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GENERAL AGREEMENT ON TARIFFS AND TRADE

SUMMARY RECORD OF THE SIXTH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 March 1965, at 2.30 p.m.

Chairman: Mr. J. LACARTE (Uruguay)

1. Agricultural policies (L/2384, L/2388 and L/2389)

The CHAIRMAN recalled that, under the programme for the expansion of international trade, initiated in 1958, the CONTRACTING PARTIES had appointed a committee to study the use by contracting parties of non-tariff measures for the protection of agriculture or in support of income for agricultural producers and the agricultural policies from which these measures derived. The Committee had been instructed to examine the effects of these measures on international trade and contracting parties had been invited to notify substantial changes in their agricultural policies. These notifications had then been referred to Committee II for examination. The Committee had recently examined the changes in the agricultural policies of the six member States notified by the European Economic Community arising from the progressive implementation of the common agricultural policy. The commodities concerned were dairy produce, beef and veal and rice. The Committee had also examined changes notified by the United States on import legislation regarding meat and by the United Kingdom concerning recent developments in agricultural policy relating to cereals and bacon. Reports on the three consultations had been distributed in documents L/2389, L/2384 and L/2388.

Mr. LUSSER (Switzerland), the Chairman of Committee II for the recent consultation, in presenting the reports of the Committee, observed that the Committee had commenced its work with a technical examination of the new legislation in the three countries concerned. This examination had been particularly useful in the case of the European Economic Community because of the complexity of the new Regulations. Information provided by the representatives of the Community had contributed to a better understanding of the new trade mechanisms. In his view, all the members of the Committee had been conscious of the opportunity presented by these consultations and were desirous that similar consultations should be held as and when new Regulations were introduced by the Community on other products or when substantial modifications were made to those which had already been the subject of consultation. Several members of the Committee had considered that, because these Regulations had only recently been introduced, an assessment of their actual effects on trade could not be made. They had nevertheless expressed their concern on certain elements of the new legislation. These representatives were of the view that the levels of prices set would be of crucial importance in determining the effects of the Regulations on consumption and production in the Community and therefore on its trade with third countries. Concern had also been expressed over the variable levy system which, in the view of certain members of the Committee, effectively insulated producers in the Community from all price competition from third countries. Other elements of the Regulations which had caused some disquiet were refunds and safeguard clauses.

The Committee had also had most useful discussions with the United Kingdom concerning its new cereals policy and the import régime for bacon and with the United States in connexion with its new legislation on beef. In conclusion he thanked the delegations of the consulted countries for the most useful information they had furnished during the consultations.

Mr. DONOVAN (Australia) expressed his gratitude to the representatives of the Community for facilitating an understanding of the Regulations on beef, dairy produce and rice. The report, besides providing a good technical explanation of the mechanics of the Regulations, served to highlight the concern of third countries over certain of their provisions. In this connexion, he noted that the Commission had been accorded wide discretionary powers. The Regulations could be implemented in a manner which would effectively insulate Community producers from outside competition with the result that third countries would be relegated to the position of residual suppliers. The levels at which future guide prices for beef and the threshold and target prices for dairy produce were set would, of course, be crucial in determing whether exporting countries would be given reasonable access in the Community for those commodities. During the consultation several delegations had expressed their fears that the high level of beef prices existing in the Community market in 1964 might lead to the setting of still higher prices in future. It was a matter of regret that the Council of the Community had, since the conclusion of the consultation, found it necessary to increase the lower and upper limits of the beef guide price by DM25 and DM10 per 100 kgs. respectively, a move which would seem to increase the possibility of levies being applied on imports. The introduction of levies would produce an unfortunate element of uncertainty into international trade in beef.

He recalled that, during the 1962 consultations on cereals, the representative of the Community had confirmed that "the refund system would be applied in conformity with Article XVI of the General Agreement and, if special difficulties from the refund system arose in respect of third countries, the normal procedure under this Article, or under any relevant Article in the General Agreement, would be followed". In the recent consultation, however, the Community representative had rejected the view that the refunds were essentially export subsidies and therefore notifiable under Article XVI. This had introduced an element of uncertainty as to whether the Community recognized GATT's competence to examine the operation of the refund system under Article XVI as the need arose. This lack of clarity on the Community's attitude to the applicability of the GATT to the refunds had induced some similar doubts as to whether the safeguard clause, which the Community had confirmed would be applied in terms of Article XIX, would be notified to GATT.

In view of the facts that the Regulations had only recently been introduced and that important elements relating to their implementation were missing, Australia supported the view that the current consultation should be regarded as incomplete as it had not permitted an examination of their effects on international trade in accordance with the terms of reference of Committee II. A decision on this matter could, however, be held over until the completion of the present trade negotiations. Mr. Donovan noted that the Community had stated their willingness to notify and consult on significant or substantial changes in their Regulations. In the view of the Australian delegation, the agreement reached by the Council of the Community in December 1964 on the common level of prices for cereals constituted such a "substantial change" and, as such, would justify a review of the 1962 consultations on cereals.

Mr. MAHKLOUF (United Arab Republic) expressed appreciation of the work of the Chairman in directing the discussion in the Committee and for the co-operation of the representatives of the Community for the patient and comprehensive manner in which they had responded to the many questions posed. The United Arab Republic was an important and efficient producer of rice. In 1957, 16 per cent of her rice exports had been sold to the member States of the Community but currently the Community absorbed only 8 per cent of rice exported. The United Arab Republic was concerned about the effects of the new Regulation on its trade in an important traditional market. He noted the view of the Community that the safeguard clause, if implemented, would be in conformity with Article XIX. In the view of his delegation, the application of quantitative restrictions in cases of market disruption was not merely an internal measure as far as notification to and consultations with the CONTRACTING PARTIES was concerned. It was also a cause of regret that in certain circumstances the cheapest offers need not be regarded as the c.i.f. "price" in terms of the Regulation. This concept should be applied carefully. The preferences accorded by the Community to Associated States and Overseas Countries and Territories could also have harmful effect on the trade of third countries. In this connexion he attached importance to the statement by the representative of the Community that these preferences were transitional in nature.

The United Arab Republic was dependent on the export of a limited range of commodities and, in order to lessen the reliance of the economy on cotton, had, in their five-year Plan, placed considerable emphasis on rice production and it was envisaged that the acreage devoted to rice would, in future, be second only to that of cotton, acreage of which would be decreased slightly. It would be most regrettable if the considerable efforts which were being devoted to the increase in production of exports of rice were to be frustrated by the loss of an important traditional market. The United Arab Republic attached the greatest importance to continued access to the European Economic Community for her rice.

Mr. PRESS (New Zealand) said that his delegation considered the consultations as representing a unique opportunity for gaining an understanding of what were, in some cases, extremely complex measures. Because New Zealand's interests were more immediately and vitally affected by the policies of the European Economic Community, he would concentrate his general remarks on them. The most obvious characteristic of the Community's agricultural policy was the manner in which, in respect of all three of the commodities featuring in the consultation, the domestic market was insulated from the international market and the competition of efficient third country suppliers. The levy system operated to cancel out any cost advantage third countries might enjoy. This was, he suggested, contrary to the policy enunciated in Article 39 of the Rome Treaty of "ensuring the rational development of agricultural production and the optimum utilization of the factors of production". A second feature of the Regulations was the element of uncertainty which they introduced into trade in the commodities affected because of the unpredictability of the levy. Even where there was room for imports, the fact the levy might be modified, at weekly intervals for dairy products, itself constituted an important disincentive to trade. This point was particularly important for distant suppliers, such as New Zealand, exports from which might require more than a hundred days between the conclusion of a contract and the arrival of a shipment in the Community. The problem also arose, in a more serious form, in respect of import certificates. He had noted that the Community was aware of New Zealand's very great concern on this aspect.

A third element of the Regulations was the facility referred to variously as "export refunds", "restitutions", "rebates", and "subsidies". Whilst not wishing to raise again the question of the compatibility of this device with the General Agreement, he would wish to register New Zealand's very serious concern at its implications for international trade. It would seem that Community exports could, under certain circumstances, be financially assisted to an unlimited extent, although it was appreciated that there were certain procedures to be followed and inhibitions on the manner in which they could be employed in practice. New Zealand did not herself subsidize agricultural exports and he would wish to record the apprehension with which his Government viewed this particular device. New Zealand had on many occasions deplored the absence of satisfactory provisions in the General Agreement to regulate the use of subsidies in the agricultural sector and he would suggest that the CONTRACTING PARTIES should give very serious consideration to this problem in the course of the current trade negotiations.

New Zealand was one of those countries which considered that the recent consultations should be regarded as uncompleted as they had not permitted an examination of the effects of the Regulations on international trade. In respect of dairy products, it had to be noted that the Community Regulation on fresh milk and cream (and other implementing regulations) were not yet in existence. A complete understanding of the Community's dairy policy was not therefore yet possible. It was to be presumed that, as intimated in the consultation by the representative of the Community, the legislation would be submitted to the Committee in due course and thus enable the completion of the examination of the Community's dairy policy.

On the introduction of legislation on beef by the United States, Mr. Press reiterated the concern his Government felt at the possibility of restrictions in a market which was formerly free of quantitative limitation. In the view of his Government, the depression of beef prices in the United States could not be attributed to imports. He trusted that the controls provided for in the legislation would not be implemented. In conclusion, he thanked the consulted countries for submitting themselves to the examination in the Committee and the Chairman for the pleasant and efficient way in which he had conducted the work.

Mr. EVANS (United States) thanked the Chairman for the manner in which he had conducted the consultations and the representatives of the Community and the United Kingdom for the helpful manner in which they had provided information concerning their new legislation. Addressing himself generally to the regulations introduced by the Community, he expressed concern that the variable levy system would effectively prevent price competition for Community producers by third country suppliers. There remained a wide area of uncertainty as to how the new Regulations would be implemented. The apprehension entertained by the United States remained but it was perhaps to be hoped that the negotiations, within the context of the Kennedy Round, would aim at creating conditions enabling third countries to compete for a reasonable share of the Community market and to participate in the growth of that market. The United States regarded the refund system as a subsidy in terms of the GATT and considered, therefore, that the provisions of the GATT applied to them. The United States was one of those countries which considered the consultations as being uncompleted. He noted the statement by the Community, in L/2394, to the effect that the Community was fully prepared to provide information on new agricultural policy measures and he interpreted this as meaning that they would be willing to consult on the measures notified. It was to be hoped that the Community would, therefore, consult with the CONTRACTING PARTIES on changes in price policies, as well as in respect of new Regulations, such as those on fruit and vegetables, and when there was a change from national to Community systems since clearly such changes would have trade effects. He stated, in this connexion, that, although the United States had consulted on the very detailed legislation recently introduced on the control of beef imports, his Government would be willing to continue these consultations should the restricint provisions be brought into force.

Mr. MARQUEZ (Argentina) observed that his country's interest in the recent consultations was evident from the fact that the bulk of her export earnings were derived from temperate agricultural produce, and varied with world price changes for these products. Argentina was convinced of the value of consultations such as those recently held and considered that they should take place as often as possible to enable assessments to be made of the effects of policy changes pertaining to agricultural imports and to provide an opportunity for the discussion of solutions. It should be possible to agree a date for a new consultation after an approach had been made to the Executive Secretary by interested contracting parties.

Argentina was concerned lest the Community's recently introduced Regulations might disrupt world markets for the products affected. Should the price structure in the Community be so high as to encourage production and diminish consumption, the Community would be forced to export, perhaps by means of a subsidy, surplus production, with the effect that the already depressed world market would have to contend with additional supplies to the detriment of prices. This would cause a greater divergency between world and Community prices and a vicious circle would have been created. It was important to recognize the dynamic element of trade equilibrium and to ensure imports an adequate share of increased consumption. The system operated by the Community would seem to conflict with this aim, and the present system might fruitfully be supplemented by controls on domestic production. In conclusion, Mr. Marquez stressed the desirability of the Community's applying the provisions of the new Regulations in a manner which would avoid negative effects. If this did not happen, serious detriment to the trade of the developing countries, such as his own, would arise, with grave international economic consequences ensuing.

Mr. SNELLMAN (Finland) referring to the Regulation on Dairy Produce, of the Community, recalled that the levies introduced under the Regulation for certain types of cheese were equal to the duty bound previously under the GATT. Finland was interested in the export of "Emmenthal", an item bound by the Community, on condition of the fulfilment of certain qualifications. To ensure fulfilment of these qualifications, a certificate, issued by the competent authorities of the exporting country, was presented to the customs authorities of the importing member State of the Community. It was a matter of regret that one of the member States had not so far accepted official certificates issued by the Finnish authorities. This had the effect of preventing exports of Finnish Emmenthal to that member State, a matter which was illustrative of the difficulties caused by the implementation of the Community's Regulations.

Mr. SKAK-NIELSEN (Denmark) noted that the Regulations introduced by the Community had been worked out with considerable difficulty by the six governments concerned who had been guided by considerations of domestic production and stable prices within the European Economic Community. It was not surprising, therefore, that the interests of third countries had come to be regarded as of secondary importance. The common agricultural policy of the Community had given rise to considerable anxiety in Denmark.

Exports of certain commodities, which, two or three years before, had been substantial, had now practically ceased. Furthermore, exports by the Community under the refund system had damaged Danish exports of one commodity in third country markets. The question arose as to whether the new Regulations, particularly those relating to beef and cheese, would have similar effects. It was to be hoped that the Community, with its international trading responsibilities, would become increasingly conscious of the implications for third countries of its agricultural policy and that solutions would be found in the context of the current trade negotiations which would place a reasonable portion of the burden of adjustment in agriculture on the importing countries. Denmark's exports of agricultural products to the EEC loomed large in the Danish economy and, for this reason, Denmark attached great importance to the useful consultations in Committee II. The consultations so far held had occurred soon after the introduction of Regulations and it had not therefore been possible to utilize experience of their practical effects. It was therefore to be hoped that further consultations within Committee II on these Regulations could take place.

Denmark had already welcomed the arrangement on bacon by the United Kingdom and he wished to stress the importance his Government attached to a market-sharing arrangement where price stability was brought about by spreading the burden between the importing country and its suppliers. He hoped that the United Kingdom would be prepared, for example during the Kennedy Round negotiations, to consider the introduction of similar arrangements for other agricultural commodities.

Mr. LANGLEY (Canada) expressed the appreciation of his delegation to the representatives of the consulted countries for the detailed explanations they had provided during the course of the useful consultations. These consultations had enabled a greater understanding of the complexities of the legislation in question. He noted that many apprehensions existed among exporting countries on effects of the new measures on their trade. It was a cause of particular concern to Canada when countries adopted inward-looking and protectionist devices. In the case of the EEC, producers were insulated from the international market and external price competition. The new cereals legislation of the United Kingdom, on the other hand, aimed at a fair balance between domestic production and imports, with market forces alone determining price except in exceptional circumstances where a floor price would be operative.

It was particularly disturbing, at a time when contracting parties were actively engaged in a new round of trade negotiations, that important agricultural importers should introduce new protectionist policies. Canada attached importance to the assurances contained in the three reports that the trade effects of the measures introduced would be marginal. This was however something that could only be judged in the light of experience. For this reason, the consultations undertaken by Committee II should be considered as a continuing process. Consultations should be held, if deemed desirable, whenever new legislation was introduced. If the trade effects of this legislation could only be judged after the lapse of some time, and further consultations would appear useful, the right to hold such further consultations should always be available to the Committee.

Mr. BOSCH (Uruguay) expressed the appreciation of his delegation for the collaboration of the Community in facilitating understanding of the extremely complex Regulations recently introduced. Uruguay was conscious of the difficulties of the Community in seeking to harmonize the different producer, consumer and trade interests involved. Clearly, the wish of the Community to bring about integration in the agricultural field had to be recognized, but this, regrettably, implied the possibility of harm to third country suppliers. Uruguay shared the fears of other third country suppliers over the practical effects of the new Regulations. The time had now come, Mr. Bosch suggested, for earlier Regulations of the EEC, whose trade effects were already discernable, to be examined in the context of the General Agreement, a matter which fell outside the terms of reference of Committee II. It was evident that countries such as his own could not wait for the harmful effects of the new Regulations to be manifested and it was therefore desirable for an examination to be held under the General Agreement aimed at forestalling any such adverse effects. It might be possible, within the context of the trade negotiations, to find solutions to this problem and to find a means whereby the provisions of Articles 39 and 110 of the Rome Treaty could be rendered compatible with one another.

Mr. LUYTEN (Commission of the European Economic Community) speaking on behalf of the Community, referred to the helpful atmosphere which had prevailed during the course of the consultation on the Community's recently introduced Regulations. He expressed his thanks to the Chairman for the skill and efficiency with which he had conducted this consultation. It would be undesirable to re-open the discussion already undertaken in Committee II, but it would seem necessary to reply to certain of the general and some of the more specific points raised by delegations. He noted that, ever since discussions had begun in the GATT on the European Economic Community, concern had been expressed on many occasions on the impact of this regional arrangement on the trade of third-country suppliers. The Community would not deny that in certain cases exports of a particular commodity from a particular country could diminish or even disappear completely; but these decreases were not necessarily and always attributable to the measures adopted by the Community. He was convinced that the overall balance, both as regards agricultural and industrial products, was in favour of the trade of third countries, and the trade figures would confirm this. Increases in trade with the Community were not generally brought to the attention of the CONTRACTING PARTIES. The Community's views on the trade effects of the new Regulations were contained in the report on the consultation. He noted that fears had been expressed over the powers, described as "discretionary" by earlier speakers, of the institutions of the Community in terms of the Regulations. He pointed out that these powers were in fact no different from those enjoyed by national governments in the exercise of their trading policies, and were necessary to enable action, at the Community level, to meet possible emergencies.

The representative of New Zealand had drawn attention to the particular difficulties arising from the workings of the variable levy system for countries geographically distant. He understood that problems could arise, and in one case, for instance, during the consultations, the Community had indicated its willingness to examine this question, but he suggested that distance was often a disadvantage to trade in both directions. The Community was prepared to look into the question mentioned by the representative of Finland in connexion with exports of Emmenthal cheese. The position of the Community on the nature of the refunds was set out in the report. The Community had made a notification in terms of the procedures agreed under the notification procedure of Article XVI. It was also intended to make a notification on the new Regulations. Problems which might be caused by such notifications could more appropriately be dealt with under the procedures adopted by the CONTRACTING PARTIES. The safeguard clause, reference to which had been made in connexion with Article XIX, was necessary, as had been indicated earlier, if the Regulations were to enable the Community to meet emergencies.

The Community was of the view that the consultations within Committee II, on the Regulations in question, had been completed and was prepared to continue to supply information and to hold consultations in cases where this was provided for by the agreed provisions and procedures of Committee II. As to the question of the notification, under these procedures, of the recently fixed price for cereals, the views of the Community on this question had been given in the opening statement of the Community's representative in the consultation, but, irrespective of this, the issue of the notification of the price decision did not appear to be urgent as the general problem of trade in cereals was shortly to be examined in another context.

The CHAIRMAN, summing up the debate in connexion with the Community's regulations, noted that certain delegations had expressed concern over some of their provisions. In particular, reference had been made in this connexion to the wide discretionary powers embodied in the Regulations; the refund system in connection with Article XVI; the safeguard clause in connexion with Article XIX; the fact that the variable levy system insulated domestic producers from world prices; and the uncertainty induced by the levy and import permit systems. A number of these points had been dealt with by the representative of the Community and in particular he had expressed the view that the fears of third country suppliers concerning the practical effects of the common agricultural policy were not generally justified. In those cases where trade flows diminished they were compensated by increases in trade in other items. Some difference of opinion had arisen on whether the consultations held recently should be regarded as completed. The Committee's report dealt with this point. It would seem appropriate to deal with this problem when a request for consultations was received.

Reference had been made, in several paragraphs of the report on the consultation with the Community, to the compatibility of the variable levy system with the General Agreement. Reference had been made by one speaker to the Kennedy Round so that it could be inferred that the results of the negotiations were relevant in this connexion. In the meantime recourse could be made to the appropriate provisions of the General Agreement.

Mr. DONOVAN (Australia), addressing himself to the report on the consultation with the United States, said that Australia found itself confronted with an element of unpredictability in regard to the American meat import legislation. This legislation had, he considered, two disappointing aspects. In the first place it was predominantly directed at restricting imports, which comprised, in the main, boneless manufacturing beef, whereas the difficulties for the United States producers stemmed from overproduction of prime fed beef. The legislation had been introduced, following a United States tariff commission enquiry, without any real evidence being produced to show that imports of manufacturing beef were adversely affecting prime fed beef prices in the United States. Secondly, it was a matter for regret that potentially restrictive legislation should have been introduced at a time when the liberalization of trade was being discussed within the GATT.

Mr. PRESS (New Zealand) observed that his country had already expressed its concern, both bilaterally and in Committee II, over the element of uncertainty introduced by the United States legislation in what had hitherto been a market free of quantitative restriction. New Zealand hoped that the permissive legislation would not in fact be invoked.

Mr. GRUNWALDT RAMASSO (Uruguay) remarked that his Government had, on a number of occasions, made known its views on market limitation agreements, whether voluntary or not. In this instance Uruguay was especially concerned since, at the moment, because of sanitary regulations maintained by the United States, she was not able to supply to that market. He noted, however, that, in the course of the consultation, the United States delegation had stated that the legislation would enable account to be taken of Uruguay's position were she once more in a position to supply.

Mr. EVANS (United States) said that there was no need to reiterate the fact that the United States legislation on beef was "standby" and no restriction on trade had been introduced. The new legislation merely established the powers of the United States Government to take action in future should the need arise and that thus some of the fears expressed might well prove academic. Nevertheless he would draw attention to the safeguards surrounding the application of restrictions should they prove necessary. Imports would, even if the restrictions were introduced, share in the growth of the United States market. His delegation had taken good note of the point raised by Uruguay and this matter would be referred to his Government. He noted however that the legislation appeared to be sufficiently flexible to take into account a situation such as that postulated by the representative of Uruguay.

Mr. CHIDELL (United Kingdom) welcomed the appreciation expressed by earlier speakers of the market sharing arrangements introduced by the United Kingdom. He would draw the attention of his Government to the hope expressed by the representative of Denmark that the United Kingdom would, in the course of the Kennedy Round, give consideration to the extension of such arrangements to other commodities. The United Kingdom intended to maintain its policy of consulting with principal suppliers in connexion with her agricultural policies.

The reports on the consultations with the European Economic Community (L/2389), with the United States (L/2384) and with the United Kingdom (L/2388) were adopted.

Mr. DONOVAN (Australia) requested that the three reports be derestricted forthwith.

This was agreed.

2. European Economic Community Convention of Association with African and Malagasya States (L/2160, L/2243 and Addendum 1 and L/2277 and Addendum 1)

The CHAIRMAN recalled that in February 1964 the Council of the European Economic Community, acting on the instructions of the governments of the member States, had submitted a communication (L/2160) advising the CONTRACTING PARTIES that, on 20 July 1963, the member States of the Community and the African and Malagasy States signed, at Yaoundé, a Convention renewing the association between the European Economic Community and the Associated States. The CONTRACTING PARTIES, at their twenty-first session, had instructed the Council to appoint a working party to examine the Convention in the light of the relevant provisions of the GATT. In preparation for the examination of the Convention by the Working Party, contracting parties had been invited to submit questions on its provisions and implementation. The questions, together with the replies of the member States of the Community and of the Associated States, had been circulated in document L/2277 and Addendum 1. A Working Party, whose composition and terms of reference, appeared in document L/2243 and Addendum 1, had been appointed by the Council in May 1964.

Mr. DO LAGO (Brazil) observed that the Convention was of vast significance, not only from the point of view of the specific trade effects of the Association, but, in particular, because of the principles involved and their relevance to the future of the General Agreement. The earlier agreement had been thoroughly examined in 1957 when the CONTRACTING PARTIES had considered the compatability of the Treaty of Rome with the General Agreement. At that stage a Sub-Group had been established to deal with the Association of the then Overseas Territories in the light of Article XXIV. Brazil was one of those countries which had taken the view, in the Sub-Group, that "the proposals did not conform to Article XXIV but constituted an extension of existing preferential systems contrary to Article I of the General Agreement". The Brazilian Government had carefully examined the new documentation submitted and would reserve its detailed comment

on the legal and economic issues, for the meetings of the Working Party. He would, however, say that its examination had not provided the Brazilian Government with any evidence of the compatability of the Association Convention with the General Agreement. On the contrary, the Convention would not seem to represent a free-trade area as provided for in Article XXIV but rather a series of eighteen distinct bilateral preferential arrangements extending those provided for in Article I. While recognizing the need for flexibility, his Government considered that, in this case, the outcome would not be the freeing of trade within an area, but the establishment of a number of bilateral trade flows providing assistance to the Associated States through trade discrimination. In this connexion it should be recalled that in the UNCTAD a recommendation had been adopted to the effect that existing preferential arrangements between developed and developing countries should be abolished pari-passu with the effective application of international measures providing at least equivalent advantages for the developing countries affected.[1]

Brazil was keenly interested in the efforts of other developing countries to raise their living standards and would continue to support them in these efforts. It was, however, felt that measures taken by less-developed countries to this end should conform to the provisions of the General Agreement and to the principles of the aforementioned UNCTAD recommendation. It would seem that a process of trade diversion resulting from Association had begun and was likely to continue. There was an element of trade diversion in every preference of a commercial nature and it was the third countries outside the preferential arrangements that bore all the sacrifices arising from the discriminatory effects of such preferences. The Brazilian delegation intended to participate actively in the Working Party whose work it considered to be of the utmost importance. Any position adopted by the CONTRACTING PARTIES on this issue would establish an important precedent.

Mr. EVANS (United States) stated that his delegation looked forward to participating in the work of the Working Party and shared some of the misgivings of Brazil and other contracting parties. There was one aspect of the Convention which could be regarded as satisfactory and that was that nothing in it required the Associated States to act in a discriminatory manner in respect of protective and revenue duties and quantitative restrictions, and it was to be hoped that they would not introduce preferences.

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[1] E/CONF.46/L.28, Annex A, Section IIA, paragraph 6.

Mr. ASTRAWINATA (Indonesia) observed that, in the past, representatives of the European Economic Community had consistently replied to the concerns expressed on the trade diversion effects of the Rome Treaty by pointing out that its provisions had not as yet led to harmful trade effects for third countries. The matter was not, of course, as simple as the Community would have other contracting parties believe. The fact that, to date, events had not borne out the concern expressed by third countries did not mean that this concern was unfounded because the full impact of the common external tariff would only be felt by third countries at the end of the Community's transitional period. Thus the concern of Indonesia was not merely in relation to what was happening at present, but was explicable in terms of what was likely to happen in the near future with the completion of the customs duty arrangements being undertaken by the Community. There could be little doubt that the consequences of this exercise for third countries would be serious. The establishment of the common external tariff and full preferential margins throughout the Community would have the effect of practically excluding a number of Indonesian products from the Community market.

Indonesia was not in favour of regional trading arrangements because, although they might have stimulating effects on the economies of the countries involved, they were contrary to the principle of free access to markets to which Indonesia adhered. However, as regional communities continued and even increased in number, Indonesia was forced to accept their existence but did insist that they be trade-promoting and not trade-diverting. Thus, although Indonesia did not object to African States co-operating or even associating with the Community, it would ask that this association should not be to the detriment of third countries which were making strenuous efforts to raise living standards. There were other ways by which the development of the Associated States could be promoted by the Community which, he suggested, would be preferred by the African States themselves.

In reply to question 7 posed in L/2277, an answer had been given to the effect that the General Agreement recognized the desirability of increasing freedom of trade by the development, through voluntary agreements, of close integration between economies. This reply had avoided answering the question which was whether the arrangements between the Associated States and the Community would be detrimental to the exports of third countries. Similarly, the reply of the Community to question 8, to the effect that the Community did not believe that the Convention would result in monopolies in the Community market for certain raw materials for the Associated States, would not seem correct. In the view of the Indonesian Government, the terms of the Association Convention and the financial and technical assistance being provided by the Community to the Associated States would lead to a considerable increase in their productive capacity of raw materials which would be marketed in the Community where the Associated States enjoyed preferential entry. Gradually, therefore, the Associated States would obtain a near monopoly of supply for the commodities concerned. Thus, whilst it might not be the intention of the Community that raw materials would be supplied solely by the Associated States, this might be the ultimate result. The Indonesian delegation expected that such matters would receive full attention in the Working Party but he suggested that they were also relevant to discussions in the Kennedy Round. Eventually freedom of world trade and promotion of world trade which were the aims of GATT, could only be achieved when discrimination was abolished

Mr. SWARUP (India) stated that, although his delegation would reserve its more detailed comments on the Association Convention for the Working Party, he wished to give some preliminary views on its provisions. He recalled that Sub-Group B of the special committee established to deal with the Rome Treaty had reported that most of its members considered that the Association arrangements for the then Overseas Territories were incompatible with Article XXIV of the General Agreement. The point raised in the Sub-Group was the fact that the Association constituted a new trade arrangement which had not been envisaged during the Havana discussions or in the framework of Article XXIV. At that time the view had been expressed that Article XXIV was not a perfect legal text. No attempt had, however, been subsequently made to remove the imperfections of the Article, but in the meantime developments of a far-reaching political and economic character had occurred. In the 1957 discussions it had been claimed that the Association agreement aimed at a free-trade area relationship. Now it would appear, from the reply to question 1 in L/2277, that the Convention provided for the establishment of free-trade areas. It would seem, therefore, that the provisions of Article XXIV did not apply to the Convention; but of course this legal point could be left to the Working Party.

In 1958 the CONTRACTING PARTIES had postponed consideration of the legal issues involved in the Rome Treaty and had decided to seek solutions to the practical problems it created. Since then the Overseas Territories had achieved independence and were now represented in the GATT and thus would be able to obtain an idea of the problems arising for third countries from the provisions of the Convention. India was sympathetic to the difficulties encountered by the Associated States in their economic development but recalled that, in the UNCTAD, in which the Associated States had participated, the developing countries had been able to evolve certain agreed views including the recommendation referred to by the representative of Brazil. Also relevant in this context was General Principle 8 of the Conference. In terms of the Convention the Associated States previously enjoying preferences in one of the member States of the Community would now enjoy preference in the markets of all six. This enlargement of preferences for the Associated States was desirable but it was to be hoped that it would be taken to its logical conclusion, in accordance with the provisions of Principle 8 of the UNCTAD, and extended to developing countries as a whole.

An interesting new concept had been introduced recently when the Common External Tariff on certain items of interest to the Associated States had been reduced. This was the provision of financial assistance to offset the loss of preferential trading opportunities. It might prove possible to extend compensation through financial assistance when similar situations arose. Whilst not commenting on the adequacy of the compensation offered, it would seem that the precedent provided was a good one and represented a satisfactory way of overcoming the developmental problems of the Associated States.

Mr. Swarup recalled that the concept of non-reciprocity by the developing countries for concessions by developed countries was embodied in the new Part IV of the GATT. However, Article 3 of the Convention provided for the progressive abolition by the Associated States of customs duties and charges in respect to imports from the member States of the Community. This Article had the effect of introducing discrimination in favour of the member States of the Community against developing countries, including other Associated States, although there was, in this connexion, a three-year moratorium provision in Article 61 of the Convention. This discrimination was not justified on legal or economic grounds and represented the type of reciprocity which was contrary to the non-reciprocity concept embodied in the new Part IV of the GATT. India would, therefore, appeal to the member States of the Community to forego unilaterally the benefits accruing to them under these preferential arrangements and to consider the removal of any discriminatory treatment affecting less-developed contracting parties not signatories to the Convention. In this connexion, it had to be remarked that arrangements entered into by the Community with Greece and Turkey provided for one-way preferential access without reciprocity and his delegation was following closely the discussion on non-reciprocity which were reported in the press as taking place between Nigeri and the Community. It was difficult to see why the Associated States should be called upon to bear a sacrifice, not only in their revenue but also in their freedom of action to accord non-discriminatory treatment to other less-developed countries, when Turkey, for example, had not been required to do so. It would seem fair, therefore, not only to the Associated States, but also to other developing countries, that the moratorium provided for in Article 61 should be extended to all Associated States and that Article 3 should not come into operation. To sum up, it was the view of India that the Community should forego their preferential entry under the Convention, in the markets of the Associated States and that the CONTRACTING PARTIES should grant a waiver to the Associated States, for a limited period, to enable their products to enter the markets in the Community on a preferential basis until such time as larger international measures envisaged could be brought into force. The Indian delegation was prepared to discuss this and arrive at satisfactory solutions to cover such a waiver.

Mr. BOGEART (Dominican Republic) associated his delegation with the views expressed by other representatives including that of Brazil. His Government had sought to find justification, in terms of the General Agreement, for the Convention but it would seem to fail to comply with the provisions of Article XXIV:8(b). Reference to document L/2277 revealed no plan nor schedule for the establishment of a free-trade area. The Convention would seem to fail also to conform to the principles underlying Article XXIV which recognized that a regional grouping should be outward looking.

Mr. ONYIA (Nigeria) said that as he had understood that statements would be of a general character and not such as would prejudice the deliberations of the Working Party, he had not intended to speak. He regretted, therefore, that certain representatives had pronounced on the compatibility of the Convention with Article XXIV, and had made reference to Nigeria's negotiations with the European Economic Community. He considered the latter reference to his country as irrelevant and most unfortunate, the more so because it was culled from newspaper reports on which discussions within the CONTRACTING PARTIES were never based. He was aware of the previous discussions of the implementing Association Convention contained in the Treaty of Rome, but recalled that the CONTRACTING PARTIES had in 1958 postponed a decision on the legal issue in favour of seeking practical measures to overcome the problems it raised for all concerned. After seven years the contracting parties had made little progress in finding practical solutions. Meantime, however, the problems had become acute which made it increasingly necessary and urgent for countries such as Nigeria to take what steps they considered appropriate to arrest any damage to their trade.

Nigeria subscribed to the UNCTAD recommendation on preferences which had been mentioned by some representatives. Nigeria still considered it an ideal solution but, he emphasized, there was an important proviso in this recommendation to the effect that existing preferential arrangements should be abolished pari passu with the effective application of international measures providing at least equivalent advantages for the developing countries enjoying them.

Referring to earlier statements, Mr. Onyia agreed that, in the spirit of Part IV, reciprocity should not be exacted from developing countries by developed countries in any negotiations. He did not see how, by the ordinary meaning of the words or by inference, it could be argued that Article XXIV allowed free-trade area arrangements only as between developed countries exclusively or as between developing countries exclusively but precluded such an arrangement between developed and developing countries. If, in the light of experience, the latter type of arrangement were to be precluded, then it was a matter for contracting parties to consider as a specific proposal which should not bedevil the present discussion on this item. Since free-trade areas and customs unions had trade diverting effects, he could not see the point in advancing it as an argument against the Convention. This was not the same thing as saying that, in the light of Part IV of the GATT, it was necessary to examine the Convention with a view to assessing its impact on the trade of non-associated developing countries. The issue had also been raised as to whether the Convention established a number of parallel free-trade areas or one unified market. This would seem immaterial; it would be more realistic for the Working Party to consider the Convention in the light of all the circumstances giving rise to it, having regard to Article XXIV of the General Agreement. Nigeria would participate fully in the deliberations of the Working Party.

Mr. MAKHLOUF (United Arab Republic) associated his delegation with the views expressed by the representatives of Brazil, India and Indonesia. His country was perturbed by the discriminatory aspects of the Convention. There was now need to adjust trade policies to the new rôle of the less-developed countries in international trade. The United Arab Republic, in its recent submission to the Trade and Development Committee, on preferences, had incorporated the concept that preferences granted by less-developed countries to other less-developed countries should be no less than those these less-developed countries granted to developed countries.[1]

Mr. GRUNWALDT (Uruguay) expressed the support of his delegation for the sentiments, expressed by the representative of Brazil and others, which had served to highlight the effects of the Association Convention on the European Economic Community's trade with Latin American and other non-associated countries. Uruguay extended its best wishes to the eighteen Associated States in their efforts to develop and recognized the importance to them of the Convention. It had to be noted, however, that the preferential system, from which they benefited, discriminated against countries such as his own. In this connexion, he recalled the understanding reached in the UNCTAD, already referred to by earlier speakers, on the desirability of removing preferences. Whilst the Uruguayan delegation did not wish to prejudge the findings of the Working Party, it was concerned at the preferences accorded to the Associated States on agricultural produce of interest to Uruguay which added to the difficulties his country was already facing as a result of the application of the common agricultural policy. Similarly, the preferences granted by the Associated States to the member States of the Community would have the practical effect of excluding from their markets the manufactured products of Latin American Countries which regarded Africa as a potentially important outlet for the products of their secondary industry.

Mr. LOREDO (Peru) stressed that the question of the Convention was of great importance, and that it would constitute a precedent for the future. Peru maintained the views it had expressed in the past on the question of Association and supported the statements made by other representatives including Brazil. Peru would wish to be represented in the Working Party.

Mr. LERENA (Argentina) observed that the problem appeared to be the same as that with which the CONTRACTING PARTIES had been confronted when they had originally examined the Association Agreement. It had then been decided that the legal issue should be set aside and that practical solutions should be sought to the problems arising from the Association. Argentina had not been in complete agreement with this approach since, as a result, the General Agreement was being transferred into a series of dogmatic provisions isolated from reality. He wished to associate his delegation with others which had urged that the Convention should be thoroughly examined from a legal point of view. There was also the problem, however, of remedying the adverse practical effects arising from the Association.

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[1] COM.TD/W.2.

The Convention provided for discriminatory treatment by developing countries in favour of industrialized countries which was unacceptable to his Government. If the CONTRACTING PARTIES had agreed to consider proposals on preferences, an attempt could now be made to harmonize the legitimate aspirations of the Associated States with those of other developing countries. But, because of the inflexible position adopted by certain delegations, his was now in a position of having to object to an Agreement which was clearly in the interests of the Associated States but which embodied discrimination against non-associated States. In the UNCTAD, agreement had been reached that preferences should be removed as and when mutually acceptable alternatives could be worked out. This approach was however being frustrated by certain countries. In conclusion he would repeat that his Government could not accept that solutions to the problems of some countries should be attained at the expense of others.

Mr. RAZAFINDRABE (Madagascar) expressed the hope that the Working Party would meet as soon as possible to enable substantive discussion on the points that have been raised. The question had been posed as to whether or not the Association Convention created a free-trade area. The Associated States considered that arrangements made were compatible with the creation of a free-trade area and with Article XXIV. As regards the UNCTAD recommendation, the Associated States did not exclude the possibility of the harmonization of the arrangements under the Convention with international market organization measures. The UNCTAD had created a working party to discuss this question, but it had not yet met. The GATT Working Party could, in the course of its work, embrace points raised at and conclusions of the UNCTAD.

On the practical effects of the Convention, it was the view of his delegation that it would not have detrimental effects on the trade of non-associated developing countries. In the past trade between the Associated States and the community had stagnated whilst that of non-associated States had grown considerably. The Convention was of importance to the Associated States as a means of facilitating their harmonious development. Madagascar wished to be represented in the Working Party.

Mr. TOURE (Mauritania) stated that the question before the CONTRACTING PARTIES was extremely important. He noted that in discussion reference had been made to substantive points which would be at the core of the deliberations of the Working Party. He considered that it was difficult for other countries to assume, as some had seemed to do, that they were acquainted with the Associated States own vital interests. Representatives had referred to the nature of the

Convention, which, in fact, created a free-trade area. The Association admittedly had discriminatory trade implications, as did all regional economic groupings, but it was not, of course, immutable. His country continued to uphold the agreements to which it had subscribed in the UNCTAD, but, he suggested, these postulated an evolution of world marketing conditions which would permit the introduction of new concrete measures.

Commenting on the reference to the discrimination in the markets of the Associated States in favour of the Community, he pointed out that the Convention did not preclude the introduction by the Associated States of protective customs duties necessary for industrialization. Mauritania would wish to be represented in the Working Party.

Mr. PAPOULIAS (Greece), referring to a remark by the representative of India to the effect that agreement between the Community and Greece was of a preferential character, pointed out that the agreement envisaged the creation, within a fixed time period, of a full customs union between Greece and the Community in accordance with the provisions of Article XXIV.

Mr. EFFOUDOU (Cameroon) noted that many representatives had questioned the compatibility of the Association Convention with Article XXIV. He suggested that it would be difficult to find a means of testing the validity of this contention. It was possible that Article XXIV itself was not sufficiently explicit to enable a judgment. On the question of compensation for developing countries foregoing preferences he pointed out that this might have to be borne by other developing countries in view of the fact that industrialized countries might be unwilling to provide adequate compensation. He also noted that a number of those representatives, which had seemed critical of the preferential arrangements provided for in the Convention, participated themselves in preferential arrangements such as those ensuing from membership of the Commonwealth.

Mr. PHILIP (France) expressed the willingness of his delegation to participate in the deliberations of the Working Party. His delegation was, however, somewhat perturbed by the preceding discussion. It would seem that the same points and arguments which had featured in the 1957 discussions on Association were being resuscitated. He suggested that discussion as to whether the Association Convention was in conformity with the relevant Article of the GATT should be left to a full and objective discussion in the Working Party. He noted the statement by the representative of Indonesia concerning the growth of the Associated States' exports of raw materials and their eventual quasi-monopoly position in the market of

the Community. In recent years the Community had in fact increased its trade with non-associated countries faster than with Associated States. It was necessary that the participants in the Working Party should undertake a thorough examination of the Convention and should avoid adopting a position in advance of this examination.

Mr. Philip recalled that in the UNCTAD there had been a debate concerning the importance of the market access approach against that of price stability. In the end a compromise had been reached, to which the Associated States had contributed by their constructive attitude and their willingness to sacrifice benefits, they presently enjoyed, in order to facilitate the emergence of world-wide marketing arrangements. It would now seem however that the concepts of market organization, stable prices, and guaranteed outlets had been replaced in the thinking of a number of delegations by those of laissez faire. This would result in destroying what had already been achieved in the way of a preliminary basis for world-wide market organization arrangements which were the right of all developing countries. He expressed the hope that these questions could be fully discussed in the appropriate bodies of the GATT.

Mr. SANDONGOUT (Gabon) supported the statements by the representatives of Madagascar and France and regretted that a number of delegations had reached conclusions on the Associated Convention before the detailed examination in the Working Party.

Mr. COLLYMORE (Jamaica) said that he found the discussion on preferences extremely interesting and considered that the record of the meeting would be useful for the deliberations on preferences in the Committee on Trade and Development. He noted that a number of countries which were critical of preferences themselves participated in preferential arrangements.

Mr. AWUY (Indonesia) emphasized that Indonesia's concern over the trade effects of the Convention did not arise from the present situation but was based on the probable trade effects of the full implementation of the tariff provisions of the Rome Treaty.

Mr. TOURE (Ivory Coast), Mr. MAKHLOUF (United Arab Republic), Mr. AGANAYE (Chad) and Mr. EMRE (Turkey) requested that their countries be represented in the Working Party.

The CHAIRMAN stated that the discussion had been useful in clarifying the issues before the Working Party and would provide material for deliberation during its work. A number of requests for membership in the Working Party had been made. The Associated States which had requested membership - Chad, Ivory Coast, Madagascar and Mauritania - would automatically become members in

terms of the Council's Decision as set out in document L/2243, but approval of the CONTRACTING PARTIES was needed in respect of Peru, Turkey and the United Arab Republic.

It was agreed that Peru, Turkey and the United Arab Republic should be members of the Working Party.

3. Nicaraguan duty increases (W.22/9)

The CHAIRMAN recalled that, at the last meeting of the CONTRACTING PARTIES, the representative of Nicaragua had informed the contracting parties that Nicaragua had not been able to complete the renegotiations of bound items necessitated by the alignment of tariffs within the Central American Common Market. It had been agreed to extend the waiver of 23 December 1961 for a period of three years. The text of a decision prepared by the Executive Secretary had been distributed in W.22/9.

The Decision was adopted by forty-five votes in favour and none against.

The meeting adjourned at 6.30 p.m.