

GENERAL AGREEMENT ON
TARIFFS AND TRADE

Preferential Arrangements Among
Developing Countries Negotiated
in GATT

PROTOCOL RELATING TO TRADE NEGOTIATIONS
AMONG DEVELOPING COUNTRIES

Note by the Secretariat

1. This note describes under the following headings the background and objectives of the Protocol Relating to Trade Negotiations Among Developing Countries, and summarizes some of the issues involved in the negotiations which preceded the signature of the Protocol as well as a number of points relevant to its operation:

- I. Background and objectives of the trade negotiations among developing countries
- II. Item-by-item versus linear approach
- III. Non-tariff measures
- IV. Eligibility for concessions
- V. How countries at different stages of development were dealt with in the negotiations
- VI. Consistency of the Protocol with regional arrangements
- VII. Protocol as a framework for concessions which is autonomous and self-enforcing
- VIII. Presentation of Protocol to GATT CONTRACTING PARTIES
- IX. Key provisions designed to take account of problems of individual countries
- X. Operation of the Protocol
- XI. Possibilities for further development

It has been thought that a recapitulative note may be timely and helpful in view of the attention given at UNCTAD IV to economic co-operation among developing countries and the support given in the main resolution on the subject to programmes of inter-regional, regional and sub-regional economic co-operation among developing countries including preferential trade arrangements.

I. BACKGROUND AND OBJECTIVES OF THE TRADE NEGOTIATIONS
AMONG DEVELOPING COUNTRIES

Background

2. The origin of the trade negotiations among developing countries within the framework of GATT can be traced back to the Ministerial meetings of 1961 and 1963 and the Sub-Committee on the Participation of the Less-Developed Countries in the Kennedy Round trade negotiations when the question of preferences among developing countries was first seriously discussed. The Working Party on Preferences set up in pursuance of the 1963 Ministerial Conclusions was instructed, inter alia, to examine "the granting of preferences on selected products by developing countries to all other developing countries¹". The question of setting up preferential arrangements among developing countries was examined by the Working Party at its meetings during 1963 and 1964. It recognized the merit of the exchange of such preferences under certain circumstances for increasing the foreign exchange earnings of developing countries and in diversifying their economies and considered a number of suggestions. In October 1964, the Working Party recommended that a standing committee be appointed to arrange negotiations for the exchange of preferential tariff concessions among developing countries and to perform certain other tasks (L/2282). This recommendation was approved by the CONTRACTING PARTIES in November 1964 when contracting parties were invited to submit concrete proposals.

3. The functions of the Working Party on Preferences were taken over by the Committee on Trade and Development set up in November 1964, inter alia, to keep under continuous review the application of the provisions of Part IV of the General Agreement, and to carry out such additional functions as might be assigned to it by the CONTRACTING PARTIES. On the subject of the exchange of preferences among developing countries, the Committee on Trade and Development established a Group on the Expansion of Trade Among Developing Countries and instructed it, inter alia, "to examine the problems involved in the expansion of trade between developing countries, with particular reference to the rôle of preferences between developing countries in promoting such trade and taking full account of the work done earlier in the Working Party on Preferences and its findings²".

4. In Part IV of GATT, adopted in 1965, specific provisions were incorporated aiming at action by developing countries for the benefit of the trade of other developing countries. Certain proposals concerning the establishment of

¹BISD 12th Supplement, page 44

²BISD 13th Supplement, pages 84-87

preferential arrangements among developing countries with a view to facilitating their mutual trade were considered by a Working Party on Preferences and also in the Group on Expansion of Trade Among Developing Countries of the Committee on Trade and Development. In February 1966, the Group reached the conclusion that the establishment of preferences among developing countries, appropriately administered and subject to the necessary safeguards, could make an important contribution to the expansion of trade among these countries and to the attainment of the objectives of the General Agreement. The Committee on Trade and Development endorsed this conclusion and agreed that before an attempt was made to draw up specific legal provisions or formulae for the exchange of such preferences it would be useful to see what concrete proposals or arrangements might in practice be made or negotiated by developing countries acting within the spirit of Part IV of the General Agreement¹. The Committee also recommended that arrangements should be made by the CONTRACTING PARTIES for the examination of such proposals or arrangements when they were received. The Committee's report was adopted by the CONTRACTING PARTIES at their twenty-third session.

Objectives

5. The aim of the trade negotiations among developing countries was to expand trade among developing countries and to widen the markets they provided for one another's exports, through reduction or elimination of the tariff and non-tariff barriers that affected existing trade flows or inhibited the development of new trading possibilities. It was expected that the creation of complementary trade between developing countries would contribute to greater specialization in export production in those countries and help their industries to achieve economies of scale thus, inter alia, also improving productivity.

6. The negotiations were open to all developing countries irrespective of whether these countries:

- (a) belonged to the same geographic region or not; and
- (b) were or were not contracting parties to the GATT.

The participation of a developing country in the negotiations was not intended to create any new rights or obligations between that country and any other participating country in respect of any commitment not covered by the negotiations.

7. The negotiations were concerned with exchanging concessions on tariffs and other barriers to trade. It was considered that it was best to leave it to participating countries, in their bilateral negotiations, to decide on the scope of the concessions exchanged between them.

¹BISD 14th Supplement, pages 136-137

8. It was determined that the concessions resulting from these negotiations should apply on a preferential basis. They are applicable on a multilateral basis and on the principle of mutual benefit to all participating countries. In applying the principle of mutual benefit, the participating countries agreed to take into account the development, financial and trade needs of individual developing countries.

II. ITEM-BY-ITEM VERSUS LINEAR APPROACH

9. The negotiations were carried out on a selective product-by-product basis. The procedures, however, left it open to participating countries to offer tariff reductions on one or more sectors of their imports on a linear basis.

10. Information on the relevant elements in the commercial policy of participating countries was exchanged in the course of bilateral and multilateral consultations between members of the Trade Negotiations Committee of Developing Countries. The secretariat provided to members of the Trade Negotiations Committee details of tariffs and non-tariff import régimes applied in the individual developing countries participating in the negotiations as well as trade data, so that the extent to which particular tariff or non-tariff measures created obstacles for trade flows from other developing countries, could be assessed. These data established that the rôle of the various types of commercial policy instruments in regulating the level and composition of imports varied widely from one country to another and sometimes within the same country from one product to another. National tariffs showed significant disparities in the duties applied to the same items by different countries. Among the non-tariff measures used to regulate the level and composition of imports were primarily, exchange quotas, quantitative restrictions either by value or by volume, discretionary licensing for specific items, advance deposit requirements, obligatory deferment period for external payments, complicated administrative arrangements, etc. In a number of countries bilateral payments agreements also had a significant effect on the direction of trade.

11. From the import regulations analyzed, it appeared that in many countries large sectors of home production were either heavily protected or imports of competing products simply prohibited. Such countries were therefore prepared to grant concessions mainly on products not locally produced, or for which internal production fell short of domestic consumption. Since a number of countries participating in the negotiations were engaged in more or less similar processes of import substitution, the areas for granting concessions were generally found to be those where domestic production was insufficient to meet demand in the consumer and capital goods fields and where raw materials and semi-processed products were required to meet the needs of domestic industry. However, there also appeared to have been instances where countries granting excessively high rates of protection to particular lines of production, were prepared to contemplate some reduction in the level of protection, at least in relation to imports from other developing countries.

12. Because of the concern at the possible impact of concessions on domestic production and taking into account revenue and balance-of-payments considerations, participating countries believed that a systematic exploration of inter and intra-sectoral production and trading patterns in developing countries could be carried out only on a product-by-product basis so that all the relevant factors were taken into account. In some cases, it was necessary to reconcile the objectives of global negotiations with regional and sub-regional arrangements, taking into account the implications for policies of import substitution on a regional basis. In other cases it was noted that an exchange of trade concessions, by encouraging countries to take advantage of existing complementarities of production or specialization could be expected to influence existing substitution policies, particularly if these could be supported by arrangements in production or marketing fields between groups of countries. All this supported the selective product-by-product approach eventually adopted by the negotiating countries who found that they could enter into an exchange of concessions only if they could determine what were their export interests, at what prices they could sell, what were the barriers encountered under existing import régimes, what sort of concession would, in their view, stimulate trade in those products, having regard to other relevant elements such as freight, banking or credit facilities. Such an approach also appeared to make possible parallel consideration of these elements and supporting action to deal with them.

13. The participating countries were also guided by the consideration that any automatic commitments for liberalization of trade between a group of developing countries presupposed some harmonization or co-ordination of investment, exchange rates and trade policies, etc., which could normally be secured only through a comprehensive programme for regional co-operation or integration. It was felt that it was much more difficult for countries in different geographical areas to follow such co-ordinated policies, though the exchange of trade concessions among them could provide a basis for developing production facilities on mutually complementary lines and encourage supporting arrangements in the field of marketing, freight rates and financing facilities. In preferring the product-by-product approach, some countries were also concerned by a possible conflict between a linear approach to trade liberalization and their regional commitments.

III. NON-TARIFF MEASURES

14. The working rules for trade negotiations among developing countries provided that negotiations could cover an exchange of concessions on tariffs and/or any other barriers to trade. Participating countries, in their bilateral negotiations, would decide on the scope of the concessions to be exchanged.

15. Given the relatively limited rôle played by tariffs in certain countries, it was noted that non-tariff concessions such as special quotas or exchange allocations, might assure quick trade results, though if such allocations were made on a preferential basis, for price and quality reasons, the danger of a misallocation of resources had to be taken into account. Where tariffs were supplemented by exchange or quota restrictions, a tariff cut unaccompanied by changes in other restrictions could still help to increase trade, either by ensuring a switch in the sources from which imports were obtained or by helping in the fuller utilization of a quota which for price or other related reasons remained unfulfilled. On the other hand, the liberalization of quotas or the relaxation of certain exchange requirements could have direct effects on trade in many items and also enhance the impact of a tariff cut.

16. In a series of joint consultations and following the earlier provision of information by the secretariat on import régimes, participating countries exchanged information on tariff structures, import control systems, import patterns and import potential.

17. It was established that most participating countries made use of quantitative import restrictions. While many restrictions served both a protective and a balance-of-payments function, only in a limited number of cases was their purpose mainly protective. Countries offering concessions in the form of tariff preferences accepted as a general rule that the effect of a concession should not be offset by an intensification of quantitative restrictions in respect of the relevant products. Where a country found itself compelled to intensify the general level of restrictions for balance-of-payments reasons, it undertook to consult in respect of any intensification of restrictions on products subject to concessions and to seek mutually satisfactory solutions where such restrictions resulted in an impairment of the value of concessions.

18. The particular concessions that might be sought in respect of a quantitative restriction evidently depends on the system applied in the individual countries. Normally such restrictions applied in developing countries take the form of prohibitions, global quotas, discretionary licensing or quotas within bilateral agreements. It was agreed as part of the working rules that the relaxation of restrictions in the form of lifting of prohibitions or an increase in quotas could either accompany a tariff preference granted on the product concerned, thus increasing the trade value of the concessions, or be provided independently. It was also noted that it was possible for countries to undertake a commitment that, where they effected a general relaxation of quantitative restrictions on imports following an improvement in the level of their reserves or their balance-of-payments situation, they would make a particular effort to ensure that products on which tariff concessions had been accorded were included within the scope of the relaxation.

19. It was also recognized that where only certain types of imports were authorized against export performance, the inclusion of a product in the list of permitted imports could represent a meaningful concession. If import deposits and prepayment schemes were used in such a way as to frustrate benefits resulting from the concessions exchanged, participating countries would be entitled to seek adjustment through an appropriate procedure for consultation.

20. However, while participating countries took into consideration the different forms which concessions on non-tariff measures might take and the elements which these might cover apart from general provision for consultation and redress where concessions were nullified by balance-of-payments restrictions or other measures, they found it difficult in the actual exchange of concessions to go beyond noting, as a means of safeguarding the value of the concessions, the existence of certain import régimes in some of the schedules of concessions. For most participating countries, the elimination or reduction of non-tariff barriers touched elements of domestic policies of protection with respect to which they found it particularly difficult to enter into long term commitments for liberalization. They however agreed to undertake a major review of the arrangements negotiated by them not later than the end of the fifth year from its entry into force with a view, inter alia, to examining further what may be done in this field.

21. In the Preamble to the Protocol Relating to Trade Negotiations Among developing Countries, participating countries have stressed the importance of reducing or eliminating non-tariff barriers that affect existing trade flows or inhibit the development of new trading possibilities. The Protocol permits participating countries to exchange concessions on non-tariff measures on the same basis as tariff concessions, i.e. any concessions would be multilaterally applicable among all participants. When the Protocol was submitted to the GATT CONTRACTING PARTIES at their twenty-seventh session, for a decision permitting its implementation and that of the preferential arrangements negotiated within its framework, some contracting parties stated that derogations from the provisions of Article I of the General Agreement had, until that time, been limited in all cases to tariffs. They stated that their governments would have particular difficulty in agreeing to the establishment of preferential arrangements with respect to any non-tariff barriers without the justification for such arrangements having been established. Since the schedules of concessions did not in fact include any concessions on non-tariff measures, they further pointed out that they were in effect being asked to approve a principle of discrimination in the field of non-tariff measures without knowing what the concrete application of this principle might be.

22. In the Decision of 26 November 1971, GATT CONTRACTING PARTIES took note of the objective of trade negotiations among developing countries as that of expanding access on more favourable terms for developing countries in one another's markets through an exchange of tariff and trade concessions directed towards the expansion of their mutual trade and decided to waive the provisions of paragraph 1 of Article I of the General Agreement, to the extent necessary to permit participating countries to accord preferential tariff treatment as provided in the Protocol with respect to products originating in other parties to the Protocol. The GATT waiver does not of course preclude the exchange of concessions on non-tariff measures among participating countries as long as these are applied in accordance with existing GATT provisions. If however, the concessions on non-tariff measures were to depart from these provisions, then a new waiver would have to be applied for or the existing waiver modified. It may be noted that, while the developed countries have at UNCTAD IV pledged their support to preferential trade arrangements among developing countries including those of limited character, the developing countries have for their part agreed that in implementing such arrangements, they will respect their existing international obligations.

IV ELIGIBILITY FOR CONCESSIONS

23. Pursuant to the working rules, the trade negotiations among developing countries were open to all developing countries whether belonging or not to the same geographic region and whether or not members of GATT. Participating countries also agreed that the negotiations would take place on the principle of mutual advantage taking into account the differing situations of different countries, as well as their possibilities for granting concessions in the light of their specific needs and circumstances.

24. At meetings of the Trade Negotiations Committee of Developing Countries, participating countries, on several occasions, referred to the nature of the concessions to be exchanged noting that in view of their development, financial and trade needs, developing countries would not, as a general rule, be able to grant concessions to one another except on the basis of mutual advantage. Requests for concessions would be put forward and offers made on the hypothesis that the benefit of the concessions negotiated would not be automatically applicable to developed countries. It was suggested that where the whole or the greater part of imports into the country granting a concession originated in other developing countries, it would be possible for individual participating countries to establish concessions on individual products which could be applied, not only to other developing countries, but on the basis of the GATT most-favoured-nation rule, to all contracting parties. However, no such concessions were negotiated for inclusion in the schedule annexed to the Protocol.

25. Participating countries considered the question of extension of the benefits of the concessions to all developing countries who were contracting parties to GATT and to other developing countries participating in the negotiations and decided that in order to ensure that the exchange of concessions took place on a mutually beneficial basis, the concessions would apply only between those developing countries which had participated in the exchange of concessions. In taking this decision, the participating countries appear to have been guided by their desire to ensure that all developing countries in a position to make a contribution to the negotiations were encouraged to make the necessary effort to do so.
26. At the same time, the participating countries agreed that the Protocol would be open for accession to all interested developing countries.
27. In the discussions in the Trade Negotiations Committee, there was also general support for the use of the concept of "mutual advantage" or "the principle of mutual benefit" as the basis for the exchange of concessions, instead of the notion of reciprocity. This allowed account to be taken of the development, financial and trade needs of individual developing countries and of both present and future negotiating possibilities, thus leaving it open to countries which may not be in a position to make a specific contribution at a certain point of time to do so in the future.
28. During the examination of the arrangement at the twenty-seventh session of the GATT CONTRACTING PARTIES, some contracting parties suggested that preferences exchanged between participating countries might be automatically extended to all developing countries on a non-discriminatory basis, irrespective of whether the countries concerned were or were not parties to the arrangement. Participating countries stated that they were trying to build up a system of preferences among developing countries through a process of negotiation and that the arrangement established had to be viewed in a dynamic context. If they had followed the rule of automatic extension of concessions to non-participating developing countries, there would have been no interest on the part of many countries, to negotiate concessions. As more developing countries acceded to the Protocol, a most-favoured-nation rule for developing countries in GATT could be expected to evolve. To that end, participating countries had undertaken to facilitate accession of non-participating developing countries. According to paragraph 14, the Protocol was open for accession to all developing countries on terms agreed with the Committee of Participating Countries. In any negotiations for accession, present and future development, financial and trade needs, as well as past trade developments of the applicant developing country, would be taken into account. The Committee of Participating Countries could also agree to accession taking place without negotiations on terms to be agreed with the Committee.

V. HOW COUNTRIES AT DIFFERENT STAGES OF DEVELOPMENT
WERE DEALT WITH IN THE NEGOTIATIONS

29. The specific case of the least-developed countries was also considered in the course of the negotiations. Taking into account the rules for the negotiations, it was suggested that least-developed countries would not be required to make concessions comparable in scope with those made by more advanced participants whose exports were diversified and sophisticated, nor to make concessions unbalanced with the benefits obtained from the negotiations. The participants were in general satisfied that the working rules for the negotiations, which were also subsequently embodied in the Protocol and which provided that in applying the principle of mutual benefit the participating countries would take into account the development, financial and trade needs of individual developing countries, adequately covered this concern.

30. In replying to a suggestion made at the twenty-seventh session of the GATT CONTRACTING PARTIES that reciprocal concessions should not be required from the least-developed countries, participating countries stated that paragraph 14 of the Protocol would enable them to give, on a case-by-case basis, sympathetic consideration to a request from a least-developed country to accede to the Protocol without carrying out negotiations for the exchange of concessions.

VI. CONSISTENCY OF THE PROTOCOL WITH REGIONAL ARRANGEMENTS

31. In the course of the negotiations, a number of participating countries were concerned with the problem of reconciling the obligations assumed by a number of them in terms of arrangements for regional co-operation with those which would arise from their membership of a broader preferential agreement among developing countries. The possibility of introducing in the draft Protocol a paragraph along the lines of Article XXIV of GATT, to permit participating countries to carry out obligations resulting from their participation in a customs union or free-trade area was suggested. After several informal exchanges of view with regard to the relationship of the arrangement with prior treaty obligations and the implementation of commitments resulting from existing or future regional co-operation arrangements among developing countries, the text of a Declaration to be attached to the Protocol was accepted.

32. In the Declaration, participating countries agreed that the implementation of commitments under customs unions or free-trade areas among developing countries would not be affected by the provisions of paragraph 12 of the Protocol. This paragraph provides a procedure for consultation and representation culminating where necessary in authorization by the Committee of Participating Countries of the suspension of concessions, in cases where any participating

country considers that another participating country has altered the value of a concession embodied in its schedule or that any benefit accruing to it under the Protocol is being nullified or impaired. However, if in implementing commitments under customs unions or free-trade areas, a party to the Protocol increases a rate of duty bound in the schedules annexed to the Protocol, the provisions of paragraphs 8 and 9 apply. These paragraphs establish procedures for the withdrawal or modification of concessions and where possible their replacement by equivalent concessions. The Declaration also provides that it is the intention of the parties to the Protocol participating in customs unions or free-trade areas to use their best endeavours to ensure that such agreements would not, by virtue of their provisions governing treatment of third countries, prevent the implementation of the provisions of the Protocol and the attainment of its objectives.

33. At the first special session of the Committee of Participating Countries, in reply to questions relating to the compatibility of membership in regional arrangements with acceptance of the Protocol, it was noted that in the course of the negotiation of the Protocol, commitments entered into by the countries parties to regional arrangements who were participating in the negotiations had been taken into account. The negotiations had proceeded in the light of information regarding items affected by such arrangements, their duty levels and the developments planned in the schedules of the arrangements. Individual countries which were parties to regional arrangements had found no major difficulties in accepting the Protocol. It was also noted that any group of countries in a position to undertake common commitments with respect to tariff matters or other aspects of commercial policy could jointly negotiate accession to the Protocol.

VII. PROTOCOL AS A FRAMEWORK FOR CONCESSIONS WHICH IS
AUTONOMOUS AND SELF-ENFORCING

34. In drawing up the ground rules for trade negotiations among developing countries and subsequently in working out the provisions of the Protocol, the participating countries proceeded on the basis that the GATT CONTRACTING PARTIES would concern themselves directly only with such aspects of the arrangement as relate to the rights of contracting parties under the General Agreement. The task of maintaining the value of concessions, of ensuring that they were modified, withdrawn or suspended only in accordance with due processes of consultation and negotiation, of making recommendations or authorizing withdrawal where the value of concessions was being nullified in particular situations or circumstances in respect of the concessions exchanged between participating countries, belonged to the participating countries themselves.

35. In this connexion, it was also noted in the Trade Negotiations Committee of Developing Countries that some of the participants in the negotiations were countries which are not contracting parties to GATT and that, even if the

participating countries were prepared to accept obligations in respect of the integrity of the concessions and the rules to be followed for withdrawal or modification of concessions which were comparable to those in GATT, these provisions and procedures had to be self contained.

36. Pursuant to the provisions of its paragraphs 1 and 2, the Protocol Relating to Trade Negotiations Among Developing Countries is thus a framework for the concessions exchanged between the participating developing countries which have been embodied in the schedule annexed to the Protocol. In accordance, inter alia, with the provisions of paragraphs 4 and 14, the Protocol is an autonomous and self-enforcing arrangement. The Committee of Participating Countries is entrusted with giving effect to those provisions which involve joint action and generally with facilitating the operation and furthering the objectives of the Protocol. It collects statistical and other information necessary for the discharge of its functions. It takes the necessary steps to facilitate the accession of a developing country to the Protocol and makes arrangements for negotiations for the exchange of concessions by an applicant country acceding to the Protocol with or without negotiations on terms agreed with the Committee.

37. One question which could not be left wholly to the competence of the Committee of Participating Countries relates to the eligibility of particular countries to be considered as developing countries for purposes of participating in the Protocol. Since questions relating to the status of a particular country as a developing country were of interest both to other developing countries and to the developed countries, the Trade Negotiations Committee of Developing Countries considered that the final decision in regard to this matter should rest with the CONTRACTING PARTIES.

38. This matter has not so far been raised. However, if the status of a country applying for accession to the Protocol was to be questioned, the matter would need to be considered by the Committee of Participating Countries. Pursuant to the Decision of 26 November 1971, the matter could also be brought to the attention of the CONTRACTING PARTIES if considered desirable.

VIII. PRESENTATION OF PROTOCOL ON TRADE NEGOTIATIONS TO CONTRACTING PARTIES AND ACTIONS TAKEN

39. In October 1971 the Trade Negotiations Committee of Developing Countries, with the unanimous approval of members present, agreed to the presentation to the CONTRACTING PARTIES of the text of a Protocol Relating to Trade Negotiations Among Developing Countries. In his capacity as Chairman of the Trade Negotiations Committee of Developing Countries, the Director-General of GATT transmitted to the CONTRACTING PARTIES the text of the Protocol together with a formal application by

participating countries for a decision permitting the implementation of the Protocol and of the preferential arrangements embodied therein. The Protocol and the application were submitted to the CONTRACTING PARTIES at the twenty-seventh session (L/3598). The CONTRACTING PARTIES established a Contact Group to examine the arrangement.

40. At the concluding stages of the twenty-seventh session, the CONTRACTING PARTIES adopted a decision waiving the provisions of paragraph 1 of Article I of the General Agreement to the extent necessary to permit each contracting party participating in the arrangement set out in the Protocol to accord preferential treatment as provided in the Protocol with respect to products originating in other parties to the Protocol¹.

41. The Decision of 26 November 1971 provides, inter alia, for the annual review by the CONTRACTING PARTIES, on the basis of a report to be provided by participating countries, of the operation of the Decision. After five years of operation, the CONTRACTING PARTIES will carry out a major review in order to evaluate its effects. Before the end of the tenth year, the CONTRACTING PARTIES will undertake another major review of its operation with a view to deciding whether the Decision should be continued or modified. In connexion with such reviews, participating countries are required to make available to the CONTRACTING PARTIES relevant information regarding action taken under the Decision.

42. After ratification by the required number of participating countries, the Protocol entered into force on 11 February 1973.

43. The first and second annual reports of the Committee of Participating Countries to the CONTRACTING PARTIES have been issued as L/4091 and Addenda and L/4238 and Addenda respectively. At its meeting on 8 November 1974, the GATT Council took note of the First Annual Report and agreed that, in future, the reports should initially be presented to the Committee on Trade and Development before being considered by the Council. At its thirtieth session, the Committee on Trade and Development took note of the Second Annual Report. The representatives of participating countries urged all developing countries to consider adherence to the Protocol, so that membership, product coverage and the scope of the concessions could be significantly expanded. At the thirty-first session of the CONTRACTING PARTIES a number of representatives supported activities aimed at the enlargement of the Protocol.

44. The Committee of Participating Countries is entrusted with keeping under review the arrangement and determining whether it should be modified, enlarged or terminated. Pursuant to paragraph 5 of the Protocol, a major review is to be undertaken not later than the end of the fifth year from the entry into force of the Protocol.

¹ BISD, 18th Supplement, pages 25-28

45. The Committee of Participating Countries also keeps under review the possibility of promoting negotiations for additions or enlargements to the schedules of concessions and may, at any time, sponsor such negotiations. This is the key provision of the Protocol as an instrument for an expanding exchange of concessions among developing countries.

46. Special sessions of the Committee of Participating Countries were held in November 1973 and June 1974, to which all developing countries were invited to explore the possibilities for the further expansion of trade among developing countries. The Committee suggested that, in considering accession, interested developing countries might make use of procedures drawn up for this purpose in the light of discussions in the Committee of Participating Countries. The initial phase of such procedures includes the exploration of possibilities for seeking concessions on products of trade interest in the markets of participating countries as well as the relevance to the trade of non-participating countries of existing concessions. Countries making use of the procedures might indicate any particular problems they may have in relation to the Protocol.

47. Pursuant to paragraph 14 of the Protocol, Paraguay and Bangladesh both requested accession without carrying out negotiations on terms agreed with the Committee. The delegations of Paraguay and Bangladesh, in submitting details of their foreign trade régimes, also exchanged views with members of the Committee concerning the background to their applications. On 17 November 1975, the Committee of Participating Countries adopted a Decision and Protocol for the Accession of Paraguay. The request for accession by Bangladesh is being examined by the Committee with a view to reaching a decision at an early date.

48. A number of developing countries have indicated their interest in exploring possibilities for accession to the Protocol in accordance with the procedures drawn up by the Committee of Participating Countries. Some of these countries have exchanged trade data and information with participating countries on products of export interest.

49. A number of other developing countries have also indicated interest in the Protocol and have been provided with relevant information by the secretariat.

50. The Committee of Participating Countries has given consideration to the prospects for initiating a new round of trade negotiations among interested developing countries with a view to enlarging the depth and type of concessions contained in the Protocol, extending the product coverage of the concessions and encouraging the accession of additional developing countries.

51. At meetings of the Committee of Participating Countries in January and April 1976, members generally supported the idea of a new round of negotiations at the appropriate time open to all developing countries in the framework of the Protocol which might cover tariffs and other trade measures. The Committee at its April meeting agreed to revert to this matter at a subsequent meeting.

52. In accordance with the CONTRACTING PARTIES' Decision of 26 November 1971, the introduction or modification of any preferential concessions must be notified to the CONTRACTING PARTIES who should be provided with all useful information relating to the actions taken.

IX. KEY PROVISIONS DESIGNED TO TAKE ACCOUNT OF
PROBLEMS OF INDIVIDUAL COUNTRIES

53. Pursuant to paragraph 14, the Protocol is open for accession to all developing countries. A developing country wishing to accede to the Protocol should apply in writing to the Committee of Participating Countries. The Committee then takes the necessary steps to facilitate accession on terms consistent with the applicant's present and future development, financial and trade needs as well as past trade developments. It makes arrangements for exploratory discussions between interested countries and the collection of data etc., as well as for any negotiations for the exchange of concessions which a participating country may wish to carry out with the developing country seeking accession. Participating countries are required to take the financial, trade and development needs of the applicant country into account in entering into or carrying out such negotiations. In the light of such negotiations the applicant country may accede on terms agreed with the Committee.

54. Paragraph 14 of the Protocol also provides that an applicant country may accede to the Protocol without carrying out negotiations for the exchange of concessions on terms agreed with the Committee. The Committee has agreed to examine such requests on a case-by-case basis.

55. Other Protocol provisions relevant to the situation of individual participants are paragraphs 8 (Special circumstances), 11 (Balance-of-payments measures), 13 (Emergency action on imports of particular products) and 16 (Temporary suspension of rights and obligations).

56. In accordance with paragraph 8 of the Protocol, the Committee may at any time authorize the renegotiation of a concession in special circumstances including those relating to the development, financial or trade situation of the participating country which granted such a concession.

57. Pursuant to paragraph 11 of the Protocol, a participating country which finds it necessary to institute or intensify quantitative restrictions or other measures limiting imports with a view to forestalling the threat or stopping a serious decline in its monetary reserves or to achieving a reasonable rate of increase in its reserves, shall endeavour to do so in a manner which safeguards the value of the concessions embodied in the schedules annexed to the Protocol. Where restrictions are instituted or intensified with respect to products covered by concessions, immediate notice of such action must be given to the Committee of Participating Countries and such action may be the subject of consultations.

58. Paragraph 13 of the Protocol permits the suspension of a concession if imports have increased under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products, to the extent and for such time as may be necessary to prevent or remedy such injury. Before taking action, the importing country is required to give notice in writing to the Committee of Participating Countries and shall afford the Committee and the participating countries having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action. In critical circumstances, consultations shall be effected immediately after taking such action.

59. Paragraph 16 of the Protocol provides that in exceptional circumstances, upon request to the Committee, a participating country may be authorized to suspend temporarily its obligations under the Protocol, subject to such conditions and for such specified period as the Committee shall prescribe.

60. Up to now, participating countries have not invoked paragraphs 8, 11, 13 or 16 of the Protocol.

61. The Protocol also allows for the non-application of the arrangement between particular countries. Paragraph 15 provides that the Protocol shall not apply as between any countries which have not entered into direct negotiations with each other and if either of them, at the time either accepts the Protocol, does not consent to such application.

X. OPERATION OF THE PROTOCOL

62. It will be noted from the annexed tables that, with respect to the eleven participating countries which provided data for the Second Annual Report, trade with other participating countries in products included in the schedules of concessions increased from US\$24.2 million in 1972 to US\$39.3 million in 1973 and

US\$66.3 million in 1974, or over 170 per cent between 1972 and 1974. However, this continues to represent a small proportion of imports by participating countries from the rest of the world. Compared with 4.5 per cent in 1972, the share of total imports by eleven participating countries from other participating countries on concessional items increased to about 6.3 per cent in 1974. Over the period under consideration, imports by the eleven participating reporting countries of products subject to concessions from non-participating countries increased from US\$519 million in 1972 to US\$986 million in 1974 or by approximately 90 per cent. Any judgement of these developments would need to take into account the fact that information is not available on other specific factors affecting international trade flows particularly in relation to the participating countries.

XI. POSSIBILITIES FOR FURTHER DEVELOPMENT

63. The statistical analysis carried out by the secretariat both in connexion with the initial exchange of concessions and subsequently in the context of the interest shown by individual countries in acceding to the Protocol indicate considerable scope for expanding the scope and the product coverage of the concessions and also for participation in the arrangement of other developing countries. The analysis shows that there are important complementarities in production and trading patterns which could make possible an exchange of concessions of considerably broader scope. It also suggests that there are areas of high protection where the reduction of barriers by developing countries as part of a joint effort to promote their mutual trade exchanges could be a useful first step towards improved efficiency of domestic markets and domestic industries.

ANNEX

Table 1

Participating country	1974			1975			1972		
	Imports from participating countries as % of imports from world of items included in schedules of concessions	Changes in the value of imports from participating countries (1972=100)	Changes in the value of imports from world (1972=100)	Imports from participating countries as % of imports from world of items included in schedules of concessions	Changes in the value of imports from participating countries (1972=100)	Changes in the value of imports from world (1972=100)	Imports from participating countries as % of imports from world of items included in schedules of concessions	Changes in the value of imports from participating countries (1972=100)	Changes in the value of imports from world (1972=100)
Brazil	10	1,134	125	2	159	107	1	100	100
Greece	6	250	157	6	190	134	4	100	100
India	0.4	383	158	0.2	141	144	0.2	100	100
Israel	5	219	372	2	50	208	8	100	100
Korea	77	691	148	57	302	88	17	100	100
Mexico	4	74	106	4	117	140	5	100	100
Pakistan	6	268	197	0.2		113	4	100	100
Spain	1	138	138	2	229	140	1	100	100
Tunisia	12	313	200	8	111	104	8	100	100
Turkey	10	204	279	6	84	214	14	100	100
Yugoslavia	4	385	328	5	235	216	5	100	100
TOTAL	6	274	194	5	162	152	5	100	100

Table 2
Aggregate Trade in Products Subject to Concessions
Among Importing Participating Countries

Participating country	Value of imports ¹	Imports from	Value of imports ¹	Imports from	Value of imports ¹	Imports from
	1974		1973		1972	
Brazil	3,414.10 (30,059.90) <u>/33,474.00/</u>	India Spain Turkey	480.20 (28,157.10) <u>/28,637.30/</u>	India Spain Turkey	301.00 (26,398.50) <u>/26,699.50/</u>	India Pakistan
Greece	13,468.60 (211,159.10) <u>/224,627.70/</u>	Brazil Egypt India Israel Pakistan Spain Tunisia Turkey Yugoslavia	11,103.20 (179,980.70) <u>/191,083.90/</u>	Brazil India Israel Korea Pakistan Spain Tunisia Turkey Yugoslavia	5,844.20 (126,834.10) <u>/142,678.30/</u>	Brazil Egypt India Israel Mexico Pakistan Spain Tunisia Turkey
India	413.10 (106,976.80) <u>/107,389.90/</u>	Brazil Spain Yugoslavia	152.80 (97,548.30) <u>/97,701.10/</u>	Brazil Spain Turkey Yugoslavia	108.00 (67,513.50) <u>/67,621.50/</u>	Spain Yugoslavia
Israel	837.00 (15,017.00) <u>/16,854.00/</u>	Spain Turkey	192.00 (9,233.00) <u>/9,425.00/</u>	Korea Spain Turkey	381.00 (4,144.00) <u>/4,525.00/</u>	Spain Turkey
Korea	9,353.40 (2,683.00) <u>/12,036.40/</u>	Greece India Turkey	4,094.00 (3,034.00) <u>/7,128.00/</u>	Greece India Turkey	1,354.00 (6,747.00) <u>/8,101.00/</u>	Greece India Turkey
Mexico	1,720.30 (44,819.40) <u>/46,539.70/</u>	Israel Spain	2,715.80 (58,674.00) <u>/61,389.80/</u>	Spain	2,312.10 (41,415.60) <u>/43,727.70/</u>	Spain

Table 2 (cont'd)

Participating country	Value of imports	Imports from	Value of imports ¹	Imports from	Value of imports ¹	Imports from
	1974		1973		1972	
Pakistan	457.00 (7,233.00) <u>7,690.00</u>	Spain Yugoslavia	5.00 (4,393.00) <u>4,398.00</u>	Yugoslavia	170.50 (3,714.80) <u>3,885.30</u>	Spain Yugoslavia
Spain	906.27 (83,941.48) <u>84,847.75</u>	Brazil Chile Egypt Greece India Israel Mexico Pakistan Yugoslavia	1,508.98 (84,855.82) <u>86,364.80</u>	Brazil Chile Greece India Israel Mexico Pakistan Yugoslavia	658.02 (60,979.99) <u>61,638.01</u>	Brazil Chile Greece India Israel Mexico Pakistan Turkey Yugoslavia
Tunisia	12,255.80 (92,686.50) <u>104,942.30</u>	Brazil Greece India Pakistan Spain Turkey Yugoslavia	4,341.10 (50,649.50) <u>54,990.60</u>	Brazil Greece India Pakistan Spain Turkey Yugoslavia	3,905.40 (48,589.20) <u>52,494.60</u>	Greece Pakistan Spain Turkey Yugoslavia
Turkey	9,251.00 (79,756.00) <u>89,007.00</u>	Brazil Greece India Israel Korea Pakistan Spain Tunisia Yugoslavia	3,813.00 (64,197.00) <u>68,010.00</u>	India Israel Spain Tunisia Yugoslavia	4,519.00 (27,301.00) <u>31,820.00</u>	Egypt India Israel Korea Pakistan Spain Tunisia Yugoslavia

Table 2 (cont'd)

Participating country	Value of imports	Imports from	Value of imports	Imports from	Value of imports	Imports from
	1974		1973		1972	
Yugoslavia	14,236.00 (310,484.00) [324,720.00]	Brazil Egypt India Pakistan Spain Tunisia Turkey	10,943.00 (206,514.00) [217,457.00]	Egypt India Pakistan Spain Tunisia Turkey	4,652.70 (95,713.30) [100,366.00]	Brazil Egypt India Spain Tunisia Turkey
	66,312.57 (985,816.18) [1,052,128.75]		39,349.08 (787,236.42) [826,585.50]		24,205.92 (519,353.79) [543,564.71]	

¹ In US\$ '000

- Imports from non-participating countries in brackets ().

- Imports from world in square brackets [].