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Twentieth Session

WORKING PARTY ON TRADE RELATIONS WITH YUGOSLAVIA

Draft Report of the Working Party on the Third Annual Review
Under the Declaration on Relations with Yugoslavia

1. The Working Party was appointed by the Council of Representatives on 30 May 1962, in accordance with instructions of the CONTRACTING PARTIES, "to conduct the third annual review under Section C of the Declaration of 25 May 1959 on relations between contracting parties and Yugoslavia, including consideration, pursuant to paragraph 3 of Section D of the Declaration, as to whether the arrangements should be terminated, modified or continued, and to report with recommendations to the CONTRACTING PARTIES at the twentieth session". The scope of the review, as defined by the Council, was to be as follows¹:

I. Implementation of the present Declaration:

- (a) Changes and developments in the commercial policy of Yugoslavia;
- (b) the extent to which contracting parties apply GATT to Yugoslavia;
- (c) concrete and practical problems arising in trade with Yugoslavia.

II. Future arrangements on relations between contracting parties and Yugoslavia.

I. IMPLEMENTATION OF THE PRESENT DECLARATION

2. This third review covers the period from the conclusion of the second review² in December 1961 until the present time. For the purpose of this review, the secretariat was instructed by the Council to prepare, in consultation with the Government of Yugoslavia and with other contracting parties signatories to the Declaration, a background document to serve as a basis for the deliberations in the Working Party. For this purpose contracting parties concerned were requested to supply fresh information on the subjects to be covered in the review or to bring up to date the material which they supplied in 1961 for the previous review. The material received was circulated in document L/1877 which contained three memoranda submitted by Yugoslavia on:

¹See C/M/10 and L/1791.

²BISD, Tenth Supplement, page 61.

- (A) Recent developments in the Yugoslav economy;
- (B) The new law on foreign trade and recent developments in trade;
- (C) The nature and status of Yugoslav enterprises engaged in foreign trade;

as well as information on trade relations between Yugoslavia and the other signatories to the Declaration.

3. The Working Party wishes to place on record its appreciation of the clear and concise documentation supplied by the Yugoslav authorities which greatly facilitated its task. The basic document in L/1877 should be deemed an integral part of the records of this review. The following sections of the report are intended to set out the additional information adduced in the course of the discussions.

(a) Changes and Developments in the Commercial Policy of Yugoslavia

Recent developments in the Yugoslav economy

4. The Working Party noted from the written memorandum (A) and from an oral statement by the Yugoslav representative that the economy of Yugoslavia had developed steadily during the past few years. In 1961, however, there had been some slackening in this development, due mainly to the adjustment entailed by the implementation of the foreign exchange system and also to unfavourable weather conditions which had affected agricultural production. The expansion in production had been accompanied in recent years by a marked increase in the manpower employed in sectors other than agriculture. However, despite the considerable increase in the number of persons employed, a satisfactory improvement had been recorded in labour productivity in all sectors of the economy in the past few years. Investments in basic equipment and working capital had continued to expand and had absorbed nearly 30 per cent of the gross national product. In the past few years the capital output ratio had become more favourable than in the preceding years.

5. During the first half of 1962 measures to increase credit facilities had been taken in order to stimulate production for the internal market and for export, especially in the housing and consumer goods sectors. Under the impact thereof there had been a revival of industrial production and economic activity by the middle of 1962. A further positive element was the fact that the ratio between total domestic demand and production had gradually been brought into harmony, so that the prices of industrial products had been in general stable in 1962. The prices of agricultural products, on the other hand, had risen as a result of a bad crop and as a consequence of the policy aiming at adjustment in the level of agricultural to the industrial prices. The differences between the price levels of industrial and agricultural products were still considerable. In order to further agricultural production, certain internal adjustments had been made, but Yugoslav agricultural prices were still below the world market levels. The cost of living had shown a downward trend during the last few months.

6. In the view of the Yugoslav representative a future favourable development of the Yugoslav economy would lead to a consolidation of the present general trade policy rather than to substantial changes in it. The foreign exchange

reform, put into effect on 1 January 1961, had had some unfavourable short-term effects on the economic development but these had now been largely overcome and a stabilizing effect had begun to make itself felt.

7. The Yugoslav memorandum on recent developments in the Yugoslav economy stated that the insignificant increase of Yugoslav exports of industrial products in 1961 was due to several reasons including effects of economic integration in Europe. The Working Party noted, however, that the rate of increase of exports from Yugoslavia to the European Economic Community in the period had been greater than the average rate of increase of Yugoslavia's total exports. In this connexion the view was also noted that increases in exports to these countries could be attributed to their prevailing high levels of national income and economic activity; higher levels of imports from Yugoslavia could reasonably have been expected in the absence of this integration.

Recent developments in commercial policy

8. The Working Party took note of the various changes which had been made in the Yugoslav import and export system since the last review, as described in the memoranda reproduced in L/1877. It was noted that the principal changes included the adoption of a new "Law on the Exchange of Goods and Services with Foreign Countries", a "Law Regulating Business Relations on the Market", and a new "Decree on the Provisional General Customs Tariff". The principal purpose of these, especially of the two Laws, was to strengthen and develop the principle of the independence and business freedom of commercial enterprises in the sense already explained to the Working Party in 1961, which was considered by the Yugoslav Government to be one of the basic principles of the Yugoslav economic system.

9. As regards the customs tariff, the Working Party noted that in the light of the experience acquired after the abolition of the system of coefficients and the introduction of customs duties, the Yugoslav Government had introduced in January 1962 some modifications to the Provisional General Customs Tariff, by raising the duties on certain items and reducing those on others. The Yugoslav delegation explained that the Tariff being experimental in nature, and had been introduced as late as in 1960, modifications from time to time were naturally inevitable, and future modifications were to be expected. In other words, the provisional customs tariff would be further elaborated and the rates would continuously be adjusted as steps towards evolving a definitive tariff, which would be used as the basis for tariff negotiations in connexion with the eventual accession of Yugoslavia to GATT. The Yugoslav Government accepted that the customs tariff should be the sole means of protection of domestic production against foreign competition; import restrictions would not be relied upon for this purpose and those applied at present for balance-of-payments reasons would be removed as and when they become unnecessary. It was also noted that the customs "recording duty" of 2 per cent was the only import fee that was imposed in addition to the rates of duty.

10. With regard to import restrictions, the Working Party noted that the system remained essentially unchanged as described in the documents pertaining to the 1961 review (L/1494 and BISD, Tenth Supplement, pages 64-65). As noted in the relevant

memorandum, there had been certain adjustments in the various lists of products subject to the different control methods; the lists of free imports and imports under liberal licences had been extended somewhat, but owing to adverse developments in the balance of payments caused by various unfavourable factors (which have been discussed in paragraphs 4 and 5 above) the Yugoslav Government had found it necessary to make other adjustments in the import control lists. The Yugoslav delegation stressed that such changes had been dictated by the deterioration of the balance-of-payments position, and further liberalization would be undertaken as and when it became practicable.

11. The Working Party noted that, in comparison with the situation last year, the existing restrictions seemed, on balance, to have been somewhat intensified as might be seen from the following figures:

	Proportion of estimated imports in 1961	Proportion of present imports (1961 import basis)
Free imports	25	16.4
Liberal licensing	2	2.3
General licence	17	19.6
Individual quotas	35	32.6
Restrictive licence	0.6	5.9
Special régime for capital goods	20	23.2

12. In further clarification of the Yugoslav system of import restrictions, the Working Party was advised by the Yugoslav delegation that licences for imports under "liberalized licensing" were granted automatically and the necessary foreign exchange was ipso facto made available, although a short delay might happen in the actual provisions of the foreign exchange. For imports under restrictive licence, on the other hand, no foreign exchange was being made available, the possession of the necessary exchange being a prerequisite for imports under this category. In the case of imports subject to individual quotas, the quotas were divided in two main groups for the convertible currency zone and for countries with bilateral payments arrangements.

13. In respect of the Yugoslav export régime the Working Party noted that the export premiums were to be considered as a provisional measure only. These premiums of a monetary nature had been introduced as a measure of adjustment for the period of transition from the multiple exchange rates system to the unified rate. Yugoslavia had undertaken in an agreement with the International Monetary Fund to abolish them before the end of 1965. The export restrictions were also of a temporary nature and were only intended to protect the domestic supply of a limited number of products.

14. The Working Party was advised by the Yugoslav delegation that Yugoslavia had bilateral payments agreements with twenty-three countries; in addition there are five agreements with transferability clauses. The Yugoslav representative stated that the abolition of a bilateral agreement would require the consent of the partner country concerned; it was the intention of the Yugoslav Government to abolish these agreements whenever this became possible and was agreed to by the partner country concerned.

The Yugoslav trading system

15. As relevant for item I (a) of the review, the Working Party, on the basis of the relevant memorandum in L/1877, discussed with the Yugoslav delegation the nature and status of Yugoslav enterprises engaged in foreign trade. It was noted that the new Law on the Exchange of Goods and Services with Foreign Countries and the Law regulating Business Relations on the Market, of July 1962, were both codifications of the existing laws and regulations, undertaken in the light of the experience gained in their implementation. In some respects, however, they contained more rigid criteria than the ones formerly applied; e.g. for the registration of enterprises, where it had been found necessary to impose more rigid rules in order to create stronger and more stable enterprises. It was also the intention of the new Law to facilitate the registration of producing enterprises to engage in foreign trade transactions in order to bring them in a direct contact with foreign markets. The new legislation also contained, for the first time, rules about "unfair competition", comprising such practices as the misuse of names and trade marks, the diffusion of untrue information about an enterprise or its products and other malpractices.

16. The Working Party discussed with the Yugoslav delegation the ways in which the general economic guidelines fixed by the Government were to be transformed into actions by the enterprises. The Yugoslav representative stressed that the Yugoslav economy was no longer "centrally planned" as it had been until 1951. Governmental influence on the activities of the individual enterprises could now be exerted only through measures of financial and credit policy. The Government had no way of giving the enterprises instructions as to what they should produce or deal in. The Yugoslav trading system was therefore not a rigid one; to the extent possible, the Government encouraged the development of a free market economy within the general framework of the Yugoslav economic system. Except for certain items subject to price control, prices were determined by the forces of supply and demand. There was no limitation as to the number of enterprises that could be established in any particular branch. Normally the importing enterprises also engaged in wholesale activities. Any citizen was allowed to import for his personal use any product, - except those subject to import restrictions - provided that he had the necessary foreign exchange available.

17. As to the establishment of enterprises, the Working Party noted that this could be done by a commune or district authority, by an existing enterprise, by co-operatives or social organization, as well as by group of citizens. There were no legal requirements as to the number of people forming such group. As far as foreign trade enterprises were concerned, there were certain criteria that had to be fulfilled in order to obtain the registration of the enterprise.

18. With respect to business funds and income, the Yugoslav representative explained that the usual sources for the initial capital required for the formation of an enterprise were bank loans and subscriptions by the founders. There were several banks in Yugoslavia but an important rôle, from the point of view of financing enterprises, were played by the communal banks. In granting loans the banks had to follow the credit and monetary guidelines fixed by the National Bank in accordance with the economic policy of the Government.

19. Concerning the special rules for enterprises engaged in foreign trade, the Working Party noted that there were no limitations as to the number of enterprises that were allowed to establish themselves in any particular branch of activities. Monopolies were, furthermore, prohibited by law. At present there were between 500 and 600 enterprises engaged in foreign trade activities. The same enterprises often were engaged both in import and export business.

20. As regards the position of foreign enterprises in Yugoslavia, the Yugoslav delegation explained that, although only Yugoslav enterprises were allowed to represent foreign companies in Yugoslavia, foreign companies could send their own representatives to the country as often as they wanted to. They had, of course, also the possibilities of arranging advertising campaigns in Yugoslavia.

(b) The Extent to which Contracting Parties
Apply GATT to Yugoslavia

21. The Working Party took note of the material supplied by contracting parties and contained in Part II of document L/1877 and addenda thereto. The representative of the United States recalled that the United States were currently according most-favoured-nation treatment to imports from Yugoslavia. However, the Trade Expansion Act of 1962 (Section 231) required the President to withdraw trade agreement benefits from Yugoslav products as soon as practicable. The President had already made public his intention of asking Congress to reconsider this section of the Act early in 1963. Meanwhile, under the terms of the Convention on Commerce and Navigation with the Kingdom of Serbia, the denial of the most-favoured-nation treatment to Yugoslavia would not become effective until twelve months after notification was given by the United States.

(c) Concrete Problems Arising Between
Yugoslavia and Participating Governments

22. The Working Party noted that, in preparation for this review, contracting parties had been invited to supply information on any concrete or practical problems arising in their trade with Yugoslavia. No such case was mentioned in any of the submissions received from them.

II. RECOMMENDATIONS CONCERNING THE PROVISIONAL
ACCESSION OF YUGOSLAVIA TO GATT

23. At the meeting of the Council in May 1962 the representative of Yugoslavia announced the intention of his Government to seek a solution which would constitute a substantial advance on the Declaration of 25 May 1959, in the form of provisional accession which would serve as a basis for a final solution of its relations with GATT (see L/1800). A formal request by the Government of Yugoslavia for provisional accession to GATT, dated 17 October 1962, was circulated to contracting parties in L/1868.

24. In discussing this request the Yugoslav delegation explained that, as noted in paragraph 9 above, Yugoslavia's present Provisional General Customs Tariff had been introduced very recently. Consequently the adoption of a definitive tariff would require some time. While Yugoslavia was desirous of entering into tariff negotiations with contracting parties as early as possible, it would appear that some time would have to elapse before this could be started. In the meantime the Yugoslav Government wished to establish the closest association with contracting parties which was possible without the conclusion of tariff negotiations. It would therefore wish to be governed by an instrument providing for all the rights and obligations which would normally be provided for in a protocol of accession, except that Yugoslavia would have no direct rights with respect to the tariff schedules annexed to the General Agreement.

25. The Working Party recalled that, in 1959 when Yugoslavia asked to be brought into closer association with the CONTRACTING PARTIES, the Yugoslav Government had stated that it was then not yet in a position to assume all the obligations involved in accession but hoped to develop its existing policies in order that it would eventually be able to do so. The Declaration of 25 May 1959 was accordingly approved by the CONTRACTING PARTIES as a transitional arrangement to govern the trade relations between Yugoslavia and contracting parties until that country was in a position to apply for accession under Article XXXVIII.

26. It was noted by the Working Party at that time that whether the provisions of GATT could ensure between contracting parties an equitable balance of rights and obligations depended on the existence of conditions for a meaningful application of the GATT provisions. Reference was made in this connexion to the possibility of foreign exporters to compete with domestic suppliers in the Yugoslav market; this meant, inter alia, that any restrictions on imports should be limited to those permitted by the General Agreement; that the customs tariff or other charges should be applied consistently with GATT provisions. The Declaration therefore provided that Yugoslavia should endeavour, in the development of arrangements affecting its commercial policies, to move progressively towards a position in which it could give full effect to the provisions of the General Agreement and that the possibilities of further progress towards the full application of the GATT provisions should be one of the subjects of annual review.

27. The Working Party took cognizance of the developments in the Yugoslav trading system and in its commercial policy arrangements as reported to the CONTRACTING PARTIES in the course of the three annual reviews which had been carried out. In the view of the Yugoslav Government, it had moved sufficiently in the direction envisaged to be in a position to give full effect to the provisions of the General Agreement under the normal terms of provisional accession. The Working Party discussed with the Yugoslav delegation the requirements of various provisions of the General Agreement and the question whether Yugoslavia's acceptance of the existing provisions and obligations of the General Agreement would afford adequate protection for the interests of other contracting parties in their trade with Yugoslavia, having regard to the particular economic system of the country. In the course of this discussion

the Yugoslav delegation drew attention to various points noted in the reports on the first and second reviews in 1960 and 1961 and Part I of the present report on the third review. In general, the Yugoslav Government considers that, in the Yugoslav economy competition was positively provided by law and was effectively enforced throughout the economy. The trading enterprises enjoyed full autonomy not only in their daily operations but also in the formulation of their trading policies. The system provided adequately for the possibility of entry into any line of trade and for the expansion of any trade facilities if warranted by need. In the view of the Yugoslav Government the mere fact that the economic enterprises were founded on social ownership had no significant effect on the conduct of international trade. The provisions of the General Agreement, therefore, could be applied under the Yugoslav system as effectively as in the countries now in GATT.

28. To sum up, it was the position of the Yugoslav Government that, apart from those provided for in Article II, it could and would accept all the obligations of the General Agreement under terms similar to those provided for in a protocol of accession; that the present economic and trading system of Yugoslavia was such that there was no cause for concern as to the possibility of the provisions and obligations of the General Agreement being rendered ineffective through any special operation within the framework of that system.

29. In the light of this discussion and of this assurance, the Working Party recommends that the CONTRACTING PARTIES agree to the provisional accession of the Government of Yugoslavia. It was understood that, when the time came for the final accession of Yugoslavia under Article XXXIII, this would be effected subject to the satisfactory conclusion of negotiations on customs tariffs in accordance with rules and procedures to be adopted by the CONTRACTING PARTIES and, if necessary, for other matters, to the examination of the application of the provisions of the General Agreement. As regards the provisional accession the Working Party recommends that they adopt the proposed Decision and the Declaration attached hereto.

30. Paragraph 3 of Section D of the Declaration of 25 May 1959 provides that the CONTRACTING PARTIES should, at this time, consider whether that arrangement should be terminated, modified or continued. The adoption of the new Declaration should be regarded as an act by the CONTRACTING PARTIES in fulfilment of that obligation. It may be noted that the proposed Decision provides that the Declaration of 25 May 1959 shall be terminated on the date on which the new Declaration shall have entered into force for Yugoslavia. In this connexion the Working Party wishes to place on record its understanding that, whilst the 1959 Declaration would thus cease to have legal effect, signatories to that Declaration would continue to apply de facto the provisions of that Declaration in their trade with Yugoslavia pending their acceptance of the new Declaration.

ANNEX I

Draft Decision on the Participation of Yugoslavia
in the Work of the CONTRACTING PARTIES

I

Considering that the CONTRACTING PARTIES have approved the text of, and have opened for acceptance, the Declaration of /12/ November 1962 on relations between contracting parties and the Government of the Federal People's Republic of Yugoslavia;

Taking account of the preambular considerations and provisions of that Declaration;

Noting that the said Declaration requests the CONTRACTING PARTIES to perform such functions as are necessary for its implementation; and

Desiring that the Government of Yugoslavia, pending its accession, shall be associated in the discussion and deliberations of the CONTRACTING PARTIES;

The CONTRACTING PARTIES

Decide

1. To invite the Government of Yugoslavia to participate in sessions of the CONTRACTING PARTIES and of subsidiary bodies established by the CONTRACTING PARTIES;
2. To accept such functions as are necessary for the operation of the Declaration referred to in the preamble to this Decision;
3. To make arrangements for tariff negotiations between contracting parties and Yugoslavia as soon as practicable after the entry into force of the definitive Yugoslav customs tariff.

This Decision shall continue in effect until the accession of Yugoslavia to the General Agreement following tariff negotiations with contracting parties or until 31 December 1965, whichever date is the earlier, unless the CONTRACTING PARTIES agree to extend it to a later date.

II

Considering that paragraph 3 of Part D of the Declaration of 25 May 1959 on relations between contracting parties and the Government of Yugoslavia provides that, in the course of the third annual review pursuant to Part C of that Declaration, the CONTRACTING PARTIES shall consider whether that arrangement shall be terminated, modified or continued;

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Having regard to the adoption of the Declaration of 12 November 1962 and the Decision set out in Section I above;

The CONTRACTING PARTIES

Decide that the Declaration of 25 May 1959 shall cease to have effect as from the day on which the Declaration of 12 November 1962 shall have entered into force for the Government of Yugoslavia; and that the related Decision of 25 May 1959 shall cease to have effect as of today.

ANNEX II

Draft Declaration on the Provisional Accession
of the Federal People's Republic of Yugoslavia

The Government of the Federal People's Republic of Yugoslavia (hereinafter referred to as the "Government of Yugoslavia") and the other governments on behalf of which this Declaration has been accepted (hereinafter referred to as the "participating governments");

Considering that the Government of Yugoslavia on 17 October 1962 made a formal request to accede to the General Agreement on Tariffs and Trade (hereinafter referred to as the "General Agreement") in accordance with the provisions of Article XXXIII of the General Agreement, and that the Government of Yugoslavia will be prepared to conduct the tariff negotiations with contracting parties which it is considered should precede accession under Article XXXIII, as soon as such negotiations become practicable after the adoption by Yugoslavia of a definitive customs tariff;

Considering that trade relations between the Government of Yugoslavia and most contracting parties to the General Agreement have, for three years, been governed by the Declaration of 25 May 1959 which was designed to be a transitional stage until Yugoslavia was in a position to apply for accession under Article XXXIII;

Considering that the Government of Yugoslavia, pursuant to the provisions of the said Declaration, has, in the development of arrangements affecting its commercial policies, moved progressively towards a position in which it can give full effect to the provisions of the General Agreement;

Considering that the Government of Yugoslavia, pending accession under Article XXXIII, is prepared to accept the obligations of the General Agreement;

Considering the desirability of basing the trade relations between Yugoslavia and contracting parties upon the General Agreement as soon as possible, and consequently the desirability of providing for the provisional accession of the Government of Yugoslavia to the General Agreement as a further step towards its accession pursuant to Article XXXIII,

1. Declare that, pending the accession of the Government of Yugoslavia to the General Agreement under the provisions of Article XXXIII, which will be subject to the satisfactory conclusion of negotiations on customs tariffs in accordance with rules and procedures to be adopted by the CONTRACTING PARTIES and, if necessary for other matters, to the examination of the application of the provisions of the General Agreement, the commercial relations between the participating governments and the Government of Yugoslavia shall be based upon the General Agreement, subject to the following conditions:

- (a) The Government of Yugoslavia shall apply provisionally and subject to the provisions of this Declaration (i) Parts I and III of the General Agreement, and (ii) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Declaration; the obligations incorporated in paragraph 1 of Article I of the General Agreement by reference to Article III thereof and those incorporated in paragraph 2(b) of Article II by reference to Article VI shall be considered as falling within Part II of the General Agreement for the purpose of this paragraph.
- (b) While Yugoslavia under the most-favoured-nation provisions of Article I of the General Agreement will receive the benefit of the concessions contained in the schedules annexed to the General Agreement, it shall not have any direct rights with respect to those concessions either under the provisions of Article II or under the provisions of any other Article of the General Agreement.
- (c) In each case in which paragraph 6 of Article V, sub-paragraph 4(d) of Article VII, and sub-paragraph 3(c) of Article X of the General Agreement, refer to the date of that Agreement, the applicable date in respect of Yugoslavia shall be the date of this Declaration.
- (d) The provisions of the General Agreement to be applied by the Government of Yugoslavia shall be those contained in the text annexed to the Final Act of the second session of the Preparatory Committee of the United Nations Conference on Trade and Employment as rectified, amended, supplemented, or otherwise modified by such instruments as may have become effective by the date of this Declaration.

2. Request the CONTRACTING PARTIES to the General Agreement (hereinafter referred to as the "CONTRACTING PARTIES") to perform such functions as are necessary for the implementation of this Declaration.

This Declaration, which has been approved by the CONTRACTING PARTIES by a two-thirds majority, shall be deposited with the Executive Secretary of the CONTRACTING PARTIES. It shall be open for acceptance, by signature or otherwise, by the Government of Yugoslavia, by contracting parties to the General Agreement and by any governments which shall have acceded provisionally to the General Agreement.

This Declaration shall become effective between the Government of Yugoslavia and any participating government on the thirtieth day following the day upon which it shall have been accepted on behalf of both the Government of Yugoslavia and that government. It shall remain in force until the Government of Yugoslavia accedes to the General Agreement under the provisions of Article XXXIII thereof

or until 31 December 1965, whichever date is the earlier, unless it has been agreed between the Government of Yugoslavia and the participating governments to extend its validity to a later date

The Executive Secretary of the CONTRACTING PARTIES shall promptly furnish a certified copy of this Declaration, and a notification of each acceptance thereof, to each government to which this Declaration is open for acceptance.

Done at Geneva this twelfth day of November one thousand nine hundred and sixty-two, in a single copy in the French and English languages, both texts authentic.