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ENABLING LEGISLATION MUST BE AN ACCURATE REFLECTION
OF THE MULTILATERAL TRADE NEGOTIATIONS AGREEMENT

At the April 12 initialling of the multilateral trade agreements in Geneva, Sir Roy Denman, Director-General of External Relations, of the European Communities' Commission stressed "the importance of the enabling legislation in the main developed countries, where legislation of this kind is necessary, being a faithful and accurate reflection of the stipulations and various agreements and codes to be concluded. This we think is a reasonable and important stipulation and clearly the Community's attitude towards the final adoption in due course of the complete outcome of the negotiations will need to take account of this factor."

"Then it is our view that the Community would not implement all concessions until such time as all the developed countries had completed their necessary parliamentary procedures and were able to implement their concessions. In other words that the enabling legislation referred to above had proved to be satisfactory and that the measures to implement the conclusions of the multilateral trade negotiations had been taken in practice and to good effect."

Extracts of Sir Roy Denman's speech are as follows:

TARIFF CUTS

"In relation to tariffs, our contribution to the industrial tariff cutting exercise as it stands today would reduce the common customs tariff on dutiable items from just under 10 per cent, to 7.3 per cent, in fact to something like 7 per cent if the aircraft sector is included.

Only 17 per cent of our dutiable most favored nation (MFN) imports will be subject to duties above 10 per cent, only 2.1 per cent to duties above 15 and only one product above 20. This we think is a pretty reasonable track record at the end of these negotiations.

Insofar as the tariff negotiations generally are concerned, we consider that they have been substantively concluded in the sense that final adjustment of reciprocal offers is still in process with a number of partners, but no further new concessions can be expected. We are still prepared to consider possibilities of more rapid staging of concessions which might be of interest to developing countries. At the end of the first stage of tariff reductions extending over five years, we have been asked specifically by our Council of Ministers to examine and affirm whether the Community is able to move onto the second stage having regard to the economic, social and monetary situation and the implementation by partners of various undertakings entered into in the multilateral trade negotiations."

AIRCRAFT AGREEMENT

"On the aircraft agreement, signatories and non-signatories alike will get the benefit of duty-free treatment on aircraft and a wide range of parts that contain certain non-tariff disciplines, for example on subsidies. Non-signatories will not be required to undertake any obligations and if anyone says that they have been excluded from the negotiation of this agreement not only is that point not valid but we gave notice of our intent some time back in July of last year, for example in the framework of understanding of July, 1978 of our intention to negotiate an agreement in this area. But some delegations understandably have not manifested a great deal of interest in the negotiation of such an understanding."

AGREEMENT ON SUBSIDIES AND COUNTERVAILING DUTIES TO BE SUBJECT TO A TEST OF MATERIAL INJURY

"On subsidies and countervailing duties, the Agreement represents one of the most difficult and complex areas of the negotiations and one of the most important in its results. We consider that the acceptance by the United States of procedures for taking countervailing action subject to a test of material injury is the absolute minimum requirement for any code in this field. And this Agreement brings a major trading nation in line with the GATT rules. Our Council of Ministers will be closely scrutinizing the implementing legislation on this part of the Agreement and we hope that the injury test and related procedures which are complicated but important will be faithfully carried into American domestic law.

The provisions on subsidies provide a more specific remedy for countries who consider that such practices cause serious prejudice to their trade. Export subsidies apart these provisions are less mandatory in character but this is only natural given the wide range of perfectly legitimate government intervention which takes place in modern economies to achieve economic and social objectives which are often some way removed from international trade. We have accepted these provisions and we intend to apply them. And we think

that the provisions for dispute settlement here will in time show that in this complex area there is a need for a flexible approach and a full understanding of the issues involved in every case."

DEVELOPING COUNTRIES

"One of the most important areas of the negotiations relates to the developing countries. In a well-known European paper in April, a journalist who was very badly informed said that the third world had been superbly forgotten in the Tokyo Round. I think myself that this is not only a superb exaggeration but in fact precisely the opposite of the truth. Let us take for example the whole series of codes where some substantial and long-standing efforts have been made to include in these provisions which would be of use to developing countries. Take licensing, customs valuation, standards or the adoption for example by one of the main negotiating partners of the concept of material injury. This represents some very considerable advantages for our developing country friends. If one tries to find a precise evaluation in terms of figures, this is more difficult. More difficult partly because of the generalized preference scheme. But we can refer to 1 January 1977 when the Community without asking for any reciprocity put into effect reductions on tropical products. In its first year of application this offer covered a volume of imports into the Community from the countries which benefitted of the order of \$4 billion. We have pursued the improvement of the generalized preference scheme particularly in relation to the poorest developing countries.

On the other side of the medal, we have been happy to receive notifications presented by certain developing countries, for example India, South Korea, Brazil and Mexico, of important measures of liberalization and of customs simplification. While encouraging these are not of course in the same category as bound tariff reductions. But we would point to the fact that at the present time only a limited number of developing countries have given us offers of tariff bindings. We hope that the relatively advanced developing countries will be able to seize this last occasion to make contributions to these negotiations commensurate with their economic development."

CUSTOMS VALUATION: CONCERNS OF DEVELOPING COUNTRIES

"On customs valuation we recognize that a number of developing countries have concerns about certain provisions which have led them to make proposals to amend the Agreement. But it is our view that the Agreement is well balanced and that the fears of certain developing countries will be found to be largely unjustified in practice. So we do not think it is sensible to agree to these proposed amendments at this point in time. We think that the most appropriate course would be for these proposals to be referred to the valuation committee which is to be set up and for this committee to make a major review of the operation four years after it comes into effect. The developing countries' concerns as well as their specific needs could be examined in the light of practical experience. Any necessary measures could be taken. We certainly would not rule out the possibility of further amendments. If urgent problems arise in practice which prejudice the interests of developing countries they can of course be examined by the valuation committee before the major review."

We think, given that the developing countries which signed the Agreement will be allowed automatically to defer applying it until 1 January 1986, that the solution we suggest is reasonable. They will be able to participate in its management and will be able to raise in the valuation committee matters of particular concern to them. They will have the right to technical assistance furthermore without being bound by any of the agreements' disciplines until that date of 1 January 1986. And if major problems remain and cannot be solved before 1 January 1986 developing countries will have the same rights as other signatories to withdraw from the Agreement. I think that we have gone a long way to accommodate developing countries in the course of the negotiation on customs valuation."

IMPORT LICENSING

"On import licensing the Agreement which applies to automatic and non-automatic procedures contains a balanced compromise. This Agreement deals with procedures and not with measures. The aim is that of simplifying and bringing transparency to these procedures. We have made particular efforts to ensure that this Agreement contains provisions which make it easier for developing countries to become parties to this Agreement. In particular the Agreement contains a temporary derogation of two years for those developing countries which have particular difficulties. We think that adherence to this Agreement would represent an encouraging contribution by developing countries to the MTNs."

SATISFACTORY RESULTS ON ANTI-DUMPING AND ON STANDARDS

"On anti-dumping there seems to be a satisfactory updating of the first code in the GATT. On standards we would like to make one point. That on the question of access to certification of this Agreement we have been very concerned that there should be full reciprocity between signatories. Our intentions and expectations in this regard are set out in the declaration which has been circulated in the course of this meeting. I won't therefore read it out, but it is a declaration which seems to us to embody a sensible and reasonable view and one to which we attach some importance."

GOVERNMENT PROCUREMENT PROVISIONS ARE INCOMPLETE

"On government procurement, our partners will be aware of the difficulty we had on certain aspects of ex-post information or transparency. We were finally able to accept the present text. We have also throughout this negotiation attached importance to the concept of a standstill on any extension of the buy-American act, or similar preferential provisions in regard to areas outside the scope of the Agreement. Our objectives here have not been met in the text of the Agreement but we reached some measure of clarification of respective intentions in this regard with some of our partners. We reserve our right to come back to this question in the light of possible developments in this area."

UNFINISHED BUSINESS IN AREAS: SAFEGUARDS AND COUNTERFEITING

"Safeguards is an area where no agreement has yet proved possible, but we have decided to continue this work as a matter of urgency. We want to try and reach an agreement which can still form part of the overall MTN package. This means in practical terms that we have got two or three months. We for our part are ready to make a further effort and we would regard an overall package without a satisfactory safeguards clause as a package whose value was substantially diminished. We have always had as the Community objective an agreement which would permit - under a procedure which would be realistic and fully operational - action on a selective basis where appropriate. We have made some progress on the question of the circumstances which would be appropriate. What remains to be resolved is the precise role to be played by the committee in reviewing such actions and proposed actions and in reaching conclusions or findings as to their consistency with the agreement. We have always been prepared to accept a fair degree of surveillance, control and discipline. What we cannot accept is that any action would be subordinated to authorization by the committee, whether this notion is explicit or implicit in the text. We are not yet, I am afraid, at the stage of world government. It seems to us there is still room to find a solution. We shall continue and hope that some mutually satisfactory arrangement can be reached in the next two or three months.

In relation to counterfeit we think like a number of other delegations that commercial counterfeiting prejudices the interests of legitimate traders and of consumers alike and that the selling of counterfeit goods in international trade should be discouraged. Proposals for an agreement on treatment on counterfeit goods were introduced rather late. So we have not been able to finish the negotiations. But we are quite prepared to continue work on the subject with other interested delegations with the hope of reaching agreement which can be included among the final results."

IMPRESSIVE RESULTS IN A PERIOD OF ECONOMIC DIFFICULTY

"The successful close which is now at hand of the most ambitious trade negotiation since the war is a fateful event. It was difficult enough to attain the major tariff concessions which we now can count on. But an even bigger achievement in our view was the success which we now can point to, in arriving at a whole series of arrangements in the non-tariff barrier field. What has emerged in sum is a major tariff liberalization program extending over the 1980s, which will give businessmen throughout the trading world confidence that the trade liberalization process which was set on foot in 1974 will continue, and in addition to that a major strengthening and updating of the GATT with a series of important codes and with committees of signatories to administer them in some of the most important areas of international business activity. I think historians will say that the two major achievements of this negotiation have not only been the impressive results before us but that these have been achieved in the light of the worst recession that the world has known for over forty years. It was said when the last negotiation was concluded here in 1967, that the real test of the GATT was not what it had achieved up till then, but what could be achieved and how the line would be held when the economic weather turned bad. Not only has the line been held throughout the trading world, but this major success is now very nearly with us."

