

## ORGANIZATION

(95-1386)

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**Committee on Trade and Development**  
**Second Session**  
**28 June 1995**

### **CREDIT AND RECOGNITION FOR AUTONOMOUS LIBERALIZATION MEASURES**

#### Note by the Secretariat

I. When the Sub-Committee on Institutional, Procedural and Legal Matters of the Preparatory Committee for the World Trade Organization (WTO) adopted the Terms of Reference for the Committee on Trade and Development, the Chairman stated that "the programme of work of the WTO Committee on Trade and Development for 1995 would ... also include consideration of the question of credit and recognition for autonomous trade liberalization measures".<sup>1</sup> This statement followed an agreement reached during discussions related to the Terms of Reference for the Committee on Trade and Development under the WTO. As no agreement was reached on a common approach to deal with this matter during the Uruguay Round, it was agreed that the Committee on Trade and Development would address credit and recognition for liberalization measures taken as from the entry into force of the WTO.

II. This note summarizes the discussions held in GATT on credit and recognition. It is being circulated as a contribution for discussions under Item E of the agenda.

#### **Uruguay Round**

III. Past consideration of credit and recognition for autonomous liberalization measures has focused on credit for the binding of tariffs and non-tariff measures and recognition for unbound autonomous trade liberalization. The matter has been addressed in two Uruguay Round fora: Negotiating Group on Functioning of the GATT System and Negotiating Group on Market Access (preceded by discussions in

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<sup>1</sup>See PC/IPL/M/9, paragraph 4, 13 December 1994.

the Negotiating Groups on Tariffs and Non-Tariff Measures).<sup>2</sup>

(i) Functioning of the GATT System (FOGs) Group

IV. One of the objectives of the FOGs Group was "to increase the contribution of the GATT to achieving greater coherence in global economic policy-making through strengthening its relationship with other international organizations responsible for monetary and financial matters". According to many delegations, one way of translating the objective of coherence into practical initiatives was to provide negotiating credit in GATT - in the context of the Uruguay Round or future trade negotiations - for trade liberalization undertaken autonomously in the context of International Monetary Fund (IMF) and/or World Bank programmes.<sup>3</sup> This could be done through the establishment of a mechanism within the contractual framework of the GATT that would formally acknowledge the liberalization undertaken. It was thought that such a mechanism would provide an incentive for countries to bind the more liberal measures in GATT at about the same time of the liberalization (i.e. without postponing bindings to future rounds of multilateral trade negotiations).<sup>4</sup> Despite a generally positive reaction to the concept of credit for bindings, no clear result emerged.

(ii) Market Access Group

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<sup>2</sup>The issue was also raised with respect to the Tokyo Round Codes, particularly in the Negotiating Group on MTN Agreements and Arrangements, where developing countries were seeking credit for acceptance of individual Codes. This was prior to the adoption of the "single undertaking" approach.

<sup>3</sup>Some countries pointed out that it was irrelevant whether these liberalization measures were taken autonomously or in the context of IMF/World Bank programmes.

<sup>4</sup>In 1989, following discussions with the President of the World Bank and the Managing Director of the IMF, the Director-General reported to the CONTRACTING PARTIES: "Much interest has been shown by FOGs Group participants in the possibility that developing countries might obtain negotiating credit in GATT for trade policy reforms introduced by them under Fund or Bank programmes. This interest is shared by the heads of the Fund and Bank, and their staffs have enquired about the modalities which governments intend to adopt for granting negotiating credit. Although such reforms will generally be fully justified by their favourable effects on the economy of the country which undertakes them, they can serve a double purpose if they also provide negotiating credit which can secure market-opening concessions from a country's trading partners. For this to be possible, the reforms must take a form which can provide assurance that the liberalization will be lasting in character and in conformity with the GATT rules, i.e., they must be "GATTable" in nature. Moreover, the negotiating credit potentially available can probably only be realized if the country introducing the reforms enters into GATT negotiations, and offers them as bound concessions or otherwise provides assurance that they will not be withdrawn without due process. A few countries, not contracting parties to the GATT at the time trade reforms were undertaken by them under Fund or Bank programmes, have been able to gain negotiating benefits by binding the reforms in the course of negotiating for accession to the GATT. For other countries which have undertaken similar reforms, the Uruguay Round has been recognized as offering an exceptional opportunity to obtain counterpart concessions from their trading partners. The FOGs Group is only one among several negotiating groups which are considering the practical requirements for realizing these opportunities. (The others are Tariffs, Non-tariff Measures, Tropical Products and Agriculture.) The fact that the Uruguay Round has little more than a year to run lends particular urgency to this issue." See *Ways to Achieve Greater Coherence in Global Economic Policy-Making through Strengthened GATT Relationships with other Relevant International Organizations*, document MTN.GNG/NG14/W/35, paragraph 32, 20 September 1989.

V. At the Mid-Term Review, Ministers agreed<sup>5</sup>: on "The need for an approach to be elaborated to give credit for bindings; it is also recognized that participants will receive appropriate recognition for liberalization measures adopted since 1 June 1986" (section on tariffs, paragraph 2(c)); that "Participants will receive appropriate recognition for the liberalization measures which they have adopted" (section on non-tariff measures, paragraph 2(h)); and that "Credit will be given for measures implemented since the Punta del Este Declaration which contribute positively to the reform programme" (section on agriculture, part A, paragraph vi).<sup>6</sup> Although the issue of credit and recognition was formalized in the 1989 Mid-Term Review, discussions only gained momentum in 1991. The discussions, held in the Negotiating Group on Market Access (established following the Brussels Ministerial Meeting), followed the submission of a non-paper by Mexico,<sup>7</sup> which was co-sponsored by nineteen developing countries.

VI. In this paper, these countries proposed a two track approach: (i) a partial solution to be agreed in a short period, in order to deal with those liberalization measures adopted during the Round; and, (ii) work to be conducted following the conclusion of the Uruguay Round, in order to elaborate more definitive rules which would provide for account to be taken of autonomous liberalization measures. The proposal was for credit to be given to both concessions offered on a product-by-product basis (the traditional GATT approach), as well as to increases in the scope of bindings. Further, with the emergence of the concept of binding of non-tariff measures (NTMs), credit was also being sought for these bindings. On recognition for autonomous trade liberalization measures,<sup>8</sup> long-term solutions were outlined (see paragraph 17 below); for liberalization undertaken within the context of the Uruguay Round, proposals were as follows:

- (1) Increased access by developing countries to the markets of their trading partners:
  - (a) In certain cases, the autonomous liberalization measures in specific products would be reciprocated by trading partners applying the Montreal target at that specific tariff-line level and implementing immediately such a reduction; and,
  - (b) early/accelerated implementation by trading partners of liberalization measures in textiles and agricultural products of interest to developing countries undertaking liberalizing measures autonomously.
- (2) Adaptation of the Montreal target for the tariff commitments of developing countries:
  - (a) Those NTMs eliminated since June 1986 would be tariffed so as to cover part of the Montreal target;
  - (b) special treatment for countries having acceded to GATT during the Round; and,
  - (c) in some cases, autonomous-liberalizing countries could use liberalization measures as part of their contribution to the tariff negotiations.

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<sup>5</sup>See MTN.TNC/11 of 21 April 1989.

<sup>6</sup>In the agriculture agreement, this was applied in the area of domestic support, thus allowing some countries to apply the reduction required taking as starting point the year of higher support instead of the average of 1986-88.

<sup>7</sup>The paper was originally submitted by Mexico at a "Green Room" meeting at the end of 1990. The developing countries which associated themselves with the non-paper were Argentina, Bolivia, Colombia, Costa Rica, Egypt, Indonesia, Jamaica, Malaysia, Morocco, Nicaragua, Nigeria, Pakistan, Peru, the Philippines, Romania, Thailand, Uruguay, Venezuela and Yugoslavia.

<sup>8</sup>Document MTN.GNG/MA/W/10/Rev.2 of 14 December 1993 lists those liberalization measures taken by developed and developing countries participants in the Uruguay Round since June 1986 which had been notified to the GATT Secretariat.

VII. While there was a general acceptance of the notion of credit for increasing the scope of bindings and for liberalizing NTMs, matters relating to recognition of autonomous liberalization proved more controversial. In a report to the Trade Negotiations Committee, the Chairman of the Negotiating Group on Market Access reported that: "certain developed countries continue to be reluctant to pursue this idea unless there are offers to bind trade related liberalization measures"<sup>9</sup>.

VIII. Finally, guidelines - as distinct from formal rules - on credit for tariff bindings and the liberalization of NTMs, and recognition for autonomous liberalization measures were presented by the Chairman of the Market Access Group<sup>10</sup> "in order to assist the market access negotiations between developed and developing countries ... [and] for use as appropriate". Basically, the guidelines would "provide a minimum level of credit which should be given practical effect in the negotiations ...", and were to be used as a supplement to the traditional GATT approach to assess the value of tariff concessions. The guidelines stated that a "meaningful rate of ceiling binding" could take into account "particular developing countries' trade and economic development stage" in line with the Punta del Este guidelines, and that "developing countries which reduce substantially or eliminate totally NTMs should be given additional credit towards achieving the Montreal target". Further, a matrix was presented indicating how credit would be given for ceiling bindings: credit would be related to the bound level of tariff offered and the percentage of imports offered for binding.<sup>11</sup> Countries which acceded to the GATT during the Uruguay Round negotiations could use their accession commitment for reaching the Montreal target in accordance with the guidelines. With respect to liberalization measures autonomously taken, the guidelines stated only that they "will be given appropriate recognition by other individual participants ... [and that] ... Longer term approaches to this issue need to be determined". While there is no doubt that, in line with GATT practice, the Uruguay Round negotiations resulted in credit being given for binding, the situation with respect to recognition for autonomous liberalization measures is much less clear.

(iii) Negotiating Group on Services

IX. In the discussions in the Group for Negotiations on Services (GNS), Switzerland pointed out that special provisions were not necessary to deal with unilateral, autonomous liberalization in services.<sup>12</sup> Autonomous liberalization measures would be part of the long-term process of progressive liberalization and bindings, on the same footing as liberalization achieved through bilateral, plurilateral or multilateral negotiations.

X. In their submission outlining a structure for the Multilateral Framework for Trade in Services, eleven Latin-American and Caribbean countries proposed that autonomous liberalization measures taken by developing countries be considered a contribution to negotiations and be "treated as credits in those negotiations".<sup>13</sup> This proposal gained some support from a number of countries, which linked the idea of credit and recognition to the binding of the autonomous measures in national schedules.

XI. A reference to autonomous liberalization measures is found in the text of the General Agreement on Trade in Services, Part IV (Progressive Liberalization), Article XIX:3, which reads as follows:

"... Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, ..."

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<sup>9</sup>See MTN.GNG/MA/W/1, 24 June 1991.

<sup>10</sup>See MTN.GNG/MA/W/13, 19 December 1991.

<sup>11</sup>Although it was never formally recognized, it was considered that an across the board ceiling binding of 35 per cent by developing countries would be seen as reaching the Montreal target.

<sup>12</sup>See MTN.GNS/W/69, 15 September 1989.

<sup>13</sup>See MTN.GNS/W/95, 26 February 1990, Article 1:7(d).

## **Committee on Trade and Development**

XII. In the discussions held in the GATT Committee on Trade and Development during 1991, developing countries indicated that receiving credit and recognition for liberalization measures would help them in resisting domestic pressure to liberalize trade, and would be an incentive for the continuation of such policies. This was particularly so in light of the fact that, in certain cases, the servicing of foreign debt imposed limitations on continuing the process of trade liberalization as the measures adopted had already resulted in a significant increase in imports. In regard to approaches to be followed, some countries felt that, with respect to credit, existing GATT procedures (such as adherence to MTN Codes and bindings) should be further elaborated by the definition of appropriate criteria or guidelines, and that different procedures or arrangements should be created for providing recognition.<sup>14</sup> These would take into account the particular circumstances in developing countries and would be in accordance with the principle of relative reciprocity.<sup>15</sup> On the other hand, the need for defining the criteria for giving credit was opposed by some countries, which favoured a case-by-case approach in the give-and-take process of negotiations. Some countries also opposed the idea of creating a new mechanism for giving recognition, emphasizing that in order to receive credit for liberalization measures, these had to lose their unpredictable character and be bound in GATT.

XIII. A number of questions relating to credit for autonomous liberalization raised at the Committee on Trade and Development were, however, never addressed in depth. These included: (i) the type of measures for which credit might be sought; (ii) whether credit should be given even for liberalization of GATT-inconsistent measures; (iii) the trade significance of bindings required for receiving credit; (iv) whether credit for binding tariffs would be given if the effect of such measures was nullified by quantitative restrictions or vice-versa; and (v) whether unbound liberalization measures for which a country was seeking recognition could be reversed through the "escape" provisions of the GATT (such as Articles XVIII and XIX).

## **Credit and Recognition in the WTO**

### **(i) Credit for bindings**

XIV. Two issues may require examination, particularly in view of the fact that multilateral rounds of negotiation are expected to take place less frequently than in the past. First, whether credit should be given for an unilaterally decided increase in the scope of bindings, and how much.<sup>16</sup> Second, whether credit should be given for concessions unilaterally granted.

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<sup>14</sup>The proposals included: a contractual agreement which would contain commitments at a lesser level than the traditional bindings, and the provision of increased, more secure and predictable market-access conditions to exports of the liberalizing countries, for example, within the GSP schemes applied by their trading partners.

<sup>15</sup>Relative reciprocity was interpreted to mean that developing countries should not be requested to make contributions in negotiations beyond their individual capabilities.

<sup>16</sup>Of course, this issue could also arise in the context of any future multilateral rounds of negotiations, as it was the case during the Uruguay Round (see paragraph 8 above).

XV. Mechanisms to translate into concrete terms such credit allocations, if any, should also be devised at a later stage. These might include, *inter alia*, supplementing Articles XXVIII and XXVIII*bis* with rules dealing with reduction in bound rates agreed to by a limited number of Members - i.e. mini-rounds of negotiations on tariffs and non-tariff measures; and establishing a system under which concessions unilaterally granted would be reciprocated by trading partners at a later stage - i.e. giving credit but deferring its cashing.

(ii) Recognition for autonomous liberalization measures

XVI. It was indicated in both the developing countries' non-paper and the Chairman's guidelines (see respectively paragraphs 6 and 8 above) that a long-term solution should be found for accommodating autonomous liberalization measures within the WTO. Developing countries which supported this initiative were of the view that the "traditional GATT binding" was not fully adapted to the situation in developing countries, because liberalization of their trade should be carried out in a flexible and progressive way. Even more importantly, they pointed out that it could act as an incentive to countries to defer autonomous liberalization measures until a future round of trade negotiations, where such efforts could be reciprocated. Hence the idea of introducing within GATT an "intermediate position between binding and full autonomy" for granting recognition for autonomous liberalization measures as a way of increasing predictability.

XVII. In the non-paper tabled by developing countries and referred to above, the basic idea was to provide the possibility for recognition through either a "conditional tariff concession" (CTC) or a "temporary tariff concession" (TTC). In both cases, trading partners would offer tariffs below their bound rates to the country liberalizing autonomously. While a CTC would be retained for as long as the autonomous-liberalizing country kept the measure in place, in a TTC the two countries involved would agree to retain the "concessions" for a fixed, renewable period. Developing countries which proposed that approach also gave indications of some rules that should be developed in order to implement the intermediate position between binding and full autonomy.

(iii) Progressive liberalization on trade in services

XVIII. The multilateral commitment to establish, in the context of future rounds of negotiations, specific guidelines on the credit to be given for autonomous liberalizing measures undertaken between rounds is expected to function as an incentive to further the continuous liberalization of trade in services.