

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/2073

24 October 1963

Limited Distribution

SUMMARY OF POINTS RAISED AT THE WORKING PARTY ON PREFERENCES IN OCTOBER 1963

Note by the Secretariat

1. The Working Party's terms of reference are given in document L/2048. Briefly, it has been asked to study two particular proposals:

- (a) the granting of preferences on selected products by industrialized countries to less-developed countries as a whole; and
- (b) the granting of preferences on selected products by less-developed countries to all other less-developed countries.

It may be recalled that the proposals before the Working Party derived from paragraph 24 of the Conclusions of Ministers (MIN(63)7) in which Ministers "agreed that contracting parties should give urgent consideration to the adoption of other appropriate measures (i.e. measures other than those proposed in points (i) to (vii) of the Programme of Action) which would facilitate the efforts of less-developed countries to diversify their economies, strengthen their export capacity and increase their earnings from overseas sales. In this connexion it was suggested that one of the measures which should be studied promptly would be the accordance of preferential treatment to the semi-manufactured and manufactured goods exported by less-developed countries."

2. The Working Party held its first meeting from 7 to 11 October 1963. It was agreed that at this stage it would be suitable for members to consider themselves experts so that different possibilities could be explored without committing governments. This note, which has been prepared on the responsibility of the secretariat, summarizes the points which were raised during this meeting. It should be noted that most of these points were raised in relation to proposal (a) mentioned above; in view of the limited time available it was agreed that substantive discussion of proposal (b) should be left to the next meeting of the Working Party on the basis of concrete suggestions.

Value of the proposed preferences

3. Members discussed the extent to which preferences could contribute to the specific objectives set out by Ministers. It was recalled that the idea was put forward as a means of ensuring that less-developed countries would obtain optimum benefits from tariff reductions. The problem was that most-favoured-nation reductions on products of interest to the less-developed countries, and particularly on their new export products, might result in rather limited gains for less-developed countries. It was on these grounds that the CONTRACTING PARTIES had been asked to examine the idea of preferential access for export items of less-developed countries. Members of the Working Party representing less-developed countries enlarged on this theme and advanced various considerations in support of the idea. Reference was made to the consensus of the contracting parties that less-developed countries had to increase their exports in new lines of products so as to meet their import requirements, and to the difficulties in expanding such exports under present conditions. In the view of one member, the purpose of the proposals was to rectify a situation in which the increasingly dominant trade position of the products of industrialized countries was leading to the practical exclusion of less-developed countries from many international markets. The superior competitive position of products based on advanced technology and abundant capital resources was not confined to the field of highly sophisticated manufactures but also in simple manufactures and processed primary products. One way that the competitiveness of products of less-developed countries could be increased would seem to be to accord them preferential treatment. Another member referred to the efforts made in his country in diversifying industrial production and to the fear that the greatly expanded export capacity might not be matched by commensurate export opportunities. In the course of the discussion the views expressed by governments in different international forums on this subject were cited in support of the above thesis.

4. Some members of the Working Party considered that, while it seemed likely that the granting of new preferences could make a positive contribution, such an important step as the departure from the most-favoured-nation principle required careful study and more data would have to be available before a conclusion could be reached. It was also suggested that the scheme should be regarded as a means of securing a more rapid reduction in trade barriers against developing countries than may for the time being be possible between the industrialized countries, and that it should not result in the increase, or hinder the multilateral reduction of most-favoured-nation rates between the industrialized countries. Other members pointed out that barriers to the trade of some of the semi-manufactures and manufactures of the less-developed countries were already non-existent or very low. While it was difficult to

evaluate all the factors involved, an unofficial study of the present tariff structure of one major industrialized country showed that scope existed for the extension of meaningful preferences in only about half of the categories of actual or potential exports of interest to the less-developed countries.

5. The representative of a group of industrialized countries, speaking for the governments thereof, stated that they welcomed the idea of tariff preferences to be granted on certain products with a view to stimulating industrialization in the less-developed countries. It was for the less-developed countries to formulate concrete proposals. It was generally felt that further examination would be facilitated by detailed proposals from less-developed countries.

Criteria and procedures

6. It was the feeling of certain members from less-developed countries that the operation of the most-favoured-nation rule was in fact discriminatory as it placed countries of unequal economic strength on an equal footing. Several members of the Working Party indicated that since preferences should be used as a corrective measure for the improvement of the competitive positions of the less-developed countries in foreign markets, they should only be granted to those industries which were not at present competitive.

7. It was also suggested that a plan for preferences should take into account not only the stage of development reached by individual industries but also the stage of development of individual countries and the importance of the products concerned in the economies of these countries. It was also pointed out that preferences should not be granted indiscriminately and that the link between preferences, development planning and foreign aid programmes should be examined.

Nature and quantum of preferences

8. There was a wide measure of agreement that the new preferences should be granted to less-developed countries without any reciprocity being demanded. Various suggestions were put forward on the type of tariff preferences which might be envisaged. The possibility of using a uniform margin of preferences was mentioned, but more prevalent was the view that preferences should vary from product to product. It was suggested by some members that margins might be set after an examination of the market for individual products so as to ensure that the preferences had an optimum effect in each case. Margins might be fixed as a percentage of the most-favoured-nation rate although this might not prove entirely satisfactory, for instance where the most-favoured-nation rate was already low, or as a fixed number of percentage points, although in this case it would of course be understood that the most-favoured-nation rate should not in any instance be raised to enable advantage to be taken of the full margin.

9. In particular, members referred to the scheme suggested in the Economic Survey of Europe for 1960 that industrialized countries might "abolish all tariffs and import restrictions on such exports of manufactures by individual under-developed countries as do not, in any year, exceed a certain proportion - say, 3 or 5 per cent - of its total imports in the previous year in that commodity group". It was widely felt that proposals of this kind deserved further attention.

10. The question was also raised as to the status that the new preferential rates should have and whether or not they would be bound under GATT. Existing bindings might also have an effect on the scheme for new preferences.

11. Reference was also made to the possibility of providing for non-tariff preferences. Some members indicated that in the main the preferences should be restricted to the field of tariffs. Others pointed out that the text of the General Agreement already contained provisions which in effect had permitted discrimination by European countries to correct post-war imbalances in their external financial position. It was also suggested that countries with centrally-planned economies might grant preferences through measures other than the tariff, e.g. by guaranteeing minimum bulk purchases, and that this matter required further consideration. It might, for instance prove difficult to establish an equivalence between these non-tariff preferences and the tariff preferences granted by other countries.

12. Certain members indicated that the preferences should be put into effect by the governments of the major industrialized countries acting in parallel. This would not only increase the advantages to be gained by less-developed countries from the scheme but would also contribute to an equitable sharing of the burden of preferences among the developed countries. The representative of one industrialized country stated that while existing legislation in his country provided for no authority to grant preferences, his government was prepared actively to participate in the present exploration and would endeavour to be in a position to implement any generally agreed schemes.

Countries to benefit from the preferences

13. In their Conclusions the Ministers had made it clear that any preferences must be applied to all less-developed countries. Many members of the Working Parties were of the view that these should include not only less-developed countries

among GATT contracting parties, but all less-developed countries whether contracting parties or not. It was noted that a list of less-developed countries would have to be established if preferences were to be granted. Several members suggested that the list should be drawn up on the basis of the criteria of Article XVIII:4(a) (countries "the economies of which can only support low standards of living and are in the early stages of development"). It was also suggested that a country might automatically qualify if its per capita income were below a certain figure and primary products accounted for more than a certain percentage of its exports. Another suggestion was that the practice of the Economic and Social Department of the United Nations Secretariat or the classification contained in General Assembly Resolution 1875 of 27 June 1963, which list industrialized countries and regard all others as less-developed, might be used together with a process of consultation on borderline cases. It was also felt that periodic review should be made of the list of less-developed countries, since their status in this regard is not immutable but might undergo changes over time.

14. There was a wide measure of agreement that new preferences should apply equally to all less-developed countries without any discrimination. It was suggested by one member, however, that some discrimination might be necessary and that on a certain product individual less-developed countries might be considered to be industrialized countries. It was also suggested that account should be taken of the fact that the less-developed countries themselves were at differing stages of development, perhaps by granting preferences on a sliding scale linked to per capita income with larger preferences for countries with a per capita income of, say, less than \$150 per annum.

Products to be covered by the preferences

15. It was recalled that, although Ministers had specifically referred to "the semi-manufactured and manufactured goods exported by less-developed countries" when introducing the subject, the specific proposals for study simply referred to "selected products". Members representing some less-developed countries interpreted this as implying that no product should, a priori, be excluded from consideration under these proposals. Other members from less-developed countries considered that the language of the ministerial proposals clearly excluded primary products. It was, however, pointed out that the proposals concerning preferences figured as point (viii) of the Programme of Action and must be considered in that context. If the Programme were viewed as a whole it would be seen that measures designed to benefit less-developed countries' exports of primary products had already been proposed in points (iii) and (iv) which spoke of the elimination of customs tariffs on tropical products and other primary products important in the trade of less-developed countries. It was, therefore, suggested that, at this stage, attention should be directed to semi-manufactured and manufactured goods.

16. Members of the Working Party suggested various methods by which products to benefit from preferences might be selected.¹ It was suggested by a member that, bearing in mind that the preferences were intended to promote diversification in the economies of the less-developed countries, they should be granted across the board, on all semi-manufactured and manufactured goods without distinction. Where exceptions to this rule appeared necessary owing to particular difficulties, these should be the subject of consultation; there might eventually be a short negative list. Certain members, however, considered that it might be difficult to grant preferences on broad categories of goods and that inevitably little use would be made of many of the preferences granted by this method. Other members suggested that certain criteria or principles might be established and that the countries granting preferences might select products according to these criteria. The suggestion was also made that attention might be concentrated at the outset on a limited number of items to be proposed by the less-developed countries, perhaps those already under study in Committee III and that the system should be elaborated on the basis of experience. Several members expressed the view that if a relatively limited range of products was to be selected the benefits resulting from preferences should be spread as widely as possible among the less-developed countries. Some members felt that it would be necessary to carry out fairly intensive market studies on individual products before preferences could meaningfully be granted. Although it was generally agreed that no reciprocity should be asked for the granting of preferences, there might still be advantage in using the normal procedures of negotiation. A specific suggestion made by the representative of one less-developed country was "to grant semi-processed and manufactured products of less-developed countries 50 per cent over and above the percentage which is going to be agreed upon in the forthcoming Trade Conference by the highly developed countries". If preferences were to be arrived at in the course of separate negotiations it was suggested that these might either be multilateral in character or that a series of bilateral negotiations might be followed by a multilateral confrontation of the results obtained.

¹In a written communication the Government of Ceylon suggested the granting of preferences on: glycerine, soap, canned fruits, biscuits, clothing, confectionery, asbestos corrugated sheets, asbestos ridges, caustic soda, chlorine (liquid), footwear, umbrellas, aluminium goods, coconut fibre products, household linen, beer, leather goods, foam rubber goods and bicycle tyres and tubes. Preferences were also requested from industrialized countries on coconut oil; the preferential duty on this product should be lower than the duty on soyabean oil.

17. Several members of the Working Party pointed out that if preferences were granted it would presumably be necessary to provide for certification of origin. It might, for instance, be decided that goods would receive preference only if a fixed percentage of their value had been added in a less-developed country.

18. As noted in paragraph 2 above the discussion of proposal (b) on preferences to be granted among the less-developed countries was by general agreement left for a later meeting. In the brief exchange of views that took place the representative of one less-developed country proposed that the less-developed countries should agree upon items on which they would be prepared to grant preferences in their markets. As a first step, these preferences should be limited on a geographical basis. This proposal in his view, would be in line with the decisions of the Summit Conference of Independent African States held in Addis Ababa in May 1963. It was also proposed that preferences exchanged between less-developed countries should not be less than preferences granted to any other country or group of countries.

Duration of the preferences

19. It was widely agreed that provision should be made in the plan for the termination of preferences once the purpose for which they had been established was fulfilled; that if preferences were granted for an indefinite period that uneconomical production might be perpetuated; and that preferences might be granted in the first instance for a specified maximum length of time. Some members felt that this should be not longer than ten years and that the temporary nature of the preferences should be made clear from the outset. Some members considered that preferences should be phased out rather than terminated abruptly and that a procedure of consultation on the working of the preferences should be established either in addition to a specific time limit or in place of one. It was felt that an annual review might be of increasing usefulness as the programme evolved.

20. It was suggested that the rationale behind new preferences should be based on the concept of the infant economy, rather than of the infant industry. This being so, the termination of preferences should be linked not with the competitive position of particular industries but with the competitive position of individual less-developed countries. Preferences might, for instance, be terminated when the per capita income of a less-developed country rose above a certain given amount.

Interests of third countries

21. Reference was made to paragraph 3 of the Conclusions of Ministers contained in MIN(63)7, which stated that "it should be understood that, where action under the Programme would affect the interests of third countries, as under preferential arrangements, countries granting such preferences would need to take into account the interests of the trade partners concerned". Certain members understood this to mean that compensation should be paid to third countries which had suffered injury as a result of the application of preferences.

22. The suggestion was made that the products on which preferences were to be granted should be chosen in such a way as to distribute as widely as possible any harmful effects on the trading interests of third countries, and that care should be taken to ensure that changes in the pattern of world trade should not be too abrupt nor too drastic.

23. One member of the Working Party, who represented a major industrialized country having existing preferential relationships with a large number of countries and territories, stated that the proposal that developed countries should grant preferences to all less-developed countries could be approved in principle only if, inter alia, the scheme was one in which the countries already benefiting from preferences on its market would co-operate and in which those countries already enjoying contractual rights to these preferences on the products concerned would be prepared to waive their rights in the interests of securing wider opportunities in the markets of the developed countries for the products of the developing countries. Another member suggested that in the long run the new preferences should absorb existing preferential arrangements.

Safeguards

24. Some members of the Group suggested that in certain instances it might be necessary to grant preferences within the limits of a tariff quota although it was suggested that the quota should be large enough to place industries on a sound footing. Reference was also made to the proposal that tariffs and other barriers might be abolished for a specified percentage of imports, as mentioned in paragraph 9 above. The possibility of using an approach based on adjustment assistance might also be examined.

25. It was the opinion of other members that the new preferences, if they were incorporated as part of the contractual obligations under GATT, might be subject to the safeguard provisions already contained in the General Agreement, i.e. the renegotiation procedures of Article XXVIII and the provisions of Article XIX.

Legal and institutional provisions

26. It was proposed that, as a final stage in its work, the Working Party might wish to consider the kind of amendments to the GATT or other institutional arrangements that it might suggest to the Committee on Legal and Institutional Framework. During the discussion, however, some preliminary suggestions were put forward on the nature of possible legal and institutional arrangements. Some members indicated that it might be necessary to establish a new body within the GATT to select products for inclusion and to supervise the exercise. Several members considered that thought might be given to the possibility of drawing up a Declaration recognizing the possibility of a voluntary abrogation of the most-favoured-nation clause in regard to less-developed countries. This Declaration might provide:

(a) that the most-favoured-nation provision should be applied to the full extent not inconsistent with the requirements of less-developed countries; this means, inter alia, that developed countries should extend to less-developed countries, on a non-reciprocal basis, any favour, privilege or immunity granted to other developed countries, and that the most-favoured-nation clause should not be invoked to preclude the extension of preferential treatment to less-developed countries as a whole;

(b) that special concessions should be made to less-developed countries as a whole, without discrimination, through the reduction or elimination of tariffs and other barriers to products important to their trade, without such concessions being extended to other developed countries.

27. This Declaration should be open for acceptance by all countries, whether contracting parties to GATT or not. In fact, most contracting parties had most-favoured-nation treatment obligations not only towards other contracting parties by virtue of the provisions of GATT, but also towards many non-GATT countries on account of commercial treaties or bilateral agreements. Consequently, any scheme for new preferences would have to take into account this question of most-favoured-nation obligation towards non-GATT countries.

Future work

28. It was agreed that the secretariat should prepare the following material for the next meeting of the Working Party:

(a) statistics for those products studied by Committee III for which such information was available on a comparable basis, showing imports into the major industrialized countries broken down by main countries of origin with sub-totals for industrialized countries and for less-developed countries. The tables would also indicate for each of these countries of origin the importance of these trade flows relative to their total exports;

(b) a study examining in more detail some of the problems brought out in discussion, notably the question of how "less-developed countries" should be defined for purposes of the application of the preferences; the possibility of defining such categories of products as: primary products, semi-processed and processed products and semi-manufactured and manufactured products; the kind of arrangements which would be necessary for reconciling the preferences with the existing rights and obligations relating to most-favoured-nation treatment, especially with respect to non-contracting parties.

29. It was agreed that it might not be opportune to hold the next meeting of the Working Party on 25 November as tentatively planned in GATT/AIR/350 and the Executive Secretary was asked to convene the next meeting at the earliest practicable date after consultation with the delegations principally concerned.