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BRIEFING PAPER NO. 6*

Selected Issues of Trade and Development
in the Hides, Skins, Leather, Leather
Products and footwear sectors

Prepared by
the secretariat of UNIDO

NOTE: The background to this paper is the UNCTAD report on International Trade in Hides, Skins, Leather and Leather Products and Footwear (January 1979) which was presented to the Panel at its Second Session, 5-7 February 1979.

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Selected issues of trade and development in the hides,
skins, leather, leather products and footwear sectors.

1. In order to formulate appropriate recommendations regarding the problems confronting the sector under consideration it is important to tackle the problems from both the supply and demand side for hides, skins, leather, leather products and footwear.

2. From the developing countries' points of view, policy issues should include the following items:

I. Increasing supply capabilities of developing countries

- (i) Improving the quality and increasing quantity of raw materials (Issue No. 1).
- (ii) Development and transfer of technology including management skills (Issue No. 2).
- (iii) Increasing the degree of processing in developing countries (Issue No. 2).
- (iv) Least developed countries (Issue No. 2).

II. Increasing market access for exports from developing countries.

(a) Tariffs and non-tariff barriers

- (i) Reduction or elimination of tariffs
 - (a) Escalation of tariffs
 - (b) Operations of the Generalized System of Preferences (GSP)
- (ii) Reduction or elimination of non-tariff barriers
- (iii) Multilateral Trade Negotiations (MTN)
- (iv) Growing protectionism and adjustment assistance measures.

(b) Marketing and distribution (Issue No. 2)

3. From the point of view of the simultaneous approach from supply and demand side, improved supply capabilities of developing countries must proceed along with increasing market access in developed as well as developing countries. Keeping this approach in mind, this paper will touch upon items, I(iii) and (iv), and II(a), leaving aside the main

problems of supply (items I(i) and (ii) and problems of marketing and distribution which are covered in Issue Papers 1 and 2 and the Background Papers on production, marketing and distribution. Issues to be discussed below have been dealt with in general terms in Part I and Part II of the UNCTAD Paper.^{1/} The discussion below will proceed having mainly policy issues in mind.

I. (iii) Increasing the degree of processing

4. It was shown in Part I.4 of the UNCTAD Paper that developing America was successful in exporting finished products of leather, in particular, leather garments and leather footwear. Case studies of the success of selected countries such as Argentina, Brazil and Uruguay will be very useful for other developing countries abundantly endowed with hides and skins.

5. One of the measures adopted by a number of developing countries in pursuing further processing of hides and skins was export restrictions.

6. This problem of export restrictions and charges applied by some developing countries to increase domestic processing was included in the Multilateral Trade Negotiations at the initiative of the major developed countries although strongly opposed by others. Events relating mainly to petroleum trade led to the introduction into both the US Trade Act and the EEC Directives of a negotiating mandate to seek tighter rules over the imposition of measures affecting the supply of raw materials. The United States, Japan and the EEC first sought to introduce this issue in other areas of the MTN such as quantitative restrictions and licensing and in relation to subsidies and countervailing duties.

7. Initially the United States was the only proponent of tighter rules in this area. Most developed countries ignored the issue of export restrictions generally based upon the Brazilian proposal mainly because of its political sensitivity.

8. The three major proponents of tighter rules on export restrictions of raw materials based their argument largely on a supposed need for "symmetry". They argued that the imprecise nature of GATT rules on export

^{1/} The UNCTAD report entitled "International Trade in Hides, Skins, Leather and Leather Products and Footwear" was presented to the Panel at its Second Session, 5-7 February 1979.

restrictive measures merely reflected the fact that at the time the GATT was drafted, international interest was concentrated on import restrictions, and that it was generally assumed that governments would have no desire to interfere with exports.

9. Certain other developed countries such as Canada rejected this "symmetry" argument, and refuted the acceptance of any such "assumption". They maintained that any concessions or new obligations with respect to export restrictions would have to be negotiated and paid for. In their view, to a large extent the "security of supply" problems came from the import restrictive policies of the importing countries which have resulted in a much lower level of processing in the raw material producing countries, both developing and developed, than would otherwise have been the case.

10. The latest accord between the United States and Argentina on hides and leather is to be seen in this context.

"Under the accord, Argentina converted its current export embargo on cattle hides to a 20% export tax, which gradually will be eliminated by October 1, 1981. In exchange, the U.S. promised to end, by the same date, its current 5% import duty on cattle leather. The U.S. also agreed to slash its import duty on canned corned beef to 3% from 7.5%" ^{1/}

11. According to the report^{1/} an official of the Special Trade Representative's office hoped similar agreements would be signed with such cattle-producing nations as Brazil and Uruguay. The trade official said the agreement would add about 13 million hides yearly to the current 100 million hides produced for unrestricted trade.

12. This accord between the United States and Argentina is significant as it might point the future course of negotiations between raw material producing countries in this sector and importing developed countries.

13. The outcome of the MTN negotiations entitled "Understanding Regarding Export Restrictions and Charges" consists of simply a detailed "Statement of the existing GATT Provisions relating to Export Restrictions and Charges", with a covering note containing the "Understanding" itself, i.e., "an agreement upon the need to reassess in the near future the GATT provisions

^{1/} Wall Street Journal, 3 October 1979.

relating to export restrictions and charges, in the context of the international trade system as a whole, taking into account the development, financial and trade needs of the developing countries'.

I. (iv) The least developed countries

14. The need for further processing of raw materials in this sector is nowhere more pressing than in the least developed countries because for many of these countries, hides and skins are one of the few most important resources and other manufacturing activities are still very much limited.

15. Taking account of the discussion under the heading I (iii), "Increasing the degree of processing", it will be useful to prepare and implement a model integrated project to develop leather, leather goods and footwear industry for a least developed country selected for criteria such as resource availability and potential for commercial success.^{1/}

2. Increasing market access for exports from developing countries

16. The pattern of international trade in leather, leather products and footwear described in Part I of the UNCTAD report indicates that the success of developing countries in expanding and establishing these industries depends upon their access to export markets, in particular, to developed market economy countries. The two important elements in market access are tariff and non-tariff measures affecting international trade of this sector.

A. (i) Reduction or elimination of tariffs

(a) Escalation of tariffs

17. It has been shown in Part II of the UNCTAD report that tariffs in leather, leather products and footwear are highly escalated as stages of processing increase resulting in high rates of effective protection for finished manufactures in this sector. Such an escalation of effective protection in developed countries has adversely affected the location of processing plants in developing countries. The elimination of further

^{1/} See the LDC Case Studies presented for discussion at the Third Session of the Panel, 19-21 November, 1979. See also Background Paper No. 1.

reduction of tariffs on finished and semi-finished products under consideration is essential in encouraging developing countries to engage in further processing of indigenously available raw materials and to export them in the form of finished and semi-manufactured products.

(b) Operations of the Generalized System of Preferences
(GSP)

18. The Generalized System of Preferences (GSP) is a system of generalized, non-reciprocal, non-discriminatory preferences established by developed market economy countries in favour of developing countries. The broad objectives of the system are to accelerate economic growth of developing countries by promoting their industrialization through increased export earnings in respect of manufactured and semi-manufactured goods. The GSP consists of individual schemes which vary from one to another with respect to product coverage, depth of tariff cut, safeguard mechanisms and rules of origin.

19. Preference given countries, however, insisted on the right to make various kinds of exceptions with respect to particular products, and leather, leather products and footwear figure prominently among them. The incidence of these exceptions is very much greater among the leather and leather products group than among manufactured goods in general, and only among textiles and clothing and petroleum products are such exceptions more frequent.

20. The following are some examples of countries that have established exception lists. The United States has placed leather footwear on its exception list - for that matter, all types of footwear except Zoris (thonged sandals) of rubber are on the list. Also included in the United States exception list is a major portion of leather garments and accessories. Japan has listed so far leather clothing and parts of footwear (BTN 42.03 and 64.05).

21. The Nordic countries consider most types of leather, leather clothing and accessories and leather footwear as "sensitive" products, that is, products sensitive to market disruption and have excluded them from preferential treatment.

22. The EEC countries provide duty-free entry for product groups in the sector imported from developing countries but with an upper limit to the value of the products admitted duty free from any single supplier or from developing countries as a group in accordance with pre-established ceilings. The tariff reverts to the MFN rate when such maximum yearly import levels are exceeded.

23. In order to understand limitations of the GSP, EEC scheme of generalized preferences are examined below in terms of leather, leather products and footwear for which ceiling and/or maximum amount was reached during 1978 (for the period of 1 January to 31 December 1978)^{1/}.

- A part of bovine cattle leather (BTN 41.02 ex B) was considered "sensitive" and was subject to tariff quota and the maximum yearly import level was reached on 18 April and the tariff rate reverted to the MFN rate thereafter.

- "Sheep and lambskin, other" (BTN 41.03 BII) was considered "semi-sensitive", for the purpose of import control and the maximum yearly import levels were reached for all beneficiaries on 30 April.

- "Goat and kidskin leather, other" (BTN 41.04 BII) was considered "semi-sensitive" and the maximum import level was reached for India on 7 April and for all beneficiaries on 20 May.

- "Other kinds of leather" (BTN 41.05 BII) was considered "semi-sensitive" and imports from Yugoslavia reached the yearly maximum level on 8 August.

- Chamois dressed leather (BTN 41.06) was considered "semi-sensitive" and imports from India reached the maximum yearly level on 18 August and imports from all beneficiary reached the maximum level on 23 October.

- Travel goods of materials other than artificial sheeting (BTN 42.02 B) was considered sensitive and was subject to tariff quota. Imports from the Republic of Korea and Hong Kong reached the maximum level on 14 March and 18 April respectively.

^{1/} For details see UNCTAD, Operation and Effects of the Generalized System of Preferences: Scheme of the European Economic Community 1978 (TD/B/C.5/EEC/2), 17 May 1979.

- Articles of apparel and clothing accessories of leather or of composition leather (BTN 42.03 excluding BI) were also considered "sensitive" and was subject to tariff quota. Imports from the Republic of Korea reached the maximum level already on 14 March.

24. Information on the workings of the Japanese scheme of preferences for 1978 is not complete and detailed enough compared with the operation of the scheme of EEC. The data available on the scheme of Japan for the first five months of fiscal year 1978 (for the period of 1 April to 31 August 1978) is sufficient to indicate limitations of the Japanese scheme of preferences. The following are items for which ceiling and/or maximum amount was reached during the first five months of fiscal year 1978.

- Semi-tanned goat and kid skin leather (42.04.2(1)): imports from India reached the maximum yearly level on 15 July - less than four months from the beginning of the fiscal year starting 1 April.

- Travel goods (42.02): imports from the Republic of Korea reached the ceiling on 2 August.

- Footwear with outer soles of leather (64.02 excluding 64.02.2): imports from all beneficiaries reached the maximum level on 5 July only three months after the beginning of the fiscal year.

25. Main limitations on applications of the Generalized System of Preferences were not limited to those enumerated above. Others include the "competitive-need" limitations on the United States scheme. The TSUS (Tariff schedules of the United States) items listed below are not entitled to duty-free treatment by virtue of the provisions of Section 504(c) of the Trade Act of 1974 when imported from the beneficiary countries or territories listed opposite the item number effective March 1, 1979^{1/}.

1/ For details see US Office of the Special Representative for Trade Negotiations, "Generalized System of Preferences (GSP)", Federal Register, Part III, August 20, 1979.

<u>TSUS</u> <u>Item number</u>	<u>Description</u>	<u>Country or</u> <u>territory</u>
121.15	Chamois leather except oil tanned	Mexico
121.52	Goat skins, vegetable tanned in the rough	India
121.55	Buffalo leather	India
121.56	Reptilian leather	Argentina
706.40	Handbags or pocketbooks, etc.	Hong kong

26. Important exceptions in the coverage of products in the sector under consideration and various limits and limitations in the application of the Generalized System of Preferences by important preference-giving countries together with strict rules of origin applied to eligible products and the indeterminate duration of the GSP itself greatly attenuated the effectiveness of the GSP for leather and leather products sector.

2.A(ii) Reduction or elimination of non-tariff barriers

27. The nature and importance of the main forms of non-tariff barriers were discussed in some detail in Part II of the UNCTAD report under the headings of non-tariff barriers (Section 3) and multilateral trade negotiations (Section 4(iii)) and in connection with growing protectionism (Section 5). In this section a detailed examination will be given to one of the non-tariff measures not discussed in the UNCTAD report, namely, subsidies and counter-vailing duties. This is being done in view of strong interests shown by several participants to this form of non-tariff measures during the Second Session of the Leather Panel Meeting. The discussion will trace the course and results of the recent negotiations in the Multilateral Trade Negotiations under GATT.

28. The general objectives of the negotiations in this area were to refine and/or modify the relevant GATT rules (Articles VI and XVI) and to establish improved procedures for their enforcement. The United States has traditionally held the view that subsidies, particularly export subsidies, constitute unfair trade practices: its key objective has thus been to eliminate, or put strict limitations on the use of subsidies. The United States Trade Act provides authority for direct action against export subsidization having the effect of substantially reducing sales of competitive domestic products in the United States or in the third country markets. On the other hand, Section 121

of the Act authorized the President to take steps towards revision of relevant GATT provisions necessary to define "the form of subsidy to industries producing for export and the forms of subsidy to attract foreign investment which are consistent with an open, non-discriminatory and fair system of international trade".

29. Countervailing duties, namely, duties imposed to offset the effects of a subsidy, have presented relatively few problems in international trade, however, with the important exception of the actions taken by the United States under its national countervailing duty legislation which does not require proof of injury as a precondition for imposing countervailing duties and furthermore is of a mandatory nature. While thus formally inconsistent with GATT Article VI, the United States' legislation has legal cover under the Protocol of Provisional Application since it dates back prior to the date of the entry into force of the GATT for the United States.

30. The main objective of most other developed countries was to secure acceptance by the United States of the GATT provisions on countervailing duties, in particular, as regards the material injury requirement. The EEC generally took a defensive attitude on subsidies in support of the existing GATT provisions. Most developed countries recognized the need for improved notification and consultation procedures, one important objective being to limit the unilateral aspect of countervailing actions. There was also a broad recognition of the need to give further precision to the concept of "material injury" in GATT Article VI.

31. In view of the great importance of subsidies in the process of industrialization developing countries have consistently been pressing for differential and more favourable treatment, the key elements of which have been (a) to obtain a contractual recognition of developing countries' right to apply export incentives (as they are at present entitled de facto by not having subscribed to the provisions of Article XVI: 4 of GATT) as well as other subsidies, and (b) to limit the scope for countervailing duties or other countermeasures by developed countries against their exports to the maximum extent possible.

32. Most developing countries advocated establishment of more precise injury criteria which would adequately take into account the effects of eventual countermeasures on the economy of the developing country concerned, as well as provisions for mandatory consultations on both bilateral and multilateral levels prior to imposition of countervailing duties.

33. The results of the negotiations on subsidies and countervailing measures largely reflect the outcome of bilateral negotiations between the United States and the EEC. Parts I and II of the Agreement contain fundamental provisions on subsidies and countervailing duties. The rights and obligations of developing countries are dealt with exclusively in Part II.

34. The Agreement lays down the following basic obligations of immediate concern to the leather sector:

(1) On subsidies

(a) New notification provisions;

(b) Export subsidies:

There is no general definition of the concept of "export subsidy". The only guidelines as to what constitutes an export subsidy for the purpose of the Agreement are to be found in Annex A of the Agreement which contains an up-dated version of the 1960 list of export subsidy practices. The list retains, however, its illustrative character and thus does not constitute an exhaustive definition.

(c) Guidelines for the use of "domestic" subsidies:

While examples are given of certain common objectives and specific forms of "domestic" subsidy practices currently in use, it is clearly recognized that nothing in this section, and in the enumeration of subsidy practices in itself, created any basis for taking countermeasures.

(2) Countervailing duties and other countermeasures

35. The Agreement provides for recourse to two types of procedures for countermeasures against subsidies. The two procedures are, however, not mutually exclusive. The objective has been to deal with different effects of subsidies, that is, one effect on a domestic industry in the importing country and another effect on displaced exports in a third country market. The basic elements are:

- (a) Countervailing duties;
- (b) Domestic procedures and related matters;
- (c) Consultations;
- (d) Imposition of countervailing duties;
- (e) Provisional measures and retroactivity;
- (f) Determination of injury:

It is provided that a determination of injury shall involve an objective examination of two basic factors; namely, first, the volume of subsidized imports and their effects on prices in the domestic market for like products. Secondly, the consequent impact of these imports on domestic producers of such products. Articles 6.2 set out certain guiding indicators such as whether there has been a significant increase in subsidized imports, either in absolute terms or relative to production or consumption and whether there has been a significant price undercutting by the subsidized imports, or whether such imports have had significantly depressed domestic prices or preventing price increases which otherwise would have occurred.

The causality clause in respect of subsidized imports and injury is much weaker than that of Anti-Dumping Code which provided that dumped imports must be demonstrably the p r i n c i p a l cause of material injury, which is to be determined by weighing on the effect of the dumping and on all other factors which may be adversely affecting the industry.

The Agreement on the other hand requires that it has to be determined that subsidized imports are causing injury and that injuries caused by other factors must not be attributed to the subsidized imports, thus a much less constraining requirement.

Another feature of the injury provisions which has been stressed by developing countries is that the emphasis on the price concept in Article 6.2 lends bias against developing countries. The emphasis rather should have been on the effects of the subsidy as to whether the subsidy margin is significant enough to cause injury, and not whether the export price per se as compared with domestic prices in importing country. The inclusion of factors such as "price depression" or "prevention of price increases" as valid indicators of material injury, without having significant price differentials taken into account, could open the way to highly subjective interpretations.

- (g) Other countermeasures;
- (h) Special situation;
- (i) Committee on Signatories and enforcement of obligations;

(3) Position of developing countries

36. The rights and obligations of developing countries are dealt with in a separate chapter. The basic features of these provisions are as follows:

- (a) A principal recognition that subsidies constitute an integral part of developing countries' economic development programme and a consequential recognition that the Agreement shall not prevent adoption of measures and policies by developing countries to assist their industries, including those in the export sector. While it is particularly emphasized that the general commitment in Article 9 not to grant export subsidies

on industrial products shall not apply to developing country signatories this "concession" is significantly qualified by the subsequent conditions attached.

- (b) Developing country signatories would undertake not to cause "serious prejudice" to the trade or production of another signatory through export subsidies on industrial products. Subsidized exports from developing countries would not be presumed to result in the "adverse effects". Such "adverse effects" of an export subsidy by a developing country would have to be demonstrated by positive evidence through an "economic examination" of their impact on signatories. It is, however, not specified on which criteria such an examination would be based.
- (c) The key restriction to the exemption in Article 14.2 is provided in Article 14.5 according to which a developing country should "endeavour" to enter into a commitment to reduce or eliminate export subsidies when the use of such export subsidies is inconsistent with its "competitive and development needs".
- (e) "Upon request" by an "interested" signatory, the Committee on Signatories shall undertake a review of a "specific" export subsidy practice of a developing country signatory to examine the extent to which the practice is in conformity with the "objectives" of the Agreement.

37. Whereas developing countries succeeded in obtaining a statement recognizing their right to grant subsidies, this recognition is considerably less positively worded than they had proposed, and in practice, this recognition amounts to a restatement of the status quo as developing countries are not bound by the existing GATT provisions on export subsidies. Developing country signatories are given certain advantages as compared with developed countries in respect of countermeasures against export subsidies.

Although this is an important benefit for developing countries in the context of the Agreement itself, it does not represent any improvement on developing countries' existing rights under GATT.

2.A. (iii) Multilateral Trade Negotiations (MTN)

38. Problems of Multilateral Trade Negotiations were dealt with in some detail in Part II of the UNCTAD report. Moreover, negotiations and results of the two important elements of non-tariff barriers have been examined above in detail, as regards (i) export restrictions and charges and (ii) subsidies and countervailing duties.

39. This section, therefore, will touch upon briefly the recent development on MTN. The procès-verbal drawn up by the GATT Trade Negotiations Committee in April 1979 has been signed so far by 28 participating countries. They are : Argentina, Australia, Austria, Bulgaria, Canada, Czechoslovakia, EEC (9), Finland, Hungary, Jamaica, Japan, New Zealand, Norway, Poland, Rumania, Spain, Sweden, Switzerland, The United States and Yugoslavia.

40. Main elements of the MTN results and its implications are being analysed by the UNCTAD secretariat and the study will cover the following topics:

1. Tariff protocol
2. Non-tariff measures
 - (i) General considerations
 - (ii) Analysis of specific codes, agreements or arrangements
 - (a) Import licensing procedures
 - (b) Government procurement
 - (c) Technical barriers to trade
 - (d) Subsidies and countervailing duties
 - (e) Customs valuation
3. Framework for conduct of world trade
4. Safeguards
5. Anti-dumping
6. Agriculture
7. Least developed countries

2.A. (iv) Growing protectionism and adjustment assistance measures

41. It has been pointed out that the main feature of the recent protectionist measures is the selective manner in which those measures are applied and administered. The selective application and sector specific nature of such measures render the effect of protectionist measures especially serious on those developing countries which depend on a relatively small amount of trade in manufactures in a still narrow range of products.

42. The sector leather products and footwear producing labour-intensive products of low skill content has been one in which developing countries enjoyed comparative advantage in international trade, in particular, in their exports to the developed market economy countries.

43. This sector, however, is one of the major sectors to which sector specific protectionist measures have been applied along with textiles and clothing, iron and steel products, ships, and consumer electronic products.

44. Footwear industry, the most important industry comprising the sector under consideration, has been the focal point of protectionist measures in the United States for some time and has recently received policy attention by the International Trade Commission and by the President of the United States.

45. There is no sign of abatement in the protectionist tendencies in this sector as can be seen in the following reports under the heading "Import Quotas Sought on Leather Garments"^{1/}.

"U.S. manufacturers and trade unions asked the International Trade Commission to recommend import quotas and higher tariffs on leather garments.

The request for the ITC inquiry was filed by the National Outerwear and Sportswear Association, the Amalgamated Clothing and Textile Workers Union, The International Ladies' Garment Workers Union, The Tanners' Council of America and the United Food and Commercial Workers Union.

The ITC has upto six months to consider the petition and to submit its recommendations to the White House.

If the panel proposes quotas, new tariffs or other trade restrictions on leather garments, President Carter would have to act within 60 days after receiving the ITC's findings...."

^{1/} Wall Street Journal, 25 July 1979

46. It may be noted that leather garments are a product group of importance in the sector under consideration and a product group in which a number of developing countries have shown comparative advantage in recent years^{1/}.

47. An important policy change necessary to any significant reduction in protectionist measures such as non-tariff barriers and other impediments to international trade is a more effective and forward looking adjustment assistance programme for the industry concerned. Most non-tariff measures and most remaining high customs duties are protecting domestic industries that are threatened by the pressures of uncompetitive market prices. Any sharp reduction in these trade-distorting measures, however, is likely to result in significant income and unemployment hardships to those employed in the industries affected. At the same time it must be recognized that protectionist measures provide no real solution to the underlying problems of the protected industry.

48. Current adjustment assistance programmes in many developed countries are grossly inadequate for providing income and employment assistance to employees and employers in depressed industries. Consequently new protectionist measures have been created to help in the battle against competitive pressures from imports.

49. Under the circumstances leading to such development the Fifth Conference of UNCTAD adopted in June 1979 resolution 131(v), "Protectionism and structural adjustment" which in part reads as follows:

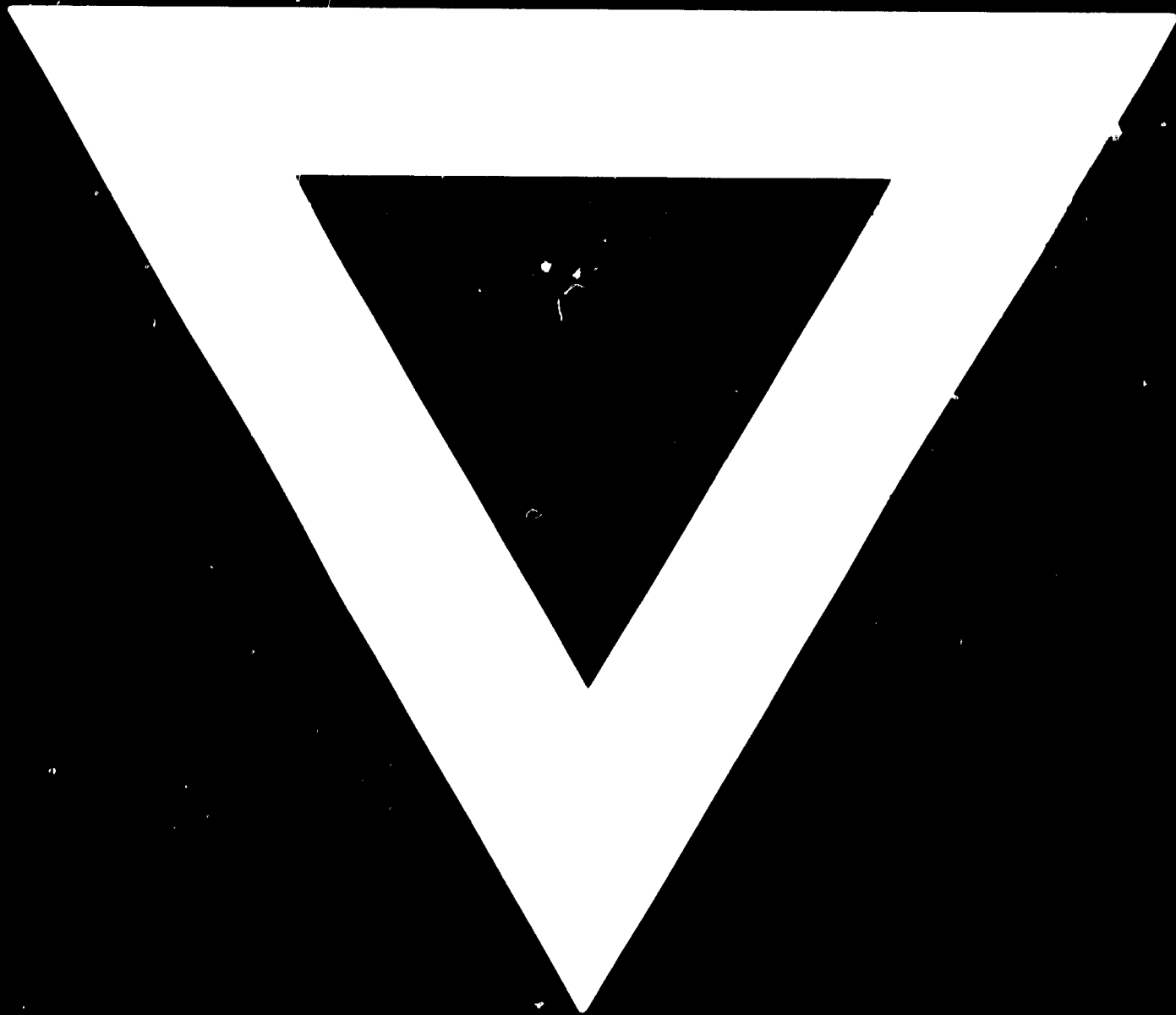
"Developed countries should facilitate the development of new policies and strengthening existing policies that would encourage domestic factors of production to move progressively from the lines of production which are less competitive internationally, especially where the long-term comparative advantage lies in favour of developing countries, thus providing larger export possibilities for the developing countries and contributing to the attainment of their development objectives...."

^{1/} See Background Paper No.1 on the importance of leather garments as a product group of importance in developing countries.

"The United Nations Conference on Trade and Development, calls for continued resistance to protectionist pressures and urges developed countries to implement fully and adhere strictly to the standstill provisions they have accepted, in particular concerning imports from developing countries calls on developed countries to move towards the reduction and elimination of quantitative restrictions and measures having similar effect, particularly in relation to products exported by the developing countries urges further the developed countries to continue efforts towards reducing tariff escalation so as to provide improved access to exports of manufacturers and semi-manufacturers, in particular from the developing countries, and to continue consultations on the subject in appropriate forms."



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