

GENERAL AGREEMENT ON TARIFFS AND TRADE

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REPORT OF THE WORKING PARTY ON THE AUSTRALIAN REQUEST TO GRANT TARIFF PREFERENCES TO LESS-DEVELOPED COUNTRIES

1. At a meeting in May 1965 the Council discussed a request from the Government of Australia for a waiver under the provisions of Article XXV:5 to cover the introduction by the Australian Government of preferential rates of duty on imports of certain goods produced in less-developed countries (C/M/26). The formal request, an initial list of products involved in the proposed preferential scheme, and an indicative list of countries to which the scheme might apply, were circulated in document L/2443. The Council established a Working Party with the following terms of reference:

"To consider a request from the Government of Australia for a waiver under the terms of Article XXV:5 of the General Agreement to cover the introduction by the Australian Government of preferential rates of duty on imports of manufactured and semi-manufactured products produced in less-developed countries, and to submit recommendations to the Council or to the CONTRACTING PARTIES."

2. The Working Party met on three occasions. At its first meeting in June 1965 the Working Party heard a statement by the Australian representative setting out the background and explaining the principal features of the Australian request. In his statement the Australian representative pointed out that Australia had accepted the new Part IV of the GATT on the understanding that the provisions of Article XXVII would be applied to the fullest extent possible consistent with Australia's development needs, policies, and responsibilities, and that it was against this background that the application should be viewed. The Australian proposal was designed as a contribution, consistent with Australia's own stage of economic development, to the solution of the problems facing less-developed countries in the trade field. It was the conviction of the Australian Government that if the trade position of the less-developed countries was to be improved they must export increasing amounts of semi-manufactured and manufactured goods. Australia had proposed the introduction of preferences on some sixty products of export interest to less-developed countries and would not seek reciprocity from these countries. The Government of Australia had indicated that it wished to be able to add to the list of products as further possibilities for assisting the trade of less-developed countries and territories were revealed. With regard

to the list of countries and territories to which these preferences might apply, the Australian representative stated that in the absence of internationally agreed criteria, Australia would welcome the guidance of CONTRACTING PARTIES. The Australian request contained a specific proposal which should be considered separately from the general question of preferences for less-developed countries. The Australian representative also drew attention to the fact that the proposal contained safeguards for the trade of established suppliers.

3. In the course of its second meeting held in September 1965, the Working Party was informed by the delegation of Australia that the Australian Government had, in the meantime, introduced two bills in the Australian Parliament designed to give effect to the preferential scheme and that the Australian Government wished to be in a position to bring the preferences into operation as soon as the waiver was granted. The representative of Australia also advised the Working Party of certain modifications to the list of products which had been made by his Government. Some additional data on Australia's import trade in the items in question was also furnished to the Working Party (L/2463 and Add.1 and 2) and certain clarifications were given in respect of a number of technical points relating to the operation of the proposed scheme, e.g. the administration of the preferential quotas and the application of the rules of origin.

4. In the course of the discussion, the Working Party explored various aspects of the Australian proposal. The members of the Working Party discussed the basis on which the list of products had been drawn up, including the manner in which the principle of competitive need had been applied to determine the choice of products, the possibility of further modifications in and additions to the list, the inclusion or exclusion of particular less-developed countries or territories from preferences on particular products, the procedures to be followed in this connexion, the safeguards for established suppliers, domestic production figures of the items covered by the proposed preferential scheme, and the definition of the term "manufactured and semi-manufactured products".

5. The following points were made in the course of the discussion:

(i) apprehension was expressed concerning the danger that the exclusion of a particular country from preferences in respect of a particular item as a result of the (possibly arbitrary) application of the principle of competitive need could divert trade from one source to another among the less-developed countries themselves;

(ii) the scheme should take into account differences in levels of development among less-developed countries;

(iii) the benefits to less-developed countries from the proposed preferences would be modest in comparison with those enjoyed by certain developed countries already benefiting from preferences in the Australian market; the list of products should be expanded and the quota limits to the preferences removed;

(iv) the less-developed countries pointed out that the principle of the infant economy, rather the infant industry, should be the guiding principle in this connexion, and that all exports of less-developed countries should be granted preferences;

(v) the benefits to less-developed countries from the Australian scheme would not only be modest but could have been conferred in large measure through reduction of tariffs on a most-favoured-nation basis;

(vi) the definition of semi-manufactured and manufactured products which the Australian representative had put forward, was considered imprecise for the purpose of the scheme;

(vii) disappointment was expressed that the Australian Government was unable to provide domestic production figures on some items appearing in the list of products since these figures were relevant to the subject under discussion.

6. The Australian representative indicated that it was not the intention of his Government to apply the principle of competitive need, arbitrarily or dogmatically and that suppliers from less-developed countries would be excluded from enjoying preferences on particular items only where reasons clearly justified such action. After dealing with the proposed scheme in its relation to the benefits enjoyed in the Australian market by certain Commonwealth suppliers, the Australian representative pointed out that while the benefits of the scheme might appear small from the point of view of some industrialized countries, they could not be considered small in relation to the Australian market. The Australian scheme was designed to bring about an appreciable increase in exports of less-developed countries to the Australian market, while providing the essential safeguards for domestic industry and avoiding undue disruptions of the trade of established suppliers. The representative of Australia reiterated the statement he had made at an earlier meeting that it was not necessary to define the expression "manufactured and semi-manufactured products". The products initially to be the subject of the preferences were set out in the application for a waiver, and any proposed additions to the list would be notified to contracting parties and would be the subject of consultations. With regard to domestic production figures, his delegation felt that such information was not of direct relevance to the matter

under discussion, but in the light of the views which had been restated by other members of the Working Party, his Government had provided such figures as were available. (See L/2463/Add.2.)

7. In the course of its discussions, the Working Party agreed that countries and territories which did not appear in the initial indicative list of less-developed countries and territories attached to the Australian application but wished to be included within the scope of the scheme should so notify the Australian delegation and the Working Party.

8. A full record of the discussions summarized in the preceding paragraphs is to be found in documents L/2457 and L/2478. (See Annexes C and D.)

9. Following the exchange of views on different aspects of the Australian proposal and the statement by various delegations on their position on the points of principle involved in the Australian scheme, as recorded in document L/2478, the Working Party at a third meeting from 29 November to 17 December proceeded to consider the draft of a decision under Article XXV:5 in respect of the Australian request, submitted for discussion by the Australian delegation. At the outset of the discussion on the text of the draft decision, a number of delegations indicated that their participation in the formulation of the draft waiver was without prejudice to the position on points of principle adopted by them in earlier discussions of the Working Party and to the eventual attitude of their government in respect of the waiver application. In this connexion a number of delegations indicated that while they generally supported the Australian request they continued to be in favour of a general non-discriminatory system of preferences. They also considered that the proposal should not serve as a precedent in all aspects. Some other delegations reaffirmed their attachment to the most-favoured-nation principle. Some delegations stressed their desire to treat the Australian application in a pragmatic fashion without being committed to a doctrinal position on the question of preferences. Some of these delegations thought that the Australian scheme should be regarded as an experiment in the use of a certain type of solution for some of the trading problems of less-developed countries.

10. The draft decision attached to this report represents a text which is acceptable to the Australian delegation. In submitting this text to the Council for consideration, the Working Party wishes to draw attention to the exchange of views which has taken place in respect of the different paragraphs of the text and to alternative formulations on certain points which have been proposed by one or more delegation.

Preambular part

First paragraph

11. Some delegations were of the view that, as all the circumstances in which Australia would grant preferential tariff treatment to certain goods of less-developed countries and territories had been specified in the Australian Government's application, there was no need to highlight specifically in this paragraph that the goods to which preferential treatment was granted should be the product of

industries that have not reached a stage of development which enables them to compete in the Australian market with like goods produced in other countries. This, in their view, singled out a particular consideration mentioned in the Australian Government's application from a number of other considerations which were also important and needed to be looked at as a whole.¹ These delegations accordingly preferred the following formulation:

"Having received an application from the Government of Australia for authority to grant preferential tariff treatment to certain goods of less-developed countries and territories in the circumstances therein described."

12. There was general agreement in the Working Party that the phrase "the more industrialized countries" which appears in the last line of the first preambular paragraph refers to all countries which are not less-developed countries.

Additional paragraph proposed by the delegation of Jamaica

13. The delegation of Jamaica proposed the insertion of the following text as a paragraph in the preambular part of the waiver:

"Having noted also the Government of Australia, whilst stating that it relies on the tariff as a significant aid for further diversification of its economy, has been according preferential duties for many years to certain developed countries at rates lower than those accorded to the developing countries; and that this suggests that the Australian economy is already in a position to compete with the developing countries even when they have reached a stage of development that enables them to compete in the Australian market with like goods produced in those industrialized countries which have been receiving preferences for many years."

14. The representative of Australia indicated that he was unable to accept this proposal in relation to the conclusions contained in it. One delegation suggested that the concerns of the Jamaican delegation were covered by paragraph 2 of the operative part of the waiver.

Second paragraph

15. Several delegations preferred the following version of the second preambular paragraph which had appeared in the text originally circulated by the Australian delegation. They preferred that the paragraph be drafted in objective terms and not as a declaration attributed to the Australian Government:

"Having noted that the establishment of the proposed preferential arrangements is designed as a step by the Government of Australia to assist the trade and economic development of less-developed countries and territories in a manner consistent with Australia's economic circumstances and development needs."

Fourth paragraph

16. Two delegations expressed their disagreement with the substance of this paragraph.

¹An additional point made in the course of the discussions on this paragraph is covered in paragraph 28.

Eighth paragraph

17. There was general agreement in the Working Party that the text of the paragraph should be interpreted to mean that the proposed action should not impede the reduction of tariffs on a most-favoured-nation basis whether by the Government of Australia or by any other contracting party. The Working Party noted the statement by the representative of Australia that this could carry no implication that the Government of Australia was under an obligation to reduce its most-favoured-nation tariffs.

18. The representatives of less-developed countries emphasized that this paragraph was not necessary, but if it were decided to retain it, the essential features of the Australian scheme should also be spelt out in it. They felt that this consideration could be brought out by the following formulation.

"Having further noted that the proposed action is not intended by the Government of Australia to impede the reduction of tariffs on a most-favoured-nation basis, but that it is aimed by the Government of Australia at creating additional trade opportunities for the less-developed countries and territories with a view to accelerating their economic development."

19. The Australian representative stated that his delegation could accept either the formulation set out in paragraph 18 above or the version appearing in the draft decision annexed to this report.

20. Some delegations felt that the formulation in paragraph 18 implied that the need to provide additional trade opportunities for less-developed countries should set a limitation to a reduction of tariffs on a most-favoured-nation basis. They recalled that the concept that the proposed preferences were intended to provide additional trade opportunities to less-developed countries was already contained in the first three paragraphs of the preambular part.

Additional paragraph proposed by representatives of less-developed countries

21. The representatives of less-developed countries proposed the insertion of the following paragraph after the eighth paragraph in the preambular part of the waiver:

"Taking note of the declaration of the Government of Australia that it will continue its efforts to increase the number of items of export interest to less-developed countries on which preferential tariff treatment will be granted, to further reduce the preferential rates provided in this waiver; and to remove or enlarge the preferential quotas."

22. The representative of Jamaica recalled that the Australian application for a waiver included a statement to the effect that the Australian Government wished to be able to add to the list of products from time to time as further possibilities for assisting the trade of less-developed countries by this means were revealed. Unless the list would be extended the Australian proposal was of no interest to his country. The representative of Australia recalled that the procedure embodied in the text of the draft decision provide for additions to the list of goods, but in view of the requirements of paragraph 4 of the draft decision, his Government could not undertake a formal commitment on this matter.

Operative part of draft decision

Paragraph 1

23. This paragraph was acceptable to the delegation of Australia and to most other members of the Working Party. Some delegations emphasized that in the light of the considerations stated in the preambular part of the draft decision, it should be ensured that preferences are extended only to less-developed countries and territories as otherwise they would lose much of their value.

24. The Working Party recognized that the CONTRACTING PARTIES had not drawn up a list of less-developed countries for the purpose of the General Agreement. The Working Party did not regard itself as competent to settle this legal question. The Working Party with the exception of three members noted that pending a decision on the matter, the list attached in Annex B to this report afforded in these circumstances the only guidance available to the Government of Australia as to the countries and territories to which the scheme in question could be applied. This list contains in alphabetical order the countries and territories mentioned in the list annexed to L/2443 and Corrigendum 1, and other countries and territories as they appear in the communications reproduced in L/2464 and Addenda 1-3.

25. The Working Party emphasized its understanding that the list did not define the status of any country or territory for the purpose of the General Agreement or for any other purpose.

26. Some members of the Working Party considered that the appropriate procedure for the Australian Government, as the applicant for a waiver, would have been for it to have included in its application the list of countries and territories to which it wished to be authorized to extend preferences. The waiver should, in their view, incorporate a list of countries and territories to which Australia would be entitled to extend preferential treatment. Any additions or modifications in this list should be the subject of subsequent applications to the CONTRACTING PARTIES by the Government of Australia.

27. The Working Party examined the list of products annexed to the draft decision. A member of the Working Party drew attention to the exclusion of a particular territory from the benefit of the preferences on particular items for less-developed countries and territories. This discrimination apparently stemmed from the concept in the first paragraph of the preambular part of the draft decision which provided for preferences only for products of industries which were not considered competitive with more industrialized suppliers.¹

28. Some delegations considered that there was an inconsistency between the list of products attached to the draft decision and the first paragraph of the preambular part, since there were three items of major importance in respect of which less-developed countries accounted for the major share of Australian imports and could consequently be treated as competitive in relation to other suppliers. They felt that if Australia wished to increase trading opportunities for less-developed countries in these items it could do so by reducing the tariff on a most-favoured-nation basis. The representative of Australia did not consider that there was any inconsistency in this regard. The products in question competed in the Australian market with other products made in industrialized countries and in Australia. A reduction of the most-favoured-nation tariffs as proposed by some delegations would mean unrestricted imports of these products at lower rates of duty which would injure Australian industries since it would not be possible to impose quantitative restrictions on such imports.

29. Several delegations pointed out that it was open to the Government of Australia to establish tariff quotas for these items at reduced rates and on a most-favoured-nation basis. Several delegations supported the view put forward by the Australian representative that there was a clear link between the list of products annexed to the draft decision and the considerations stated in the preambular part of the draft decision. They felt that there was no practical possibility of concessions on the items in question being made available to them in some other form.

30. One delegation stated that Article XIII:5 of the General Agreement provided for the non-discriminatory application of tariff quotas in accordance with the rules in respect of the administration of quota restrictions contained in that Article. Since the Australian scheme established preferential tariff quotas for certain imports from less-developed countries and territories, it was essential that quotas should be so administered as to involve no discrimination between such countries or territories.

Paragraph 2

31. Some delegations considered that a formal decision of the CONTRACTING PARTIES in accordance with the procedures of Article XXV:5 should be sought in each instance where Australia wished to add to the list of goods or to increase the preferential benefits which it is permitted to extend to less-developed countries. In their

¹See also paragraph 5.

view any additions to the list of goods, etc. involved a further derogation from the provisions of paragraph 1 of Article I of the General Agreement and should, therefore, be covered by a specific decision. They accordingly favoured the deletion of this paragraph. Other members of the Working Party felt that the procedures in paragraph 4 of the draft decision made adequate provision for the necessary degree of consultation and approval by the CONTRACTING PARTIES in regard to any enlargement of the scope of the preferential arrangements.

32. The Working Party noted that the words "to reduce the rate of any duty" should be interpreted to apply to a reduction of the preferential tariff applied to a particular product specified in the Annex to the draft decision.

33. In reply to the question as to why the provisions of paragraph 2 of the draft decision covered all the cases of extension of the preferential treatment with one exception - namely, a rise in the most-favoured-nation rates of duty, the representative of Australia explained that his Government had no intention of increasing the most-favoured-nation tariff rates for the purpose of providing a margin of preference for less-developed countries both in respect of the products included in Annex I and for any other product which might be added to Annex I.

Paragraph 3

34. Many delegations including all delegations of the less-developed countries emphasized that any decision to exclude a particular less-developed country or territory from the preferential tariff treatment provided in the draft decision should be taken only after full consultation and under adequate provision for international supervision and control since a basic question of discrimination between less-developed countries was involved. It should be clearly indicated that Australia should consult with the affected contracting party and that the matter must be referred to the CONTRACTING PARTIES if the consultations did not produce agreement. Nor should the Government of Australia have the automatic right to exclude from Annex I the product concerned as this provision would prejudice both the position of the less-developed country which Australia wished to exclude from the scope of the preferences as well as that of all other less-developed countries. These delegations accordingly proposed the following text for paragraph 3 of the draft decision which was supported by one other delegation because it preferred procedures which conformed as closely as possible to previous GATT practice.

"Whenever the Government of Australia proposes to withdraw the benefit of the preferential treatment provided for in this waiver in respect of any commodity from any less-developed contracting party or territory it shall notify the CONTRACTING PARTIES of the action which it intends to take and shall upon request consult with the less-developed contracting party or territory likely to be affected by such action. If no request for such consultation is

received within a period of thirty days of the date of the notification or if the consultation results in agreement the Government of Australia may take such action. If no agreement is reached within a period of thirty days the matter shall be referred to the CONTRACTING PARTIES for a decision. The Government of Australia may subsequently restore to such less-developed contracting party or territory the preferential treatment provided for in this decision."

35. The representative of Nigeria indicated that his delegation would also prefer the above paragraph with the substitution of the words "all less-developed contracting parties" in place of the words "the less-developed contracting party or territory" in the fifth line; and the replacement of the last sentence of that paragraph by the following:

"If no agreement is reached within a period of thirty days the matter shall be referred to the CONTRACTING PARTIES for a decision which shall be final."

36. The representative of Australia recalled that the provisions of paragraph 3 of the draft decision had been suggested by the Government of Australia with a view to accommodating the desire of less-developed countries for international supervision on this point. His Government felt that these provisions were adequate and could not accept the alternative formulations.

Paragraphs 4 and 5

37. Some delegations which favoured the deletion of paragraph 2 of the draft decision for the reasons set out in paragraph 31 above, proposed also that paragraph 4 should in consequence be deleted. Some delegations proposed the insertion of the words "and shall give prompt attention to any representation in this regard" before the words "with a view to arriving at a mutually acceptable settlement" in paragraph 4. The representative of Australia was unable to accept this proposal. He pointed out that it was in the interest of the Government of Australia that prompt agreement should be reached with any contracting party seeking consultations in terms of paragraph 4 as in the absence of such agreement it would not be possible for the Government of Australia to take the action to which the procedures of this paragraph applied. The Government of Australia could, therefore, have no interest in delaying its consideration of these matters. The members of the Working Party who put forward this proposal, however, felt that to consult promptly was not the same thing as giving prompt attention to the specific suggestions or submissions which a representation might contain.

38. Some delegations supported the insertion of the words "a settlement satisfactory to all concerned" in place of the words "a mutually acceptable settlement" at the end of the first sentence of paragraph 4 and the second sentence of paragraph 5. They felt that the consultations mentioned in these sentences would touch not only the interests of the contracting party initially seeking the consultation but of all other contracting parties as well. It was pointed out that the words "a mutually acceptable settlement" implied the notion that the settlement would need to be generally satisfactory to all concerned since if this were not the case other requests for consultation with the Government of Australia would follow.

39. Some delegations proposed that the provision for satisfactory settlement of matters taken up in the consultations provided for in paragraphs 4 and 5 should be supplemented by explicit provision for compensatory adjustment. This would be achieved by the addition of the words "or compensatory adjustment" at the end of the first sentence of paragraph 4 and the second sentence of paragraph 5, respectively. These delegations recalled that the term "with a view to arriving at a mutually satisfactory settlement or compensatory adjustment" had been used in earlier GATT waivers, notably the waiver granted to the United Kingdom for authority to extend preferences to its dependent overseas territories. They felt that should a contracting party suffer substantial injury in its trade with Australia in any product as the result of action taken by the Government of Australia under the proposed decision, it was only appropriate that Australia should agree to provide compensatory adjustment where a settlement could not be reached on other terms. In reply to a question as to how the concept of compensation would be applied in practice, these delegations indicated that it could not be foreseen how discussions on compensatory adjustment would work out in each case.

40. The representative of Australia stated that he could not accept the insertion of a provision for compensatory adjustment in the text of the draft decision. Generally, GATT waivers provided for compensatory adjustment where illegal use of restrictions to protect domestic interests was involved. In this instance, the Australian action was not intended to promote a domestic interest. His Government could not accept an obligation to provide such adjustments. It was pointed out by some members that the term "mutually satisfactory settlement" could cover a number of possibilities and that it was open to any contracting party in the course of the consultations to raise any question. The members of the Working Party sponsoring the provision for compensatory adjustment thought that it was not sufficient that there should be a possibility for bringing up the question of compensatory adjustment in the course of consultations. There should also be the assurance that requests for such adjustments are entitled to full consideration.

41. One member of the Working Party pointed out that a country could be expected to provide compensation only where it benefited directly from the action giving rise to the claim for compensatory adjustment. Accordingly, if compensatory adjustments were to be offered to the other suppliers, it would follow that it is the less-developed countries who should be required to pay for such adjustments. This would, however, be contrary to the principle that reciprocity should not be required of less-developed countries and would inevitably put the Government of Australia under pressure to discontinue the preferences as the simplest solution to the problem.

42. Some representatives proposed the insertion of the following sentence at the end of paragraph 5:

"Should such a settlement or adjustment not be reached, the matter shall be referred to the CONTRACTING PARTIES in accordance with the provisions of the General Agreement."

The representative of Australia did not accept the insertion of this provision on the ground that the normal rights and obligations of contracting parties under Article XXIII of the General Agreement would not be affected by the decision. He pointed out that if a satisfactory settlement were not reached in the course of the consultations mentioned in paragraph 5, it would remain open to the contracting parties concerned to seek a decision of the CONTRACTING PARTIES in accordance with the normal procedures.

43. One representative proposed the insertion of the following language in paragraph 5 of the draft decision:

"The Government of Australia shall review the level of preferential duties, size of quotas, the inclusion or exclusion of countries benefiting from preferential duties or the coverage of the products list on the request of any contracting party which considers that its interests are affected. In particular any contracting party which considers" etc...

44. The representative of Australia was unable to accept this proposal. He pointed out that the consultations envisaged in paragraph 5 of the draft decision could involve a review of such matters as the level of preferential duties, etc. in so far as these related to the question of injury to the interests of the contracting parties seeking consultations. His Government could not, however, accept an automatic obligation to review all these matters whenever a contracting party made a request to this effect.

Paragraph 6

45. One delegation proposed the addition of a new paragraph after paragraph 6 as follows:

"This Decision shall be valid up to 30 June 1969."

46. Some other delegations supported the establishment of a fixed time-limit for the duration of the waiver without necessarily subscribing to the specific date of 30 June 1969.

47. Several delegations proposed that during the maintenance of the waiver the CONTRACTING PARTIES should every five years undertake a major examination of the operation of the waiver in order to evaluate its effects. Some other delegations suggested that every fifth year the CONTRACTING PARTIES should undertake a major review to evaluate the effects of the waiver, and to consider its operation, retention or revision in the light of this judgment and of the circumstances then prevailing. There was wide agreement in the Working Party that provision should be made in the text of the waiver for major reviews with the aim of facilitating the reconsideration of the waiver. There was also wide agreement that this carried no necessary implication as regards the duration of the waiver. This could not also effect the right of the CONTRACTING PARTIES to review waivers.

48. The representative of Australia could not accept a fixed time-limit for the waiver. A number of representatives of less-developed countries emphasized that they could expect to benefit from the preferential tariff treatment provided in the decision only after a period of time and that consequently no time-limit should be imposed. The representative of Australia had no objection to the CONTRACTING PARTIES carrying out a major review of the operation of the waiver every five years as proposed in paragraph 47 above but wished to emphasize that this should have no implications for the duration of the waiver. Some delegations proposed that the last sentence of the text of the draft decision should be supplemented and modified by the following text:

"The CONTRACTING PARTIES recall that nothing in this decision would preclude any contracting party affected from having recourse to Article XXIII of the General Agreement or prevent the CONTRACTING PARTIES from reconsidering the present decision whenever they deem it useful to do so."

49. A number of delegations felt that the text set out above would enable the CONTRACTING PARTIES to modify their decision as a whole, inter-alia, in relation to solutions which they might adopt subsequently for the general problem of preferences which was currently before them.

50. The representative of Australia pointed out that it was always open to the CONTRACTING PARTIES, either in the course of the annual review or otherwise, to reconsider the decision. He could not, therefore, see the need for adding a provision to the decision along the lines suggested above. Some members of the Working Party thought that the voting requirements of the procedures to be followed for a decision involving the termination or modification of a waiver where no time-limit was provided in the decision were not clear.

ANNEX A

Draft Decision Acceptable to the Australian Delegation¹

Having received an application from the Government of Australia for authority to grant preferential tariff treatment to certain goods of less-developed countries and territories in the circumstances therein described when such goods are the products of industries that have not reached a stage of development that enables them to compete in the Australian market with like goods produced in the more industrialized countries,

Having noted the statement by the Government of Australia that the establishment of the proposed preferential arrangements is designed as a step by the Government of Australia to assist the trade and economic development of less-developed countries and territories in a manner consistent with Australia's special economic circumstances and development needs, as a country depending in large measure on a relatively small number of primary products and relying on the tariff as a significant aid for further diversification of its economy and for the economic development of Papua and New Guinea,

Noting that the basic objectives of the General Agreement on Tariffs and Trade include the raising of the standards of living and the progressive development of the economies of all contracting parties and that the attainment of these objectives is particularly urgent for less-developed contracting parties,

Considering also that the proposed action is designed by the Government of Australia to facilitate attainment of these objectives and that this initiative would provide some evidence of the effect of such action in facilitating these objectives,

Noting the declaration of the Government of Australia that it is its intention in exercising the authority granted to it, pursuant to this waiver, to continue to take account of the interest of established suppliers to the Australian market, and noting further the assurances of the Government of Australia that it will upon request promptly enter into consultations with any contracting party to the General Agreement which has a substantial interest as an exporter to Australia of any product to which this waiver is applicable and which considers that serious damage to its interest in that product is caused or imminently threatened by action under this waiver,

¹See paragraph 10 of the report.

Considering further that the Government of Australia has declared its readiness to keep under review the operation of these arrangements and their impact on international trade,

Having noted that the proposed action is not made dependent on reciprocal concessions by the less-developed countries,

Having noted that the proposed action is not intended by the Government of Australia to impede the reduction of tariffs on a most-favoured-nation basis,

The CONTRACTING PARTIES, acting pursuant to paragraph 5 of Article XXV of the General Agreement and in accordance with the procedure adopted by them on 1 November 1956¹,

Decide that

1. Subject to the provisions of paragraphs 2 to 6 of this Decision, the provisions of paragraph 1 of Article I of the General Agreement shall be waived to the extent necessary to permit the Government of Australia to accord to goods specified in Annex I of this Decision the tariff treatment specified therein when, except as provided in paragraph 3 of this Decision, such goods originate in the countries and territories having the characteristics described in paragraph 4(a) of Article XVIII, without being required to extend the same tariff treatment to like goods when imported from other contracting parties.
2. The Government of Australia may vary at any time the list of goods, the rates of duty and the size of quotas specified in Annex I; provided that, if it decides to add to the list of goods, or to reduce the rate of any duty, or to remove any quota limitation or to increase the size of any quota, the procedures set out in paragraph 4 shall be followed.
3. Whenever the Government of Australia considers that any of the countries and territories referred to in paragraph 1 above are able to compete without the preferential tariff treatment provided for in this Decision in the supply of Australia's import requirements of any of the goods mentioned in Annex I, it shall notify the CONTRACTING PARTIES and provided the CONTRACTING PARTIES do not disapprove, may apply to imports of such goods from any such country or

¹BISD, Fifth Supplement, page 25.

territory the tariff treatment that would have been applicable if such country or territory had not been in the category referred to in paragraph 1 of this Decision. Should the CONTRACTING PARTIES disapprove of any such action proposed by the Government of Australia, the Government of Australia would be free to remove the particular good or goods from Annex I. The Government of Australia may subsequently restore in whole or in part to such goods from such country or territory the preferential treatment provided for in this Decision.

4. After deciding to take any action to which the procedures of this paragraph apply, the Government of Australia shall promptly notify the CONTRACTING PARTIES of the action which it intends to take and shall consult with any contracting party which considers that such action threatens substantial injury to its trade with Australia with a view to arriving at a mutually acceptable settlement. Should agreement not be reached in such consultation, the question of such threat may be considered by the CONTRACTING PARTIES. The Government of Australia may take such action if, within thirty days after such notification, no contracting party has requested consultation or if it were agreed by all contracting parties requesting consultation or by the CONTRACTING PARTIES, as the case may be, that no such threat exists. If, however, the CONTRACTING PARTIES find that such threat exists, the Government of Australia shall not take such action but may take other action which conforms with any recommendations made by the CONTRACTING PARTIES.

5. Any contracting party which considers that its trade with Australia in any product is suffering substantial injury as a result of the action taken by the Government of Australia under this Decision may request consultation with the Government of Australia. The Government of Australia shall consult with such contracting party within thirty days of receiving a written request for consultation with a view to arriving at a mutually satisfactory settlement.

6. The CONTRACTING PARTIES shall review annually the operation of this waiver in the light of the aforementioned objectives and considerations. In connexion with such reviews the Government of Australia shall report annually to the CONTRACTING PARTIES on the action taken by it under this Decision and shall provide information regarding imports into Australia from all sources of the products listed in Annex I to this Decision.

The CONTRACTING PARTIES

Declare that nothing in this Decision would preclude any contracting party affected from having recourse to Article XXIII of the General Agreement.

ANNEX I/ANNEXE I

PROPOSED TARIFF PREFERENCES TO LESS-DEVELOPED COUNTRIES/
PREFERENCES TARIFAIRES PROPOSEES AUX PAYS PEU DEVELOPPES

Item/ Position tarifaire	Brief description/ Désignation des produits	Tariff rates/Taux de droit	
		Proposed preferential rate for less developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to preference for less developed countries/Contingent préférentiel proposé pour les pays peu développés
17.04.1	Chewing gum, etc.	25%	£A10,000
17.04.9)	Confectionery etc./Sucreries, etc.	20%	£A50,000
20.04.9)			
25.25.1	Portland cement/Ciment Portland	Free/Exempt	£A25,000
32.01.1	Wattle bark extract/Extrait d'écorce de mimosa	Free/Exempt	£A40,000
34.01.1	Soap, toilet, fancy or medicated/ Savons de toilette, de fantaisie ou médicaux	10%	£A50,000
34.01.9	Soap; other/Autres savons	10%	£A10,000
40.07	Rubber thread, vulcanized/ Fils de caoutchouc vulcanisé	Free/Exempt	£A100,000
41.02.1	Calf leather/Cuir de veau	Free/Exempt	£A75,000
41.02.9)			
41.03.9)	Other leather/Autres cuirs	10%	£A30,000
41.04.9)			
41.05.9)			
Ex 42.02.9)	Travel and other goods of leather/ Articles de voyage et autres en cuir	15%	£A50,000

Item/ Position tarifaire	Brief description/ Désignation des produits	Tariff rates/Taux de droit	
		Proposed prefer- ential rate for less-developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to pref- erence for less- developed countries/Contin- gent préférentiel proposé pour les pays peu développés
42.04.9) 42.05) 44.24.9	Other leather manufactures/ Autres ouvrages en cuir Household utensils of wood/ Utensiles de ménage en bois	15%	£A30,000
45.03.1) 45.04.1)	Floats for fishing nets/ Flotteurs pour filets de pêche	Free/Exempt	£A10,000
45.03.91) 45.04.91)	Gaskets and similar joints/ Obturateurs et joints analogues	27½%	£A100,000
45.02.9) 45.03.99) 45.04.99)	Cork manufactures/Ouvrages en liège	10%	£A50,000
48.01.11) 48.01.12)	Machine-made paper (and paper- board) as per by-laws/Papiers et cartons fabriqués mécanique- ment, selon règlements	Free/Exempt	£ 500,000
48.01.5	Newsprint/Papier journal	Free/Exempt	£A2,000,000
50.04.2) 50.05.2) 50.06.2) 50.07.2)	Silk yarns/Fils de soie	Free/Exempt	£A25,000
54.05.91) 55.09.26)	Cotton, linen or ramie fabrics of huckaback or honeycomb weave/Tissus grain d'orge et tissus gaufrés de coton, lin ou ramie	10% (excluding Hong Kong)/(non compris Hong-Kong)	£A10,000

Item/ Position tarifaire	Brief description/ Désignation des produits	Tariff rates/Taux de droit	
		Proposed prefer- ential rate for less developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to pref- erence for less- developed countries/Contin- gent préférentiel proposé pour les pays peu développés
57.09.99) 57.10.999) 57.11.99)	"Other" woven fabrics of jute, hemp, or other vegetable fibres/"Autres" tissus de jute, chanvre ou autres fibres végétales	Free/Exempt	£ A 45,000
58.01.1) 58.02.1)	Carpets, hand-made/Tapis confectionnés à la main	Free/Exempt	£ 500,000
58.01.91) 58.02.7)	Floor coverings of cotton/Tapis de sol en coton	Free/Exempt	£ A 50,000
58.02.911) 58.02.919)	Carpets and floor rugs of wool/ Tapis en laine	20%	£ 300,000
58.01.991) 58.01.999) 58.02.991) 58.02.999)	Other carpets/Autres tapis	10%	£ 100,000
58.02.4	Coir matting/Tapis en coco	15%	£ 250,000
59.04.93	Ropes, twines of coir, sisal and New Zealand hemp/Cordages, ficelles en coco, sisal et chanvre de Nouvelle-Zélande	15%	£ A 5,000
59.04.99) 59.05.99) 59.06.9)	Other ropes, twines, etc./Autres cordages, ficelles, etc.	15%	£ A 50,000
59.05.1	Fishing and rabbit nets/Filets pour la pêche et pour la chasse au lapin	Free/Exempt	£ 100,000

Item/ Position tarifaire	Brief description/ Désignation des produits	Tariff rates/Taux de droit	
		Proposed preferential rate for less-developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to preference for less-developed countries/Contingent préférentiel proposé pour les pays peu développés
62.04.1	Tents and sails/Tentes et voiles	10%	£A 10,000
62.05.9	Other textile articles/Autres articles textiles	20% (Excluding Hong Kong)/(Non compris Hong-kong)	£ A50,000
62.05.61	Cotton shoe and corset laces/Lacets de chaussures et de corsets, en coton	15%	£A 30,000
70.13.911	Butter knives, cruet sets, shakers, etc. of cut glass/Couteaux à beurre, huilliers, shakers, etc., en verre taillé	Free/Exempt	£ A 5,000
70.10.91) 70.13.919)	Other articles of cut glass/Autres articles en verre taillé	Free/Exempt	£ A50,000
70.10.99) 70.13.993)	Bottles, decanters, jars, tubes, etc. of glass/Bouteilles, carafes, flacons, tubes, etc. en verre	Free/Exempt	£A100,000
70.13.994) 82.13.4)	Stationery/Objets de bureau	15%	£ A 50,000
70.13.999)	Other glassware/Autres objets en verre	Free/Exempt	£A100,000
82.09.21) 82.10.21)	Cooks' and butchers' knives and blades therefor/Couteaux de cuisine et de boucher et leurs lames	Free/Exempt	£ A10,000
82.09.29) 82.10.29)	Other kitchen or table knives and blades therefor/Autres couteaux de cuisine et de boucher et leurs lames	27 $\frac{1}{2}$ %	£ A75,000

Item/ Position tarifaire	Brief description/ Désignation des produits	Tariff rates/Taux de droit	
		Proposed prefer- ential rate for less developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to pref- erence for less- developed countries/Contin- gent préférentiel proposé pour les pays peu développés
82.09.992) 82.10.992)	Pocket knives and blades therefor/ Couteaux de poche et leurs lames	Free/Exempt	£ A 50,000
82.11.9	Razors and razor blades, /Rasoirs et lames de rasoir	5%	£ A150,000
82.12.9	Scissors and blades therefor/ Ciseaux et leurs lames	Free/Exempt	£ A 50,000
84.40.11	Household washing machines/ Machines à laver de ménage	20%	£ A150,000
84.40.31	Washing and dry-cleaning machines commercial/Machines à laver et pour le nettoyage à sec, à usage commercial	10%	£ A 20,000
Ex 84.19.9) Ex 84.59.999)	Bottling machines, plastic processing machines and bagging machines/Machines à embouteiller, machines d'élabora- tion des matières plastiques et machines à ensacher	20%	£ A100,000
Ex 84.41.1) Ex 84.41.9)	Domestic sewing machine heads/ Têtes pour machines à coudre de ménage	Free/Exempt	£ A 25,000
84.45.111) 84.45.112) 84.45.113) 84.45.131) 84.45.132) 84.45.133) 84.45.134) 84.45.141) 84.45.142) 84.45.211) 84.45.212) 84.45.213) 84.45.214) 84.45.221) 84.45.239)	Machine tools for working metals and metallic carbide (specified machines etc.)/Machines-outils pour le travail des métaux et des carbures métalliques (machines dénommées etc.)		

Item/ Position tarifaire	Brief description/ Désignation des produits	Tariff rates/Taux de droit	
		Proposed preferential rate for less developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to preference for less-developed countries/Contingent préférentiel proposé pour les pays peu développés
84.45.311) 84.45.321) 84.45.322) 84.45.323) 84.45.324) 84.45.331) 84.45.332) 84.45.333) 84.45.411) 84.45.412) 84.45.421) 84.45.439) 84.45.51) 84.45.52) 84.45.53) 84.45.91) 84.45.92)	Machine tools for working metals and metallic carbide (specified machines etc.)/Machines-outils pour le travail des métaux et des carbures métalliques (machines dénommées, etc.)	25%	£ A 25,000
84.45.119) 84.45.12) 84.45.139) 84.45.149) 84.45.15) 84.45.219) 84.45.229) 84.45.231) 84.45.232) 84.45.233) 84.45.234) 84.45.319) 84.45.329) 84.45.339) 84.45.419) 84.45.429) 84.45.431) 84.45.49) 84.45.59) 84.45.99)	Other machine tools for working metals and metallic carbide/ Autres machines-outils pour le travail des métaux et des carbures métalliques	Free/Exempt	£ A125,000

Item/ Position tarifaire	Brief description/ Désignation des produits	Tariff rates /Taux de droit	
		Proposed preferential rate for less developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to preference for less-developed countries/Contingent préférentiel proposé pour les pays peu développés
84.47.1) 84.47.2) 84.47.3) 84.47.4)	Wood-working machines and appliances (specified types)/Machines pour le travail du bois et leurs accessoires (types dénommés)	Free/Exempt	£A 50,000
84.47.611) 84.47.621) 84.47.631) 84.47.69)	Other wood working machines and appliances (protected range)/Autres machines pour le travail du bois et leurs accessoires (protégées)	10%	£A 25,000
84.47.612) 84.47.622) 84.47.632)	Other wood-working machines (non protected range)/Autres machines pour le travail du bois (non protégées)	Free/Exempt	£A 125,000
85.06.1	Electric fans, office or household/Ventilateurs électriques, pour bureaux ou de ménage	15%	10,000 units/ 10,000 unités (About £80,000)/ (Environ £80,000)
92.02.1) 92.05.1) 92.06.2)	Military, band and orchestral musical instruments/ Instruments de musique pour cliques, fanfares et orchestres	Free/Exempt	£A 50,000
92.02.9) 92.09)	Musical instruments of the lute class (including strings)/ Instruments de musique de la classe du luth (y compris leurs cordes)	Free/Exempt	£A 100,000

Item/ Position tarifaire	Brief description/ Désignation des produits	Tariff rates/Taux de droit	
		Proposed preferential rate for less-developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to preference for less-developed countries/Contingent préférentiel proposé pour les pays peu développés
92.05.9) 92.06.9) 92.08.9)	Other musical instruments/ Autres instruments de musique	Free/Exempt	£ A 50,000
94.01.12	Wooden chairs/Sièges en bois	15%	£ A 20,000
94.01.191) 94.01.22)	Chairs and lounges of wicker, bamboo and cane, with or without legs/Sièges et banquettes en osier, bambou et rotin, avec ou sans pieds	15% (Excluding Hong Kong)/(non compris Hong-kong)	£ A 110,000
94.01.13) 94.01.199) 94.01.29) 94.03.9)	Other furniture/Autres meubles	15% (Excluding Hong Kong)/(Non compris Hong-kong)	£ A 100,000
97.06.1	Cricket bats and balls/Battes et balles de cricket	15%	£ A 50,000
97.06.9	Other sporting goods/Autres articles de sport	15%	£ A 150,000
Various	Goods that, in the opinion of the Minister, are hand made traditional products of cottage industries of a declared less-developed country, the following:/	Free	No quota limit
Diverses	Les articles suivants, à condition que de l'avis du Ministre il s'agisse de produits traditionnels, faits main, des industries artisanales d'un pays reconnu peu développé:	Exempt	Pas de limite

		Tariff rates/Taux de droit	
Item/ Position tarifaire	Brief description/ Désignation des produits	Proposed prefer- ential rate for less-developed countries/Taux préférentiel proposé pour les pays peu développés	Proposed quota limit to pref- erence for less- developed countries/ Contingent pré- férentiel proposé pour les pays peu développés
	Metalware, enamelled, moulded, inlaid, chased, carved, beater. Ouvrages en métaux, émaillés, moulés, incrustés, ciselés, gravés ou repoussés;		
	Pottery, decorated;/Produits de poterie, décorés;		
	Woodwork, carved, inlaid;/ Ouvrages en bois, gravés ou marquetés;		
	Leatherware, decorated;/ Ouvrages en cuir, décorés;		
	Stoneware, ivoryware, shell- ware, or hornware; carved inlaid;/Ouvrages en pierre, en ivoire, en coquillages ou corne, gravés ou incrustés.		
	Lacquer ware;/Ouvrages laqués;		
	Papier maché ware, decorated;/ Ouvrages en papier mâché, décoré;		
	Textiles, other than sheeting of cotton or principally of cotton, weighing less than 6 oz. per square yard;/Textiles, autres que la toile à drap, de coton, ou principalement de coton, pesant moins de 6 ounces par yard carré		
	Textiles, of silk or principally of silk, net printed;/Textiles, de soie ou principalement de soie, non imprimés.		

ANNEX II

REQUEST FOR A WAIVER BY AUSTRALIA

The following communication, dated 26 May 1965, has been received from the representative of the Government of Australia.

I have been requested by the appropriate authorities in Australia to submit this formal application to the CONTRACTING PARTIES for a waiver under the terms of Article XXV:5 of the General Agreement to cover the introduction by the Australian Government of preferential rates of duty on imports of manufactured and semi-manufactured products produced in less-developed countries.

2. In his statement at the Second Special Session earlier this year, the Australian representative reaffirmed the intention of the Australian Government to contribute appropriately to the solution of the trade problems of the less-developed countries. He also stated the Australian Government's intention to explore diligently and sincerely all possible ways of doing this. In accordance with these undertakings the Government has been examining actively the avenues open to it to take positive and practical action to assist the trade of the less-developed countries, consistent with Australia's economic circumstances and its need to use the tariff to foster Australia's own development and the development of the Territory of Papua and New Guinea.

The need for tariff preferences

3. To achieve improved living standards, the less-developed countries have requested action to help them develop their potentialities for industrial production. They seek to establish secondary industries and to obtain adequate markets for the products of those industries. In many cases, adequate markets are not available within the countries in which the industries are established. Moreover, the establishment of manufacturing industries creates new demands for imports, both directly and through the increased purchasing power of the workers employed. It therefore generates increased requirements of foreign exchange. Even with optimistic assessments regarding prospective conditions of international trade in primary products, the exchange requirements of the less-developed countries are not likely to be satisfied from exports of primary products. A significant proportion needs to be derived from the export of the products of their manufacturing industries.

4. However the majority of the manufacturing industries of the less-developed countries are unable to compete in world markets when first established or, indeed, for some considerable time after their establishment. They suffer from disabilities arising from operating in countries with relatively undeveloped industrial infra-structures and small domestic markets: they often have to contend with shortage of experienced labour and capital. It is unrealistic to expect industries operating under such conditions to compete on equal terms with the established industries of the mature industrial countries or to expect that they will derive major benefits from tariff reductions on a most-favoured-nation basis.

5. The Australian Government has therefore concluded that the trade of less-developed countries would be afforded real and practical assistance by applying preferential tariff rates to imports from those countries which are uncompetitive subject to duties at most-favoured-nation rates. It sees such preferential tariff rates as a useful means of helping to offset the disabilities referred to above, and of putting the industries concerned in a better position to compete on the Australian market. The Government considers that some relaxation of the most-favoured-nation rule is warranted for this purpose. It considers also, however, that this relaxation should be subject to the oversight of the CONTRACTING PARTIES.

The proposed preferential duties

6. As already indicated, Australia regards preferential duties in favour of less-developed countries as being justified in circumstances in which manufacturing industries in those countries are unable to compete with established suppliers in the markets of third countries on a basis of most-favoured-nation tariff treatment. Accordingly, it proposes to introduce such preferential duties only where there is a demonstrable need for them. They would not be introduced for products in which less-developed countries are already competitive in international markets or, in the case of individual products, for imports from particular less-developed countries which are already competitive exporters of those products to world markets. The preferential duties which it is proposed to introduce will however apply, without discrimination, to all less-developed countries which need such assistance in respect of the relevant products.

7. The preferential duties would be established at levels below existing most-favoured-nation rates: in other words, most-favoured-nation rates would not be increased to provide a preference for less-developed countries. However, it is not ruled out that on occasions when a most-favoured-nation rate is being increased for other reasons (i.e. in accordance with established Australian tariff policy and consistently with Australia's commitments under the General Agreement) a preference might be created by not applying the increase in duty to imports from less-developed countries.

8. The preferential duties established for imports from less-developed countries would be subject to review from time to time and to adjustment and elimination as the need for preferential tariff treatment disappeared, i.e. as it achieved its objective of helping industries in less-developed countries develop to the point where they become internationally competitive.

9. Australia would, of course, not seek reciprocity from the less-developed countries.

The interests of third countries

10. In formulating its proposals for the introduction by it of preferential duties on imports from less-developed countries the Australian Government considered that it should incorporate reasonable safeguards against serious detriment to Australian industries and against disruption to trade of existing suppliers to the Australian market. The features of its proposed system which are outlined in paragraph 8 above and the use of preferential tariff quotas are designed to provide such safeguards.

11. It is also proposed that the preferential duties would be subject to consultations with other interested supplying countries within the context of a GATT waiver. These consultations would provide an opportunity for such countries to advance their views both as regards the introduction of new preferential duties on particular products and as regards the continuation or otherwise of a preferential duty which had already been introduced under the authority of the proposed waiver.

The rôle of the CONTRACTING PARTIES

12. The Australian Government suggests the inclusion in the waiver of a provision that it should notify its intention to introduce a new preferential duty in favour of less-developed countries and should consult with contracting parties wishing to do so before the duty is actually introduced. Similarly, it envisages a provision requiring periodic reports to the CONTRACTING PARTIES. These reports might be submitted annually. They would provide opportunities for the CONTRACTING PARTIES to consider developments under the waiver.

Scope of the waiver

13. A list of preferential duties which the Australian Government wishes to introduce as soon as possible is attached. However, the Government also wishes to be able to add to this list from time to time as further possibilities are revealed for assisting the trade of less-developed countries by this means. It is therefore requested that the waiver cover all manufactured and semi-manufactured products. This would enable the Government to introduce additional preferential duties after notifying the CONTRACTING PARTIES and providing opportunities for consultation by interested contracting parties as proposed in paragraph 12 above.

The countries to receive preferences

14. In the absence of any international agreement on the question, the Australian Government would welcome the guidance of the CONTRACTING PARTIES on the question of what countries might appropriately be classified as less-developed for trade purposes. It submits the attached list for the consideration of the CONTRACTING PARTIES.

Subject to the qualification that countries which are already competitive exporters of particular products would not receive the benefit of the preferential duties on those products, and within the limits of the tariff quotas mentioned earlier, the Government is willing to apply the preferential duties introduced under the authority of the waiver to all countries which the CONTRACTING PARTIES consider to be less-developed.

General comments

15. As already indicated, the Australian Government sees the system of preferential duties outlined in the preceding paragraphs as a method by which it can give practical assistance to the trade of less-developed countries in ways appropriate to Australia's economic circumstances. The system reflects both these circumstances and also certain principles which the Government believes should be incorporated in any general system for giving preferential treatment to imports from less-developed countries. However, because it reflects Australian economic circumstances, the system contains certain features which may not be considered appropriate to the circumstances of countries with mature industrial economies or to any generalized system of preferences for less-developed countries.

16. For this reason, the Australian Government requests that its application for a waiver be dealt with promptly and without prejudice to the CONTRACTING PARTIES' consideration of the more general question.

ANNEX B/ANNEXE B

LIST OF COUNTRIES/LISTE DES PAYS

Aden and Protectorates of South Arabia/et protectorats du Sud de l'Arabie	Dominican Republic/République dominicaine
Afghanistan	Ecuador/Equateur
Algeria/Algérie	El Salvador
Antigua	Ethiopia/Ethiopie
Argentina/Argentine	Falkland Islands/Falkland
Bahamas Islands/Bahamas	Fiji/Fidji
Bahrein (Bahrein, Muharraq, Sitra, Nabisaleh: Protected States)/ Bahrein (Bahrein, Muharraq, Sitra, Nabisaleh: Etats protégés)	Gabon
Barbados/Barbade	Gambia/Gambie
Basutoland/Basoutoland	Ghana
Bechuanaland/Betchouanaland	Gibraltar
Bermuda/Bermudes	Gilbert and Ellice Islands/ Iles Gilbert et Ellice
Bolivia/Bolivie	Greece/Grèce
Brazil/Brésil	Grenada/Ile Grenade
British Guiana/Guyane britannique	Guatemala
British Honduras/Honduras britannique	Guinea/Guinée
British Solomon Islands/ Iles Salomon britanniques	Haiti/Haïti
British Virgin Islands/ Iles Vierges britanniques	Honduras
Brunei	Hong Kong/Hong-kong
Burma/Birmanie	India/Inde
Burundi	Indonesia/Indonésie
Cambodia/Cambodge	Iran
Cameroon/Cameroun	Iraq/Irak
Cayman Islands/Iles Caïman	Israel/Israël
Central African Republic/ République centrafricaine	Ivory Coast/Côte-d'Ivoire
Ceylon/Ceylan	Jamaica/Jamaïque
Chad/Tchad	Jordan/Jordanie
Chile/Chili	Kenya
Colombia/Colombie	Kuwait/Koweït
Congo (Brazzaville)	Laos
Congo (Leopoldville)/Congo (Léopoldville)	Lebanon/Liban
Cook Islands/Iles Cook	Liberia/Libéria
Costa Rica	Libya/Libye
Cuba	Madagascar
Cyprus/Chypre	Malawi
Dahomey	Malaysia
Dominica/Dominique	Mali
	Malta/Malte
	Mauritania/Mauritanie
	Mauritius/Ile Maurice
	Mexico/Mexique
	Montserrat
	Morocco/Maroc
	Netherlands Antilles/Antilles néerlandaises

Nepal/Népal	Spain/Espagne
New Hebrides/Nouvelles-Hébrides	Sudan/Soudan
Nicaragua	Surinam
Niger	Swaziland
Nigeria/Nigéria	Syria/Syrie
Niue Islands/Niue	Tanzania/Tanzanie
Pakistan	Thailand/Thaïlande
Panama	The Maldives/Maldives
Paraguay	The Territory of Papua and New Guinea/ Papua-Nouvelle-Guinée
Peru/Pérou	Togo
Philippines	Tokelau Islands/Iles Tokelau
Pitcairn Island/Pitcairn	Tonga (Protected State)/ Tonga (Protectorat)
Portuguese non-European territories/ territoires non européens du Portugal	Trinidad and Tobago/Trinidad et Tobago
Qatar (Sheikdom of Qatar: Protected State)/Katar (Cheikat de Katar: Protectorat)	Tristan da Cunha
Republic of Korea/République de Corée	Trucial States (Abu Dhabi, Dubai, Sharjah, Ajman, Ras Al Khaimah, Umm Al Qaiwan, Fujairah: Protected State)/Oman sous régime de traité (Abu Dhabi, Dubai, Sharjah, Ajman, Ras Al Khaimah, Umm Al Qaiwan, Fujairah: Protectorat)
Republic of Viet-Nam/ République du Vietnam	Tunisia/Tunisie
Rhodesia/Rhodésie ¹	Turkey/Turquie
Rwanda	Turks and Caicos Islands/Iles Turques et Caïques
St. Helena and Ascension Islands/ Ste-Hélène et Ascension	Uganda/Ouganda
St. Kitts - Nevis - Anguilla	United Arab Republic/République arabe unie
St. Lucia/Ste-Lucie	Upper Volta/Haute-Volta
St. Vincent	Uruguay
Saudi Arabia/Arabie saoudite	Venezuela
Senegal/Sénégal	Western Samoa/Samoa occidentale
Seychelles	Yemen/Yémen
Sierra Leone	Yugoslavia/Yugoslavie
Somalia/Somalie	Zambia/Zambie

¹The United Kingdom representative asked whether it would be correct to assume, bearing in mind that Australia had withdrawn the benefit of Commonwealth preference from Rhodesia, that any waiver given to Australia would remain in suspense in respect of Rhodesian exports until constitutional government had been restored in the territory of that contracting party. The Australian representative said that in view of the resolution of 20 November 1965, of the United Nations Security Council, this seemed the most appropriate way to deal with the matter.

¹Le représentant du Royaume-Uni a demandé s'il serait exact, considérant que l'Australie a retiré à la Rhodésie le bénéfice de la préférence du Commonwealth, de présumer que l'application de toute dérogation accordée par l'Australie resterait suspendue en ce qui concerne les exportations rhodésiennes jusqu'à ce qu'une autorité constitutionnelle soit rétablie sur le territoire de cette partie contractante. Le représentant de l'Australie a déclaré qu'au vu de la résolution du Conseil de sécurité des Nations Unies en date du 20 novembre 1965, cela semblait être la meilleure façon de régler la question.

ANNEX C

NOTE BY THE SECRETARIAT ON MEETING OF 23-24 JUNE

1. The Working Party, established by the Council to consider the request from the Government of Australia for a waiver under the terms of Article XXV:5 of the General Agreement to cover the introduction by the Australian Government of preferential rates of duty on imports of manufactured and semi-manufactured products produced in less-developed countries, met on 23-24 June 1965.
2. The discussions at this first session of the Working Party were preliminary in nature and were designed to clarify the issues raised by the Australian request. This note provides a record of the main points raised during the meeting.

Opening statement by the representative of Australia

3. The representative of Australia stated that the Australian request was contained in L/2445 and Corr.1. This document provided a comprehensive statement of the background against which the request had been made and details of the Australian proposal. He recalled that the Australian representative at the Second Special Session had pointed out the difficulties caused for a country in the position of Australia by the form of the Articles in the new Part IV of the GATT. Australia was in the process of industrial development and could not take commitments more appropriate to the circumstances of the highly industrialized countries. Australia made selective and flexible use of the tariff to foster her industrial development and accordingly was not in a position to take a blanket commitment across the whole of the tariff. It was also stressed that there was no provision in the General Agreement enabling Australia to accord tariff benefits to less-developed countries without giving them in such a form that the industrialized countries would obtain most of the benefit. Australia had now accepted the new Part IV of the GATT on the understanding that the provisions of Article XXXVII would be applied to the fullest extent possible consistent with Australia's development needs and policies and responsibilities. It was against this background that the present application must be viewed. The Australian Government accepted the objectives referred to in paragraph 17 of the report of the Special Committee on Preferences of the UNCTAD. The Australian proposal was designed as a contribution, consistent with Australia's own stage of economic development, to the solution of the problems facing less-developed countries in the trade field.

4. He went on to point out that Australia was already a large market for the exports of less-developed countries. Almost three quarters of these goods entered Australia duty free. These imports from less-developed countries were mainly primary products. It was the conviction of his Government that if the trade position of the less-developed countries was to be improved they must export increasing amounts of semi-manufactured and manufactured goods. Australia was now proposing to introduce preferences on about sixty manufactured and semi-manufactured products of export interest to less-developed countries. These items were taken from the list of products submitted to Committee III and the lists notified in connexion with the Kennedy Round of tariff negotiations by less-developed countries.

5. He pointed out that in no case would the most-favoured-nation rate be raised to allow the granting of preferences. In the great majority of cases the new preferential rate would be below the existing British preferential rate. In nearly all cases the new preferential rate represented a tariff reduction of more than 50 per cent, the working hypothesis of the Kennedy Round. Australia was not seeking reciprocity from the less-developed countries.

6. The proposal contained safeguards for the trade of existing suppliers. His Government also considered that the rôle of the CONTRACTING PARTIES in ensuring the satisfactory and equitable application of these arrangements was of critical importance.

7. As to the recipients of the preferences, he said that his Government wished to extend the preferences without discrimination to all less-developed countries which needed such assistance in respect of the products concerned. The list of less-developed countries annexed to their request was indicative or illustrative and his Government would prefer to act on an internationally agreed list. The Australian Government would therefore welcome the guidance of the CONTRACTING PARTIES on this question.

8. In conclusion he said that the Australian request contained a specific proposal which should be considered separately from the general question of preferences for less-developed countries. While the Australian request took the form of an application for a waiver under Article XXIV of the General Agreement, it was only in a very technical sense that it could be described as seeking a release from an obligation since the proposal would confer no benefits on Australia.

Discussion

9. The representatives of Brazil and Peru said that their delegations supported the Australian request for a waiver. The representatives of Argentina, Cuba, Czechoslovakia, India, Nigeria and Turkey said that their delegations also welcomed the Australian initiative, subject to certain reservations on points dealt with in subsequent paragraphs of this note. The representative of Ceylon said that his Government was still studying the matter but he had no doubt that they would welcome the Australian proposal. The representatives of Argentina, Denmark, Canada, European Economic Community, Ivory Coast, Jamaica, Japan, Switzerland, United Kingdom and the United States, felt that a thorough analysis of the Australian proposal and its possible effects should be carried out; only then would their governments be able to take a position on the request.

10. The representative of Jamaica said that his delegation had doubt as to the legality of authorizing a departure from the provisions of Article I, an amendment to which required unanimity, by a waiver under Article XXV:5, which could be granted by a two-thirds majority. The representative of Australia saw no legal difficulty in this. The question had been raised in the past and thoroughly examined. There were many precedents for the use of Article XXV:5 in the granting of waivers from the provisions of Part I.
11. The representative of India said that in many important respects, particularly its discriminatory aspects, the Australian scheme differed from the proposal unanimously submitted by less-developed countries in UNCTAD for the accordance by the developed countries of general non-discriminatory preferences in their favour. He expressed the hope that such differences would be removed from the Australian scheme.
12. It was noted that the Australian initiative contained the first concrete proposal for the granting of new preferences to the less-developed countries and the question was raised as to whether this proposal would be considered as a precedent when a general scheme for such preference was under discussion. The representatives of Czechoslovakia, Denmark, India, Peru, United Kingdom and Yugoslavia emphasized their support for a general non-discriminatory system of preferences. The representatives of Brazil, India and Yugoslavia also felt that preferences granted by industrialized countries should be applied on a linear basis subject to a limited number of exceptions. The representatives of Argentina and the Ivory Coast were of the opinion that certain features of the Australian proposal should not be used as a precedent in any general scheme for new preferences. In answer to a question by the representative of Nigeria as to whether the Australian Government had in mind making any necessary changes in its proposal to bring it into line with a general scheme of preferences when this was adopted, the representative of Australia said that this was a question which could be discussed if and when any such general plan was adopted.
13. Asked by the representative of the European Economic Community whether the present waiver request would affect the Australian offer in the Kennedy Round, the representative of Australia felt that this was not a question which fell to be dealt with in the present Working Party but pointed out that the scope or size of the Australian offer in the Kennedy Round would be directly related to the benefits which Australia expected to receive. If the results of the Kennedy Round were to affect the new preferential margin, this question could be taken up again.
14. Members of the Working Party went on to address questions to the representative of Australia on the various aspects of the proposal as set out in L/2443 and Corr.1.
15. It was emphasized that only when additional statistics were available would it be possible to make an assessment of the trade effects of the proposed preferences or to form a judgment on the countries most likely to benefit and on existing suppliers most likely to be affected. The representatives of several countries requested detailed import statistics showing the countries, both developed and

less-developed, at present exporting the items on which it was proposed to grant preferences. The representative of Nigeria asked the Australian delegation to supply import figures for the last five years for each of these items. The representatives of India and the United States asked for figures of Australian domestic production of the items concerned. The representative of Australia undertook to supply these figures where available and, during subsequent discussions in the Working Party he also agreed to provide information on the correspondence between the tariff items as shown in the Australian request, which were on the Brussels nomenclature, and the items of the old Australian tariff nomenclature, and on the ad valorem equivalent of specific duties on these items. In reply to a question, he said that there would be no primage duties additional to the proposed preferential rates on products in the list when imported from less-developed countries.

16. The question of the countries to receive preferences was discussed. The representative of Argentina, referring to the list of countries annexed to L/2445, noted that reference was made to the "Falkland Islands". He did not intend to restate once again the position of his Government on this matter but felt that a revised list should be issued. The representative of Australia said that the designation "Falkland Islands" had been taken from the list of countries and territories to which the GATT was applied contained in the Twelfth Supplement to the Basic Instruments and Selected Documents but his Government would be ready to accept an internationally agreed designation of these territories.

17. The representatives of Cuba, Ivory Coast, Greece and Turkey, informed the Working Party that, in their opinion, their countries should be added to the list annexed to the Australian request. In view of these statements, the representative of Israel stressed that the Australian list, as originally drawn up, could no longer be considered as appropriate. He also referred to the requirements of the procedure adopted by the CONTRACTING PARTIES on 1 November 1956 concerning waivers from Part I of the General Agreement. The representative of Greece, referring to the statement made by the representative of Australia that the list was indicative or illustrative and requesting the guidance of the CONTRACTING PARTIES, requested the Chairman to establish a procedure enabling countries which were not on the list, to be added thereto. The Chairman said that the terms of reference of the Working Party prevented it from going into the general question of the definition of less-developed countries and that at this stage it was, in his view, for the Australian delegation to take a decision on this question. The best course of action might be for countries feeling that they should be added to the list drawn up by the Government of Australia to bring the matter to the attention of the Australian delegation. It was pointed out that this question also affected countries not contracting parties to the General Agreement. The representative of Australia in agreeing that it might not be for the Working Party to settle any general definition of less-developed countries for all purposes, recalled his opening remarks on this question and pointed out that the waiver requested by his Government would have to be related to a specific list of countries.

18. After discussion, the Working Party agreed that initially a procedure was needed to allow countries not included in the list, but considering themselves to be less-developed countries, to state their positions. The Working Party agreed to revert to the substantive question of the list of countries at a later meeting and agreed that meanwhile countries considering that they should also be included within the scope of the scheme should be invited to notify this fact to the Working Party, through the secretariat, and to the Australian Government. This procedure was without prejudice to the way in which the Working Party would deal with this matter. The representative of Australia said that, while he had no objection to this procedure, he would expect the final list of countries to be settled in the light of discussion in the Working Party.

19. The representatives of some less-developed countries members of the Working Party emphasized that in their view the Australian proposal should be implemented in such a way as to benefit less-developed countries as a whole. The representative of Nigeria said that it was the position of his Government that any scheme for new preferences in favour of less-developed countries should take into account the differing stages of development of these countries and recalled that this position had been made clear in other discussions on the preference issue. He asked whether the Government of Australia was prepared to amend their proposal to take this factor into account. The representative of the Ivory Coast also expressed the view that any proposal for the granting of new preferences must take into account the differing stages of development of the less-developed countries. The representative of Ceylon expressed the hope that the list of products should be so distributed as to take into account the interests of all developing countries in a satisfactory and equitable way and said that consideration should be given to the different stages of development of less-developed countries. He further suggested that at the annual review Australia should give special consideration to the case of those individual less-developed countries who did not appear to be benefiting from the preferences. The representatives of India, Indonesia and Nigeria proposed that the Australian Government should consider the possibility of granting preferences on primary products. The representative of Nigeria enquired whether semi-processed products were included in the term "manufactured and semi-manufactured products" and requested that tropical vegetable oils should be added to the list of items on which the preferences would be granted. Other delegations suggested that the quotas provided for in the Australian proposal might be administered in such a way as to distribute the benefit of the proposed preferences, the representative of Pakistan proposing that quotas should be allocated between less-developed countries to ensure the equitable distribution of imports, and the representative of Brazil suggesting that the particular problem of new exporters should be met by the creation of supplementary quotas for these countries.

20. The representative of Australia said that the views expressed would be communicated to his Government. He recalled that his Government had never been in favour of dividing contracting parties into only two groups of countries which failed to take account of the different stages of development of contracting parties. He pointed out that, while they had not tried to introduce special quotas for "least developed" countries into their proposal, if, for instance, one

less-developed country were to take up the whole or the lion's share of a preferential tariff quota, it would probably be judged competitive and adjustments would therefore be made. With regard to the products on which preferences would be granted, he said that the scope of the waiver request had been limited to manufactured and semi-manufactured products for the reasons set out in his opening statement. In general less-developed countries were already efficient suppliers of primary products. Moreover, the great majority of Australian imports of primary products from less-developed countries already entered duty free. He recognized that there could be a problem regarding semi-processed products when those were being exported in competition with similar products from non-less-developed countries.

21. A number of questions were raised on the concept of "competitive need" referred to in paragraphs 6 and 8 of L/2443. The representative of Brazil welcomed the non-discriminatory character of the Australian proposal. He thought that where a less-developed country accounted for a reasonable percentage of imports of a particular product in a particular market on a regular basis, it could be assumed that it was competitive. It did not follow from this, however, that the country was competitive in that market with respect to other products or that it was competitive with respect to that product in other markets. The decision whether a country was sufficiently competitive for a preference to be withdrawn from it should be made after consultation and the preference should be amended gradually. As a general rule, the termination of a preference for a particular product of a less-developed country in a particular market should not affect the maintenance of preferences for the same product of the same country in other markets, or for other products of the same country in the same market.

22. The representatives of India and Yugoslavia felt that less-developed countries should not be deprived of the preference on a given product when they became competitive exporters of that product. The main aim of preferences should be to increase the export earnings of less-developed countries; it was the infant economy justification of preferences which was of relevance in this context, rather than an adaptation of the infant industry argument. The representatives of both India and Yugoslavia said that the concept of competitive need might lead to discrimination and they went on to urge that this aspect of the scheme should be withdrawn.

23. The representatives of Canada, Switzerland, the United Kingdom and the United States also stressed the importance of clarifying the concepts contained in paragraphs 6 and 8 of the Australian proposal. The representative of Canada asked on what basis had the Australian Government decided that there was a "demonstrable need" for preferences on the products listed. It was suggested that it would be extremely difficult to determine objectively when a less-developed country had become a competitive exporter of a given product. It was also pointed out that the proposed system for the extension and withdrawal of preferential treatment would add a new element of uncertainty and instability to international trade.

24. The representative of Australia said that the object of his Government's proposal was to help less-developed countries to overcome their initial non-competitiveness in the field of semi-manufactured and manufactured goods. They had not, however, felt it necessary to elaborate a set of criteria to be used in determining when a less-developed country became competitive on the Australian market. It had nevertheless been felt reasonable to conclude that, if a less-developed country supplied a significant percentage of imports of a particular product, it was competitive, at least as far as that product was concerned. It was the aim of his Government to help all less-developed countries. He pointed out that in only five out of the sixty product groups covered by the Australian proposal had individual less-developed countries been considered competitive. In one of these cases the less-developed country concerned supplied 99.9 per cent of imports in 1963/64. In the other cases the less-developed countries in question accounted for a large proportion of imports.

25. In reply to questions from the representatives of the EEC, Jamaica and Nigeria on the relationship between the new preferences and existing preferences granted to members of the Commonwealth, the representative of Australia said that, while his country already granted Commonwealth preferences on certain items to some less-developed members of the Commonwealth, no less-developed country was entitled to the British preferential rate on the items enumerated in the Australian proposal. The representatives of Jamaica and India pointed out that where the British preferential rate already provided for free entry the new preferential rate would merely place less-developed countries on an equal footing with certain developed countries. Furthermore, because the new preferential imports would be subject to quota restrictions, the less-developed countries would be in a less favourable position than those developed countries as the latter countries' exports would not be subject to quota restrictions. The same was true where less-developed countries had been excluded from the preferential scheme in respect of certain so-called competitive items. Thus, in addition to the serious drawback of the scheme that it led to discrimination among the less-developed countries, it also failed to provide equality of treatment for the less-developed countries vis-à-vis those developed countries which enjoyed preferences in the Australian market.

26. Referring to the periodic review of the preferential duties mentioned in paragraph 8 of L/2443, representatives of some less-developed countries expressed the hope that this would permit consultations with less-developed countries on any proposed variations in the list and additions to it on which preferences were granted and emphasized the importance which they attached to this. The representative of India also expressed the hope that, in view of the proposal made by the Australian Government in paragraph 13 of L/2443 with which he agreed in principle, the coverage of the Australian scheme would soon be enlarged by the addition of many more items to the list, including products with social implications, such as handloom products. The representative of Nigeria suggested that this review might also permit consultation on the type of special treatment which might be accorded to the less-developed of the less-developed countries. The representative of Australia recalled that his Government had requested that the waiver cover all manufactured and semi-manufactured products and said that they were fully prepared

to discuss with interested less-developed countries the addition of further items to the list of those on which preferences were granted. It would be open to less-developed countries to address requests to the Australian Government which would, however, in considering them have to take into account the interests of third countries and all domestic producers. The Government had not at this stage, however, elaborated proposals as to the mechanism which would be needed to deal with such cases.

27. The representative of Japan asked whether the preferences would be granted for a specific time period and whether the Australian Government would agree to bind the margin of preference. The representatives of India, Pakistan and Yugoslavia, referring to the possibility of adjustment and elimination of preferences mentioned in paragraph 8 of L/2443, said that preferences should be granted for a fixed period and an initial period of ten years with provision for further extensions was suggested in this context. They added that in the absence of any fixed initial period, the exporters in the less-developed countries would be more concerned with the uncertainty caused by the provision of periodic reviews and would not make serious efforts to take the maximum possible advantage of the scheme. The representative of Australia said that consideration had been given to the introduction of a fixed period for the granting of the preferences but that it had been considered preferable to rely on the flexible use of consultations; if there was a fixed period this would give rise to pressure to remove the preferences at the end of it, even though the less-developed countries might, at that stage, still be subject to competitive disability.

28. Questions were addressed to the representative of Australia on paragraphs 10 and 11 of L/2443 dealing with the interests of third countries. It was noted that the quota limitation on imports at the new preferential rate had been introduced as a safeguard for third suppliers and domestic producers. The representative of Japan asked whether the Australian Government would agree not to enlarge the quotas initially proposed. The representative of the United States asked how the quotas had been set and the representative of Nigeria enquired whether the level of the quotas was in some way related to the level of economic activity in the less-developed countries. The representatives of Jamaica and the United States noted that the quotas on most items were small, especially in relation to the number of less-developed countries. The representative of Pakistan said that, because of this, the benefits that could be expected to flow from the proposed preference would be modest. Figures were quoted to illustrate these points. The representatives of Jamaica and Nigeria doubted whether the quotas would be large enough to stimulate the interest of new exporters or to enable less-developed countries to become competitive. The representative of India felt that the quota limitation was unnecessary and that safeguard measures should not be introduced until the need for them arose. Quota limitations as well as the periodic reviews which had been provided for in the scheme added up to what might be called a double hindrance to the export promotional efforts of the less-developed countries. These safeguards were unnecessary, at least in the beginning, because the expected increase in the imports from the less-developed countries could not be really disruptive in the foreseeable future. The representative of Pakistan suggested that the quota limitation might be introduced only after an initial period. If this were not acceptable quotas should be enlarged or a growth provision introduced.

The representative of Brazil said that one could envisage a later phase in the application of preferences which would start when the global quotas proved insufficient for all less-developed countries exporting the same products. In that case, individual quotas might be set up which would take into account the participation of each country in each quota as regards time, volume of exports and actual degree of competitiveness. These would provide a safeguard for new exporters.

29. The representative of Australia said that the quotas had been fixed at a level which the Australian authorities felt would be high enough to enable less-developed countries to secure a foothold on the Australian market. While some quotas might not appear to be very large, they were nevertheless of significance in relation to the Australian market for imports of the products in question. The sum of the quotas was more than five times the present level of imports of those products from the less-developed countries. He took note of the other suggestions which had been made.

30. The representative of the United States asked what rights interested third countries would have in the consultations mentioned in paragraph 11 of L/2443. The representative of Australia said that detailed proposals had not yet been formulated; at this stage he would not add anything to what was set out in that paragraph.

31. Referring to paragraph 13 of L/2443 request on the scope of the waiver, the representative of Japan noted that an open-ended waiver was being requested to cover "all manufactured and semi-manufactured products". He asked what definition of this term the Government of Australia would use. The representative of Australia said that it had not been felt necessary to define this expression which appeared to have, judging by its use, a generally accepted connotation, and suggested that a pragmatic approach might be used.

32. Several specific questions were asked on the way in which the preferences would be administered, including the way in which licences would be issued. The representative of Australia said that at the present stage detailed proposals had not yet been drawn up. He outlined present thinking on certain administrative aspects of the scheme. In reply to question on rules of origin, he said that these had not yet been elaborated but would closely follow existing rules developed in connexion with Commonwealth preference. Their main purpose would simply be to prevent developed countries from taking advantage of the preferences by shipping their goods via less-developed countries.

33. At the present meeting members of the Working Party had had the opportunity to obtain additional clarification of points arising from the proposal submitted by the Government of Australia. The meeting had also afforded the opportunity for a useful exchange of views. The Working Party agreed to recommend to the Council that it should hold a further meeting to continue its examination of the proposal before it in the near future and suggested that early September might be a suitable date.

ANNEX DNOTE BY THE SECRETARIAT ON MEETING OF SEPTEMBER 1965

1. The Working Party held its second meeting from 13 September to 1 October 1965. It had before it, inter alia, the Australian request for a waiver (L/2443, Corrigenda 1 and 2 and Addendum 1) and a note on discussions held at its previous meeting (L/2457). At the present meeting of the Working Party the representative of Australia first provided further information on his Government's proposal. Members of the Working Party asked for additional clarifications of various points in the proposal. Finally, the Working Party took up the examination of the substantive issues raised by the Australian request.

Statement by the representative of Australia

2. The representative of Australia informed the Working Party that on 24 August 1965 two Bills had been introduced into the Australian Parliament designed to give effect to the scheme for preferences. (The texts of these Bills and of speeches made by the Australian Deputy Prime Minister when introducing these measures are contained in L/2471.) The first of these Bills set out the proposed scheme for preferences. The second was a complementary measure dealing mainly with rules of origin.

3. The representative of Australia emphasized that the introduction of these Bills should not be considered as in any way prejudging the outcome of the deliberations of the Working Party. The proposed legislation would not become law until it had been debated and passed by Parliament, and, even when enacted as law, would not come into effect until a date to be fixed by proclamation. In introducing the Bills the Australian Deputy Prime Minister had recalled that Australia's application for a waiver was now before the CONTRACTING PARTIES. In requesting the Parliament to pass the necessary legislation he had explained that the Australian Government wished to be in a position to bring the preferences into operation as soon as the waiver was granted. The representative of Australia went on to point out that the decision to introduce the legislation demonstrated the good faith of his Government in taking the necessary steps to implement its previously announced decision to establish preferences in favour of less-developed countries, and underlined its intention to press for the waiver necessary to implement the scheme. It was also the feeling of his delegation that the Bills themselves would assist the Working Party to obtain a better understanding of the Australian Government's proposals. In reply to questions, the representative of Australia said that the text of the speeches by the Australian Deputy Prime Minister which had been circulated explained in non-legal language the contents of the Bills.

4. The representative of Australia informed the Working Party that the proposed legislation incorporated two changes in the list of items on which preferences were to be granted annexed to L/2443. These modifications were notified to contracting parties in L/2443/Corr.1. During the course of the meeting of the Working Party the representative of Australia also announced that, in response to requests which had been made by several less-developed countries (L/2457, paragraph 26), his Government was prepared, subject to agreement by the Working Party, to include handicraft products within the scope of the scheme. A list of these handicraft products is set out in L/2443/Add.1. While the present rates of duty on these products were generally high, the proposed preferential rate was free and there would be no quota limitation to the preference. He explained that his Government had experienced some difficulty in seeing any basis of competitive need in relation to these products since they were, in most cases, exported only by less-developed countries. His Government, however, recognized the real benefits which would accrue to less-developed countries from increased exports of these products and was therefore prepared to make an exception to their general rule to provide a practical solution to a particular problem.

5. The representative of Australia referred to requests made during the first meeting of the Working Party for additional statistical information (L/2457, paragraph 15). Detailed statistics showing the countries from which Australia at present imports the items on which it proposes to grant preferences had been supplied for the latest available year (L/2463) and for a series of years (L/2463/Add.1). L/2463 also provided details of the correspondence between tariff items as shown in the Australian request which are in terms of the Brussels Nomenclature, and the former Australian tariff, and indicated as well the countries which had notified, either Committee III or the Trade Negotiations Committee, of their export interest in the items contained in the Australian request.

6. The representative of Australia recalled that his delegation had also been requested to supply statistics of domestic production in respect of these items. His delegation felt that such information was not of direct relevance to the matter under discussion but he said that, in the light of the views which had been restated by other members of the Working Party, such figures as were available would be circulated (these are contained in L/2463/Add.2). He explained that complete production statistics were not available largely because these were not compiled on the same detailed basis as import statistics. Moreover, in the not infrequent cases where the domestic industry consisted of a few firms, it was an established rule in Australia that production figures which were obtained on a confidential basis could not be revealed. He estimated, however, that nearly all of the items on which it was proposed to grant preferences would cover goods produced in Australia and it could not be said that no domestic sacrifices were envisaged under the scheme. The benefits to less-developed countries from the proposals would not be gained solely at the expense of other suppliers.

Discussion

7. During its last meeting the Working Party had been informed that, while Australia granted Commonwealth preference on certain items to some less-developed members of the Commonwealth, no less-developed country was entitled to the British preferential rate on the items enumerated in the Australian proposal (L/2457, paragraph 25). Asked whether this fact reflected a deliberate policy,

the representative of Australia said that a few items of little significance in trade on which certain less-developed members of the Commonwealth were already entitled to preferences had been excluded from the list since it was thought that any benefit that might have resulted from the inclusion of these items would have been disproportionate to the damage that might have been caused to those less-developed countries of the Commonwealth at present enjoying a preference on those items in the Australian market.

8. Asked about the administration of the preference quotas, the representative of Australia said that importers who applied for quotas would be allocated a certificate; they could then be certain that the goods covered by that certificate would be eligible for the preferential tariff treatment at the time of their importations into Australia. Precise details of the way in which certificates would be allocated would be circulated when these were elaborated.

9. In reply to questions, the representative of Australia recalled that the preliminary thinking of his delegation on the rules of origin to be used in connexion with the new preferences had been outlined at the previous meeting of the Working Party (L/2457, paragraph 32). More detailed provisions were contained in Section 20A of the Customs Tariff Bill and Section 151(3) of the Customs Bill (L/2471, pages 4 and 12). These provisions were summarized in the text of the Minister's speech which had been circulated (L/2471, page 22). By and large the rules of origin adopted were not dissimilar in principle from those of the British preferential system. Their main purpose was to ensure as far as possible that the benefits of the scheme would accrue to less-developed countries.

10. In reply to questions on the relationship which would exist between the By-Law System and the proposed preferences and whether the operation of this system would not reduce the actual benefits to less-developed countries from the preferences which Australia hoped to establish, the representative of Australia explained that under the By-Law System certain categories of imports of an essential nature which were not available from Australian production could be brought in at rates of duty below the most-favoured-nation rate. The By-Law System would continue to operate, in these cases, in parallel to the system of preferences. If less-developed countries were in a position to supply these essential imports, the By-Law System could apply to them. In any event, the effect of the By-Law System on the trade of less-developed countries in the items covered by the preference scheme would be negligible.

11. It was recalled that notifications from certain countries not included in the indicative list attached to the Australian request for a waiver but wishing to be included within the scope of the scheme had been distributed in accordance with the procedures established at the last meeting of the Working Party (L/2457, paragraph 18). Some members suggested that it would be useful to have as a working document a consolidated list consisting of the countries and territories mentioned in the list annexed to the Australian request (L/2443 and Corr.1) and the countries and territories appearing in the notifications (L/2464 and Add.1-3) arranged in alphabetical order. This list was therefore circulated to members of the Working Party in Spec(65)83. In this connexion some members of the Working Party indicated that thought would have to be given to the list of countries and territories to which the proposed preferences might be extended.

12. Members of the Working Party further discussed the principle of "competitive need" for preferences contained in the Australian proposal, to which reference had been made at the last meeting of the Working Party (L/2457, paragraphs 21 to 24). One member of the Working Party quoted examples which he considered showed that this principle had not been applied consistently, and that the products of interest to different less-developed countries had been treated quite differently. For example, imports from one less-developed country were to be excluded from the quotas on four items (cotton, linen or ramie fabrics of huckaback or honeycomb weave; other textile articles; chairs and lounges of wicker, bamboo and cane; and other furniture). In these cases, the principle would be applied. In two other cases (coir matting and handmade carpets) one less-developed country supplied the bulk of Australian imports but would not be excluded from the quotas. In these cases, the principle would not be applied. Finally, there was one item (matt-woven fabrics of jute) in the original scheme, imports of which are obtained almost entirely from one less-developed country which was to be excluded from the quota. This item was now being withdrawn from the scheme, thus avoiding the application of the principle of competitive need entirely. He suggested that it would be necessary to evolve consistent and rational criteria to enable countries to predict the way in which the principle was to be applied; otherwise the Australian system might take on a very selective and arbitrary character. He enquired whether the Australian Government had drawn up such criteria and asked whether the principle of competitive need would apply as between developed countries now benefiting from preferential access to the Australian market and less-developed countries which would be accorded preferences under the Australian proposal. Some other members of the Working Party expressed apprehension that the operation of the principle could lead to discrimination against individual countries.

13. The representative of Australia said that his Government would not apply the principle lightly or capriciously. Principle less-developed suppliers would be excluded from preferences on particular items only where there were reasons clearly justifying such action. These reasons were spelled out in the Minister's speech in introducing the Bills (see page 17 of L/2471). The first group of products referred to in paragraph 12 came from two particularly sensitive industries - textiles and furniture - which had a long history of damaging competition from low-cost imports. In the circumstances it was not possible to extend a preference to a country already competing strongly in the Australian market. Rather than deny all other less-developed countries the benefit of preferences on these items¹ it was decided to exclude the country concerned from the preferences proposed. As for the other two items - hand-made carpets and coir matting - there was no history of damaging competition with Australian production. Accordingly, it was decided that the establishment of quotas would be an adequate safeguard to the Australian floor covering industry. Since imports within these two groups did not compete on price alone but on the degree of consumer appeal related to their traditional national designs, etc., there did not appear sufficient justification

¹The United Kingdom delegation pointed out that they had already drawn attention to the danger that an exclusion of a particular country from preference in respect of a particular item could divert trade from one source to another among less-developed countries.

for excluding any particular supplier. His Government felt that a pragmatic approach based on the situation of the Australian market was desirable. The use of a set of rigid criteria would inevitably result in the creation of anomalies. Turning to the other points made on this subject, he said that if it would make the scheme generally acceptable, his Government was prepared to consider including in their proposal provision for consultations within the GATT to be held before preferences were withdrawn from any country on any particular item.

14. One member of the Working Party asked how the Australian Government had selected the items contained in its initial list of products and pointed out that most items of particular interest to less-developed countries had been omitted from the list. The representative of Australia said that the considerations which had weighed with the Australian Government were set out in the speech of the Deputy Prime Minister which had been circulated (L/2471, pages 16 and 17). In this speech it was stated in particular that the products had been selected after careful examination of the lists of products which the less-developed countries had themselves nominated to the GATT as being of special export interest to them. Australia's continuing need to be able to use the tariff to protect its industries and to foster its own development which was comparatively recent and still incomplete had also to be borne in mind. This had influenced the list of products contained in the proposal.

15. It was recalled that Australia wished to be able to add to this list from time to time and had therefore requested that a waiver should be granted to cover all manufactured and semi-manufactured products. In reply to questions, the representative of Australia, referring to his statement on this subject at the last meeting of the Working Party (L/2457, paragraph 31), said that his delegation continued to feel that it was not necessary to define the expression "manufactured and semi-manufactured products" as the products initially to be the subject of the preferences were set out in the application for a waiver, while any proposed additions to the list would be notified to contracting parties and would be the subject of consultations. Asked whether he considered it technically possible to define the term, the representative of Australia said that, if it were thought necessary to adopt a definition, his delegation would be in favour of saying that "manufactured and semi-manufactured products" were all products other than "primary products" as defined in Note 2 to Section B of Article XVI of the General Agreement.

16. Some members of the Working Party had expressed disappointment that the list of products in respect of which the Australian Government was seeking authority to grant preferences could not have been drawn up to benefit a larger number of less-developed countries and expressed the hope that further items would be added to the list. In this connexion, they welcomed the announcement by the representative of Australia that his Government was prepared to add handicraft products to the list. The representative of Australia confirmed that his Government envisaged that further products would be added to the list from time to time and emphasized that after the present scheme was established his Government would be willing to consider specific proposals for the addition of further items to the list of products on which the preferences were granted.

17. One member of the Working Party referred to twenty-three items on the Australian list where the proposed preferential rate would be at the same level as the existing British preferential rate yet, in addition, imports from less-developed countries under the new preferential rate would be limited by quota. He suggested that where this occurred the quotas should be removed. It was also the view of his delegation that in granting preferences to less-developed countries the criterion should be that of the infant economy and not that of the infant industry. He also suggested that the list of products should be increased by the granting of the British preferential rates across the board to less-developed countries and that in addition, whenever possible, the new preferential rates should be set at a level below the British preferential rates in order to afford a genuine preference to less-developed countries vis-à-vis developed countries.

18. The representative of Australia said in reply that in all but five cases the proposed new preferential rate was either below the British preferential rate or provided for duty-free entry, the maximum offer that could be made. He emphasized that the proposed preferential scheme cut across many of Australia's long-standing contractual treaty obligations with traditional trading partners and that these long-standing commitments could not be completely dismantled overnight. The fact that only five preferential rates, other than duty-free rates, were maintained at the level of the British preferential tariff indicated that most of these difficulties had been overcome by Australia in consultation with Commonwealth trading partners. He recalled that his Government had explained in its initial request for a waiver (L/2445, paragraph 10) that the quota limitations on the preferential rates had been designed as a safeguard for domestic industry and Australia's existing suppliers; his Government continued to regard this as an essential element of the scheme. Referring to the suggestion that the British preferential rate should be granted to less-developed countries across the board, the representative of Australia repeated that these preferences stemmed from contractual obligations and that any modification would require further consultation. In the case of a number of items the most-favoured-nation rate in fact was the protective rate and in some cases was measured against a less-developed supplier. Also, the question of competitive need would have to be considered for these items. The detailed examination required by this proposal which involved some thousands of items would be extremely time consuming. In addition it should be remembered that Australia was currently engaged in a comprehensive tariff negotiation and it would not be physically possible to conduct two such operations in parallel.

19. Reference was made to certain features of the Australian proposal which were designed to safeguard the interests of existing suppliers of the products on which preferences were to be granted and in this context the rôle of the quota limitation on the preferences was noted. Some members suggested that consideration would have to be given to the establishment of appropriate procedures for consultations between all the parties concerned in respect of any additions or amendments to the list of products. One member also enquired as to the rights of third countries in such consultation and asked whether this consultation would be in the nature of a negotiation, in which case the question of compensation could arise, or whether the establishment of an arbitration body, which would apply agreed principles, might be envisaged. Some delegations also felt that the question of the review of the operation of the system and of the effects of the preferences on trade should be given careful consideration.

20. The representative of Australia said that it was the position of his Government that there should be no unnecessary or undue disruption of the trade of existing suppliers and that there must be international control of, and consultations on, any new preferences that were granted. This would necessitate machinery for prior consultations on any modifications of the scheme and for review of its operation. The Australian proposal made specific reference to this. As to the rights of contracting parties in the consultations, it was the expectation of his delegation that these would be specified in the waiver decision. The Government of Australia would be prepared to accept a consultation procedure to deal with specific points of difficulty arising in respect of a proposed preference and allow the CONTRACTING PARTIES authority to take a decision on these matters and to make appropriate recommendations. The Australian representative said that these points were illustrated in their draft of a possible waiver decision which had been circulated on an informal basis to members of the Working Party.

21. Some members of the Working Party stated that in their opinion the trade benefits of the scheme were likely to be very small. One member noted that total 1963-64 imports from less-developed countries of the items to be included initially amounted to less than A\$1 million, or less than 2 per cent of total Australian imports of these items from all sources. He noted also that imports of these items were, for the most part, obtained from two or three countries in Asia. Moreover, some two thirds of present Australian imports from less-developed countries of the products under the scheme were in two items, handmade carpets and coir matting. He pointed out that there were no significant exports of these products by developed countries and suggested, therefore, that virtually all the benefits which Australia was seeking to grant less-developed countries by the use of preferences on these products could be granted by tariff reductions on a most-favoured-nation basis. In this he was supported by certain other members of the Working Party.

22. His delegation had also examined the proposed tariff quotas in order to gain an impression of the potential benefits offered by the Australian Plan and referred in detail to the five products on which the largest quotas were to be opened. He pointed out that some of the products on which Australia proposed to grant preference were not at present exported in any appreciable quantities by less-developed countries. In some instances the margin of preference over most-favoured-nation countries was very small, and in four of the five cases exports of less-developed countries would have to compete on a basis of equality with suppliers from developed countries already receiving preferences. He asked if the Australian Government expected the quotas to be opened on these products to be filled.

23. The representative of Australia agreed that the actual and potential trade benefits of his Government's proposal might appear small from the point of view of a large highly industrialized country; however, these benefits could not be considered small in relation to the Australian market. He was prepared to accept the judgement of the beneficiaries of the scheme, the less-developed countries, with respect to the benefits to be expected. The proposal was designed to bring about an increase in the exports of the less-developed countries and it was therefore quite unrealistic to draw conclusions from the present level of trade.

He emphasized that the quotas provided for a five-fold increase in trade. As to which less-developed countries were expected to benefit from the preferences on items not at present imported by Australia from these countries, he pointed out that the details circulated in L/2463, Annex II indicated that a large number of these countries were interested in items on the Australian list. Enquiries about the scheme had already been received from Australian importers. It was not, however, to be expected that every less-developed country would press for, and expect to receive, a share of the trade under every quota and he emphasized that the proposal should be examined as a whole rather than piecemeal. Even in a completely generalized scheme, it would inevitably be found that different degrees of benefit would accrue on particular products to individual beneficiaries. If one less-developed country were to take the major part of any quota it might be concluded that that country was competitive and that it did not therefore need a preference on that item. If, on the other hand, quotas were not filled his Government would expect that the less-developed countries would wish to nominate other products for inclusion in the scheme. In answer to the suggestion that assistance to less-developed countries, in respect of certain products where their trade was now significant, could be better granted by reductions in the duties on most-favoured-nation basis, the representative of Australia emphasized that the preference scheme, as put forward, had been accepted by Australian domestic manufacturers on the basis that they would be safeguarded by the quotas established. The preference on floor coverings was offered despite the existence of a large Australian floor covering industry. It would not be practicable, at this stage, to reduce or remove the most-favoured-nation duties on these goods.

24. Most less-developed countries represented on the Working Party, while reiterating their support for a general non-discriminatory scheme for preferences and their feeling that the Australian scheme could be improved on in certain respects, indicated their governments' intention to support the Australian request. They recalled their earlier expression of support for the Australian initiative at the July meeting of the Working Party. Several of these representatives pointed out that the trade benefits offered by the scheme had to be viewed in relation to the continued need of less-developed countries to make use of all possibilities for an increase in their export earnings until they reached self-sustaining growth. They also underlined the significance of the Australian proposal as the first practical step by a developed country towards meeting the needs of the less-developed countries, a step which, it was hoped, would be followed by the presentation of proposals by other developed countries for the granting of general non-discriminatory preferences to all less-developed countries. This did not mean that in all aspects the Australian scheme should be accepted as a precedent.

25. The member of the Working Party whose views are set out in paragraph 17 said that his delegation supported a generalized scheme for preferences by all developed countries to all less-developed countries; if one country were to introduce a scheme for preferences independently the scheme should have a wide coverage and should benefit all less-developed countries. He said that unless it were modified now his delegation would not be able to support the Australian proposal.

26. Other members of the Working Party stressed the importance which they attached to the question of precedent precisely because they were concerned that acceptance of the Australian proposal might be considered to constitute a precedent in the context of discussions or a general scheme of preferences. It would be unfortunate, for instance, if a general scheme of preferences discriminated between less-developed countries. Some members of the Working Party recalled that, when presenting its request for a waiver, the Australian Government had emphasized that certain aspects of its proposal were a product of Australia's individual economic circumstances and might not, therefore, be considered appropriate to the circumstances of other countries or to any generalized system of preferences. It was suggested that, if this were so, the fears which had been expressed on the question of precedent would be groundless. One member of the Working Party stated, however, that the relevance of the Australian claim that special circumstances prevailed in its case remained to be established. In reply to a question, the representative of Australia stated that the position of his Government on this matter remained unchanged and that the proposal was not intended to be a precedent for other schemes of preferences. Certain basic principles contained in the proposal were, however, essential to any scheme. These were that reciprocity should not be expected from the less-developed countries, that preferences if established should not unduly disrupt the trade of third countries and that there must be international control of, and consultations on, preferences.

27. Some members of the Working Party emphasized their attachment to the most-favoured-nation principle and stated that in their opinion the maintenance of this principle to the extent possible was in the interest of the economically weaker countries. Certain members also emphasized that the benefits to be gained from any scheme for preferences should at least compensate for the disadvantages and dangers of a departure from the most-favoured-nation clause as embodied in the GATT. Any such scheme should, for example, lead to the creation of additional trade rather than to trade diversion. Certain members of the Working Party stated that the examination of the Australian proposal which had been carried out thus far had not convinced them that such a departure would be justified in the present case. In this connexion it was suggested that the overall effect of preferences on world trade should be studied and piecemeal decisions should be avoided. Some members of the Working Party were of the opinion that a pause for reflection would be useful to enable governments to assess the full implications of the Australian proposal.

28. The member of the Working Party whose views are set out in paragraphs 14 and 25 expressed great surprise at the views contained in paragraph 27 bearing in mind the fact that some of the members expressing those views were members of a free trade area which dispensed preferences amongst themselves vis-à-vis third countries.

29. The Working Party agreed that the material supplied by the Australian delegation had aided contracting parties to assess the scheme in some detail. It was also agreed that the discussions which had taken place last July and at the present meeting had enabled the Working Party to pass from the fact-finding stage to consideration of the substantive issues raised by the Australian request and of consideration of how the Working Party could best arrive at a consensus on the action it could recommend to the CONTRACTING PARTIES in respect of the Australian request. The Working Party agreed that time should now be given for reflection by governments on the issues involved; it therefore agreed to hold its next meeting during the month of November, the exact date of this meeting to be fixed by the Chairman in consultation with the delegations principally concerned and with the secretariat.