ambitious effort which was not immediately practicable. In other words, there may be instances where limited agreement with immediate impact could be secured, leaving open the possibility of a subsequent reappraisal of the situation, when further progress might be possible.

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(1) Paragraph 8 of the Tokyo Declaration

II. Proposed guidelines and decisions

In view of the diversity of the problems, and the fact that the work is not equally far advanced in all areas, the Commission is proposing here to the Council either decisions of principle, or as precise guidelines as possible to help the Community's negotiator work towards a general compromise in accordance with the directives approved by the Council in February 1975 (I/40/1/75 (Cos 4) Rev. 1).

In the interests of clarity, the main areas that seem essential for an overall balance will be dealt with separately.

6. Tariffs

Several points must be taken into consideration :

- a) The Community will press its major developed partners (e.g. United States, Japan, Canada) to make a real improvement in their offers so as to achieve an equitable balance in the degrees of tariff binding and in the tariff profiles after reduction. In particular, this means that the United States and above all Japan (whose offer is very inadequate) would have to improve their offers and propose tariff reductions on products originally excluded, which generally bear fairly high duties.
- b) The Community will press its other developed or developing partners to offer at least a satisfactory degree of tariff bindings, which is vital for legal certainty in trade arrangements; the developed countries should also allow substantial reductions on products of importance to the Community.
- c) For each of the above two cases it is desirable, in accordance with the Council's Conclusions of 4 April and 6 June 1978, to use the "conditional withdrawals" as a negotiating weapon to put pressure on the various partners by aiming at specific products or groups of products of direct importance to them; the list will be used in close consultation with the 113 Committee, in such a way as to achieve a balanced result, account being taken of the list of "possible withdrawals" lodged with GATT on 27 April.

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- d) It will be necessary to make some adjustments to the Community's tariff offer in the light of the requests put forward by developing countries with which the Community has special links (ACP, Mediterranean countries); a number of these adjustments will also satisfy certain requests made by non-associated developing countries. The Commission's suggestions are given in annex (List B), subject to formal consultations with the countries in question.
- e) At the same time, as part of a balanced overall approach taking in the previous point as well, the Community must try to satisfy some of the requests put to it for differential, more favourable treatment. This would involve products in respect of which the Community could, under the terms of the negotiating directives, offer cuts going beyond the formula. The Commission's suggestions are given in Annex (List C).
- f) In accordance with the wishes of the developing countries, particularly those currently regarded by the international institutions as the least advanced, the Community must :
- decide on the principle of improving the Generalized System of Preferences in 1979; this, while remaining autonomous, could nevertheless constitute an integral part of the Community's final offer;
 - take the decision to introduce in the second phase of application of the GSP (from the beginning of 1981) arrangements giving those countries currently recognized by the United Nations as least advanced¹ differential, more favourable treatment, which could go as far as duty-free entry for all agricultural and manufactured products covered by the present GSP, with no restrictions on volume.

(1) Not counting ACP countries, these are : Afghanistan, Bangladesh, Bhutan, Haiti, Laos, Maldives, Nepal, North and South Yemen.

The Commission's proposals are given in annex; it would be helpful if the Council could give a fair wind to the scheme at this stage as it goes to be finalized in the appropriate Council bodies. It will then form part of the Community's final offer in the MTNs.

7. Non-tariff measures

The main elements are :

- a) Selective application of the safeguard clause : this is probably one of the thorniest points - and one of the most important. The fundamental need is to define the degree of international discipline and control which will prevent possible abuse and counterbalance international recognition of the possibility of selective - and in some cases rapid - action without thereby rendering such action impossible. This approach, upheld by the Community and the Nordic countries, has in the event met with little support, and the developing countries, particularly the more "emergent" nations among them, clearly feel it as a threat. Given that, as international relations stand at present selectivity is already practised to a large extent, it is necessary to secure de jure recognition of the principle - but without paying an exorbitant price in terms of international controls and loss of credit for the Community with the developing countries. It should also be pointed out that Japan, which has psychological and historically-based reservations as regards selectivity, is making its agreement subject to the abolition of all "discriminatory" restrictions maintained against it by certain Member States.

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b) Countervailing duties and subsidies : the US delegation has indicated that it is willing to put it to Congress that the criterion of material injury should be incorporated into the US legislation on countervailing duties⁽¹⁾, thus aligning American law on the relevant GATT provisions. In order to get this amendment through Congress, the US negotiators feel that a tighter discipline on subsidies is required. The Community has insisted, successfully, that the effect of subsidies on trade must be taken into account, i.e. that a realistic rather than dogmatic approach should be taken.

As regards export subsidies for industrial goods, a list indicating prohibited practices was drawn up by GATT in 1960. There is no problem of principle, therefore, involved in updating the list. Naturally, care will have to be taken to see that certain practices, particularly of a tax nature, which are condemned by the US but considered legitimate by GATT, are not called into question.

The main problem is to find a way of referring in such a text, which must enlarge on the concepts contained in existing GATT provisions without modifying them, to :

- internal subsidies in so far as their effect on international trade is concerned without affecting the right of Member States or the Community to employ the instruments of their industrial or regional policies
- export subsidies on agricultural products.

Furthermore, the US proposal for a right of unilateral action when the procedure based on articles XVI/XXIII did not lead to a result in a given period, ought to be resisted; this proposal would in fact go against the Community's objective on this matter - that is to say, respect for the "material injury" criteria. .../..

- (1) It will also be necessary to make sure that when American legislation is amended as a result of the negotiations the opportunities for multiple harassment in the United States (inter alia under Section 337 of the Trade Act) are eliminated.

- c) The customs valuation code : work here is progressing rapidly, and there is every reason to hope that the code can be finalized ad referendum on time. Such an arrangement would at last make it possible to harmonize customs valuation methods at international level, thus removing certain troublesome disparities (eg. the American Selling Price and Final List Systems in the United States).

Harmonization in this field has always been considered important by the Community, and it would appear to be an essential element of any overall outline agreement.

Several minor technical modifications may be necessary to ensure the success of the initiative.

- d) The government procurement code : the provisions of the code as a whole would appear to be on the point of being settled, but one major question is outstanding : this involves the level of the balance of concessions relating to the code's field of application (procurement agencies and industries covered). Rather than aiming for the ideal solution of maximum cover, it would appear realistic to seek a balance at a level which takes account of the constraints already involved in the Community's internal system (directive on Public Supply Contracts), even if this has the effect of limiting

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the ban on "Buy American"-type preferential clauses. In this case it would be worth providing for a review of the system, say after five years, when further progress might be made. This approach seems acceptable to the US delegation, although it is pressing for greater rigour in the contents of the code, in particular for procurement agencies to be required to supply unsuccessful tenderers on request with the name of the contractor selected and the value of the contract.

- e) Code on technical standards and regulations : the major decision to be taken here concerns the degree of obligation to be assumed by governments of States with a federal structure; the Community is insisting that they go beyond a "best endeavours" undertaking in respect of the activities of their provincial or state authorities and assume responsibility for them in particular regarding compensation vis-à-vis the other contracting parties. As regards the settlement of disputes, the Community feels that in view of the technical nature of the subject matter, some caution should be exercised in deciding on settlement mechanisms, since in the majority of likely disputes it would be difficult to judge whether there was intention to injure commercial interests by means of complex and varied technical regulations. Another question is the applicability of the draft code to the agri-foodstuffs sector.

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8. Agriculture

The specific nature of this sector, which in the end led our partners to adopt the negotiating approach presented by the Community, means that a whole range of items must be incorporated in the outline agreement in order to make it as balanced as possible and enable it to fulfil the aims of the negotiation.

Such items should ensure a more orderly development and expansion over the next few years of world trade in the main agricultural products, backed up by strengthened international cooperation in the conduct of national agricultural policies.

They should also enable food requirements to be satisfied and thus contribute to the security of world food supplies.

To achieve all these aims, there will need to be a successful conclusion to current negotiations for international arrangements in three main areas:

a) International Grains Agreement

Despite opposition from the United States, backed up by other exporting countries (in particular Canada and Australia), the Community has urged that the negotiations should cover both wheat and the main coarse grains. Unless there is a last minute change (which is still on the cards, the Agreement will consist of three Conventions: a Wheat Trade Convention, a Coarse Grains Convention and a Food Aid Convention. The Interim Committee set up by the United Nations Conference will continue its work in London until 22 June, its terms of reference having been to draw up the definitive text of the main articles of the International Grains Agreement.

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(i) Wheat Trade Convention

Consensus has been reached on the items making up the Convention, which will basically consist of a system of minimum and maximum safeguard prices, with an international stocking mechanism.

The Commission is anxious to secure a satisfactory decision on the exact extent of the undertakings by exporting countries to supply wheat at the maximum price level, and the stocks it will be required to hold. Nevertheless, it is aware that the credibility and smooth running of the agreement might require the possibility of closer international cooperation in extreme situations to be considered.

(ii) Coarse Grains Convention

The Community has pressed for a Convention going beyond a mere consultation mechanism. In the interests of overall balance and economic logic, (relationship between wheat and coarse grains), it should insist that at least certain measures e.g. concerning stocks, if necessary optional rather than automatic, be included to add more substance to any agreement.

(b) Dairy Products Agreement

Recent progress has meant that the outlook for an international agreement ^{the} on/whole dairy products sector is now good. Such an agreement would comprise a framework for consultations and the exchange of information (in the event of problems on the market), supplemented by various price discipline arrangements for the main products (milk powder, butter) and bilateral agreements on specific products (cheese).

In the cheese sector the Community can hope to secure various agreements consolidating its export position, while making the minimum number of concessions necessary to ensure the conclusion of a Dairy Products Agreement, which is of vital importance to it.

(c) Arrangement regarding bovine meat

Here too it seems likely that a multilateral framework agreement on the exchange of information and consultations will be reached, backed up by bilateral agreements on "joint disciplines", the contents of which were defined in a recent Commission Communication to the 113 Committee.

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Outside these sectors, the Community is also negotiating other points with a direct or indirect impact on the Common Agricultural Policy as regards both imports and exports.

Safeguards and standards : the Community must take care that the items to be included in the overall outline agreement take account of the special rules relating to agriculture.

Subsidies and countervailing duties : the Community should make its agreement subject to retaining the full text of Article XVI, particularly paragraph 3, which is sufficient as it stands and therefore needs no interpretative clauses.

Various products : these are products in respect of which the Community's partners have requested specific concessions, going well beyond the list of offers lodged by the EEC. The Community has not so far responded to these requests, feeling that equilibrium has been reached in the offer/request procedure.

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9. Final remarks

Those are the major points which in the Commission's opinion need to be settled in the overall outline agreement to be drawn up shortly. Four further observations may be made :

- a) Given the rapid evolution of the negotiations and the need for equally rapid adaptations, the Commission will remain in close consultation with the Article 113 Committee, and will report to the Council at regular intervals until the final conclusion of the negotiations, when the Council will have to take a decision on the package of results.
- b) With regard to the implementation of tariff cuts to be agreed, we would point out that the Council has already defined the Community position (Conclusions of 17 January 1978) : a phased reduction in two stages, the first consisting of five annual steps, with a second conditional stage of three steps.⁽¹⁾
- c) It is pointed out that the Council has also indicated (Conclusions of 17 January 1978) that the Community will not implement its own concessions until parliamentary procedures of approval have been completed, where necessary, by its industrialized partners.
- d) As indicated in the document "Development of an overall approach to trade in view of the coming multilateral negotiations in GATT" (I/135/73 (COMER 42) of 26 June 1973), the Community is still keen, in the interests of maintaining a balance, that all Contracting Parties should apply the same rules and cease to enjoy the benefit of the exception under the Protocol of Provisional Application.

(1) The Council has already agreed that for textiles, iron and steel products (Chapter 73), and ceramic products (Chapter 69), as regards specific duties and lead additives, the implementation of tariff cuts will be delayed until 1 January 1982.

LISTE E

N° de tarif	Désignation des produits	Droit de droit	Offre formale	Offre T.D.	Extra 9	Origine N.P.F.	S.P.G. - Accords	Pays demandeurs	U.S.A.	JAPON	Lomé	Méditer.	Classe 3	Fournisseur
29.01 A I	Hydrocarbure acyclique	17,5	8,4	17,5	414	83	12	ZAI 261 BDI 38	60	10	120	-	-	ZAI
29.11 C III	Cétones aromatiques, autres	14,4	7,6	14,4	3.610	1.843	1.017	IN 981	739	2	-	-	121	572 1.748
29.11 G II	Dérivés halogénés, autres	12,8	7,1	12,8	3.378	587	82	BAH 1.122	202	9	1.122	108	20	BAH
29.16 D	Autres acides carboxyliques	13,6	7,4	10	10.874	2.383	316	BAK 6.333	1.054	149	6.333	22	864	BAH
29.42 B II	Alcoïdols du quinquina, autres	9,6	6	9,6	10.771	120	94	ZAI 10.325	26	-	10.366	35	-	ZAI
29.56 B	Autres huiles polymères, autres	16	8	12	26.067	18.516	9.505	BRZ 4.541	7.265	908	44	552	748	USA
41.02 ex B	- Cuir et peaux de vachettes des Indes de 4,5 à 8 kg - Peaux de bovins, simpl. tannées au chrome (vet bleu)	8	5,3	6	96.051			ZEM 1.846	3.833	1.266	3.278	1.256	921	BGM
41.03 B I	Peaux d'ovins simpl. tannées	3	2,5	2,8	23.129	14.610	6.918	ZEM 1.726	46	-	3.340	5.174	76	HZ 7.260
41.04 B I	Peaux de caprins, simpl. tannées	3,5	2,9	3,2	61.181	34.248	32.741	HCA 17.804	112	9	24.343	2.558	1.311	HCA
42.01	Articles de sellerie	9	5,8	9	6.288	5.405	3.722	IN 1.962	635	557	1	149	1.040	IN
44.07 B	Traverses en bois, autres	3	2,5	2,7	10.743	5.670	1.253	CHR 3.800	-	-	4.264	-	848	CHR
44.27 B	Ouvrages de tabletterie, autres	7	4,9	7	36.651	21.528	9.999	ZEM 458	625	917	857	9.114	4.226	TAIV 6.370
49.02 B	Fentes et articles en feutres, autres	9,5	6	9,5	983	741	462	IN 311	154	64	-	33	47	IN
61.27	Corsets, ceintures ...	8,5	5,6	8,5	80.435	43.731	32.472	BRB 1.348	3.019	48	1.364	10.832	6.185	HK 14.179
62.05 B	Parties de chaussures, autres	6,5	4,6	6,5	29.359	8.942	7.099	IN 510	1.330	6	2	10.827	824	CFR 9.611
63.15 A	Feuilles ou lamelles de mica	4,5	3,5	4,5	1.107	795	780	IN 780	7	-	79	209	8	IK
68.15 C	Mica travaillé, autres	8	5,3	8	566	387	352	IN 337	38	6	11	4	-	IN

* voir I para 3

(**) 1000 UCS pour 41.02 ex B; 44.27 B position entière

9.6.1978

LISTE E - Addendum 1

Import 1976 : 1000 EUR

TDC		Droit départ	Offre forrulle	Offre TD	NPF	Pays demandeur	USA	Lomé	Premier fournisseur
29.39 0 II	Hormones, autres	11,2	6,6	10	26 214	BAH 6 528	23 932	6 528	USA
29.40 (= 35.07)	Enzymes	10,4	6,3	7*	10 904	ZAI 262	7 851	286	USA
30.01 0	Glandes, autres	8,8	5,7	7	24 675	LES 1 286	17 240	1 287	USA
38.19 B	Acides naphthéniques	4	3,2	4	547	TRT 228	248	228	USA
44.13	Bois rabotés	5	3,8	4	33 307	IVO 1 135 CHR 944	1 478	2 434	BRZ 13 591
44.23 B II	Ouvrages de menuiserie	7	4,9	6	26 682	IVO 289 GHA 96	1 724	401	TAW 8 646 YUG 7 306
44.28 C	Bois prép. pour allumettes	6	4,4	5	21 627	CHR 236 IVO 17	1 893	289	CND 3 128

* conditionné : offre USA

LISTE E. 1. Add. 2

Importations 1976 à 1000 EUR

Code du tarif	Désignation des produits	Droit de départ	Offre formelle	Offre T.D.	Extra 9	Origine n.p.f.	S.F.G. - Accords	Pays demandeurs	U.S.A.	JAPON	Lomé	Méditer.	Classe 3	Premier fournisseur
33.01 A 1	Huiles essentielles d'agrumes	11	6,5	11	11.064	6.538	2.519	IVO 1.615	3.853	29	2.244	1.713	6	USA IVO HEX 1.143
44.14 B	Bois simpl. sciés, autres	7	4,9	7	104.227	98.565	27.870	CNG 8.039 IVO 6.118 CIR 4.875 GHA 1.987	23.040	391	26.300	2.725	1.099	USA BRZ 12.818
44.15	Bois plaqués ou contre-plaqués	13 ⁰	7,2	13	434.330	306.103	138.920	GBM 11.955 GHA 2.948 CIR 2.060	78.507	5.818	18.772	19.748	30.440	FIN 81.336 USA

Exemption dans la limite d'un contingent tarifaire annuel de 400.000 mètres cubes de bois contre-plaqués de conifères, sans adjonction d'autres matières :
 - dont les faces sont brutes de déroulage, d'une épaisseur supérieure à 9 millimètres, ou
 - poncés, d'une épaisseur supérieure à 18,5 millimètres

Importations 1976 : 1000 EUR

LISTE G - Addendum 1 (14.6.1978)

N° du tarif	Désignation des produits	Droit de départ	Offre formule	Offre T.D.	Extra 9	Origine n.p.f.	S.P.G. - Accords	Pays demandeurs	U.S.A.	JAPON	Lomé	Méditer.	Classe 3	Premier fournisseur
28.03	Carbone	3,2	2,7	0	16.397	15.512	293	IDA 261	11.041	36	0	457	2.311	USA
29.14 A VI *	Acide propionique	8	5,7	4,2	523	340	93	MEX 93	247	0	52	16	0	USA
33.01 A II b	Huiles essentielles, non déterpénées, autres (que d'agrumes)	2,41	2,1; 2,7	0	89.802	73.705	23.707	IN 1.748	29.022	210	679	12.787	21.375	USA
33.01 B I	Huiles essentielles d'agrumes, déterpénées	12	6,9	5	679	362	164	MEX 128	198	0	5	45	0	USA
42.05	Autres ouvrages en cuir	7	4,9	4	5.522	3.704	2.236	IDA 5	663	593	23	1.096	157	THA 781
65.04 A I	Chapeaux, non garnis, en bois, paille ...	5,5	4,1	3	313	260	143	IDA 1	0	0	9	7	102	CHN 102
65.04 A II	Chapeaux, non garnis, en autres matières	6,5	4,6	3	206	158	33	IDA 0	14	0	0	9	12	MEX 59
71.13 A	Art. d'orfèvrerie, en métaux précieux	7,5	5,1	3	7.250	6.050	409	IDA 16	4.462	41	1	141	1.066	USA
83.11	Cloches ..., en métaux communs	9	5,8	3	1.201	877	398	IN 200	24	85	0	91	299	CDR 261
84.51 A	Machines à écrire	6,5	4,6	4	87.260	59.044	5.905	SIN 1.686	22.975	18.309	20	10.737	4.096	USA
90.14 A	Boussoles	10,5	6,3	5	6.867	5.505	114	SIN 16	3.802	937	0	75	13	USA
90.24 A *	Manomètres	9	5,8	4,5	5.125	3.042	37	SIN 1	2.302	136	3	48	298	USA
90.24 B *	Thermostats	9	5,8	4,5	16.242	9.660	1.739	YUG 1.631	7.444	202	5	254	72	USA
90.26	Compteurs de gas, de liquides ...	9	5,8	4	15.678	6.442	1.680	YUG 1.653	4.487	23	0	104	205	SYC 7.771
90.27 A	Compteurs de tours, taximètres ...	6,5	4,6	4	13.258	4.745	1.204	YUG 1.115	2.384	1.072	0	496	61	USA 5.230

* Produits de la liste de demandes d'amélioration des USA du 19.4.1978 (ainsi que 29.44 A, 58.02 A 1 et 84.40 B I de la liste G)