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C/M/62
14 May 1970
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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
28 April 1970

MINUTES OF MEETING

Held in the Palais des Nations, Geneva, on 28 April 1970

Chairman: Mr. Erik THRANE (Denmark)

1. United States agricultural import restrictions (L/3368)

The Chairman recalled that at its meeting in January the Council had established a Working Party to carry out the annual review required on any action taken by the United States under the Decision of March 1955. The report of the Working Party on its discussion of the fourteenth annual report by the United States had been circulated in document L/3368.

The representative of Australia recorded his authorities' concern with the stringency of United States import arrangements, in particular for dairy products. His authorities were disappointed that the United States had not so far taken the necessary steps within its domestic production programmes to make possible a relaxation on dairy products import quotas. There had recently been sizable increases in United States support prices for manufacturing milk and such developments were likely to further encourage domestic production which would lead to a reduction of total and per capita consumption thereby aggravating an already difficult problem.

The representative of New Zealand recalled that the surplus situation which had been the original reason for granting the waiver had long disappeared. Support prices were high and prices of dairy products in the United States had increased while Government-held stocks were relatively low. There was every reason for the United States authorities to reconsider the import régime, for dairy products in particular. He drew attention to paragraph 20 of the report in which the United States had stated that countervailing duties, in their view, would not provide adequate protection against market disorganization brought about by subsidized exports and their subsequent effect on world prices for dairy products. In his delegation's view this was an unacceptable argument because countervailing duties were designed to give protection against subsidized exports; their inadequacy to protect against non-subsidized imports was no argument.

The representative of Argentina supported the views of Australia and New Zealand and also expressed concern over the restrictions on agricultural products, especially those on dairy products. His authorities felt that the United States could attempt to apply measures more selectively and not extend them to non-subsidized sales. This would help Argentina's exports, such as cheese.

The representative of the European Economic Community recalled that the waiver had been granted in 1955, and that it was a general waiver on agricultural products. It should be borne in mind that it had been granted to the detriment of exporters, without any counterpart from the United States.

The representative of the United Kingdom felt that the extension of the United States import restrictions during 1969 to include imports of milk chocolate crumb was unjustified. He underlined the fact that imports in 1967 had amounted to only 0.05 per cent of total domestic consumption. Even if the increase in imports referred to in paragraph 22 were taken into account the proportion in relation to total consumption would still be negligible since the increase at 43 million lb. was trivial compared with total consumption of milk solids in the region of 116,000 million lb. to 122,000 million lb. It was the United Kingdom delegation's view that there was no justification for such restrictions within the terms of the United States waiver. His delegation continued to hope that a solution to the problems created for British trade by these restrictions would be found. Should this not be the case, his delegation reserved the possibility of taking appropriate action in the General Agreement. He recalled that the United States representative at the Working Party had used the argument that it was necessary to extend restrictions on dairy products because trade tended to shift towards uncontrolled products in order to evade existing limits. This view took no account of the differing circumstances of trade for individual products, not all of which were traded in substitution for one another.

The representative of Canada also expressed his authorities' concern over the United States import restrictions in agricultural trade. It was hoped that the United States would take the lead to move away from this trend.

The representative of Nigeria noted from the report that developing countries were concerned with the implications of the waiver. His delegation was particularly concerned with the implications for groundnuts. He expressed the hope that the United States would consider the views and concerns of developing countries as expressed in the Working Party and in the Council and would take them into consideration.

The representative of Poland said that beyond the question of the United States waiver lay a broader issue; namely, that national solutions to certain problems were directly dependent on the increasingly complex situation in some commodity markets. This called for more efforts leading towards the harmonization of trade in agricultural products.

The representative of the United States stressed that restriction of trade in agricultural products was a world-wide problem, which could only be solved through co-ordination of national policies. While the United States had tried to achieve some balance between consumption and production - through acreage control, marketing arrangements etc. - its efforts had proved inadequate, while other countries had expanded their production through price support schemes. He recalled that at the twenty-sixth session the United States representative had commented on the consensus legislation sent by the Administration to Congress; this legislation aimed at continuing the policy of restoring some balance in agricultural trade. Concerning the remarks made by the United Kingdom on the extension of the waiver to cover chocolate crumb, he pointed out that this product had a large milk component. As could be seen from paragraph 22 of the report imports of this product had increased sizably and did interfere with the United States programme. He also pointed out that the coverage of the programme, i.e. the number of products affected by restraints, was limited and that most of these restraints could be justified under Article XI and therefore did not require a waiver. He added that the United States had reported every year and was prepared to consult with any contracting party who so desired.

The Council adopted the report.

2. Balance-of-payments import restrictions (L/3368)
Reports on consultations with Iceland (BOP/R/38), Israel (BOP/R/43) and Finland (BOP/R/44)

Mr. Petrie (Canada), Chairman of the Committee on Balance-of-Payments Import Restrictions, introduced the reports on the consultations held with three contracting parties in March. The Committee had covered all aspects of the restrictions that were normally dealt with in consultations. In examining the balance-of-payments justifications of the restrictions the Committee, in each case, had based itself on the findings of the International Monetary Fund and had found no inconsistency with the relevant provisions of GATT concerning the level of restrictions.

In the case of Israel the Council had asked the Committee to examine also the Import Deposit Scheme introduced by the Israel authorities in January 1970, in conjunction with a number of other measures designed to remedy the deteriorating balance-of-payments situation and to redress internal disequilibrium. The Committee had examined material supplied by the Government of Israel and had discussed various aspects of the measures with the Israel delegation. The report registered the findings of the IMF on the subject and the views expressed by members of the Committee. In carrying out its examination the Committee had in mind the Council's immediate purpose of ascertaining whether Israel had a genuine need for a measure of this kind, in addition to import restrictions, to safeguard its balance of payments. The Committee had not been concerned with the broader issue of whether import deposits or any other measures were or were not covered by the provisions of Article XII or Article XVIII:b of the General Agreement.

Turning to a more general question, Mr. Petrie said that members of the Committee had expressed concern over the lateness in the distribution of documents issued as the basis of discussion in the Committee. The Committee had agreed on a strict deadline for the distribution of documents and had authorized its Chairman to circulate a note to all contracting parties with a view to informing them of the Committee's decision and enlisting their co-operation. This note, L/3388, also contained background notes on the system of the consultations on balance-of-payments restrictions and should be useful to governments and delegations which expected to take part in the consultations, as well as to those which were not directly involved and therefore not too familiar with the rules and procedures.

With regard to the report of the consultation with Finland (BOP/R/44), the representative of the European Economic Community referred to the EEC's difficulties concerning restrictions on certain agricultural products mentioned in paragraphs 24 and 25. The fact that the Community accepted the report did not imply the withdrawal of its reservation, and did not affect the Community's right to revert to the matter within the General Agreement.

The Council adopted the reports on the consultations with Iceland (BOP/R/38), with Finland (BOP/R/44), and with Israel (BOP/R/43).

3. EEC Associations with Tunisia and Morocco (L/3379)

The Chairman said that in connexion with the discussion of this item of the agenda the delegation of Morocco had been invited to be represented by observers at the meeting. The Council approved the invitation and the Chairman welcomed Ambassador Guessous as the observer for Morocco.

The Chairman recalled that the Council had held a first discussion on the Agreements of Association in July 1969 and had set up a Working Party to examine them. The report of that Working Party had been circulated in document L/3379.

Mr. Meere (Australia), Chairman of the Working Party, said that the Working Party had considered the Agreements in the light of Article XXIV:4-10. Particular attention had been paid to the historical background to the Agreements and to the need for adoption of a pragmatic approach. Several members had been of the view that the Agreements were not compatible with Article XXIV. In particular, concern had been expressed that they might be trade diverting contrary to paragraph 4, that they lacked a plan and schedule and that they did not provide for elimination of restrictions on "substantially all the trade" of the parties. The parties to the Agreements, supported by some members, had maintained that the Agreements were compatible with Article XXIV.

Some other members had expressed the view that it would be appropriate to deal with the Agreements under paragraph 10. Since it was not possible to reach any firm conclusion the Working Party had decided to report the various views to the Council in order to permit further discussion of the matter.

The representative of the European Economic Community said that the report of the Working Party reflected clearly and objectively the arguments put forward on all sides. Having carefully studied the report, however, the Community had not altered its view that the Agreements fell within Article XXIV. He stressed the particular situation of Tunisia and Morocco and their long-standing links with France. The declared objective of the parties was to create free-trade areas in accordance with Article XXIV:5-9. Because of the different stages of development of the parties it was impossible to foresee precisely the evolution of free-trade areas. Given the historical links as well as the determination of the parties to create free-trade areas, the Community considered that the Agreements conformed with Article XXIV:5-9.

The representative of Canada said that his delegation at the last meeting of the Working Party had made a specific suggestion, the text of which had since been circulated in document C/W/163. The suggestion contained the elements of a reasonable compromise. There had been a large body of opinion in the Working Party that the Agreements did not in their present form meet the requirements of Article XXIV. Acceptance of the Canadian suggestion would enable the Council to avoid a situation of simply recording the views expressed and at the same time would offer a basis for effective control over the operation of the Agreements. For the parties to the Agreements, it represented a clear-cut solution offering them legal cover under the General Agreement. On the other hand, it met the point of view of delegations who believed that the Agreements were not compatible with Article XXIV, but left open the possibility of eventual cover under that Article. The proposal bore in mind the historical links as well as the need to deal with the Agreements on their own merits. It was not to be considered as a precedent for future cases.

Commenting on the Canadian proposal, the representative of the Community said it appeared to have the characteristics of a waiver, which had not been requested by the Community. Consequently, his reaction was that it was not possible for the Community to accept the proposal.

The representative of Morocco stressed the historical links and pointed to the fact that the present Agreements had already been envisaged in a declaration annexed to the Treaty of Rome. He hoped that GATT would deal with the Agreements in a manner which safeguarded the interests of Tunisia and Morocco, both developing countries. The representative of Tunisia said that while his country firmly intended to set up a free-trade area with the Community, it did not consider it wise to pursue this objective too quickly given the differences in stages of development. He considered, nevertheless, that the authors of the General Agreement had not intended to make impossible the creation of a free-trade area between developed and developing countries. His delegation could not accept the Canadian suggestion.

A number of representatives, including the representatives of Cameroon, Ivory Coast, Madagascar, Mauritania, Spain, Turkey and the United Arab Republic, considered that the Agreements were compatible with Article XXIV:5-9 having regard to the declared political will of the parties to create free-trade areas and to their differences in development. Moreover, they considered that the CONTRACTING PARTIES should not now change their practice in dealing with agreements of this nature but should be guided by the many precedents which had been established. These delegations accordingly did not support the Canadian suggestion.

The representative of Israel said that it was not surprising that the Working Party had failed to reach definite conclusions, having regard to the complexity of the problem, which related more to economic realities than to legal considerations. She recalled that previous Working Parties on similar cases had been confronted with the same difficulties. In particular, in the two earlier cases of association, i.e. with Greece and Turkey, reservations had been expressed and no clear-cut conclusions had been made. Another case which had been dealt with inconclusively was the New Zealand/Australia free-trade area where the CONTRACTING PARTIES had also adopted a pragmatic course which, in her view, amounted to de facto acceptance of the Agreement under Article XXIV:5-9. It was important that the Council should deal with the two Agreements as well as future agreements with Mediterranean countries along the lines already established, and thus avoid discrimination.

The representative of Jamaica while expressing concern at the proliferation of preferential arrangements considered that the CONTRACTING PARTIES should not adopt new procedures for these cases, having regard to the precedents already created. He suggested that a working party be established to review the interpretation of Article XXIV.

A number of representatives, including the representatives of Argentina, Brazil, Ceylon, Chile, speaking also on behalf of Peru, Japan, New Zealand, Uruguay and Yugoslavia, considered that the Agreements did not in their present form meet the requirements of Article XXIV:5-9. They expressed firm support for the Canadian suggestion which offered a solution on a pragmatic basis. They

considered that the Agreements deserved sympathetic consideration in the light of the historical links between the parties and pointed out that the Canadian suggestion took these links into account. It was important, however, to avoid prejudice to other countries, some of which also had historical links with the Community. Some of these representatives considered that paragraph 10 of Article XXIV offered an alternative solution. A number of representatives also considered that the problems of developing countries should be dealt with in the framework of a non-reciprocal, non-discriminatory generalized preference scheme. Arrangements of this kind were likely to erode the benefits developing countries hoped to obtain from such a general preference scheme.

The representative of Australia did not agree with the views expressed that the present Agreements should be dealt with along the same lines as some other cases in the past. In 1949 the CONTRACTING PARTIES had concluded that consideration of proposals for customs unions and free-trade areas would have to be based on the circumstances and conditions of each proposal.

The representative of India stated that the present situation in which the parties to the Agreement claimed that the Agreements were in conformity with Article XXIV, and several other contracting parties considered it otherwise, had arisen because of the inability of the CONTRACTING PARTIES to take a definitive and final view in regard to similar association agreements. He was in favour of seeking a practical solution which at the same time ensured that the principles of the General Agreement were not violated. The General Agreement itself made provisions for meeting with situations as had arisen in this case, for example, those in Article XXV and paragraph 10 of Article XXIV. He further suggested that agreements of this type between developed and developing countries should not be considered merely in the context of Article XXIV but should also be examined with reference to their compatibility with Part IV.

The representative of the United Kingdom said that the Canadian suggestion was similar to the solution in the case of the Tripartite Agreement. The United Kingdom, along with other delegations, had not shared a view put forward that the Decision concerning the Tripartite Agreement had constituted a waiver. He considered that paragraphs (b) and (c) of the Canadian suggestion providing for consultation did not go beyond the scope of Article XXII of the General Agreement. He stated that if the Canadian proposal, or some variation of it, could be accepted by the parties to the Agreement, his Government could also support it.

The Representative of Sweden said that the Nordic countries regretted the absence of a fixed time-limit for the development of the free-trade areas. They were particularly concerned at possible damage arising from preferential import quotas operated by Tunisia and Morocco in favour of the Community. Having regard to the special circumstances of the case, they favoured adoption of a pragmatic approach and hoped that the Canadian suggestion would serve as a basis for a solution satisfactory to all parties. They also considered it debatable whether the solution would constitute a waiver.

The representative of Switzerland said that the success of the General Agreement had not only been due to its flexibility but also to the determination of the parties to implement it. While he did not consider the Agreements blatantly out of line with Article XXIV, he suggested that the plans of the parties might be further defined through a supplementary instrument such as an exchange of letters between the parties.

The representative of Austria said that paragraph 4 of Article XXIV recognized the desirability of increasing freedom of trade by the development of closer integration between the economies of contracting parties. His delegation considered that Article XXIV was the basis for examination of the Agreements and that the proposal by Switzerland was worthy of consideration.

The representative of the United States said that his Government was opposed to preferential agreements which could damage the interests of all contracting parties over time. It was important to protect the system of non-discrimination which had served the world well, particularly the smaller countries. The United States did not consider that the Agreements were in conformity with Article XXIV. After careful consideration it was not even able to support the Canadian proposal at this stage. Moreover it reserved the right to take measures to secure compensation and adjustment in the event of damage to United States exports.

The representative of Portugal said that the question of whether the proposal by Canada constituted a waiver was an important one. He considered that the appropriate course to adopt was to allow a period of time for reflection and consideration of precedents.

The representative of Canada said that his authorities were open to all suggestions for modification of the proposal. He did not consider it useful to have a discussion on precedents since each case had to be examined on its merits and since the precedents mentioned were not accepted by his delegation. He agreed that delegations should study the matter and appealed to the parties and also to the United States to reconsider the Canadian proposal which took account of historical links as well as the genuine concerns of third countries.

The Chairman noted that the Council had held an interesting discussion in which nearly every member had taken part. However, it had experienced diversion of opinion similar to that as the Working Party had encountered. The parties to the Agreements and a number of representatives maintained that the Agreements were in accordance with the provisions of Article XXIV of the General Agreement. Many other representatives claimed that the Agreements fell short of the requirements of Article XXIV and sought another solution. The discussion had concentrated on the one alternative solution proposed, namely, the Canadian suggestion which had received broad support from a number of representatives. Between these two groups, a smaller group of countries basing themselves mainly on the close historical links, sought some form of intermediate solution. Another representative had

opposed the view that the Agreements were consistent with Article XXIV and was also opposed at present to the Canadian suggestion. The Chairman considered it unrealistic to attempt reconciliation of the conflicting views which had been expressed. He favoured postponing the debate until the next meeting of the Council and recommended that delegations reflect on what had been said and have informal contacts on this subject. He considered that the matter was not one which should be brought to a vote, but that a consensus should be sought. It was agreed that the item would be put on the agenda for the next meeting of the Council.

4. Customs unions and free-trade areas

The Chairman recalled that at the February Council meeting a number of reports submitted by governments and containing information on recent developments in certain customs unions and free-trade areas had been held over for this meeting to enable the Council to have a more fruitful discussion.

(a) Latin American Free Trade Association (L/3336)

The Chairman recalled that the report on developments in the Latin American Free Trade Area had been introduced at the February Council meeting by the representative of Peru. His comprehensive statement had been circulated in document L/3349.

The Council took note of the report.

(b) Arab Common Market (L/3340)

The representative of the United Arab Republic informed the members of the Council that the Common External Tariff of the Arab Common Market would be introduced at the beginning of 1972.

The representative of the United Kingdom recalled that at the twenty-fourth session information had been given to the effect that the elimination of duties and of import and export restrictions would be implemented according to the Common Market's programme, but that there would be a list of exceptions. He enquired whether this list would be available. He also asked that the statistical data in the report be completed so as to enable contracting parties to assess whether the Common Market was leading to more trade rather than to trade diversion.

The representative of the United Arab Republic said that the list of exceptions was permanently under review with the ultimate objective of complete elimination. The secretariat would receive all relevant information in due course. He took note of the request for further statistics and assured the Council that the next annual report would contain as detailed statistical data as possible.

The Council took note of the report.

(c) Central African Economic and Customs Union

The Chairman said that the Director-General had received a letter from the President of Cameroon, on behalf of the Council of Heads of State of the Central African Economic and Customs Union, stating the interest of the Union in the results of the work of GATT and in particular of questions relating to the expansion of trade of developing countries and requesting that the Secretariat of the Union be accorded observer status.

The Council invited the Director-General to respond positively to this request.

The report on the Central African Economic and Customs Union (L/3344) was referred to the next Council meeting to allow time for supplementary information to be issued.

(d) Central American Common Market (L/3364)

Mr. Cordera-d'Aubuisson, representative of the SIECA (the Secretariat of the General Treaty of Central American Economic Integration) presented the report on progress achieved in the Central American Common Market, contained in document L/3364. He drew attention to the table on page 28 of the report which showed that intra-Central American trade had risen to more than $260 million in 1968. This was a demonstration of what could be achieved. He added that at the last Central American Ministers' meeting the first supra-national structures had been established to which would go the first tariff revenues.

The Council took note of the report.

5. Accession of the Democratic Republic of the Congo (L/3376)

The Chairman said that at its meeting in February the Council had welcomed the readiness of the Democratic Republic of the Congo to initiate negotiations with a view to accession, and had agreed to start procedures for dealing with the application. The procedures were well on their way and a memorandum on the foreign trade régime of the Congo had recently been distributed in document L/3376.

The Council established a working party to examine the application for accession of the Congolese Government, with the following terms of reference:

Terms of reference

"To examine the application of the Government of the Democratic Republic of the Congo to accede to the General Agreement under Article XXXIII and to submit recommendations which may include a draft protocol of accession."

Membership

Brazil	Japan
Canada	Nigeria
European Communities and their member States	Norway
Ghana	United Kingdom
Ivory Coast	United States

Chairman: Mr. R.D. Pradhan (India)

6. Trade with Poland

(a) Form and content of notifications (C/W/161)

The Chairman said that the Working Party which had carried out the Second Annual Review under the Protocol of Accession of Poland had requested the secretariat, in preparation for the third annual consultation and in consultation with interested delegations, to prepare a document on the question of form and content of the notifications for the purpose of item I(c) under the plan for the Annual Review. The secretariat's proposal was contained in document C/W/161.

The representative of Poland said that the secretariat's proposal on the form and content of notifications was fully satisfactory. He indicated that for the last Annual Review only a limited number of contracting parties had filed their notifications and expressed the hope that for the next Annual Review all contracting parties would do so.

The representative of Austria supported the adoption of the proposed procedure. He stated however that the procedure would involve a considerable amount of supplementary technical work. This created certain technical difficulties for a small country like his. Nevertheless, the Austrian authorities would try to meet the requirements as set out in the document as soon as possible. In addition to the proposed procedure, Austria would, as it had done in the past, continue to report on its future liberalization methods, by submitting lists of additionally liberalized items in order to convey a picture as complete as possible of the progress achieved in the sense of paragraph 3(a) of the Protocol of Accession of Poland.

The representative of Norway supported the secretariat proposal. He hoped that the notifications would lead to a better understanding of the degree of liberalization in individual countries and the progress being made towards the fulfilment of obligations under the Protocol of Accession.

The representative of the United States queried why countries applying quantitative restrictions were unable to provide even more complete information on the extent and effect of these measures than was asked in the proposal. However, as Poland had accepted the proposal, his delegation would accept it, but

wished to consider the question again next year, to see whether the information submitted would be adequate for meaningful analysis. He added that the United States would provide full information on United States-Polish trade.

The Council approved the secretariat proposal contained in C/W/161. The Chairman asked the Director-General when inviting contracting parties to submit their notifications in preparation for the Third Annual Review to request them to follow the lines as to the form and content of the notification just approved.

(b) Working Party on Trade with Poland

The Chairman recalled that under the provisions of the Protocol for the Accession of Poland the CONTRACTING PARTIES were to hold annually consultations with the Government of Poland with a view to reaching agreement on Polish targets for imports from the territories of the contracting parties as a whole in the following year, and to review measures taken by contracting parties pursuant to paragraph 3(a) of the Protocol for the progressive relaxation during the transitional period of restrictions maintained against imports of Polish origin.

According to paragraph 3(c) of the Protocol, the CONTRACTING PARTIES were required during the course of the third annual consultation to consider setting date for the termination of the transitional period during which import restrictions against imports from Poland could be maintained inconsistently with Article XIII of the General Agreement.

The Council established a Working Party for the conduct of the Third Annual Review on behalf of the CONTRACTING PARTIES with the following terms of reference:

> "To conduct on behalf of the CONTRACTING PARTIES the third annual consultation with the Government of Poland provided for in the Protocol of Accession; to make recommendations concerning the establishment of a date for the termination of the transitional period referred to in paragraph 3(a) of the Protocol; and to report to the Council."

Membership: Argentina, Australia, Austria, Brazil, Canada, Czechoslovakia, European Communities and their member States, Finland, India, Japan, Nigeria, Poland, Sweden, Switzerland, United Kingdom, United States.

Chairman: to be nominated.

7. Greek preferential tariff quotas to the USSR (L/3384, L/3387)

The Chairman recalled that the delegation of Greece had circulated the text of a Special Protocol concluded between Greece and the USSR in December 1969 (L/3387) which provided for special tariff treatment of certain products imported from the Soviet Union within specified quota limits. The delegation of the United States had requested that this matter be discussed by the Council (L/3384).

The representative of Greece stated that his Government was concerned with the problem created by the Special Protocol. In explaining the rationale behind it he said that it was an extension of the trade agreement concluded between the USSR and Greece in 1964. The Protocol was of a limited scope both as to value and as to goods involved. It applied only to imports of certain Soviet products for a total value of not more than US$4,252,000 which represented less than 0.30 per cent of total Greek imports in 1968. The Protocol was valid until 1971. He underlined the compelling reasons for concluding this Protocol. Imports from the USSR had declined considerably because of Greece's association with the EEC. As a consequence Greek agricultural exports to the USSR, for which it was difficult to find a market among the contracting parties, were threatened. With a view to ensuring its balance-of-payments equilibrium and its level of foreign trade with the USSR, Greece had granted special tariff treatment to certain products imported from the USSR. He recalled that such a situation had been foreseen in Article 21 of the Association Agreement between Greece and the EEC. This Article was the basis of the Protocol. In concluding his statement the Greek representative stated that it was not his Government's intention to elude the rules of the General Agreement and it would certainly be prepared to conform to a decision by the Council. He requested contracting parties, however, to take into account commitments undertaken towards less-developed countries, and to consider the conclusion of the Protocol from a practical point of view, as well as, with regard to the special position of Greece to its efforts to achieve balance-of-payments equilibrium and to stable trade relations. He was of the opinion that a practical solution could best be found by a working party.

Many representatives stated that the granting of preferential tariff quotas to the USSR was contrary to the GATT and violated the provisions of Article I. There were in their view only two possibilities of solving the problem: either by eliminating the discrimination by opening the quotas granted to the USSR to all contracting parties, or by abolishing the Protocol. The argument that Article 21 of the Association Agreement between Greece and the EEC was at the basis of the Protocol with the USSR was considered irrelevant with regard to the rules of the General Agreement. In this respect the conclusions drawn up after examination by the CONTRACTING PARTIES of the Association Agreement of Greece with the EEC, adopted on 15 November 1962, could not prejudice the responsibilities of the CONTRACTING PARTIES under the General Agreement or the rights of contracting parties under the relevant provisions of the General Agreement (BISD, Eleventh Supplement, page 57). The report of the Working Party on the Association Agreement made clear that some members considered that unless Greece was prepared to administer tariff quotas, granted in accordance with Article 21 of the Association Agreement to countries with which it had or might have bilateral agreements on a non-discriminatory basis, in accordance with Article XIII:2(d) of the General Agreement, it would be in violation of the provisions of Article I of GATT (BISD, Eleventh Supplement, page 153). The representative of the United States underlined that his country had been one of the countries which had supported these

views expressed in the Working Party on the Association Agreements in 1962. He considered that the present situation clearly justified his country's concern with regard to the possible effects of Article 21 of the Agreement. He concluded that his country's exports to Greece could be seriously hampered by Greece's preferences to the USSR.

Some representatives while noting the difficulties faced by Greece, shared the concerns of other representatives, and hoped that it would be possible to find a solution to the Greek problem in conformity with the General Agreement.

The representative of Chile stated that the General Agreement in its Article XXV provided for a solution in case of exceptional circumstances such as the present difficulties of Greece. In the absence of a request for a waiver, however, he did not support the establishment of a working party.

The Greek representative replied that the intention of his Government had been to request consideration of the problem by a working party, which could discuss the matter more in detail than the Council. He was aware of the non-consistency of the Protocol with the General Agreement, but his Government had preferred to appeal to the CONTRACTING PARTIES for a practical solution.

The Council urged the Greek Government to reflect on the views expressed and to consider appropriate ways for bringing the arrangement into conformity with the rules of the General Agreement. The Council agreed to revert to the matter at its next meeting.

8. EEC - Emergency action on table apples (L/3385)

The Chairman drew attention to a communication from the European Communities (L/3385) which notified the introduction of emergency measures in respect of table apples. The delegation of Australia had requested that these measures be discussed in the Council. According to EEC Regulation No. 459/70 of 11 March 1970, imports of table apples into the Community would be subject to import licences for the period 1 April to 30 June 1970. The reasons for the introduction of the temporary measures were an abundant harvest during the current crop year and increased pressure of imports. The Commission had stated that it would meet its obligations deriving from international commitments and would see to it that the level of authorized imports would be in line with traditional imports. The Commission was ready to enter into consultation with interested contracting parties concerned.

The representative of Australia expressed the serious concern of his Government at the adverse effects of this action on Australia's trade. In recent years, Australian exports of apples to the Community had averaged $5 million or one quarter of total exports of apples. This was a significant and important trade in respect of which a tariff binding had been negotiated in the Dillon Round and, in the view of the Australian Government, no threat of increased

imports into the Community had existed. The measures introduced which not only placed ceiling on imports - at a level lower than in the past - but also necessitated import certificates (licences) and deposits, had caused serious trade disruption. In the case of Australia, shipping had to be arranged well in advance, and commitments made in January for apples to arrive in European ports in May. Indeed, packing and shipping were in process when the measures were introduced which were the more serious because of the seasonal nature of the trade. The Australian Government had made written representations to the Commission of the European Communities about this matter on 17 March following earlier written representations about the possible use of the safeguard clause contained in a previous regulation. Further written representations were made on 21 April which pointed out, inter alia, that certain modifications relating to timing and quantity tolerances, whilst being appreciated, fell far short of removing the basic problems created for Australian exports. Australia had sought to achieve a satisfactory adjustment of the matter within a reasonable time, but its efforts had been unsuccessful and there was no option but to bring it to the CONTRACTING PARTIES. He said his instructions were to request the Council to make arrangements for prompt investigation of the matter by establishing the appropriate machinery in accordance with Article XXIII, paragraph 2, of the General Agreement, but it would be a happy outcome if it would prove unnecessary to take such formal action.

The representatives of Argentina, Canada, Chile, New Zealand, South Africa and the United States shared the concerns expressed by the representative of Australia and supported the request that the matter should be dealt with urgently. Several representatives underlined the importance of their exports of table apples to the member countries of the Community, which for countries in the southern hemisphere took place mainly during the time the restrictions would be in force.

The representatives of Canada and New Zealand also drew the attention of the Council to the tariff concessions given during the 1960-61 Tariff Conference. This was the first time that the Community introduced a quantitative restriction on a product subject to a common agricultural policy. The internal market policy had led to an upsurge in production and no efforts had been made to limit this. It was therefore unjustified to pass the problem on to foreign exporters.

The representative of the United States said that the action taken by the Commission could impair existing tariff bindings and was inconsistent with the General Agreement. The action would not only hit exports to the European Communities, but also cause diversion of trade to other markets that were still open. The representative of Argentina stated that his Government had also made written representations on the matter.

The representative of the European Economic Community replied that all major suppliers had been informed of the measures in advance. Furthermore, certain modifications had been made in the regulation with regard to reference period, the basis for import licences and their validity in order to meet as far as possible

the wishes of major suppliers. He recalled that imports of apples into the Community had been liberalized. He did not believe that the measures would have any adverse effects; on the contrary, the regulation constituted a measure of precaution to avoid further difficulties. He also recalled that the Community was an important exporter of apples, and as such had experienced difficulties due to import restrictions in other countries. At the end of April 1970, surplus stocks within the Community amounted to 900,000 tons. In 1969 400,000 tons of apples had been removed from the market for destruction or free distribution; it was, therefore, unjustified to say that nothing had been done to control the supplies. In view of the Commission's declared readiness to enter into consultations with major suppliers, Article XXIII action was not called for. The establishment of the machinery under Article XXIII would cause delay in direct consultations and influence their outcome. Bilateral talks could take place immediately with major suppliers from which imports were usually made during the period 1 April to 30 June.

It was agreed that consultations, bilateral or multilateral, would be taken up expeditiously between the Commission of the European Communities and the countries having a trade interest in the matter. Should these consultations not produce a satisfactory result, the Council would meet without delay, waiving the ten-day notice requirement in the Rules of Procedure, to reconsider the matter and, if necessary, set up machinery under Article XXIII:2.

9. Programme of meetings (C/W/162)

The Council took note of a tentative programme of meetings (C/W/162) envisaged for the period May-June. The Chairman pointed out that some modifications of the programme had already been introduced.