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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL
25 May 1971

MINUTES OF MEETING

Held in the Palais des Nations, Geneva, on 25 May 1971

Chairman: Mr. Erik THRANE (Denmark)

The Chairman proposed that in view of the general interest of the question to be discussed all contracting parties not members of the Council which were represented at the present meeting be co-opted as full members.

The Council so agreed.

1. Generalized System of Preferences (C/W/178)

The Chairman recalled that at their twenty-fifth session in November 1968 the CONTRACTING PARTIES had noted the conclusion reached at the Second UNCTAD with regard to a general, non-discriminatory scheme of preferences in favour of developing countries and had affirmed their readiness to take appropriate action when the scheme had been established. At their twenty-sixth session in February 1970 the CONTRACTING PARTIES had reaffirmed their readiness to take appropriate action on the scheme and had directed the Council to consider the matter at the appropriate time. At the request of a number of prospective preference-giving contracting parties, a communication containing a formal application to the CONTRACTING PARTIES for a waiver in accordance with Article XXV:5 from the obligations under Article I of the General Agreement had been circulated (C/W/178).

Mr. Reed (Norway), spokesman for the prospective preference-giving contracting parties, introduced the request. He stated that the delegations of Austria, Canada, Denmark, Finland, Ireland, Japan, New Zealand, Norway, Sweden, Switzerland, the United Kingdom and the United States, as well as the European Communities and their member States, had requested the Council to consider a draft waiver in accordance with Article XXV:5 from the obligations under Article I of the General Agreement so as to make possible the implementation of a system of generalized preferences. Difficult and delicate consultations had led to the stage now reached. In Resolution 21(II) of the UNCTAD there had been unanimous support for the early

establishment of a mutually acceptable system of generalized non-reciprocal and non-discriminatory preferences which would be beneficial to the developing countries. The elaboration of the system and the implementation of the Resolution had been complex. Throughout, consultations had been held with the prospective beneficiary countries. These had led to the conclusions reached in the Special Committee on Preferences of UNCTAD in October last year, in which there had been a recognition that the preferential arrangements which had been worked out were mutually acceptable to and represented a co-operative effort of both developed and developing countries.

Furthermore, it had been agreed that the prospective preference-giving countries would seek as rapidly as possible the necessary legislative or other sanctions with the aim of implementing the preferential arrangements as early as possible in 1971.

It was as part of this undertaking that the prospective preference-giving countries were now seeking a waiver in the GATT. Since GATT was the major instrument of international trade policy, there was an obligation upon all the contracting parties to take fully into account the provisions of the General Agreement with respect to this departure from the basic most-favoured-nation principle incorporated in Article I of the General Agreement.

The Director-General of the GATT immediately upon the conclusion of the arrangements between preference-giving countries and potential beneficiary countries in October last year had urged that there be no delay in taking the necessary legal steps in the GATT. Since then the question of the GATT accommodation of the arrangements had been widely discussed informally between various delegations.

In view of these consultations, it was not necessary to go into details on the text of the draft waiver. He did, however, emphasize that the waiver was to cover the arrangements as set forth in the agreed conclusions reached in the UNCTAD. There were certain elements of the system which would only be decided upon by individual donor countries at a national level. The lack of specifics as regards the list of beneficiary countries was one such important aspect. Certain general guidelines for a decision on beneficiary countries were presented by the preference-giving countries in the UNCTAD, according to which donor countries would in general base themselves on the principle of self-election. He could confirm on behalf of the preference-giving countries, that the text in the waiver as it was being presented covered the position as laid down in the conclusions in the UNCTAD.

Furthermore, one of the stipulations in the procedures adopted for waivers in the GATT was that there should be arrangements for review on the operation of the waiver. Such provisions were clearly laid down. In view of the fact that the arrangements involved other countries besides the contracting parties and procedures in other international organizations, the donor countries had foreseen the need of practical arrangements being worked out which would make this review effective and avoid duplication.

The representative of India pointed out that the introduction of the Generalized System of Preferences was an historical event. It was an important contribution towards the achievement of one of the principal aims of the General

Agreement, especially of its Part IV. His delegation welcomed the fact that the developed donor countries had now come forward to complete the necessary legal formalities in GATT. He expressed his delegation's appreciation over the donor countries' willingness to give his and other delegations opportunities for extensive informal consultations. It was important to note that all elements of the Generalized System of Preferences had been worked out in the Special Committee on Preferences of UNCTAD and that several other matters would arise out of the system and would be worked out in the UNCTAD. There was, therefore, no need to re-open the issues at this meeting. His Government fully supported the request.

The representative of Peru recalled that economically unequal countries had to be treated unequally. His Government supported the proposed system despite its limitations. He appealed to the contracting parties concerned to take in UNCTAD the necessary political decisions which would permit the compensation of the present deficiencies. In his delegation's view the scheme should extend to all developing countries that were members of UNCTAD.

The representative of Malaysia noted that the time for action had now come. The Council was not gathered to negotiate the Generalized System of Preferences or any issues left outstanding in UNCTAD, but to provide the legal instrument which would permit donor countries to implement the scheme. His Government had observations, even reservations, on the Generalized System of Preferences as it stood, but time was short and this was not the forum to discuss them. His Government supported the draft waiver. He expressed his delegation's appreciation that the donor countries had taken into consideration some of the suggestions made by his Government with regard to the draft text. He considered it important that the waiver should be valid for a ten-year period because it had been agreed that that was the initial period of application of the Generalized System of Preferences.

The representative of Spain expressed his Government's full support for the principles and objectives underlying the proposed waiver, which would enable the implementation of the Generalized System of Preferences. Nevertheless, the text lacked certain precision with regard both to the waiver's operation and to its scope, such as the scope of its application, its date of entry into force and the identity of its beneficiaries. In fact, the waiver was giving the donor countries the right to determine the list of beneficiaries without any limitation. This could lead to discrimination contrary to the objectives of the GATT and the objectives of the Scheme. It was this lack of precision and the freedom granted to the donor countries which caused some doubts to countries like Spain who were perfectly entitled to beneficiary status but who were afraid of being excluded from certain schemes. The representative of Spain stated that his Government would vote in favour of the proposed waiver with the understanding that Spain would be recognized as beneficiary. Should this not be the case, then the vote would be accompanied by a clear reservation to the effect that his Government retained all its rights under the General Agreement if it considered that the System caused prejudice to its interests.

The Chairman confirmed that the draft waiver was without prejudice to any article of the General Agreement other than Article I. Rights under Article XXIII of the General Agreement were, therefore, fully preserved.

The representative of Argentina noted that in her delegation's view, GATT was dealing with an historic event. The matter had first been considered at the 1963 Ministerial Meeting. This lapse of time of eight years was a very long period for developing countries. She therefore expressed satisfaction that rules were now being elaborated which would enable the Generalized System of Preferences to be implemented. In her view, the characteristics of the system should be acceptable to all contracting parties because of the important advantages for developing countries. Her country therefore, supported the acceptance of the waiver.

The representative of Portugal stated that the GATT would not want to delay the implementation of the decisions taken by UNCTAD and within the OECD. However, GATT had the right and the obligation to safeguard, as far as possible, the legitimate interests of the contracting parties in all situations, such as the present one when the definitive wording of the proposed draft waiver was at issue.

The text of the waiver confronted the Council with the following facts: first, though it was known who were going to be the donor countries, there was no information on the exact scope of the arrangements that would be adopted by each of them, the date of entry into force and who would finally be the beneficiaries. It was known that the EEC intended to apply its scheme of preferences on 1 July 1971 and that it was not going to be to the immediate benefit of all interested countries. Secondly, the text put forward was at the very least debatable. While it could be understood that the matter was urgent and that this urgency unavoidably entailed a certain impreciseness, it was not easy to understand why no specific safeguard clause had been provided for so as to attenuate the consequences of such imperfections. Thirdly, since the text did not list the beneficiaries, it would have at least been correct to refer to the generally recognized principle of self-election. Fourthly, the measures that would be taken by the donor countries under the present waiver would be notified to the CONTRACTING PARTIES only after their implementation so that the consultations provided for could take place only after the definitive application of these measures. Finally, it was also necessary to note the absence of an objective criterion to define the benefits which could be unduly impaired as a result of the present arrangement or of the later extension of its scope.

His delegation was convinced that the term "impaired unduly" related to the total or partial loss of a benefit emanating from the General Agreement which would be the consequence not only of an unjust application of the Generalized System of Preferences but also from the very existence of such a system, especially if it was applied in a discriminatory fashion. He regretted that this interpretion had not been stated explicitly.

All these criticisms related merely to the most objectionable points. In fact, a simple comparison between the present text and those of other waivers granted by the GATT under Article XXV:5 would provide more ample material for reflection on the qualities of the present draft waiver.

On a more general level, it was to be noted that his delegation was aware of the importance of an early implementation of the Generalized System of Preferences in favour of the countries which would be beneficiaries and of the importance of the positive contribution which was being expected from these arrangements for the solution of the problems of development. He could approve of the idea of a rapid implementation of these arrangements on the condition that this be made on a truly generalized and non-discriminatory basis. What, in effect, would happen if, as a hypothesis, certain donor countries, basing themselves on subjective criteria, excluded certain countries from the benefit of preferences while they accorded such benefits to other countries of a similar, or even higher level, of economic development? As had been noted by the representative of the United States at the twenty-third session of the CONTRACTING PARTIES, when he referred to the Australian Scheme of Preferences, the result would be that any increase in imports by donor countries from developing countries would be achieved to a great extent to the detriment of other developing countries which were, for one reason or another, not beneficiaries of the preferences. In other words, one would arrive at the absurd situation of requiring some of these developing countries to carry a considerable share of the costs of this operation.

This was why his delegation had difficulties in assuming that the donor countries could envisage such a situation. In this respect, he had taken due note of the statements made by the European Economic Community indicating that technical studies with a view to enlarging the list of beneficiaries were being carried out. In his delegation's view, it was clear that, either due to new factors in the field of international trade, or because of experience acquired through the application of the preferential system, the need might arise for the introduction of corrective measures in order to promote an equitable distribution of the advantages drawn from the system among all participants. If this need arose, it would be for the countries concerned to take the appropriate initiative.

For the time being, his Government reserved its position as to the proposed draft waiver.

The representative of Yugoslavia expressed his readiness to accept the proposed waiver as it stood. Quite a few problems still remained unsolved, but they would have to be dealt with in the appropriate organs of UNCTAD.

The representative of Chile emphasized that the proposed decision was only a beginning. In the course of the operation of the System several improvements to it would have to be made regarding its machinery and operation. The proper forum for this, however, was the UNCTAD and there was no need to carry on in the Council the discussion of issues still unsettled there. His Government supported the proposed text. He paid a tribute to Spain, whose difficulties were well-known but who was, nevertheless, supporting the waiver.

The representative of Cuba recalled that the General Agreement was based on the principles of most-favoured-nation treatment and of the non-extension of preferential agreements. These principles had been diluted by subsequent agreements which were harmful to developing countries. Powerful customs unions and free-trade areas found their basis in highly liberal interpretations of Article XXIV. The form in which such preferential arrangements had been realized, particularly those amongst industrialized countries, had undermined the most-favoured-nation principle and had slowed down the economic growth of developing countries. Considering the problems in a wider context, there was a large contrast between what had been stated and claimed and what in fact had been achieved. The principles which should govern international trade had been weakened by discriminatory policies through preferential arrangements adopted by developed countries and in the case of Cuba, through arrangements which affected it adversely. In recent years the original principles of the General Agreement had been supplemented by additional principles, as a result of repeated demands by developing countries. Of special importance had been the recognition that the application of the most-favoured-nation principle to the relations between developed and developing countries operated to the benefit of the former and to the detriment of the latter. The principle of reciprocity in fact perpetuated inequality between countries. The concept of non-discriminatory and non-reciprocal preferences had now become axiomatic. In this regard, the adoption of the Generalized System of Preferences would certainly constitute a positive step. However, it had to be recognized that this was only a first step. He considered that the text of the proposed draft waiver did not provide for discrimination against any contracting party. Nevertheless, the European Economic Community envisaged, at least for the time being, to limit the preferences granted to members of the Group of 77 only. This initial exclusion constituted a serious problem for his Government. His country had been a victim of embargoes and discrimination from the part of the United States and was being adversely affected by special preferential agreements. In the light of the Agreed Conclusions adopted in UNCTAD his country was entitled to preferential treatment by the EEC; this would also entail a restoration of a just equilibrium of trade between the EEC and his country. It was important to recall that Cuba had the characteristics of a developing country and was included in the list of beneficiaries of the Australian preferential arrangement. Similarly, the General Assembly of the United Nations had clearly recognized Cuba as a developing country. His Government was going to vote in favour of the proposed draft waiver, because it was an important step forward, in spite of the fact that in the first instance Cuba was not included among the beneficiaries in the scheme of one of the donor countries.

The representative of Ghana recalled that his country's present state of industrial development was such that it would not benefit greatly from the Generalized System of Preferences. Nevertheless, his delegation was of the view that enough work had already been done within UNCTAD and that this was not the time to reopen issues. His Government, therefore, supported the draft waiver which had been tabled.

The representative of Indonesia emphasized that the time had come to take positive action on this matter. His Government, therefore, supported the proposed waiver.

The representative of Jamaica said that at each stage in the formulation of the Scheme and the arrangements for implementing it, both beneficiaries and donors had endeavoured to ensure that all the basic elements of the Agreement - the elements of generality, non-discrimination, non-reciprocity - remained intact.

He recalled the statement made by his delegation at the final session of the Special Committee on Preferences on 10 October 1970, reserving the position of the Jamaican Government on the Report of the Committee. In that statement it was emphasized that the Jamaican support of the concept of a generalized non-discriminatory and non-reciprocal scheme of preferences in favour of the developing countries of the world remained firm. It was also pointed out that under the Generalized System of Preferences Jamaica would be sharing its Commonwealth preferences and that at the time when offers of the developed Commonwealth countries were being tabled, Jamaica had been assured that certain compensating advantages would be forthcoming to it through access to additional markets of developed countries under preferential terms. He recalled that one major issue was still unresolved; that was the issue of reverse preferences as related to the offer of one major donor country. His Government considered a satisfactory solution of this problem as being of the most vital importance to the successful operation of the Generalized System of Preferences.

Nevertheless, taking into account the interests of developing countries as a whole, and in recognition of the considerable potential which the Scheme embodied for the improvement in the conditions governing international trade of developing countries, his Government would not oppose the waiver under consideration. This was done on the understanding that Jamaica would benefit under all the individual preferential schemes to be submitted pursuant to this waiver, and that it would receive equivalent advantages to compensate for losses to its economy resulting from implementation of the Scheme. He anticipated that Jamaica would suffer no discrimination as a result of the stand against reverse preferences.

The representative of Trinidad and Tobago recalled a statement made by his delegation to the Special Committee on Preferences of UNCTAD in October 1970, viz that his Government had always supported the idea of a generalized system of preferences for developing countries because of the benefits such a scheme could bring to these countries. His delegation was, therefore, prepared to see validated a preferential system that acknowledged the need for non-discriminatory, non-reciprocal treatment to be accorded to developing countries. In respect of the condition relating to reverse preferences, which was included in the offer of one of the donor countries, his Government's attitude remained the same as expressed last October to the Special Committee on Preferences.

The representative of the Ivory Coast, speaking on behalf of the African and Malagasy States associated with the EEC, said that the waiver was to permit developed contracting parties to grant preferential tariff treatment to developing countries. The objective was to ensure the implementation of generalized systems of non-reciprocal and non-discriminatory preferences negotiated in the UNCTAD. He recalled, however, that the Agreed Conclusions adopted in the UNCTAD Special Committee on Preferences had left certain questions unresolved, such as the question of reverse preferences, which required further consultations between the parties directly concerned before the implementation of the schemes. Since the adoption of the Agreed Conclusions in October 1970 these consultations had not made notable progress. While several developed countries were proposing to implement their systems, it was questionable whether some of the parties concerned were determined to achieve a mutually acceptable solution. He pointed out that the Associated States were amongst the developing countries which would draw very little benefit from the systems, of which, moreover, the scope and final contents were not yet known.

Under such conditions, it was normal that the Associated States were hesitant to engage their future immediately and definitely. However, in order not to delay the implementation of the Generalized System of Preferences, the Associated States could agree that, initially, the waiver as proposed by the developed countries could be adopted for a period of one year.

The representative of Uruguay said that it was obvious that after this waiver was voted upon, the General Agreement would be different from what it had been so far. The decision was of enormous importance, not only for the future of international trade relations, but in terms of the interpretation and the meaning of the General Agreement itself. His delegation would vote in favour of the draft waiver which would make it possible to apply the Generalized System of Preferences as approved by UNCTAD. He would not wish to analyze the general scheme of preferences since the place to do so was UNCTAD, but would refer exclusively to the problem from the point of view of the General Agreement. It should be recognized that equal treatment among States at various stages of development resulted in unfairness and inequalities in respect of developing countries. The non-flexible implementation of the most-favoured-nation clause in international trade, although some positive aspects of it had to be recognized, meant that it would bring about benefits to rich countries and would be detrimental to developing countries. It was obvious that Article I of the General Agreement in its meaning and original text was incompatible with a generalized system of preferences. He considered, however, that the use of Article XXV of the General Agreement in the present case was very debatable. The concept in Article XXV of exceptional circumstances was absolutely different from the present situation and it was only with a wide interpretation of that article that a possible way out could be found. He wished to point out, however, that the objectives which were taken into account in this draft decision were the objectives of the General Agreement since the entry into force of Part IV. Reference to Part IV could not be left aside because the objectives of Part IV, according to which international trade should be an

instrument of progress and development in favour of developing countries, were embodied in the draft decision. He considered that the use of a waiver was not the right approach to the situation. He would have preferred an interpretative statement based on Part IV which would have expressly indicated that nothing in the General Agreement and consequently in Article I prevented the implementation of the Generalized System of Preferences by the developed countries in favour of developing countries. However, it was practical and realistic to note that it had not been possible to reach this solution. The acceptance of the Generalized System of Preferences was, in his view, a recognition of the fact that the most-favoured-nation clause was not an instrument which was likely to bring about an international economic policy and international co-operation with developing countries and meant an implicit recognition that Part IV not only constituted a mere statement of objectives, but a concrete instrument for international action.

The representative of Korea considered that the draft did not meet his delegation's wishes in all respects. However, in view of the fact that the draft text was a compromise resulting from extensive informal consultations and because some contracting parties were about to implement their systems of preferences very shortly, he could support the text of the waiver as it stood.

The representative of Greece also underlined the historic importance of the Generalized System of Preferences, which was a realization of a movement of solidarity for the benefit of world trade. Because of the impact on world trade, the question of finding legal cover for the System under the GATT was not a simple formality but required full attention. It was important not to create through the waiver more problems in the field of trade of developing countries than already existed. He recalled that several delegations had expressed serious concern, not over the System of Preferences, but over the waiver formula which had been presented. He expressed concern over the future of the General Agreement if the text were accepted as such. The proposal made by the Associated African and Malagasy States to limit the duration of the requested waiver to a period of one year was similarly an indication of misgivings with respect to the text proposed. The representative of Norway had stated on behalf of the donor countries that the text was inspired by the principle of non-discrimination between beneficiary countries and by the principle of self-election. The text of the waiver, however, did not contain any such indication. He considered that a waiver as proposed could not be legalized; not because certain countries might possibly be excluded from the preferences, which was a purely political question, but for the major reason that the text of the waiver did not make known in respect of which contracting parties - i.e. developing contracting parties not benefiting from one or more schemes - the donor countries would no longer be bound by their obligations under Article I of the General Agreement. There were several reasons which made the text ineffective from the point of view of the GATT. In the first place the text had not been examined in the framework of GATT as had been the case for each other waiver from Article I; such examination should have been even more necessary for a waiver as wide in scope as the requested one. Secondly, the proposed text did not contain a list of beneficiary countries and therefore, did not make it possible to determine with respect to which non-beneficiary developing contracting parties the principle of Article I had been discarded. Thirdly the text did not contain an objective criterion for its application. Such a criterion would make it more or less possible to know beforehand in

respect of which contracting party the donor countries would or would not be bound by their obligations under Article I. His delegation therefore considered that this was not a case of a waiver from the obligations under Article I but of a real modification of that Article. As a result of the so-called waiver, certain contracting parties would obtain a real discretionary power to apply or not this basic principle of the General Agreement. Certainly, the recognition of such discretionary power could not be based on the procedure under Article XXV, but on the procedure provided in Article XXX of the General Agreement dealing with amendments. He saw two possible solutions in the present situation: one could either improve the text or limit the duration of the waiver. To improve the text he proposed formally to amend paragraph (a) of the operative part by adding the word "developed" at the end of that paragraph so that the part would read "... such treatment to like products of other developed contracting parties". If this amendment were not accepted, he supported the proposal made by the representative of the Ivory Coast to limit the duration of the waiver to one year. This would limit the time during which certain contracting parties could use the discretionary power now embodied in the text and would enable a review of this question in the light of the use made of these special powers.

The representative of Brazil noted that some countries which were in an advanced stage of development now considered themselves developing countries. He also expressed concern that some developing countries for whose benefit the schemes were drawn up were trying to block the arrangement. He did not want to get engaged in an overall discussion of the Generalized System of Preferences, and the principles and details of its application, which was to be done in UNCTAD. The developed countries were now ready to implement the schemes and were seeking authority to do so. This should be given. He, therefore, hoped that the reservations made would eventually be withdrawn in the interest of the general benefit of the developing world.

The representative of Israel said that while the GATT rules were originally based on the principle of equality between all contracting parties it was very quickly recognized that equal rules for unequal partners did not bring about equality of trading opportunities. The text of the General Agreement itself had been enlarged to take account of this fact. This did not mean that the original principles of GATT should be abandoned. She recalled the minute care with which the original GATT Members, mostly developed countries, had watched over their individual interests, basing themselves on their GATT rights. Equal care should be devoted by the CONTRACTING PARTIES to the preservation of the rights and interests of the developing countries. This was all the more so since few of them could stand up to the kind of collective pressure which was not infrequently applied in international economic affairs and to which many were now being subjected. She believed that GATT should not restrict itself to playing a purely formal rôle. The mutual rights and obligations of contracting parties were a matter of substance. Her delegation was of the view that the proposed waiver had some serious shortcomings. One overall blanket waiver had been proposed, which would cover a variety of schemes, in many of which important elements had not yet been spelt out. In the past, requests for waivers, especially waivers from Article I, had invariably included full information on all their aspects and it had been general practice to examine every detail in

a working party set up for this purpose. In line with this practice, the general waiver should at least contain a provision requiring each donor country to submit its scheme of preferences in its final form before implementation.

Another weakness in the proposed scheme concerned beneficiary countries. On this point the UNCTAD Agreed Conclusions embodied as an integral part the principle of self-election. The spokesman of the donor countries had recalled this principle in his introductory remarks. But the only binding commitment in this respect was the waiver, and the waiver was silent on this point. It had been pointed out that the present text did not exclude any potential beneficiary country. But in the one scheme which had already been formally announced a number of potential beneficiaries found themselves not included, for the time being. Furthermore, since the donors looked to each other from the point of view of burden-sharing, this uncertainty was projected into other schemes and potential recipients found themselves being referred from one donor to another in vain search for enlightenment.

There was a clear danger that some developing contracting parties would not be given equal treatment. Her delegation had had a series of consultations with the donor countries in accordance with the procedures laid down for the application of waivers. In these consultations the very concrete and serious damage to Israel's vital trading interests which would occur if it were not included in the respective preference schemes was brought to their attention. Her delegation was, therefore, led to take an interest in the recourse open to potential beneficiary countries which might find themselves left out and competing on unequal terms in the face of the General System of Preferences. In fact, in one particular scheme it was obviously some sort of political convenience which dictated the choice of beneficiaries, which included some countries that were more advanced and already more competitive in industrial exports than some of those which had so far been left out.

Rectification at a later date could not wipe out the consequences of immediate material damage and loss of the initial impetus which was bound to attend the launching of the Generalized System of Preferences. She protested the use of arbitrary criteria and surely the CONTRACTING PARTIES could not condone them.

She also felt that the waiver did not provide sufficient safeguards to ensure automatic procedures for remedies which probably would become necessary. Unlike other waivers, this waiver did not specify the timing and modalities of any review. In this uncertain situation, her delegation reserved all legal and procedural rights both as regards their final attitude on the waiver request and on the basis of their rights inherent in the General Agreement.

The representative of Ceylon recalled his Government's concern that as a result of the implementation of the Generalized System of Preferences in its present form, equivalent or compensatory advantage for loss of certain historical preferential markets would not be realized immediately. It was his hope that this

problem would be examined with sympathy and understanding. His Government was aware of the shortcomings of the scheme. However, adjustments to this scheme would have to be dealt with elsewhere and at another time. The Generalized System of Preferences was not ideal but it had to be remembered that it was the outcome of a compromise and that it was an evolving scheme. For these reasons, his Government supported the proposed waiver.

The representative of Turkey recalled that his Government had, from the beginning, supported the idea of the establishment of a generalized system of preferences. From the outset it had become evident, and had been generally recognized, that the system was going to require a deviation from the most-favoured-nation principle, if developing countries were to be helped. Many questions had been left open by UNCTAD and many developing countries had been of the opinion that as long as these questions were not settled, it was not really possible to speak of generalized, non-discriminatory, non-reciprocal systems of preference, as provided for in the Agreed Conclusions. It had now become clear, however, that none of these points had been settled.

He expressed his Government's concern over the fact that the present draft waiver had not been subjected to the usual procedure in GATT. The wide and general terms of the waiver, moreover, were not justified. To bring this draft waiver into conformity with the requirements set up by the General Agreement and developed by precedent, several matters had to be included. Its trade coverage, as well as its geographic application, had to be clearly known. This requirement was not fulfilled in the present case, since the donor countries had unlimited and near-arbitrary competence in these respects. Imports from developing countries to developed countries would not be guided any more by a set of objective general and reliable rules. There was the serious danger that special temporary relationships would develop between individual donor and developing countries, the latter being at the mercy of the former.

It was important in this context to recall statements made by several representatives on the occasion of the examination of the Australian waiver on preferences. They had voiced similar concerns as he had expressed now. At the time his Government had supported the Australian waiver because the Australian request had set out the product coverage, because Australia had consulted with all developing countries, and because the Australian demand had been based on a clear set of procedural rules.

Serious concern existed as to the status of beneficiaries. It seemed that nearly one third of the contracting parties were running the risk of being excluded from the beneficiary list of the most developed country among the contracting parties. To exclude any developing country from a beneficiary list because of its association agreement with the EEC was unjustifiable since these agreements were in conformity with Article XXIV of the General Agreement. No contracting party was entitled to put pressure on developing countries for having acted in conformity with fundamental provisions of the General Agreement.

For these reasons his Government suggested the following amendments to the proposed draft waiver. First, it would be advisable to include in paragraph (a) of the operative part a reference to the principle of self-election. Second, paragraph (c) should ensure that notifications would be made before the arrangements were in fact implemented. With regard to paragraph (d), his delegation suggested the introduction of a time-limit, e.g. of one month. With regard to the impairment procedure provided for in paragraph (e), his Government suggested the adoption of a more specific and more detailed mechanism for the determination of any issue arising under the waiver.

He drew attention to paragraph (c) of the Guiding Principles to be followed by the CONTRACTING PARTIES in Considering Applications for Waivers from Part I or other Important Obligations of the Agreement.

It was his Government's view that when the general system of preferences had been created it had never been considered that it would force developing countries to abandon all means of prior and effective international control on decisions taken by other governments and relating to their own exports. It was in fact a question in terms of national sovereignty and international competence.

It was, however, not his Government's intention to delay in any way the implementation of the general system of preferences. He did not intend to pursue formally the amendments suggested and his Government was ready to support the waiver if it was limited to one year. If this proposal was not acceptable, then his Government would be obliged to reserve its position as to the draft waiver for the time being.

The representative of the United Arab Republic took the view that this was an historic occasion in the field of international trade relations, representing at the same time an important evolutionary step in the history of GATT. The proposed waiver reflected the developed countries' awareness of the complexity of the problems developing countries had to face. Part IV of the General Agreement had tackled most of the remedial measures conceivable within GATT and his delegation would, therefore, have preferred to have Part IV as a basis for the proposed decision. His delegation nevertheless supported the present request for a waiver.

The representative of Poland stated that several issues were not covered by the text of the draft waiver. One of them was of paramount importance - the question of beneficiary status. Here clear guidance and precision were necessary. The proposed Preamble clearly stated that one of the main characteristics of the Generalized System of Preferences would be its non-discriminatory application. It was his Government's understanding that this implied that no developing country could be discriminated against because of its socio-economic system. His delegation had, however, no certainty at this stage that this basic principle would be observed by all prospective preference-giving contracting parties. His delegation, therefore, supported the proposal that the waiver be granted initially for a limited period of time, e.g. for one year.

The representative of Malta welcomed the Generalized System of Preferences. The proposed waiver, however, did not afford the safeguards which were provided in most other waivers. Why should a developing country like his own waive some of its rights in exchange for rights of an unclear extent? There was no doubt in his mind that the omissions in this respect had been intentional and carried, therefore, a great deal of significance. He recognized that the donor countries' task had not been an easy one and that they had been generous. Yet it was his hope that they would also understand his Government's problems. His delegation was requesting that in the operative part of the waiver the principle of self-election be included. It was, furthermore, supporting the proposals made by the representatives of the Ivory Coast and of Greece. Since the present discussion was of a substantive nature, there was no reason why GATT was not an appropriate body for such a debate. His Government was, in principle, eager to help in approving the proposed waiver. At this stage, however, it was still waiting for assurances that the wide provisions of the proposed waiver would not be used for arrangements that deviated from the basic concepts agreed upon. His Government, therefore, reserved its position on the matter.

The representative of Chile agreed that several provisions of the draft waiver needed improvement. Nevertheless, a discussion on these matters was now not possible. The matter had already been discussed for eight years and it was now time to move ahead. It was his Government's view that the proposed text was neutral and did not prejudice the interests of any developing country. For this reason, it would be wrong to want to modify the text of the proposed waiver at this stage: it would entail a re-opening of the debate and the suspension of the implementation of the system. His delegation fully understood the reasons for the proposal made by several delegations that the waiver itself be granted for only one year. Yet this suggestion was quite unacceptable to his delegation, since in that case the Generalized System of Preferences would not outlive the waiver.

The representative of India stated that while mutually acceptable arrangements for introducing the Generalized System of Preferences had been drawn up in UNCTAD, some important questions had remained unresolved. These involved complex economic and political issues. In his view adequate and satisfactory arrangements had been made within UNCTAD to consider those complex economic and political issues. He expressed his understanding for the specific problems which confronted African and Malagasy States and some other developing countries - viz that of reverse preferences. He was of the view that a solution acceptable to the countries concerned must be found in order to introduce a truly generalized and non-discriminatory scheme of preferences. This however must be done through consultations envisaged for this purpose in UNCTAD. Pending these consultations, it was not necessary to hold up legal sanction in GATT which must cover the entire initial duration of ten years. He did not think limitation of waiver for a period of one year would at all be meaningful. The Generalized System of Preferences was conceived in a dynamic context and his delegation could not agree to any limitation and the arrangements established in the UNCTAD should be agreed to. He pointed out that the several aspects of the schemes as agreed to within UNCTAD were inter-connected and no effort should be made to re-open any aspect, for example the question of beneficiaries. Delegations had objected that the waiver did not provide opportunity to

examine individual schemes; this however had been done in UNCTAD. In reply to representatives who had made references to individual positions taken when the Australian scheme was examined in 1966, he said that if such positions had still been maintained, the Generalized System of Preferences would not have been established. He also recalled that the Australian waiver did not contain a list of beneficiaries a question which could not be resolved at that time. As regards amendment to operative paragraph (a) proposed by the delegate of Greece, he pointed out that since there was no precise and acceptable list of developed countries, he did not see merit in the proposal. He would oppose the amendment.

The representative of Tunisia considered that the objective of the Council should be to legalize the arrangements established in the UNCTAD, and he felt that the legal aspect relating to these arrangements had not sufficiently been discussed. His delegation fully supported the establishment of a Generalized System of Preferences and was aware of the urgency of the matter to enable the systems to be implemented. Nevertheless, the Council should not take a hasty decision. He therefore supported the proposal that the Council take only a preliminary decision for a period of one year.

The representative of Malaysia understood the concern expressed by the Associated African and Malagasy States. He did not expect that his country would gain many benefits from the Generalized System of Preferences; indeed it probably would incur losses at the beginning. It was not to be forgotten, however, that this Generalized System of Preferences was merely a first step and would have to be reviewed by the mechanisms and institutions provided for by UNCTAD.

The representative of Australia recalled the references made by several representatives to the 1966 waiver to enable his Government to introduce a system of tariff preferences in favour of developing countries. It was important to realize that the application by his Government for a waiver and its examination by the CONTRACTING PARTIES had been made in different circumstances from those surrounding the present case. A number of developing countries had expressed their concern over the terms of the proposed waiver and his delegation understood the nature of their anxiety. However, it was important to recognize that approval of the waiver in no way meant that these concerns would be ignored. Moreover, though not spelt out in the same detail as, for example, in the Australian waiver, the proposed text did contain safeguards. In all the circumstances, his Government was, therefore, prepared to support the waiver as it stood.

The representative of Greece emphasized that it was important to draw a clear distinction between the duration of the Generalized System of Preferences and the duration of the waiver. The Generalized System of Preferences had been established for an initial period of ten years; it was a political undertaking made by the donor countries in the framework of the UNCTAD. Limiting the waiver initially to one year was a different matter. It meant that the discretionary power of the donor countries in giving beneficiary status to certain developing countries and in not applying the provisions of Article I in respect of other developing countries was limited to one year and would be reviewed thereafter. It was absolutely normal to reserve the right to re-examine the situation in the light of the use made of this blank power by any of the donor countries.

The representative of Argentina considered that limiting the waiver to an initial period of one year would amount to a limitation of the Generalized System of Preferences. It would not be possible on a one-year basis to adjust the national economies to the preferential system and to attract foreign investments. He recalled that the basic assumption had been that all donor countries would give preferences and thus share the burden. This would carry with it the consequence that each donor country aligned its action on that of the other donor countries. If the individual arrangements were not in keeping with this concept, then the whole system of preferences would be at stake.

The representative of Turkey pointed out that there was a contradiction between paragraph 5 of the Preamble and paragraph 1 of the operative part. The Preamble referred to the non-discriminatory character of the arrangements in conformity with the UNCTAD Resolution. This element was lacking in the operative part of the draft text.

The representative of Norway, speaking on behalf of the donor countries, referred to statements that the system was not complete in all its details and might be improved in various respects. The donor countries were conscious of certain shortcomings which persisted in the respective schemes and also of the lack of clarity in certain details. In the circumstances this was unavoidable. The implementation of the general system of preferences was a new experiment. As agreed in the UNCTAD the donor countries would try to improve the schemes if and when that could prove useful. This was one of the purposes of the periodic reviews and the consultations which would take place within the UNCTAD.

He stressed that the approval of a waiver was a necessary step in the process which preceded the implementation of the schemes. A rapid and massive approval was in his view necessary both for national and international reasons.

Nationally in several contracting parties the waiver was an indispensable precondition for the action to be taken by the appropriate legislative authorities. And in all donor countries the action taken by the CONTRACTING PARTIES would be taken as evidence of the interest taken by developing countries and consequently an argument for convincing public and parliamentary opinion. Any delay, any lack of support on behalf of the developing countries, would reinforce the opposition which unfortunately existed in some quarters in the industrialized countries against preferences, and reinforce the protectionist tendencies which still existed. It might even jeopardise the final outcome of the common efforts. This was a real danger. Those who were particularly concerned with the legal aspects of the question should not forget the very real political implications of what the GATT was doing, or failed to do.

A rapid approval of the waiver was also needed for international reasons. The prospective donor countries had to observe their international obligations and would not move without having obtained the legal sanction of GATT. Moreover, there was a commitment before the UNCTAD Board to seek as rapidly as possible the necessary legislative or other sanction with the aim of implementing the schemes as early as possible in 1971. The GATT waiver formed an indispensable part of this process.

At this stage, and taking into account that several countries intended to implement their preferential arrangements early this summer, there was no doubt that any delay in the vote of the waiver now under consideration would entail postponement in the implementation of the arrangements. This would clearly run counter to the interests of the developing countries individually and as a whole.

Certain objections had been raised against the fact that the lists of beneficiaries were not yet known. He stressed that this was an issue which was still open in all donor countries.

Referring to the statements by certain delegations that the waiver would not ensure them of guarantees that their legitimate interests would be taken into consideration he pointed to the fact that appropriate safeguards were built into the text presented. Moreover, as had been confirmed by the Chairman, only the obligations of contracting parties under Article I would be waived, and contracting parties would maintain all their rights under the other articles of the General Agreement, in particular under Article XXIII.

He referred to the proposed amendment by the representative of Greece, who had suggested the inclusion of the word "developed" under paragraph (a), which would then read "other developed contracting parties". This would not be acceptable to the donor countries because it would mean a change from the position which had been taken by them in the UNCTAD conclusions. The question of beneficiaries was for the reasons stated still open. It was a matter which had to be dealt with by the donor countries individually, and was a question which could not be settled within the context of the waiver. The amendment was, therefore, unacceptable.

The suggestion made by the representative of the Ivory Coast on behalf of the Associated African and Malagasy States to adopt the waiver for only one year would seem to be in contradiction with the UNCTAD agreed conclusions, where a duration of ten years for the system had been provided for. It would be nearly impossible to seek from parliaments legislation permitting the introduction of preferences for ten years, if at the same time the GATT waiver was secured for only one year. Furthermore, he felt that such a limitation could have adverse effects on the whole object of the Generalized System of Preferences, both as regards business and investment decisions which hopefully would follow from the introduction of the scheme. It would be a decision reflecting adversely on the GATT, in fact it would be a negative response by the GATT to the scheme.

Finally, he felt that in this matter one should not allow perfectionism to be the enemy of practicability. If it was really believed that the introduction of the Generalized System of Preferences was a great step forward, a historic move, then the necessary steps to that end must be accepted and taken, and the first and most urgent step was to vote here and now the draft waiver which the donor countries had submitted.

The representative of the Ivory Coast, speaking on behalf of the Associated African and Malagasy States, reiterated their concern over the Generalized System of Preferences. Their concern related in particular to the question of reverse preferences. Agreement had been reached in UNCTAD with the objective that in principle all developing countries should participate as beneficiaries from the outset. The question of reverse preferences remained to be resolved in further consultation. These conclusions had been reached eight months ago. They had only recently received the draft waiver, on the drafting of which the donor countries had spent a considerable time. There was no need to act precipitately now. The proposed waiver did not reflect in any way a compromise on the issue of reverse preferences and their delegations had difficulties in committing themselves for a period of ten years. For this reason he had proposed that the waiver be granted initially for a limited period of time. This would enable contracting parties to see how the system would develop.

The Chairman referring to the two amendments proposed noted that very little support had been given to the amendment proposed by Greece.

The representative of Greece regretted that his amendment had not been sufficiently discussed. He would not wish however to press the matter to a vote and was prepared to withdraw the amendment.

The representative of the Ivory Coast, after having consulted the delegations of the other African and Malagasy States, confirmed their concern and doubts over some features of the donor countries' proposals. These doubts had been brought out in his earlier interventions. However, the African and Malagasy States would not press for a vote to be taken on their proposal that the waiver should only be granted for an initial period of one year, although it had received support from a number of delegations. They had therefore decided to withdraw the proposal. In these circumstances, however, their delegations did not have authorization to support the waiver.

The representatives of Greece and Turkey, who had supported the amendment proposed by the Ivory Coast, said they could join in the withdrawal.

The representative of Israel said that her delegation had availed itself of the opportunities provided for in the procedural rules for the granting of waivers to make representations and to engage in consultations with the donor countries. These consultations had not given satisfaction to her delegation. Her delegation would not oppose however the submission of the waiver to the CONTRACTING PARTIES.

The Council agreed to submit the text of the draft decision to the CONTRACTING PARTIES for a vote by postal ballot. The Chairman requested the secretariat to distribute ballot papers to the representatives present and to send copies of the draft decision and ballot papers by mail to those contracting parties not represented at the meeting. Contracting parties casting their votes by mail were requested to do so in time for the votes to be received by 6 p.m. on 25 June.

2. Administrative and financial questions

Revaluation of the Swiss franc

The Chairman drew the attention of the Council to document C/87 of 21 May 1971 in which the Director-General had outlined some of the consequences for the budget of the revaluation of the Swiss franc. The Council took note of the document which was submitted for information.