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C/M/71
2 September 1971
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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
24-25 August 1971

MINUTES OF MEETING

Held in the International Labour Office, Geneva, on 24-25 August 1971

Chairman: Mr. Erik THRANE (Denmark)

Subject discussed: United States Temporary Import Surcharge

United States Temporary Import Surcharge (L/3567)

The representative of the United States expressed his Government's earnest desire that all contracting parties should recognize the need to deal promptly and effectively with the underlying problems which had made the programme announced by President Nixon on 15 August 1971 a necessity. The international trade and monetary system needed a new equilibrium and it was incumbent upon all contracting parties to help alleviate the stresses and ease the strains so that this could be accomplished.

The representative of the United States described the seriousness of the situation and the dimensions of the problem. Throughout the last decade, his country had been in continuous balance-of-payments deficits. While these deficits had been manageable in any particular year, cumulatively they had created severe distortions. In the years 1970 and 1971 the persistent deficits had turned sharply worse, and there could not have been any doubt as to the need for decisive action. In parallel with these payments deficits, the United States reserve position had been severely and persistently eroded and gross reserves were now, relative to trade, well below the world average. His country's reserves had declined by about US$7 billion since 1960, while the rest of the world's reserves had increased during the same period by some US$40 billion.

The appearance of a trade deficit this year - the first one on merchandise trade since 1893 - had jolted the United States into recognition of the fact that the time for change had arrived. In mid-August 1971 not only the balance-of-payments and external financial position was highly unsatisfactory but there was little prospect of improvement. He noted that the difficulties encountered in the world's trade and payments system grew out of both internal and external causes. The ability of the United States to deal with its internal economic problems was circumscribed by its key rôle in the international monetary and payments system, by the defence burdens it

carried for itself and its allies and trading partners, and by certain trade policies which the United States had accepted in a post-war effort to enable other countries to rebuild their economies and to revitalize their political systems.

The programme announced by President Nixon was an interrelated attack on both domestic and foreign problems. It was intended to accelerate the upward momentum of the domestic economy by putting idle resources of capital and labour to productive use, to staunch the hemorrhage in the country's balance-of-payments and trade position and to restore equilibrium and bring about fundamental reform in the international monetary system. The programme was of an interrelated and integrated nature and was also putting heavy burdens on United States citizens. It was very important to recognize how vital a sound and strong and expanding United States economy was to the health of the whole free world.

The United States representative summarized the programme as follows:

Domestic

- A ninety-day freeze on all prices and wages;
- creation of a Cost of Living Council to effect a transition from the temporary freeze to continued price and wage stability;
- recommendation that Congress enact an accelerated tax credit on investment (Job Development Tax Credit) at the rate of 10 per cent for one year, to be followed by a permanent credit at the rate of 5 per cent;
- recommendation that Congress repeal the 7 per cent excise tax on automobiles;
- recommendation that Congress advance by one year to 1 January 1972 the scheduled 1 January 1973 increase of $50 for each exemption on personal income taxes;
- reduction of Federal expenditures in fiscal year 1972 by $4.7 billion;
- postponement of revenue sharing welfare reforms proposals.

International

- The temporary suspension of full convertibility of dollars into gold or other reserve assets for governments and central banks;
- the imposition of a temporary surcharge on imports into the United States, generally at a rate of 10 per cent;
- a 10 per cent reduction in foreign economic aid.

With regard to the temporary import surcharge, the representative of the United States stated that it was a temporary measure imposed by Presidential proclamation, effective 16 August 1971. It levied a 10 per cent ad valorem surcharge on non-exempt imports into the United States, applied on a most-favoured-nation basis. The 10 per cent was calculated on the same basis as normal tariffs, i.e. generally on the f.o.b. price of the product. The surcharge did not apply to items which were not the subject of a trade concession by the United States. The surcharge was not applicable to duty-free imports and goods subject to quantitative restrictions pursuant to United States law. The goods subject to quotas which were exempt included cotton textiles, petroleum, petroleum products, sugar, certain meats, and various other agricultural products, principally dairy products.

The surcharge would be less than 10 per cent on those items where its application, in addition to the effective most-favoured-nation rate, would exceed the United States statutory rate of duty. In the case of automobiles, for example, where the most-favoured-nation rate was currently 3½ per cent and the statutory rate was 10 per cent, the surcharge would be 6½ per cent.

The surcharge was intended to achieve a relatively rapid benefit for his country's balance of trade and payments while more fundamental measures took effect. Of the several types of action which might have been taken under the circumstances, a surcharge on imports had appeared to offer certain advantages or, rather, fewer disadvantages. It seemed more easily dismantled than other possible actions, more compatible with a competitive approach and efficient resource allocation, would not require an elaborate administrative structure, would be less discriminatory than quota restrictions and was most rapidly applicable under existing United States legal authority. The sum of these reasons now added up to an action less severe on its trading partners than that envisaged in the GATT articles in similar circumstances. As the President's address had indicated, it was a temporary action, taken reluctantly.

His Government recognized that the surcharge would pose problems for other contracting parties. The United States' trading partners would be faced with dislocations of varying degrees. But the surcharge would be costly to American citizens too, particularly to importers and consumers.

In notifying the surcharge, his Government had not invoked a particular article of the General Agreement. The trade and monetary situation to which the United States was addressing itself transcended any particular article. His Government considered that it was entitled under the provisions of Article XII to institute quantitative restrictions. However, the need for prompt action and the desire to avoid the administrative complications and the greater restrictiveness of import quotas had led his authorities to adopt the import surcharge. There was a precedent in the GATT for adopting import surcharges rather than quotas for alleviating balance-of-payments problems.

The duration of the surcharge would be related obviously to the speed and the effectiveness with which collectively the contracting parties deal with the circumstances that dictated its use.

The representative of the United States expressed his Government's readiness to consult promptly on all aspects of the surcharge - and he could support the establishment of a working party to consider the issue in depth. It was his Government's intention to seek such prompt, fundamental and effective adjustments as would bring his country's trade and monetary relationships into healthy balance. The contributing causes of America's balance-of-payments disequilibrium were to be found in certain international trading practices and other international policies, in certain deficiencies in the monetary system, and in certain stresses and strains which had cumulatively developed in his country's domestic economy. The United States were ready to grapple with all of these. They were not interested in piecemeal repairs and patchwork mending; rather, they were seeking lasting improvements in the trade and payments systems.

The representative of the European Communities stated that the Communities fully understood the gravity of the United States balance-of-payments difficulties and did not intend to raise objections to the taking of measures by the United States. While it was desirable to restore the balance-of-payments equilibrium of the United States, there were, however, no grounds to attribute the cause of the difficulties to the "unfair competition" of United States trading partners. This point should be examined closely in a working party. The Communities agreed that the health of the United States economy was fundamental for the health of the free world; hence their concern that the appropriate measures be taken. Free trade, on the other hand, was also fundamental to the economy of the United States. The Communities, therefore, regretted that some measures taken responded less to the United States domestic situation, but affected the whole texture of international trade.

He recalled that President Nixon's programme had been described by the United States representative as "interrelated and integrated". While the main concern of this meeting was the surcharge, the EEC was of the opinion that two other measures would also be detrimental to international trade. One was the Job Development Tax Credit mentioned by the United States representative which, because of its discriminatory character, would seriously affect third countries. The system would have to be examined in the light of Article III. The other measure concerned the plans for a Domestic International Sales Corporation (DISC) which would also severely affect international trade. The EEC was of the opinion that this fiscal régime would amount to direct subsidization of exports and was not in keeping with the principles of the General Agreement. In spite of the fact that these two measures were only at a proposal stage, they already had an effect on trade possibilities of other countries.

Turning to the surcharge, the representative of the Communities said that this was a tariff barrier which was not in conformity with the rules of the GATT, and in particular with Article II. It would cause serious inconvenience to United States trading partners and it was unfortunate that the United States authorities had accompanied monetary and domestic measures with this surcharge. This was particularly regretted because the United States trade balance played a secondary rôle in

the United States balance of payments. It was hard to argue that the surcharge would be an appropriate measure to correct the United States disequilibrium in its balance of payments. The Communities noted that the measure was temporary in character.

The European Communities were of the opinion that the important task at hand now was to ensure that the time of application of the surcharge would be short.

He recalled that the results of the Kennedy Round were in danger, all the more so since the fifth cut was about to be implemented, and stated that it was, therefore, necessary that the de facto nullification of the United States concessions be repealed within a short time.

The introduction of the 10 per cent surcharge was totally unacceptable to the Communities, not only because of its material consequences (almost 90 per cent of Community exports to the United States were affected), but above all because the inherent danger of triggering off an escalation of protectionist measures in other countries. While the European Communities were very aware of the dangers to future world trade, they felt strongly that it was not for the Communities to make these dangers greater than necessary.

It was the EEC's considered opinion that trade measures were not appropriate to remedy the grave difficulties with which the United States was faced, and that measures affecting world trade could not remedy the United States balance-of-payments disequilibrium. The Communities were unhappy about what they considered protectionist actions and extremely worried about elements in some statements made by United States representatives which revealed an intention to use the surcharge as a bargaining counter; this would be unacceptable. They relied on the international responsibility of the United States Government for an early repeal of those measures which affected international trade and were not in conformity with the principles of the GATT. The European Communities were determined to safeguard their interests and reserved their rights under Article XXIII; but they did not intend to respond in kind to the measures taken by the United States and which they considered dangerous to world trade.

He called for the immediate examination of both the factual consequences and legal implications of the United States measures in order to find the conditions under which the measures could be repealed.

The representative of Japan expressed his Government's understanding of the difficult economic situation of the United States. Nevertheless, the Japanese Government regretted that the United States had resorted abruptly to action which, in their opinion, was not consistent with the provisions of the General Agreement. There was no doubt that the action undertaken by the United States, the world's largest trading nation, would have very serious and far-reaching effects on world trade. He pointed out that 30 per cent of Japan's exports depended on the United States market and that more than 90 per cent of these were affected by the imposition of the 10 per cent surcharge. His Government was, therefore, asking

the United States to remove the temporary import surcharge as promptly as possible. He recalled the agreement reached in the OECD Trade Committee in May 1971 on trade measures to be adopted by countries in serious economic difficulties. Such measures should be taken as an exceptional step in conjunction with internal measures, they should be applied for as short a period as possible and in conformity with the principle of non-discrimination. Early removal of the import surcharge would certainly help to prepare the atmosphere for talks on trade on a long-range perspective.

The representative of Canada emphasized that the situation facing the CONTRACTING PARTIES was most critical, not only because the measures were extreme and far-reaching in their effect on world trade but because of the major trade importance of the country which was implementing them. Canada was sympathetic to the serious difficulties faced by the United States and also attached great importance to reaching early agreement on improvements in the international monetary system and the rectification of exchange rates. Canada had also noted the various domestic measures taken by the United States and their view that they would result in an early strengthening and expansion of the United States economy. However, Canada was not convinced that restrictive trade measures were appropriate to deal with the problem, and believed that such measures should be condoned under GATT only when the trade imbalance was the major factor in overall balance-of-payments difficulties.

He warned that the import surcharge had a far-reaching impact on world trade and could, if not quickly removed, jeopardize the multilateral system of trade and payments built up since the war. Its impact on Canada was more severe than on any other country, having in mind that the United States market represented some 70 per cent of total Canadian exports. He recalled that since May 1970 the Canadian dollar had been floating and had significantly appreciated in value; Canada was also the first country to have accelerated and fully implemented its Kennedy Round tariff cuts. This meant that Canadian industry through the application of the surcharge was put at a most unfair competitive disadvantage in the export market which was vital to its continued development. Moreover, because of Canada's geographic proximity to the United States and the openness of its market, it stood more than any other country exposed to the danger of possible diversion of goods whose access had now been restricted in the United States market. He urged other countries to take all necessary steps to prevent such diversion and registered the Canadian concern to safeguard against such intensified pressure. It was, therefore, a matter of the greatest urgency that the United States surcharge be removed expeditiously and that the necessary currency realignments that would rectify the exchange rate situation be promptly carried out. As an immediate step, Canada asked the United States to exempt from the surcharge goods in transit, as had been the case in similar situations in the past.

All relevant aspects of the United States action should be examined bearing in mind the cardinal criterion formally recognized in the GATT and the OECD that it was an essential responsibility of major trading countries that the balance-of-payments adjustment process should be so handled as not to unduly affect world trade.

He also registered Canadian concern over the proposed DISC and the "Buy American" provisions of the investment tax credit. These would be particularly injurious to Canadian trade and economic interests and would appear to be discriminatory and of questionable consistency with the GATT. He urged the United States authorities to reconsider their position on both these measures.

He stressed that it was essential for contracting parties to ensure that this United States action did not lead to retaliation in world trade or to a generalized proliferation of parallel restrictive moves.

The representative of Switzerland noted the high degree of inter-dependence of the economies of individual contracting parties. The measures adopted by the United States were, therefore, likely to have great repercussions not only on international trade, but also on the economy of each contracting party. His Government was impressed by the determination to maintain the spirit of enterprise and of competition of the American economy. The initiatives, however, also caused anxieties: the measures adopted were extraordinary because they constituted a break in the liberal trade policy pursued by the United States since World War II, because of the weight of the United States in world trade and because of the monetary context of the measures. There was serious danger of upsetting the system of world trade developed in the past by resorting to protectionist measures. It was his Government's view that issues and grievances which had accumulated among the main trading partners since the Kennedy Round should be dealt with in the framework of a new round of multilateral negotiations, rather than through unilateral action. The temporary limitation of the convertibility of the United States dollar would have negative repercussions on countries' external relations, regardless of whether or not they had adjusted their parities in the course of the last months. It was, therefore, necessary that through concerted action the equilibrium of the world monetary arrangements be restored without delay. With regard to the temporary import surcharge, his Government had taken note that it had been considered necessary for reasons outside the field of trade policy, and was, therefore, assuming that the surcharge was a temporary emergency measure in the same way as the price and wage freeze.

The monetary measures adopted by the United States and the disturbances created thereby were affecting his country particularly seriously, because Switzerland derived one third of its gross national product from the international exchange of goods and services which could only function within the framework of a stable system of international payments.

The import surcharge was affecting practically all Swiss exports to the United States, which constituted almost one tenth of total Swiss foreign trade. In certain traditional and particularly important branches of the export industry, the surcharge was hitting approximately 20 per cent of total domestic production. This came on top of the price differential created by the recent revaluation of the Swiss franc - and at a time when the normal growth of his country's exports to the United States was slackening or even regressing. The investment tax credits foreseen in the new programme had a discriminatory character. Nevertheless, in spite of his Government's deep concern, it would refrain at this stage from initiating action which could set off a rush for exceptions.

The representative of the United Kingdom called for an early meeting of a working party so as to avoid the dangers of escalation and to stress the effectiveness and authority of the GATT.

The United Kingdom recognized the seriousness of the problems with which the United States Administration was faced and recognized also that some effective action to overcome these difficulties and to improve the balance-of-payments position was needed. Nevertheless, the issues raised for the development of world trade were complicated by the fact that the United States Administration had chosen to act simultaneously both in the trade and financial field. There had already been important developments in international financial arrangements and further meetings were planned. While the GATT was concerned with the trade measures, the extent to which and the way in which the financial framework would be changed and improved was bound to have a major bearing on the resolution of the trade restriction problems.

The trade measures could be regarded as the equivalent of action under Article XII. The most immediate and most important of these was the surcharge. This would have a wide-ranging and damaging effect on the trade of many countries because of the great importance of the United States in the trading world. In this context, the United Kingdom shared the EEC and Canada's doubts as to the appropriateness of such a measure in the present United States situation. The essential point was that the measure should be temporary, that its application should be brief and that it should be a stop-gap, not a solution. It was important to be clear about the programme for its removal. This was a matter which could be complicated by the combination of trade and financial measures which the Administration had adopted. He asked whether it was intended that the duration of the surcharge should be linked in some way with the existence of parity or other problems or determined strictly by the considerations normally applied under Article XII.

He emphasized an important distinction between the British surcharge, imposed in 1966, which, whatever its outcome, was intended at the time to hold the line for a period without a change in exchange parities - and the present approach of seeking changes in exchange parities simultaneously with the introduction of a surcharge. Not only might trade restrictions not be the most appropriate method but they could impede desirable financial changes. Countries outside the United States would find it more difficult to readjust parities sought by the United States as long as their exporters would have to meet the surcharge. Moreover, to the extent that the exchange rates were allowed to move, the continued existence of temporary trade restrictions would limit the significance that could be attached to these movements.

He also wished to discuss the proposal to discriminate against imports in connexion with the Job Development Tax Credit, as well as with the proposal of the DISC. The former seemed a clear infringement of the national treatment provisions of Article III. He hoped that the United States Administration would look more closely at this proposal before the stage at which legislation would be introduced.

The representative of Sweden voiced his Government's concern over the trade measures adopted by the United States. Although import surcharges had also been applied by other contracting parties in balance-of-payments difficulties, the present case was unique, because the United States had, in President Nixon's words "by far the strongest economy in the world". What was lacking were suggestions as to how the international community was to go about solving the situation which had been created. The surcharge which, in his Government's view, was not in conformity with the General Agreement, was depriving contracting parties of most of the advantages achieved in the Kennedy Round negotiations with the United States. The representative of Sweden recalled the work which had been carried out in the OECD as regards recourse to trade measures in cases of balance-of-payments disequilibrium and the necessity to avoid any protectionist measures. The whole international trade system was now at stake. It was his Government's assumption that the temporary measures would be applied in a non-discriminatory way and only for a very short period. If they were maintained for any length of time, there was a serious risk of retaliatory measures and a recourse to protectionism. Approximately 95 per cent of Sweden's exports to the United States were affected by the temporary import surcharge.

The representative of Spain pointed out that the measures adopted by the United States would greatly disturb free trade throughout the world. His Government had taken note of the fact that the measures were of a purely temporary and emergency nature. It was very likely that the surcharge would affect his country's exports. His Government, therefore, was reserving all its rights under the General Agreement with regard to any measures it might wish to take. He expressed his delegation's hope that the measures would lead to a quick recovery in the United States economy. His Government wished to participate in a joint and concerted effort towards further liberalization of world trade.

The representative of Denmark urged the United States to remove the surcharge within a very short period of time, i.e. before the harm it was doing became irreparable. His delegation feared the effects on Denmark's exports to the United States, on world trade in general, and on the mutual efforts undertaken in GATT to bring trade barriers down. The surcharge was affecting about 60 per cent of Denmark's exports to the United States and was all the more damaging since his country had had a considerable trade deficit towards the United States for years. In imposing the surcharge the United States were in fact exporting their problems to foreign traders who were not responsible for the monetary and financial problems confronting the United States. As to world trade in general, the temporary import surcharge was a serious step backward, largely wiping out the results of the Kennedy Round The imposition of the surcharge was clearly a deviation from the GATT rules. It was more than doubtful whether there was any precedent that could validly be invoked by the United States in its present situation; after all, the United States had been experiencing for just a few months and for the first time in their modern history a deficit in their trade

balance. Now that the first damage had been done, one should ask the United States what exactly were the conditions which, in their view, would have to be fulfilled before they considered lifting the measures. With regard to the measures envisaged by the United States in the tax field, it was to be noted that they included provisions of a clearly discriminatory nature, which were running contrary to all the endeavours aimed at abolishing subsidization.

The representative of Austria said that his Government was fully aware of the difficulties facing the United States but also of the dangers for international trade created by the introduction of trade restrictions. The United States surcharge led to an impairment of prior tariff concessions and to the annulment of mutual benefits. It was difficult to reconcile the surcharge with GATT principles. While fully recognizing the need to restore the United States balance-of-payments equilibrium, the working party should take into account all issues and study them in the light of Article XII. He also raised the question of whether foreign trade measures were appropriate to cure monetary difficulties

He supported the establishment of a working party to examine all these questions. The Austrian Government reserved its GATT rights and hoped that the United States would be prepared to consult under Article XXII and, if necessary, under Article XXIII.

The main reasons for Austria's concern were the preservation of the mutual benefits achieved in GATT, the dangers of returning to protectionism in world trade and finally Austria's position on the United States market which would be seriously affected by the surcharge. Austria's exports to the United States were all dutiable and the United States was Austria's biggest foreign buyer. In 1970, the United States had a surplus in bilateral trade with Austria. Austrian firms had obtained their share of the United States market by fair trading methods, and it was their legitimate goal to maintain this share.

Austria supported the suggestion for far-reaching negotiations to solve the trade problems before the CONTRACTING PARTIES. Finally, he expressed the hope that the United States measures would be temporary and would be removed in the very near future.

The representative of Norway noted that 70 per cent of his country's exports to the United States were affected by the United States measures. He expressed his Government's understanding of the problems that the United States had been facing. Nevertheless, in his view, the temporary import surcharges, even if effective, would have only a very limited effect on the United States balance-of-payments situation. The possible positive effects of the temporary import surcharges on the balance of payments were disproportionate compared to the harm done to other trading nations. He recalled that his Government had always taken a critical stand on measures of this kind. Applied by a country the size of the

United States, such measures were even more objectionable. If import surcharges were allowed to be applied over any length of time, tariff concessions negotiated could become obsolete and indeed the whole intricate procedure for negotiating such concessions would be made irrelevant.

The representative of Poland stated that the United States measures had been triggered off by the crisis in the international monetary system, which had been mounting for years. His delegation was particularly concerned with the way in which some of these important problems were being dealt with. Should other countries follow the United States' practices the question of the rôle of the GATT in debating and fixing the basic rules for international trade would be raised. He remarked that a number of countries had been too tolerant for too long and had permitted the abnormal situation to persist. He pointed out that had these countries been more positive and less hesitant the present explosion would have been weaker and contained, and would not have led to the present confusion. All this was taking place at a time when many countries had become increasingly dependent on international trade. Any disorder in this trade brought about with it a chain reaction and effects which were far reaching.

Poland supported other speakers who had voiced their concern over the United States measures; there should be no difficulty in understanding Poland's position in this matter. Poland's exports to the United States would undoubtedly suffer and he hoped that there would be occasion to examine thoroughly the effects on trade of the United States decision. He expressed some doubt over the temporary nature of the surcharge. He remarked that nothing lived longer than a temporary decision. The situation was very serious and placed the GATT at a turning point on which its future might depend. He deplored that a situation still prevailed in which some privileged nations in GATT could act at will while other nations were unable to obtain the fair treatment they could expect from the General Agreement. There was a need to distribute more evenly the rights and obligations of contracting parties. Recent developments showed that it was not possible to settle vital problems in small confined groups.

The representative of Ghana said that Ghana could not question the introduction of surcharges, as it had imposed them itself. Nevertheless, when a major trading and financial power like the United States introduced surcharges, especially when accompanied by other measures, there was every reason for concern, however temporary the measures might be. These United States measures would affect adversely Ghana's receipts from international trade. The secondary effects of the United States measures were, however, likely to be even more serious as the impact of the measures on Ghana's major trading partners would be felt. He noted with appreciation that there was no intention so far of retaliating to the United States measures. It was the first concern of GATT to ensure that the problem was contained and that there would be no escalation. He hoped that the GATT would seize the opportunity to examine the whole question of the structure and underlying assumptions of international trade, particularly the burden imposed on developing countries, by the present system of trade which was heavily weighted against the interests of developing countries. It would be necessary to assess the effects of the United States measures and to examine the general relevance of all the articles of the GATT which had served so well for a quarter of a century

The representative of Turkey stated that his Government was fully aware of the serious economic problems which had been facing the developed countries in the recent past. Whatever solutions were adopted in this context, they should in no case be of such a nature as to burden the developing countries even more heavily. There was a serious danger that the whole international trade system could be destroyed. With regard to the effects on his country, it was to be noted that 15 per cent of total exports went to the United States and that it had a chronically negative balance of trade with the United States. In his Government's view the imposition of the surcharge was not only endangering the actual volume of exports to the United States but was also prejudicing Turkey's efforts to diversify its exports. On a more general level it was to be noted that only 25 per cent of total United States imports came from developing countries and that the largest part of these imports consisted of primary products. The export of finished or semi-finished products to the United States, even though small in quantity, was nevertheless of vital importance to the developing countries as a foreign currency earner. The developing countries' hope of increasing that share had led to the introduction of the generalized system of preferences. Now this very system had been put in doubt by the United States surcharge, and his Government, therefore, urged the United States to reconsider their action in so far as products from developing countries were concerned.

The representative of Australia considered it essential that as an immediate aim any further spread of action harmful to world trade should be prevented. Furthermore, at this stage one should not attempt to arrive at an answer regarding the legality of the United States action, but examine the need for it and its possible effects. Australia had consistently held the view that in certain circumstances and subject to proper safeguards surcharges might well be appropriate They should be permitted in the same circumstances where quantitative restrictions could be imposed and subject to the same control by the CONTRACTING PARTIES.

He stressed the need for goods on the water on 16 August or goods covered by contracts concluded before that date to be exempt from the United States surcharge He also stressed that the surcharge, which had been notified as temporary, should be continued only for as long as was clearly and genuinely justified. Referring to some longer-term issues, he stated that the United States action was in large measure related to problems and trade policy frictions which had been undermining the whole system of multilateral trade co-operation. It would not be fruitful at this stage to concentrate on deficiencies of particular trade policies which could be regarded as inimical to genuine free trade, but there was need to achieve real progress on the basic long-term issues underlying the present problems in international trade.

The representative of Ireland expressed deep concern over the adverse effects on international trade which the United States measures would have. While his authorities appreciated the seriousness of the United States difficulties, it also recognized the importance of the United States in world trade. He expressed the hope that the measures would be temporary and urged their early removal. He supported the establishment of a working party and hoped that it would meet very soon. The terms of reference of the working party should permit a thorough examination of all the measures.

The representative of Greece stressed the importance and detrimental impact of the United States measures on world trade. The urgent question which needed a solution was how to solve the difficulties that were created for all countries, whether developing or developed. He supported the establishment of a working party but suggested that the Council should first clarify the issues at stake so as to give guidance to the working party in its examination of the details. In his view, one of the main issues was the safeguard of the trade interests of developing countries. This should be included in the terms of reference.

The representative of Chile said that a depreciation of the principles of GATT inevitably resulted in a crisis in international trade. It was of overriding importance for the future that the freely accepted rules of international trade should survive. The legality of the United States action was only one aspect that could be examined. The present situation, however, did not allow for a compromise decision of the kind which had been so often used or misused in the past and which progressively had led to anarchy in international trade. Leaving aside legalities at the moment the Chilean delegation was firmly determined that on this occasion the spirit of compromise of GATT should play in favour and not against the obligations freely entered into by the contracting parties. It was indispensable that these obligations should be respected and a minimum of discipline in international trade maintained.

The United States action, in his view, would have serious effects on the developing countries. Certainly, many products exempted from the surcharge originated from these countries, but it was also true that these exceptions had been established in accordance with the interests of the United States itself and not out of concern for the situation of the developing countries. The Chilean delegation much deplored the destruction of the concept that international trade should be an instrument of development. The application of the surcharge to developing countries meant that they were now denied the preferential treatment which they so much needed. It meant a rejection of the recently adopted line of thinking which would have led to a more equitable international order. It meant that developing countries would have to renounce the processing of raw materials and the diversification of their exports. It would have been possible to exempt the developing countries from the surcharge without endangering the objectives sought by the United States Government.

The Chilean representative considered that a working party should examine the legal aspects, the justification of the measures and their economic effects. In particular, the working party should determine whether there were valid reasons for not exempting the developing countries from the surcharge. This should be included in the mandate of the working party.

He stated that the present problems were of vital interest to all contracting parties. They could not, therefore, be discussed in organizations or meetings in which developing countries did not participate. Damage should not be done to countries which could not be blamed for the present situation.

The representative of Argentina supported the views expressed by others that the United States measures were not in conformity with the GATT. The legitimacy of the United States intention to put an end to its balance-of-payments difficulties was unquestionable. However, the manner in which it was done was open to question, especially when the interests of other countries, and in particular of developing countries, were so severely affected. 75 per cent of Argentina's exports to the United States would be affected by the surcharge. This was of considerable concern to her authorities as Argentina's trade balance with the United States had showed an increasing deficit in the past decade. Developing countries were not the cause of the United States balance-of-payments difficulties, and it was unjust that they should be affected by measures taken to redress it. To redress this inequity, the United States Government should reconsider its decision and exempt products from developing countries from the surcharge. This request was based on the principles recognized internationally and laid down in Part IV of the GATT, as well as on the practical consideration that exemption of products from developing countries would have an insignificant effect on the United States in relation to the volume of its total trade. Her Government was particularly concerned with the consequences for world trade if international co-operation did not function to safeguard the interests of all countries.

Referring to the United States surcharge, the representative of New Zealand expressed his Government's disappointment over the drastic remedial measure taken by the United States. He was not convinced that this massive additional restraint to trade had been warranted. His delegation was particularly concerned over the wider impact of the surcharge on the contracting parties' efforts towards the liberalization of international trade and strongly endorsed the views expressed on the now urgent need for a determined global co-operative effort to negotiate on all the contentious issues in international trade which divided contracting parties. It was his Government's hope that the surcharge would be lifted as early as possible, perhaps if necessary in stages, in which case his Government would wish to explore the possibility of an early removal in respect of primary commodities such as lamb and wool.

The representative of Brazil expressed his Government's concern with the possible adverse effects on the trade interests of developing countries that could be expected from the United States measures. His delegation had noted that the United States Government had stressed the temporary character of the import surcharge and his Government was hoping that the application of this measure would be of a very short duration. He expressed concern over the possibility that

the measures could delay or otherwise disturb the prompt implementation of the Generalized System of Preferences. His delegation expected that when the United States assessed in detail all implications for world trade in general and for the trade of developing countries in particular resulting from the application of the measures, the United States would devote special attention to safeguarding the best trade interests of developing countries. It was important to remember that these countries generally were not responsible for the balance-of-payments difficulties facing the American economy. Even though the surcharge affected only a small percentage of the exports of developing countries to the United States, it still would have a great bearing on their economic development, since they would affect exports of manufactured and processed goods which represented a new and dynamic factor in the structure of their trade. It was of great importance to avoid any steps which would be contrary to the goal of continued growth and progressive liberalization of trade and to the strategy for development of the Second United Nations Development Decade.

The representative of Iceland stated that his Government, though fully appreciating the difficult position of the United States, shared the concern expressed by other representatives regarding the imposition of the import surcharge. It would be a significant impediment to Iceland's exports of frozen fish, for which the United States was the most important market. It was his understanding that the term "temporary" implied that the surcharge would be abolished at an early date.

The representative of Cuba recalled that the temporary import surcharge did not directly affect his country due to the embargo applied by the United States on trade with Cuba, in violation of the General Agreement. In his view, the measures were a new setback to the liberalization of world trade and were a particularly serious blow to the interests of developing countries. The surcharge was introduced just as one was hoping that the United States would be able to participate in the Generalized System of Preferences. It had become clear from the debate that the great majority of contracting parties were opposed to the measures introduced by the United States and there was no doubt that the import surcharge was a violation of the General Agreement. It was of great importance that the temporary import surcharge was not applied to developing countries, even if by a particular formula, the validity of the measure was recognized.

The representative of Yugoslavia stated that his Government was also deeply concerned with the measures taken by the United States Government. Preliminary estimates concerning Yugoslavia's exports to the United States indicated that great difficulties lay ahead and that the efforts made to expand Yugoslav export trade would suffer. He expressed deep concern also at the impact the measures would have on the existing pattern of international trade and expressed the sincere hope that the measures would be very temporary so as not to cause general disequilibrium which would restrict international trade.

The unilateral character of the United States measures made it very difficult for Yugoslavia and for other developing countries to find a solution to the problems involved. While he understood the difficulties of the United States economy, he stressed the importance of international co-operation particularly in cases when the actions involved had such far-reaching international implications. This was all the more desirable when vital interests of other countries, and particularly of developing countries, were likely to be seriously affected. He hoped that in the application of the measures the United States' authorities would take into account the special interests of developing countries which also had serious trade and balance-of-payments difficulties. He expressed, in particular, the hope that the United States Government would find it possible to exempt the products from developing countries from the imposition of the surcharge.

The representative of India stated that his Government was conscious of the serious internal and external problems which faced the United States. He stressed, however, that these problems were not the result of monetary and trade policies followed by developing countries. Since developing countries had in no way contributed to the United States situation, they could ask in all fairness that any steps taken by the United States should not adversely affect their economies. The United States was the major trading partner of his country. Any action which adversely affected India's exports to the United States would, therefore, cause grave injury to its trade and development efforts.

In his view, the United States should have exempted from the surcharge all imports from developing countries. Such action would have been in accord with the United States decision to accord duty free and non-restricted entry to imports from developing countries under the Generalized System of Preferences. The United States surcharge was contrary to the newly evolving trade and commercial policy of developed countries towards developing countries.

He pointed out that the rate of growth envisaged in India's Trade and Development Plan was based on a substantial expansion of its exports of manufactures and semi-manufactures in the non-traditional sectors. These exports would be particularly affected by the surcharge.

He also pointed out that handloom products of cotton textiles had been exempted from the Cotton Textiles Arrangement. The United States had exempted from surcharge mill-made cotton textiles which were subject to quotas. It would, therefore, be inequitable if handloom textiles were not exempted from the surcharge.

With reference also to the standstill provisions in Part IV of the GATT, his delegation appealed to the United States to review its decision and to take steps for the elimination of the surcharge on imports from developing countries.

The representative of Indonesia expressed relief that no retaliatory measures were being contemplated by any major trading nations at present. Developing countries had become the innocent victims of the problems that had developed among the major developed nations. It was, therefore, essential that the solution of the present crisis should be sought in a manner which did not impose additional burdens on the developing countries. The statement delivered by the United States representative had not made it clear as to how commodities would be affected by the surcharge and what the implications on the preferential offer submitted by America under the generalized system of preferences would be. His Government was, however, most concerned over the possibility that the surcharge would lead to a resurgence of protectionism, which in turn would generate an economic slowdown in the major industrialized nations, affecting Indonesia's exports of basic raw materials and of commodities to these countries.

The representative of Indonesia informed the Council that his Government had, as a direct consequence of the present situation, devalued its currency by approximately 10 per cent, effective 23 August 1971.

The representative of Uruguay stated that his Government was in complete agreement with the views expressed by other developing countries. It was important that the measure was of a truly temporary nature. The import surcharge was applied in violation of Part IV, especially Article XXXVII, and had particularly adverse effects on the economies of developing countries. It would have been possible to exempt the developing countries from the measure without violating the General Agreement. The Generalized System of Preferences was rendered inapplicable by the measure as far as the United States was concerned. In the examination attention should be paid to the influence of the temporary import surcharge on the trade of the developing countries.

The representative of Peru stated that the United States measures would have a severe impact on world trade. The reactions of contracting parties showed that all were aware of the gravity of the United States problem and of the dangers to world trade. While these restrictive measures had been taken for reasons of the United States' balance-of-payments disequilibrium, the effect of the measures would be felt most severely by those economically weaker countries who had in no way contributed to the disequilibrium.

He had listened carefully to the arguments of the United States for a general application of the surcharge to all countries. In view of the vulnerability of developing countries' economies, the fact that their interests had not been taken into account constituted an injustice. Responsibility should be commensurate with influence in world trade. He hoped that this would lead to repairing the harm that would ensue and also to the setting up of a system fair to all countries. This was all the more necessary as the fifth cut of the Kennedy Round was due very shortly and the generalized system of preferences as well as the Second Development Decade were about to start. These fruits of international co-operation should not be allowed to perish. He deplored the fact that the decision taken by the United States was not in conformity with

GATT and, furthermore, that nothing had been done to remedy the structure of the system. In any further examination of the measure developing countries' interests should be particularly considered.

In the view of the delegation of Jamaica there was no doubt that the United States trade measures represented a technical violation of the present GATT rules. It was, however, satisfactory to see that contracting parties were not advocating retaliation at this stage. This reflected the realization of the magnitude of the actual problems. If the import surcharge brought about the desired reduction of United States imports, the resulting slack in the export industries of the supplier countries could probably not be compensated in other markets as they would all feel the impact of their reduced outlets in the United States. This negative multiplier effect on world trade caused deep concern, especially for small developing countries like Jamaica, which were without significant domestic markets and whose main impetus for growth were exports.

His delegation could not believe that it was the intention of the United States to risk triggering off a recession in world commerce or to expose developing countries to a serious economic and political crisis by retaining the import surcharge for any prolonged period. What was, therefore, needed, was the preservation of confidence in international co-operation within the framework of GATT. To this end the United States and the other contracting parties should first of all agree on a definitive time schedule for dismantling the surcharge in the proposed working party. Furthermore, the United States should be urged to agree to the exemption of products from developing countries from the surcharge. It was of fundamental importance in the present situation that the Council should take some positive action.

The representative of Pakistan appreciated the seriousness of the difficulties of the United States. He had noted that the imposition of the import surcharge would severely damage the exports to the United States of developed countries. If such were the case for countries whose economies were much stronger than those of developing countries, it was clear that the surcharge would constitute an unbearable strain on the vulnerable economies of the latter countries.

Pakistan had increased remarkably its exports to the United States in the past ten years and the United States had become an important market for Pakistani manufactures and semi-manufactures. The imposition of a surcharge of 10 per cent on this market would undoubtedly hit many of these exports very hard and adversely affect Pakistan's balance-of-payments position.

He shared the views of other delegations to the effect that the import surcharge was not in accordance with the provisions of the General Agreement, that the surcharge was in violation of the standstill provisions of Part IV and was also a violation of the spirit of the general system of preferences. He appealed for action to be taken so as not to frustrate the efforts of developing countries to expand their exports and diversify their economies. The imposition

of the surcharge could well retard this process of development. He expressed the hope that the United States would review the measure and remove the surcharge as early as possible, at least on the imports from developing countries.

The representative of Ceylon proposed that consideration be given to the question whether the measure applied by the United States was a violation of Article XXXVII of the General Agreement. It was his Government's hope that the measures would not adversely affect the implementation of the generalized system of preferences by the United States or by other contracting parties.

The representative of Madagascar expressed his Government's fear that the implementation of the generalized system of preferences would be delayed by the measures taken by the United States. He hoped that the surcharge would not be levied on imports from developing countries.

The representative of Trinidad and Tobago deplored the consequences of the measure adopted. He emphasized that there existed a considerable perturbation of spirit among the developing countries, even among those who were not much affected by the temporary import surcharge. He questioned how temporary the surcharge might be since it was linked to fundamental adjustments mentioned by the United States as a prerequisite for its removal. He recalled that expansion of international trade was one of the principal objectives of the developing countries in the Second Development Decade.

The developing countries wanted to include in the examination the following points. First, they considered the measure taken to be in breach of the standstill provision of Article XXXVII of the General Agreement. There existed no compelling reason for applying the import surcharge to exports from developing countries. Second, the measure was contrary to the new trade and development policy embodied in the generalized system of preferences. The developing countries hoped that the United States would be able to explain how it viewed the generalized system of preferences in relation to the recent action taken. Third, the developing countries wanted to stress their desire to be associated with all consultations in GATT on this matter, whether they were on a formal or an informal level. Finally, the representative of Trinidad and Tobago appealed to the United States to reconsider the matter and to remove the temporary import surcharge from the exports of developing countries.

In reply, the United States representative stated that many of the comments and questions raised had been justified and constructive. He assured the Council that his Government had been very concerned about the significance and far-reaching effects of the steps taken. However, it was also his Government's conviction that the vital interests of all trading partners would have been more deeply jeopardized if the United States had not taken decisive action. The best way for the United States to deal with the problem confronting it was to make rapidly the necessary changes so as to bring the monetary and trading arrangements into a more viable kind of relationship. His Government was trying hard to bring about speedily the necessary adjustments and hoped that the other contracting parties would do everything to co-operate. At this point it was impossible to

spell out in more detail what the conditions were which would permit the removal of the measures. This would only be feasible once the United States had a clearer view of what its trading partners intended to do.

The United States Government was fully aware of the very particular problems which confronted developing countries. In exempting from surcharge duty-free imports, it had gone a long way in alleviating these particular problems. Many cases for further exemptions could be made, but allowing for too many exemptions would run counter to the objectives the United States Government hoped to achieve. He hoped that all countries would actively collaborate to achieve the better equilibrium in the monetary and trading system the United States was seeking.

The Council welcomed the willingness of the United States to enter into prompt consultations in a working party to be established for this purpose. After an extended discussion, on the basis of a draft text for the terms of reference prepared by the secretariat, the Council adopted the following decision:

The Council,

without prejudice to the legal issues involved,

DECIDES

to establish a working party with the following terms of reference:

(a) In the light of the provisions of the General Agreement and of the discussion in the Council, to examine the United States temporary import surcharge introduced on 16 August 1971 as notified in L/3567, and to exchange views on other measures in the United States programme of a non-monetary nature which have a direct impact on international trade. In executing this task the Working Party will take into account, inter alia, the nature of the balance-of-payments difficulties; the rationale for the surcharge and the modalities of its implementation; the anticipated effects on trade; the possible effect on the economies of other contracting parties and, in particular, the effect on the economies of the developing countries;

(b) to consult with the International Monetary Fund in pursuance of Article XV;

(c) to submit a report for consideration by the Council at a meeting not later than 20 September, on the assumption that the necessary determination by the International Monetary Fund is available, on its examination of the United States temporary import surcharge, and a record of any exchange of views in the Working Party on the other measures referred to above; and

(d) to continue to be available for consultations as necessary.

The representative of Trinidad and Tobago, speaking on behalf of the Informal Group of Developing Countries in GATT, expressed great disappointment that the terms of reference did not spell out, as he had proposed, that the

Working Party was to examine the circumstances for not excluding the imports from developing countries from the surcharge. Developing countries had also considered it of importance that the Working Party should keep in mind the conditions set forth in Part IV of the General Agreement. He also made the point that certain difficulties might not have arisen if developing countries had been consulted earlier in drawing up the text of a draft decision. However, with the full sense of their responsibilities, the developing contracting parties were prepared to accept, although unhappily, the above terms of reference. They attached great importance to the reference made in the mandate to the discussion in the Council. Their acceptance, however, was subject to their understanding that when the Working Party took into account the modalities of the implementation of the surcharge it would examine in the light of the provisions of Part IV all the circumstances for not excluding from the surcharge the imports from developing countries into the United States. He repeated his appeal to the United States to remove the surcharge from imports from developing countries and he expected the working party to bear this appeal in mind.

The representative of the United States could accept the above terms of reference. He stated, however, that for the purpose of the Working Party the United States programme in the terms of reference consisted of those items he had described in his opening statement before the Council.

With regard to the interpretation by the United States representative to paragraph (a) of the terms of reference of the Working Party, the representative of the European Communities stated that he took note of it. He wished to make it clear, however, that this interpretation was given by the United States representative on his own responsibility and that, at the time the Working Party met, this interpretation would not necessarily be that accepted by the European Communities.

The representative of Canada said that his understanding was the same as that just stated by the EEC representative.

The Council decided on the following composition of the Working Party:

Membership:

Argentina	Ghana	Spain
Australia	Greece	Sweden
Austria	India	Switzerland
Canada	Japan	Trinidad and Tobago
Chile	New Zealand	United Kingdom
European Communities and their member States	Pakistan	United States
	Poland	

Chairman: Mr.K.A. Sahlgren (Finland)

The representative of the International Monetary Fund expressed the readiness of the Fund to be consulted under Article XV of the General Agreement. The Fund was in the process of preparing comprehensive background documentation