

GENERAL AGREEMENT ON
TARIFFS AND TRADE

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Chairman: Mr. C.H. ARCHIBALD (Trinidad and Tobago)

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1. Accession of Bangladesh (L/3752)

The Chairman drew attention to a communication from the Government of Bangladesh contained in document L/3752 in which the Government of Bangladesh formally sought accession to the GATT in accordance with the provisions of Article XXXIII.

The representative of Bangladesh, in presenting his Government's request, pointed out that the territory, which is now Bangladesh, had been associated from the very beginning with the GATT and helped to promote the causes for which it stood. As an independent country, Bangladesh had continued to apply the provisions of the General Agreement in its trade relations with contracting parties on the same basis as had been applicable before, that is to say the same trade policies, the same tariff schedules and the same code of conduct in international trade. It was on this basis that the Government of Bangladesh had decided to seek accession to the General Agreement in accordance with the provisions of Article XXXIII. It was his Government's hope and expectation that in the existing circumstances the CONTRACTING PARTIES would be prepared to accept Bangladesh as a contracting party without further negotiations and that the CONTRACTING PARTIES would agree that the terms of accession should simply reflect the conditions which had prevailed so far. The Bangladesh delegation requested the Council in this sense to sympathetically consider the candidature of the People's Republic of Bangladesh and to recommend its acceptance in the forthcoming session of the CONTRACTING PARTIES.

The representative of the United Kingdom warmly welcomed the application of Bangladesh for full membership of the GATT, hoping that the application would be approved by the CONTRACTING PARTIES without delay. Given the undertaking of Bangladesh to accept the full obligations of a schedule of tariff bindings identical with that applied before independence, pending its renegotiation under Article XXVIII, as well as all other obligations of GATT membership, the United Kingdom did not consider it necessary to set up the usual working party to consider and report on the suitability of Bangladesh membership. As the circumstances in this case were unusual the CONTRACTING PARTIES should be ready to modify the usual procedures in dealing with it.

The United Kingdom proposal for the accession of Bangladesh was supported by the representatives of New Zealand, the Nordic countries, Canada, Australia, Austria, Japan, the EEC, Switzerland, India, Argentina, Yugoslavia, Spain, Indonesia, Malaysia, Poland and Czechoslovakia.

The Council agreed that the question should be referred to the CONTRACTING PARTIES for consideration at their twenty-eighth session and recommended that the item be added to the sessional agenda.

The representative of Pakistan pointed out that applications for membership in the GATT were always considered through procedures under paragraph 5(c) of Article XXVI, if it were a case of succession, or under Article XXXIII if it were a question of accession to the GATT. In both of these cases established procedures had always been followed.

The Council had now decided to by-pass the established procedures, because it was felt that what had been referred to as unusual circumstances, required unusual procedures. The delegation of Pakistan urged that unusual circumstances asked for prudence and patience and not for hasty decisions. If the application had been under paragraph 5(c) of Article XXVI the Government of Pakistan would have given it the most sympathetic consideration at the appropriate time. Since application for accession was sought under Article XXXIII the two different legal concepts were being confused in by-passing the established procedures. The delegation of Pakistan had expected to receive information on the external régime, tariff régime, import régime and other relevant information and hoped that this information would be supplied in the near future to all contracting parties. As the legal issues involved in this case had not been made clear and, in the view of the Pakistan delegation, the Council was not in the possession of the elementary information, his delegation was unable to associate itself with the procedure and with the conclusion drawn which, in its opinion, was juridically untenable and politically inexpedient.

The representative of Turkey said that his country had in principle no objections to the accession of Bangladesh. The procedure to be followed, however, was not orthodox and a working party should have been set up to fix the terms of accession. Since Bangladesh already applied the trading practices of the GATT and in view of the sufficiently favourable consensus the setting up of a working party would have caused no loss of time. It was for these procedural reasons that the Turkish delegation had to abstain from the decision. Turkey agreed that the detailed information on the trade régime of Bangladesh should be presented to all contracting parties.

The Council agreed that the secretariat be asked to draw up a draft of a protocol of accession, including the schedule to be attributed to Bangladesh, and a draft decision for consideration by the CONTRACTING PARTIES at their twenty-eighth session.

2. Agriculture Committee (COM.AG/25)

The Director-General, Chairman of the Agriculture Committee, in presenting the Committee's report (COM.AG/25), drew the attention of the Council to the opinion expressed by the Committee that the opportunity should be taken of obtaining from the CONTRACTING PARTIES at their forthcoming session, guidelines for the future multilateral negotiations in order to facilitate its further work.

Several representatives of developing countries expressed the hope that the twenty-eighth session of the CONTRACTING PARTIES would give further guidelines for the work of the Committee. The CONTRACTING PARTIES should decide on the general framework for the forthcoming negotiations and define the objectives for these so that developing countries would know what their possibilities were and could take a decision as to their possible participation. They also stressed that it was essential to ensure that arrangements were determined in GATT and not outside and presented to the CONTRACTING PARTIES afterwards. The representative of a developed country pointed out that the elaboration of guidelines would be a long and complicated process and that the question could only be settled finally in the course of the preparations. The twenty-eighth session of the CONTRACTING PARTIES could not be expected to carry the process further than was practically possible.

The Council approved the report and agreed to transmit it to the CONTRACTING PARTIES for their consideration and adoption at their twenty-eighth session.

3. Committee on Trade in Industrial Products (L/3756)

On behalf of Mr. Stuyck (Belgium), Chairman of the Committee on Trade in Industrial Products, Mr. Patterson, Assistant Director General, introduced the report (L/3756) on the Committee's activities since the twenty-seventh session. He stated that the major part of the report dealt with the techniques and modalities for future negotiations. Under this heading the Committee had examined tariffs, non-tariff measures, safeguards and the implications for developing countries of various techniques and modalities. The report also dealt with work on ad referendum solutions to problems raised by selected non-tariff measures. Two texts of ad referendum solutions - one on automatic licensing and one on licensing to administer import restrictions - had been transmitted to administrations for examination and for consideration of the implications arising from their acceptance. Work in other areas was proceeding. Moreover, at its last meeting the Committee had agreed to undertake work on two additional measures. He finally drew attention to the Committee's opinion that the opportunity should be taken of obtaining from the CONTRACTING PARTIES at their forthcoming session guidelines for the future multilateral negotiations in order to facilitate its further work which would be taken up again soon after the session.

The representative of Brazil expressed the view that in transmitting the report to the CONTRACTING PARTIES emphasis should be given to the need to develop a more precise identification of the objectives of the multilateral trade negotiations, so as to permit that special techniques and modalities be conceived to take account of the needs of developing countries. The needs of developing countries should also duly be taken into account in elaborating solutions to problems raised by selected non-tariff barriers.

The representative of the United States, referring to the work on subsidy measures and countervailing duties, expressed his understanding that as in other cases the Agriculture Committee would have the right to review the applicability to agricultural products of any ad referendum solutions on subsidies and countervailing duties. This understanding of his delegation was applicable to all non-tariff barriers. He would not wish that prospective solutions in the industrial area were ignored in the agricultural field. The representative of the EEC pointed out that the Industrial Committee dealt with non-tariff barriers in respect of industrial products.

The Council agreed to refer the report to the CONTRACTING PARTIES for their consideration and adoption at their twenty-eighth session.

4. Cotton Textiles Committee (L/3736, COT/M/12/Corr.1)

The Chairman stated that Article 8(c) of the Arrangement Regarding International Trade in Cotton Textiles required the Cotton Textiles Committee to review the operation of the Arrangement and to report to the CONTRACTING PARTIES. The 1972 report of the Committee had been transmitted to the CONTRACTING PARTIES in document L/3736.

The Director-General, as Chairman of the Cotton Textiles Committee, pointed out that at its meeting of last June the Committee had been reminded of the provisions of Article 8(d) of the Arrangement, requiring it to meet at least one year before the expiry of the Arrangement. The Arrangement was due to expire on 30 September 1973 and the consensus of the Committee was that while it should reconvene as early as possible, there was no point in doing so before the Committee was in a position to examine and to take a decision on the question of the future of the Arrangement.

Since then, the Council had appointed a Working Party on Trade in Textiles to examine various factors affecting international trade in textiles in general. The Working Party was expected to submit a report to the Council by the end of the year. As the question whether to terminate or extend the Cotton Textiles Arrangement could be more easily examined after the Working Party had completed its study, the Committee meeting pursuant to Article 8(d) of the Arrangement had not yet taken place.

The representative of Brazil pointed out that the Long-Term Arrangement had been conceived as a temporary measure. It had been accepted by a number of textile exporting countries on the assumption that developed countries would undertake the industrial adjustment measures which would allow the liberalization of trade in textiles. The Brazilian Government was never in a position to accept the concept on which the Long-Term Arrangement was based, namely, the unilateral declaration of market disruption. In its view this concept was contrary to

several international commitments, including the principle of stand-still embodied in Part IV of the General Agreement. The Brazilian delegation expressed the hope that developed countries would find it possible to make the necessary industrial adjustments that would permit the liberalization of the trade in textiles and the inclusion of textiles in their Generalized System of Preferences. The question of extending the Arrangement should be dealt with in the context of the forthcoming multilateral trade negotiations and should aim at bringing the Arrangement into conformity with the provisions of the General Agreement.

The Council adopted the report of the Cotton Textiles Committee.

5. Anti-Dumping Practices (L/3748 and Corr.1)

The Chairman recalled that under the provisions of the Agreement on Implementation of Article VI the Committee on Anti-Dumping Practices held annual meetings to provide opportunities for the parties to the Agreement to consult on matters relating to the Anti-Dumping Code. The Fourth Report by the Committee on Anti-Dumping Practices had been circulated in document L/3748.

Mr. Buxton (United Kingdom), Chairman of the Committee, stated that in the period covered by the Report - September 1971 to September 1972 - two countries, Austria and Portugal, had adhered to the Agreement. He said that, as in previous years, a major part of the discussions in the Committee had concentrated on the criteria used in determinations of injury in some member countries and the deliberations had contributed to a better understanding amongst the members. He added that, taking into account the comments made at the twenty-seventh session of the CONTRACTING PARTIES, the Committee had prepared its report in a more comprehensive manner than in previous years to bring out more clearly the main points that had arisen in the Committee's discussions.

He expressed the view that the work of the Committee could be of general interest to contracting parties, in so far as it was concerned with the application of an agreement on an important non-tariff barrier, and that the experience of the Committee had relevance for procedures for dealing with other non-tariff barriers.

He stated that, as had been agreed at the 1971 meeting, discussions had been initiated - and would be continued - with Australia, New Zealand and South Africa, with the aim of clarifying the particular difficulties of these countries in adhering to the Anti-Dumping Code.

Mr. Buxton also referred to the work of the Working Party on the Acceptance of the Anti-Dumping Code and recalled that the Council had appointed, in September 1970, a separate working party to study the particular problems of developing countries in adhering to the Code. This working party had met for the second time on 27 September 1972. At that meeting the Indian delegation had introduced a new draft text, and agreement had been reached with regard to the definition of cases in which the application of the normal price comparison rules of the Code would be inappropriate for exports of developing countries. Agreement could not, however, be reached on the alternative price comparisons to be used in such cases, and the discussion on this issue would be continued at a further meeting of the working party.

The representative of Israel expressed the satisfaction of his authorities that some progress had been made in the Working Party. He hoped that at the next meeting agreement could be reached on conditions which would enable developing countries to adhere to the Code. The Working Party so far had met once a year. He hoped that an earlier opportunity could be found for the next meeting, in order to make progress on the problems before the Working Party.

The Council noted the report on the work of the Working Party on the Acceptance of the Anti-Dumping Code, and adopted the Report of the Committee on Anti-Dumping Practices.

6. Association between EEC and Tanzania, Uganda and Kenya (L/3721)

The Chairman recalled that at its July 1972 meeting the Council had received the report of the Working Party which had examined the provisions of the Agreement of Association between the EEC and Tanzania, Uganda and Kenya. The Council had opened its discussion on the report, but in the light of the fact that the East African States had been unable to send representatives to that meeting it had been agreed to refer to the matter again in the autumn so as to give a full opportunity to the East African States to present their views.

The representative of the East African Community stated that the three East African partner States had noted with some concern the comments raised in the GATT. He pointed out that the traditional world trading rules had been drawn up at the end of World War II. Although GATT had moved forward to deal with the changes in the world situation, by drawing up a new chapter on trade and development, the severe rules of GATT, designed for industrially advanced countries, did not, in his view, allow for change and development. Since exports in the three countries consisted mainly of primary products, there was need for an arrangement which ensured adequate access to the markets in developed countries. The three East African States had taken an option which was available to them and had concluded the Association Agreement. He expressed the hope that the CONTRACTING PARTIES would consider the Association Agreement with sympathy.

The representative of the EEC stated that the Community had taken note of the legal objections that had been made concerning the Agreement, and recalled the position of the EEC as set out in the report of the Working Party. He called attention to the fact that the Agreement dealt with the relations between the partners only and not with other countries. The Agreement was of an interim nature and scheduled to terminate in 1975. New negotiations would begin in 1973 in the framework of the enlarged European Communities, at which time new trading relations would be worked out. The EEC was convinced that the issue now being raised before the Council could not possibly be raised again in the same terms in the future.

The representative of the United States said that the views of his delegation had been made clear in the report of the Working Party as well as at the July 1972 meeting of the Council. The United States was entirely sympathetic with the aims and objectives of the member States of the East African Community, but in the view of his delegation the problem at issue was rather that some elements in the Association Agreement were in conflict with these countries' own interests as well as with the requirements of the GATT. The Agreement was clearly inconsistent with the requirements of Article XXIV. He urged the parties to the Agreement to drop the extremely strained and incorrect interpretation of the relevant provisions of the General Agreement. The product coverage was far from "substantially all the trade", and nothing resembling a plan had been submitted. The United States reserved all its rights under the General Agreement with respect to this Association Agreement.

The representative of Brazil said that his Government was in full sympathy with the motivation that had led these three countries to seek an association with the EEC. Brazil wished to associate itself, however, with those delegations which had expressed concern as to how the Association Agreement affected the interests of other developing countries. He was also concerned with the trend towards trade "compartmentalization", which hampered efforts of developing countries to shape trade rules more favourable to them generally.

The Council noted the important differences of view among contracting parties with regard to the compatibility of the Association Agreement with the provisions of the General Agreement as set out in the report of the Working Party.

The Council adopted the report and agreed that the Association Agreement be added to the Calendar of Biennial Reporting and that the parties should be invited to submit their reports in two years' time, i.e. October 1974.

7. Association between the EEC and Turkey (L/3750)

The Chairman recalled that the agreement creating an Association between the European Economic Community and Turkey provided for the progressive establishment of a customs union between the EEC and Turkey. After the preparatory stage the Association had moved on to the transitional stage. The conditions, modalities and rate of achievement of the transitional stage were set forth in an Additional Protocol dated 23 November 1970. The provisions of the Additional Protocol and of an Interim Agreement had been examined by a working party.

In introducing the report, Mr. Dunkel (Switzerland), Chairman of the Working Party, noted that the members of the Working Party had expressed sympathy with the need for economic development of Turkey. They had favoured closer economic ties between Turkey and the EEC and had recognized that the main objective of the Association, which was to establish a customs union, was in conformity with the fundamental objectives of the General Agreement. There were differences of view, however, concerning the consistency of the provisions of the Additional Protocol with the GATT. Some members had questioned whether the period for the formation of the customs union could be considered a reasonable length of time. They had expressed doubts on the appropriateness of the requirements applicable to agricultural products, and had criticized the discriminatory removal of quantitative restrictions and import deposits. They had asked that changes in the provisions of the Additional Protocol be communicated to the CONTRACTING PARTIES and urged that representations by third countries regarding their commercial interests be favourably received and given full and fair consideration.

The parties to the Agreement, supported by some other members of the Working Party, had been of the view that the difference in the stage of development between Turkey and the EEC should be given adequate consideration and had asserted that the Additional Protocol fully met the requirements of Article XXIV of the General Agreement. The Working Party had taken note of the decision of the parties to the Agreement to honour their commitments under the General Agreement and thus to communicate to the CONTRACTING PARTIES any substantial changes that might be introduced in the provisions of the Additional Protocol.

The representative of Turkey noted that his country and the EEC had submitted the Additional Protocol to the CONTRACTING PARTIES in September 1971 pursuant to Article XXIV:7(c) of the General Agreement and paragraph (c) of the conclusions adopted by the CONTRACTING PARTIES when examining the Ankara Agreement, in March 1965, at the twenty-second session. The Additional Protocol constituted a step towards the achievement of the final objective which was the accession of Turkey to the EEC. When a customs union was established among developed and developing countries the respective plan and schedule had to take into account the special situation of the developing country concerned as provided for in Part IV of the General Agreement.

To require a short length of time for the formation of a customs union between developing and developed countries would only have the effect of eliminating a possibility legally afforded to developing countries under Article XXIV of the General Agreement. The plan and schedule contained in the Additional Protocol appeared to be reasonable and justified when considering the different levels of development of the EEC and Turkey.

He also pointed out that the duties of the Turkish tariff currently in force were, on the whole, higher than those of the common external tariff of the EEC. Their alignment to the common external tariff therefore, would have the effect of lowering the overall incidence of Turkish duties vis-à-vis third countries and would thus facilitate their exports to Turkey. The objective of Turkey's commercial policy, simultaneously with the establishment of the customs union, was to liberalize its foreign trade as far as possible.

The representative of the United States indicated that the views of his delegation were set forth in the report of the Working Party. He noted with satisfaction that the objective of Turkey's commercial policy was to liberalize foreign trade to the fullest extent possible.

The Council agreed:

- (a) to adopt the report of the Working Party;
- (b) to note the diverging views which existed with regard to the compatibility of some provisions of the Additional Protocol with the General Agreement;
- (c) to note with satisfaction that the parties to the Ankara Agreement were ready to furnish information in accordance with Article XXIV:7(a) as the evolution of the Association proceeded and that other information would be supplied in conformity with the procedures agreed upon by the CONTRACTING PARTIES;
- (d) to note that the present conclusions were without prejudice to the responsibilities of the CONTRACTING PARTIES under the General Agreement or to the rights of contracting parties under the relevant provisions of the General Agreement.

The Council agreed that the parties should be invited to submit their biennial report in two years time, i.e. October 1974.

8. Consultation with Poland (L/3751)

The Chairman recalled that the Protocol of Accession of Poland provided for annual consultations between Poland and the CONTRACTING PARTIES. In addition, the CONTRACTING PARTIES were required to consider the establishment of a date for the termination of the transitional period by the end of which any discriminatory element in any remaining quantitative restrictions should be eliminated. The Fifth Annual Consultation had been carried out by a Working Party, the report of which had been circulated in document L/3751.

Mr. Dunkel (Switzerland) Chairman of the Working Party, stated that the Working Party had noted with satisfaction that Poland's imports from contracting parties from 1970 to 1971 had increased by 18 per cent, so that Poland had exceeded its import commitment under the Protocol. The Working Party had also examined notifications by certain countries on discriminatory import restrictions maintained against Poland's exports, both as regards the form of the notifications as well as to whether these countries had fulfilled their commitments under paragraph 3(a) of the Protocol. The debate on this question was reflected in the report.

As to the second part of the Working Party's task, it had not been possible, despite considerable efforts made by all parties, to agree upon a date for the termination of the transitional period for the elimination of restrictions inconsistent with Article XIII. Since the Working Party was not in a position to make a recommendation to the Council on this important subject, the question would have to be re-examined, as provided for in paragraph 3(c) of the Protocol, at the Sixth Annual Review.

The representative of Poland recalled that five years had already elapsed since Poland's accession to GATT. His country had agreed to conditions of accession as set out in the Protocol, which would create the possibility for Poland to participate on an equal footing with other contracting parties on the basis of non-discrimination and mutual advantages. In acceding to the General Agreement, it had hoped to increase its share in the international division of labour and to develop its trade relations with contracting parties. Poland had expected that discriminatory restrictions applied by some contracting parties to its exports would be eliminated rapidly and it was on the basis of this expectation that it had accepted the definite import commitment that had resulted from the negotiations. It had, furthermore, agreed to additional safeguard clauses in its Protocol as well as a procedure for annual review.

He stated that Poland had always considered, and would continue to consider, its import commitment strictly in relation to the implementation by contracting parties of their commitments vis-à-vis Poland, especially as regards the question of eliminating discriminatory restrictions. Poland's views in this respect were supported by paragraph 16 of the report of the Working Party on Poland's Accession. He regretted to have to express the concern of his authorities over the pace of implementation by some contracting parties of their commitments under the General Agreement and the Protocol of Accession. He reiterated that Poland had fully implemented and even exceeded its commitment in the past five years, a period in which Polish imports from contracting parties had increased by 48 per cent. Underlining that this country practised an open economic policy, he said that Poland's imports continued to show a high growth tendency, creating increasing export possibilities for contracting parties. He stated that Poland considered that failure to fix a date for termination of the transitional period constituted

a distortion in the balance of mutual rights and obligations under the General Agreement and had adverse effects on Polish exports. In the event of further prolongation of the existing situation Poland wished to reserve the right to draw appropriate conclusions on the matter. He maintained his delegation's proposal to establish the terminal date of the transitional period at the end of 1974, a proposal, he recalled, which was supported by several other delegations.

He drew the Council's attention to measures applied by one contracting party described in paragraph 15 of the report. His delegation's position, which had been supported by several delegations, was that in the case under consideration the contracting party had increased the discriminatory element contrary to paragraph 3(a) of the Protocol and hoped that the Council would make a recommendation on the subject which would obviate the need for Poland having recourse to the appropriate procedures of the General Agreement.

As regards notifications on discriminatory import restrictions, he expressed the view, shared also by several members of the Working Party, that some contracting parties did not adhere to the Council's decision (C/M/62 of 14 May 1970) on the form and content of notifications and that they submitted notifications in a manner which did not permit judgement on the progress made in the elimination of discriminatory restrictions. He called on the Council to take a definite position on this matter.

A number of representatives regretted that despite the fulfilment of Poland's commitments no agreement had been reached regarding the fixing of a terminal date for the transitional period. They called for removal of all discriminatory restrictions as rapidly as possible and supported the Polish proposal that the date for expiry of the transitional period should be 31 December 1974.

The representative of the European Communities referred to paragraph 14 of the report, which set out the Communities' position regarding the form of the notifications. As regards the terminal date the provisions of the Protocol required this question to be re-examined at the next annual review.

The representative of Sweden recalled that the compromise proposal regarding the transitional period referred to in paragraph 36 of the report, which unfortunately, was not acceptable to Poland, would be acceptable to his delegation.

The representative of Canada expressed the hope that the mutual trade of Poland and contracting parties would continue to expand satisfactorily. His delegation understood the concern of Poland regarding the terminal date for the transitional period. He said that paragraph 3(a) of the Protocol clearly

envisaged the elimination of any discriminatory element, and not some formula which, in effect, postponed the terminal date. He urged the contracting parties concerned to reach agreement on this question at the next consultation.

The representative of Romania, supporting Poland's proposal, said that the obligations of GATT should be respected, both in letter and in spirit and that failure indefinitely to agree on the terminal date for the transitional period would imply that the General Agreement was not being respected by the countries concerned. He said that the obligation not to increase the discriminatory element clearly required that any liberalization should be extended to Poland.

The representative of Australia, supporting the views of the delegations of Canada and Romania, expressed the opinion that contracting parties might follow the example of some others by using the means set out in the General Agreement to ensure that rights and obligations were observed and, if necessary, seek appropriate adjustments of obligations.

The representative of the United Kingdom did not agree with the views expressed that the provisions of the Protocol had not been met regarding the terminal date. The Protocol did not stipulate that if Poland fulfilled its commitment, restrictions should be eliminated. According to the Protocol, the matter had to be discussed at each annual consultation until a date was fixed. After exhaustive discussion, some countries could not agree to elimination of all restrictions. It was a matter of regret to the United Kingdom that Poland could not accept the compromise formula proposed in paragraph 36 which, in his view, represented a realistic solution.

The representative of Denmark referred to the views of his delegation set out in paragraph 16 of the report. He stated that Danish discriminatory restrictions had decreased in the period under review, and no new measures had been introduced. The interpretation of Poland and several members, set out in paragraphs 15 and 17 of the report, was not accepted by his delegation since such an interpretation would hinder the whole procedure of liberalization to the detriment of Poland, as well as all contracting parties.

The Council referred the points raised in the discussion to the CONTRACTING PARTIES and adopted the report of the Working Party.

9. South Africa - Import Restrictions (L/3739)

The Chairman recalled that at its meeting in July the Council had been informed of the South African decision to disinvoke its recourse to the provisions of Article XII. Information about South Africa's import control system has been supplied by the South African Government in document L/3739.

The representative of the United States noted that the liberalization measures undertaken by South Africa did not fully restore the situation before November 1971. He urged the removal of all quantitative restrictions including those before November 1971. He was particularly concerned about a special transaction list under which goods could be imported only if the importer was in possession of a valid import licence in which such goods were specifically described. An examination of this list suggested the possibility that the list could be used to give protection to domestic industry in violation of GATT.

The representative of South Africa referred to the liberalization measures already undertaken this year and gave assurances that it was South Africa's expressed policy to dismantle restrictions progressively in the light of balance-of-payments developments. He informed the Council furthermore that the South African Government had just taken two important decisions, namely the establishment of a fixed parity between the Rand and the dollar and very substantial further relaxations of import controls, the details of which would be submitted very shortly.

With respect to the questions raised by the representative of the United States he pointed out that there was a link between the restrictions maintained and the Article XXVIII negotiations in which South Africa had been engaged for about two years. These negotiations were to be resumed on 15 November and would hopefully be concluded soon. It was his Government's firm policy to remove import control and to rely on tariffs as the sole means of protection. Further substantial progress in the relaxation of the import restrictions was expected for the early part of 1973.

In reply to an enquiry whether the new removal of restrictions concerned all items which were not in the pre-November 1971 list, the representative of South Africa stated that the main element of relaxations related to the transfer to the permit-free list of 122 commodity groups. The coverage of permit-free imports was thereby very much extended beyond the situation of November 1971. This did not necessarily imply that the totality of the pre-November 1971 situation had been restored for all products.

Several representatives welcomed the statement by the representative of South Africa and expressed the hope that before long all restrictions would be removed.

The Council decided to keep the item on the agenda to consider the new information, if necessary.

10. United Kingdom - Import Restrictions on Cotton Textiles (L/3741 and Corr.1)

The Chairman recalled that at its meeting in September the Council began to investigate, in accordance with the provisions of paragraph 2 of Article XXIII, the matter referred to the CONTRACTING PARTIES by the Government of Israel concerning the restrictions on imports of cotton textiles from Israel maintained by the United Kingdom. In view of the fact that further consultations were due to be held the Council had agreed to wait for the results of these consultations and to keep the matter on the agenda.

The representative of Israel recalled that Israel's complaint had been before the Council on 26 July and 19 September. After the ministerial meeting the situation had remained unchanged as quantitative restrictions still existed. His delegation therefore requested the establishment of a panel to investigate the matter promptly.

The representative of the United Kingdom stated that his Government was anxious to settle the question as early as possible. While his delegation did not wish to call in question the suitability or efficiency of the panel procedure for the settlement of disputes in the GATT, the United Kingdom, for legal and practical reasons, felt that this question should be examined by the most appropriate forum, that was the Cotton Textiles Committee. He referred to a detailed examination of the United Kingdom import control system by the Cotton Textiles Committee in April 1966, after which it was recognized that it was open to any participating country which felt that its interests were seriously affected by the United Kingdom system of import control, to have recourse to the provisions of Article 7 of the Long-Term Arrangement and, in the final resort, to bring the matter to the CONTRACTING PARTIES under the provisions of Article XXIII of the GATT. This conclusion seemed right, not only in the relations between the Long-Term Arrangement and the GATT, but also as a practical matter. A panel would be placed in a difficult position before the matter was examined according to the provisions of Article 7 of the Long-Term Arrangement, since it would have no authority to interpret the Long-Term Arrangement. Considerations like these justified the contention by the United Kingdom that the correct procedure would be to use Article 7 of the Long-Term Arrangement in the first instance. This arrangement would be quicker than setting up a panel since the Cotton Textiles Committee already existed and could be convened in a special session at any time.

The representative of the EEC endorsed the view, with reference to the legal situation, that there existed a specific procedure for a case of this kind in the Long-Term Arrangement.

The representative of the United States shared the view of the United Kingdom that to refer the matter to the Cotton Textiles Committee would not lead to delays. However, the procedure under the Long-Term Arrangement

was not mandatory, contrary to the provisions of Article XXIII. He therefore, felt that if Israel insisted on involving the provisions of Article XXIII the United States delegation should support the setting up of a panel.

The representatives of Brazil, Uruguay and Australia expressed their support for the setting up of a panel.

The Council then agreed to establish a panel of experts with the following terms of reference:

"To investigate, in accordance with the provisions of paragraph 2 of Article XXIII, the matter referred to the CONTRACTING PARTIES by the Government of Israel concerning the restrictions on imports of cotton textiles maintained by the United Kingdom, and to report thereon to the Council."

The Council nominated Mr. P.T. Eastham (Canada), Chairman of the Panel and authorized the Chairman of the Council, in consultation with the two parties concerned and with the Chairman of the Panel, to nominate not more than three members to the Panel.

11. French Import Restrictions (L/3744)

The representative of the United States informed the Council that bilateral consultations between the parties concerned were still continuing and asked that the item be deferred to the next meeting.

The Council agreed to revert to the matter at its next meeting.

12. Customs Union and Free Trade Areas - Procedures

The Chairman stated that at its last meeting the Council continued the consideration of a proposal made by the United States regarding procedures for the submission and examination of basic information concerning newly established customs unions and free trade areas. The Council agreed to revert to this matter at the present meeting.

The representative of the EEC stated that the EEC had searched for a viable and effective solution for the problem which took into consideration its legal and practical aspects and submitted the following text for a Council Decision:

The Council notes that Article XXIV:7(a) of the General Agreement requires that any contracting party deciding to enter into a customs union or free trade area or an interim agreement leading to the formation of such a union or area, shall promptly notify the CONTRACTING PARTIES.

Without prejudice to the legal obligations to notify in pursuance of Article XXIV, the Council decides to invite contracting parties that sign an agreement falling within the terms of Article XXIV, paragraphs 5 to 8, to inscribe the item on the agenda for the first meeting of the Council following such signature, to the extent that the advance notice of ten days prescribed for inclusion of items in the agenda can be observed. Inclusion of the item should allow the Council to determine the procedures for examination of the agreement.

The representative of the United States recalled that he put forward a proposal and modified proposals some time ago which were not acceptable to the LEC. While the present LEC proposal fell short of what the United States regarded as desirable he was not inclined to pursue the matter further if other members of the Council felt that this proposal was useful.

The Council adopted the proposed decision.

13. Australia - Papua/New Guinea waiver (L/3729)

The Chairman stated that in accordance with the Decision of 24 October 1953 the Government of Australia had submitted the eighteenth annual report on measures taken under the terms of the Decision. The report, (L/3729), showed that no measures had been taken in the period under review.

The Council took note of the report.

14. Turkey - Stamp Duty (L/3735 and Corr.1)

The Chairman recalled that under the Decision of 24 August 1969 the provisions of Article II of the General Agreement were waived to the extent necessary to enable the Government of Turkey to maintain in effect a stamp duty on imports of products in respect of which duties were bound in the Turkish Schedule. The Decision provided for an annual report by the Government of Turkey to the CONTRACTING PARTIES on the application of the stamp duty, with particular regard to the need for its continued application. The latest annual report by Turkey had been circulated in document L/3735 and Corr.1.

The representative of Turkey stated that the income from the stamp duty was necessary for Turkey's development plans. It was designed to assist the creation of savings for investment purposes, the avoidance of regression in the balance-of-payments situation and to maintain internal prices at a stable level, so as to avoid inflationary tendencies. During the application of the Second Five-Year Plan, Turkey's imports had increased by 11.8 per cent annually, while the Plan's anticipated growth had been only 7.4 per cent. The growth of exports had been less than expected in the Plan, and the deficit in the trade balance had continued

to increase. The trade deficit amounted to US\$268 million in 1968 and increased to US\$494 million in 1971. Due to the negative situation of its trade balance, Turkey had decided to maintain the application of the stamp duty until the end of the Third Five-Year Plan, i.e. 31 December 1977. His delegation, therefore, requested a decision by the CONTRACTING PARTIES to extend the waiver, so as to enable the Turkish Government to maintain the stamp duty. He stressed that the purpose of the stamp duty was exclusively to maintain imports at a level compatible with the foreign exchange resources of Turkey and had no protectionist intention. Furthermore, the Turkish Government intended to apply the stamp duty to all imports without distinction as to their origin. He recalled that under the Agreement of Association between Turkey and the EEC, in conformity with the provisions of Article XXIV, the rate of the stamp duty had been reduced with respect to the EEC member States. The Turkish Government was now in the process of elaborating the legal provisions which would enable it to apply, as from 1 January 1973, the same reductions to imports from all contracting parties.

The Council took note of the Report and decided to refer Turkey's request for an extension of the waiver to the Committee on Balance-of-Payments Restrictions for examination, in consultation with the International Monetary Fund. In view of the date of expiry of the waiver, the Council expressed the hope that it would be possible for the Committee to carry out this examination and report thereon to the Council in the second half of November.

15. United States - Agricultural Import Restrictions (L/3737)

The Chairman recalled that the Decision of 5 March 1955 required the CONTRACTING PARTIES to make an annual review of any action taken by the United States under the waiver, on the basis of a report to be furnished by the United States Government. The sixteenth annual report had been circulated in document L/3737.

The representative of Australia reiterated some of the observations made on previous occasions. Referring in particular, to dairy products he regretted that in the long period that the waiver had now been in existence, no effort had been made to bring production restraints into play to cover the domestic situation in the United States. The United States had not removed or relaxed any of the restrictions on dairy products permitted under the waiver, but had, on the contrary, extended the import restrictions on cheese to cover practically all types of cheese and indeed practically all types of dairy products. While recognizing that the United States, through the waiver, legally operated in accordance with the GATT, there was not much practical difference from a situation in which a contracting party maintained restrictions inconsistent with the General Agreement. The concern expressed with respect to the increased import restrictions on cheese was shared by the representative of Canada, who stated that Canadian exports emphasized mainly variety cheeses of which

many, if not all, could be left aside without interfering with the United States import programme. The representatives of Canada and New Zealand supported the view that the time had now come for a basic review of the waiver granted to the United States seventeen years ago. The need for a review might be considered during the forthcoming session of the CONTRACTING PARTIES, and it was hoped that in the course of the forthcoming multilateral negotiations progress could be made in this respect. It was pointed out, however, that the United States should not expect any compensation for the modification or elimination of the import restrictions.

The Chairman said that the Council had hereby carried out the annual review required under the Decision.

The Council took note of the sixteenth annual report.

16. Application of Article XXIV to Japan

The representative of Japan informed the Council that since the twenty-seventh session the Governments of Spain, Portugal, Dahomey, Burundi and Gambia had disinvoked Article XXIV with respect to Japan. However, as many as seventeen countries were still applying that Article and Japan made a strong appeal to those seventeen countries to disinvoke the Article and to enter into normal GATT relations with Japan.

The Japanese delegation asked the secretariat to circulate a list of the countries in question, to enable the matter to be taken up at the twenty-eighth session.

The Council took note of the statement and appealed to the contracting parties concerned to give again serious consideration to this question.

17. United Kingdom - Dollar Area Quotas (L/3753)

The representative of the United States introduced his Government's complaint, contained in their communication of 13 October 1972 (L/3753), against the maintenance by the United Kingdom of quantitative import restrictions on certain products when being imported from the United States and certain other dollar area countries. He pointed out that the quotas were imposed when the United Kingdom had external payments problems. The maintenance of these quotas when the United Kingdom ceased to invoke this justification in 1960, was not in conformity with Articles XI and XIII of the General Agreement. The United States had raised this question repeatedly with the United Kingdom since 1960. A request for Article XXIII:1 consultations was made on 14 January 1972. The United Kingdom then eliminated the quota for one product and enlarged the quotas for several others. As new consultations held very recently terminated without satisfactory adjustment, the matter was referred to the CONTRACTING PARTIES under the provisions of Article XXIII:2 of the General Agreement.

The representative of the United Kingdom pointed out that these restrictions were maintained by the United Kingdom in the interest of a number of developing countries. Bilateral discussions had again been held on 23 October and the United Kingdom was prepared to continue these discussions. The United Kingdom was also prepared to discuss the matter with the developing countries concerned.

Following on the suggestion of the Chairman the Council agreed that consultations should take place in the meantime so as to facilitate further consideration of the matter at the next meeting.

18. Administration and Financial Questions - Report of the Committee on Budget, Finance and Administration (L/3747)

Since the report had only become available on 19 October, the Council agreed to defer consideration of the report to a later meeting to be held on 31 October for this purpose.

19. Training Activities (L/3749)

The Director-General introduced his report on the two commercial policy courses conducted by the GATT secretariat in Geneva in 1972. He emphasized the growing importance attached to these courses, and noted that applications greatly exceeded the number of places available. The Director-General also expressed his appreciation to the governments of Switzerland, Norway, the Federal Republic of Germany, Romania and Italy for their valuable contribution to the study tour programme in 1972.

One representative spoke and expressed his delegation's continued support for these courses. He was of the opinion that, because of their undoubted value to the participating officials, the courses should not only be maintained but also be strengthened.

The Council took note of the report.

20. Status of Protocols (L/3746, C/W/209)

The Chairman, referring to the report by the Director-General on the Status of the Protocols upon which some action was still required by one or more governments, stated that since the report was issued, an instrument of ratification had been deposited by the Government of Pakistan to the Protocol Relating to Trade Negotiations among Developing Countries. This brought the total number of formal acceptances of the Protocol, since the date of signature on 25 February 1972, to five, which was still three short of the minimum of half of the countries which had exchanged concessions.

The representative of Brazil informed the Council that the constitutional requirements in his country had been fully completed and the formal instrument of ratification would be deposited soon.

The Chairman said that the Protocol Introducing Part IV was now in force amongst all but three contracting parties. He suggested that since the closing date for acceptance of this Protocol would expire at the end of the twenty-eighth session, the closing date should be extended until the end of the twenty-ninth session. A draft decision had been prepared by the secretariat (C/W/209) for consideration by the Council.

The Council recommended the extension of the closing date for the acceptance of the Protocol Introducing Part IV and approved the text of the draft decision for consideration by the CONTRACTING PARTIES at the twenty-eighth session.

21. Brazil - Renegotiation of Schedule

The representative of Brazil informed the Council of the progress made in the renegotiation of the new Brazilian Customs Tariff. Agreement had been reached and negotiations concluded with the great majority of the contracting parties concerned. Formal notification had been lodged with the Director-General and circulated among contracting parties on the conclusion of negotiations with the following countries: South Africa, Canada, Czechoslovakia, Finland, Sweden, United States of America, Norway, New Zealand, Australia, Denmark and Austria. As concerned India, the two Governments had agreed that, since there had been no modification in the original concessions to that country, no formal notification to the GATT was necessary. Negotiations had also been concluded with Japan on 24 October and formal notice would be coming forward shortly. Negotiations were still in progress with the European Communities and with the United Kingdom and it was hoped that they would be concluded within the period of validity of the present waiver, i.e. before 31 December 1972. Should this not be the case, the Brazilian delegation would present a request for a new extension of the waiver at the proper time.

22. Preparations for the twenty-eighth session

The Director-General gave an outline of a possible Order of Business for the twenty-eighth session, which it would seem could reasonably be proposed to the CONTRACTING PARTIES for their consideration on the opening day of the session. He also indicated that one of the subjects which might be proposed for consideration at the concluding meeting of the session was the date of the next regular session and he suggested that 12-23 November 1973 might be considered. The Director-General also asked that consideration be given to the question whether it would be opportune for the Chairman of the CONTRACTING PARTIES to propose, at the opening of the session, that the duration of statements in plenary meetings be

limited to ten minutes. Such arrangement would be in accordance with Rule 22 of the Rules of Procedure. It would no , of course, preclude delegations who wished to have more comprehensive statements circulated to contracting parties from supplying a sufficient number of copies to the secretariat for that purpose.

23. European Free Trade Area Agreements

The Council was informed that the texts of the Interim Agreements between the European Communities and Austria and the Agreements between the European Communities and Switzerland and Liechtenstein had been transmitted to the secretariat. The texts of the other Agreements would be transmitted as soon as possible, depending on technical circumstances only.

24. Report of the Council (C/W/208)

The secretariat had distributed in document C/W/208 a draft of the Council's report to the CONTRACTING PARTIES on the matters considered by the Council between sessions of the CONTRACTING PARTIES and any action taken in this respect. The Chairman explained that to some extent the draft report was also an attempt to give up-to-date information regarding subjects which were within the competence of the Council but in respect of which no recent action could be taken.

Several representatives proposed amendments and improvements to the draft.

In drawing up the report the Council noted that no biennial report on developments under the Central African Economic and Customs Union and the Central American Common Market had been received. The Council was informed that the biennial reports on developments under the Association between the EEC and the African and Malagasy States and under the Associations between the EEC and Tunisia and Morocco would be submitted very shortly. The Council also noted that the Working Party on the Accession of Hungary had held three meetings in 1972 in which substantial progress was made. The Council noted that the Working Party on the Accession of Colombia had not been convened. The Council was also informed that the Government of Brazil had entered into consultations with Canada on the subject of the import documentation requirements.

The Chairman requested the secretariat to insert the amendments proposed as well as suitable additional notes on action taken at this meeting.

The Council agreed that the report, with these additions, would be distributed and subsequently presented to the CONTRACTING PARTIES by the Chairman of the Council.