

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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COMMITTEE ON TRADE IN INDUSTRIAL PRODUCTS

Report to the Council

1. The terms of reference of the Committee are "to explore the opportunities for making progress toward further liberalization of trade taking into account the discussion on the subject at the twenty-fourth session". This report covers the work of the Committee since the last session. During that period it has held three meetings under the Chairmanship of Mr. G. Stuyck (Belgium), on 12-13 June, 12-13 July and 16-20 October 1972.

2. This report is divided into the following main sections:

	<u>Paragraphs</u>
A. Techniques and modalities for future negotiations	5 to 73
B. Work on <u>ad referendum</u> solutions to problems raised by selected non-tariff measures	74 to 80
C. Work of the Working Party on the Tariff Study	81 to 84

3. The attention of the Council is drawn to paragraphs 76 and 77 of the report, which contain points which may require action on its part. Attention is also drawn to suggestions for future work of the Committee contained in paragraphs 36 and 40.

4. As noted in subsequent sections of this report, the Committee has agreed on a number of tasks which it, or its subsidiary bodies, will carry out in the period after the session. In forwarding this report to the Council the Committee expressed the opinion that the opportunity should be taken of obtaining from the CONTRACTING PARTIES at their forthcoming session guidelines for the future multilateral negotiations in order to facilitate its further work which would be taken up again soon after the session.

A. TECHNIQUES AND MODALITIES FOR FUTURE NEGOTIATIONS

General

5. The Committee recalled the mandate adopted at its March meeting, which was "to examine the various techniques and modalities for effective and comprehensive future negotiations aimed at achieving a further liberalization and expansion of trade in industrial products and, in this examination, pay particular attention to the needs of developing countries" (COM.IND/18), and the summing-up of the Chairman at that meeting (COM.IND/19). It had at its disposal a technical note by the secretariat on possible techniques and modalities (COM.IND/W/76).

6. The Committee noted that it would be difficult to discuss advantages and disadvantages of different negotiating techniques without establishing some hypothesis as to the objectives of future negotiations. It was suggested that the objective should be the maximum possible liberalization of trade. Some delegations suggested the hypothesis that tariffs on industrial products should be abolished over a period of years, and said that the advantages and disadvantages of the various techniques and modalities should be analyzed with this hypothesis in mind. Some delegations pointed out that the mandate adopted by the Committee at its March meeting set out the objective.

7. Some delegations, while agreeing to consider each section in the secretariat's technical note separately, stressed the fact that in their view tariffs, non-tariff measures and safeguards were inter-related. What was agreed on one would be dependent on what was agreed on the others. Some delegations also pointed out that the industrial and agricultural sectors were similarly inter-related.

8. Delegations of developing countries stated that the question of techniques and modalities for the multilateral trade negotiations was being considered in the abstract because the basic political decisions as to the concrete objectives of the negotiations had not been taken. Once the objectives of the negotiations have been defined, appropriate special techniques and modalities could be established to deal with the export problems of developing countries. These countries would then be able to decide whether to associate themselves with the negotiations. In their view the export problems of the developing countries must be given a central place in the negotiations with a view to ensuring that developing countries obtain a larger and growing share of world trade.

9. These delegations said that the negotiations should reduce both the nominal and effective tariff protection on products of export interest to them. With regard to the Generalized System of Preferences the representatives of developing countries said that all industrialized countries should implement their schemes and suggested that the negotiations should be used to enlarge the product coverage of the schemes, to increase and to consolidate margins of preference and to extend the system to the non-tariff field. They also stressed that developing countries should be compensated for reductions in existing preference margins as a result of concessions granted among developed countries.

Negotiations in the agricultural and industrial fields should be closely linked. All non-tariff measures affecting the exports of manufactures and semi-manufactures from developing countries should be included in the negotiations.

10. In the discussion, representatives of developing countries also said they would also look to the prospective negotiations for, inter alia, duty-free entry for their export products, the elimination of tariff escalation with the degree of processing, the advanced implementation of any phased tariff reductions on products not covered by the Generalized System of Preferences, in one step and on a preferential basis, and the non-reciprocal grant of concessions by developed countries, as well as special treatment in the matter of non-tariff measures affecting their exports.

11. The Committee completed an initial analysis of the major negotiating techniques. To this end, it had before it the secretariat note (COM.IND/W/76). The Committee recognized that the list of the techniques was not exhaustive and that the fact that certain techniques or combinations of techniques had not been examined in no way meant that they ought to be excluded from future negotiations. Without commitment on the part of any delegation, the Committee established a first balance of the advantages and disadvantages of each of the techniques that were mentioned during the meetings. The listing of the advantages and disadvantages of each method should not be taken to imply that members of the Committee or the Committee as a whole were in agreement on each of the points mentioned in the report; it simply means that each of these advantages or disadvantages was referred to by one or more members of the Committee.

Tariffs

12. The Committee examined the various techniques for negotiating on tariffs, set out in the technical note by the secretariat. It agreed that, without at the present stage discarding any technique, it would concentrate on what appeared to be the more important possible techniques. It was suggested that preparations for new negotiations should not discourage countries from reducing tariffs unilaterally and that such reductions should be taken into account when setting the base rates for reductions in the negotiations.

(a) Item-by-item technique

13. This technique had the advantage that it made for a flexible negotiation, since participants could select the products on which they would make reductions and the rate of reduction. This technique would also permit the participation of some countries on a minimal basis, and some delegations emphasized that no technique should be ruled out if its use would permit the participation of some additional contracting parties and the reduction of some more tariffs. It could also meet some of the concerns of the developing countries since products of particular export interest to them could be chosen or products covered by the Generalized System of Preferences could be excluded.

14. However, it was widely felt that the disadvantages which had led to the abandonment of this technique as a basis for recent multilateral negotiations still applied. Its most serious disadvantage was that the overall scope of the negotiations was set by the least enthusiastic participants. It was suggested that this might be overcome by stipulating a minimum level of offers, but it was acknowledged that some disadvantages were nevertheless likely to remain. These would include the risk that tariff escalation and tariff disparities might be increased; that some participants might find their products excluded from the negotiations, that sensitive items would be excluded and that products of little importance in world trade would be selected for reduction.

15. Many delegations were of the opinion, however, that there was likely to be some item-by-item element in any future negotiations, as there had been in the Kennedy Round.

(b) Continuation of Kennedy Round cuts

16. This technique would have the disadvantage that it froze the situation of several years ago and that, on the one hand, there would be too many exceptions while, on the other, sensitivities had changed since the Kennedy Round. Some delegations said that another disadvantage of this technique was that it would not solve the problem of preferences.

17. It was suggested that a continuation of the Kennedy Round cuts, combined with a re-examination of exceptions and disparities, might establish a continuous process of trade liberalization preferable to a discussion of ambitious techniques which might never be put into practice. Some delegations suggested that the value of this technique lay rather in the fact that a number of further reductions might be carried out as an interim measure before the conclusion of the forthcoming negotiations.

(c) Duty-free trade in industrial products

18. It was pointed out that duty-free trade in industrial products was an objective rather than a technique and that some techniques referred to in other sections of this note could be used in the phasing of the reductions to achieve this objective.

19. Some delegations said that the main advantages of complete tariff elimination were its unique appeal as an easily understandable objective and as a counter-balance to rising world-wide protectionism. It was suggested that the technical advantages of complete tariff elimination would be its simplicity, the fact that it would solve the disparity problem, the problem of tariff escalation, problems connected with specific and mixed duties, and the problem of para-tariff barriers (e.g. tariff nomenclature problems and problems connected with valuation for customs purposes). The elimination of tariffs would also have the advantage that full benefit could be gained from the exploitation of the comparative advantages enjoyed by different countries. Another advantage cited was that this technique would require commitments from all participants and that there would be no free

rides. Finally, the abolition of all existing tariff preferences which the abolition of duties would entail would be an advantage for countries which do not enjoy preferences.

20. Certain disadvantages of this formula were also cited. Some delegations said that the total abolition of tariffs could only be possible if parallel action were taken to bring about a certain harmonization or co-ordination of the economic and social policies of different participants and if at the same time non-tariff measures were eliminated as experience in some regional groups had demonstrated. These delegations recognized that an ambitious objective could stimulate progress, as the objective of a 50 per cent reduction had done in the Kennedy Round, but said that an objective which was too ambitious might be harmful. The advantages referred to above would only apply if there were no exceptions to the general rule, but there were likely to be a greater number of items on exceptions lists than in the case of a simple reduction of duties. The abolition of tariffs would also create considerable problems for certain sectors, regions and professions and even for national budgets to the extent that the abolition of tariffs is accompanied by adjustment assistance provided by governments. It could also constitute an incentive to the introduction of non-tariff measures which were more difficult to deal with than tariffs, or to the frequent recourse to safeguard measures. In addition, even if tariff free trade led to the full exploitation of comparative advantage, it would not ensure that all participants benefited equally; imports of individual participants might increase more than exports, creating problems for exchange rates. The abolition of all existing tariff preferences which the abolition of duties would entail would be a disadvantage for those countries which benefited from them. Developing countries said that there should be no exceptions for products on which duty-free treatment was already granted to certain developed countries. It was pointed out, however, that difficulties in certain sectors might be dealt with in special negotiations, that experience of regional groups had shown that tariffs and non-tariff measures could be eliminated without the extensive harmonization of policies and that the point made about the harmonization of policies would apply to the substantial reduction of tariffs and not only to their elimination.

(d) Elimination of low duties

21. Another technique would be the elimination of all rates below (say) 5 per cent ad valorem. This could be used simultaneously with other techniques. The main advantage of this technique was that it should be easy to eliminate low duties, which had little protective effect and which were mainly nuisance tariffs.

22. It was, however, pointed out that the protection afforded by some of these duties was not insignificant and that for these reasons, and also for others, it would not be as easy as it appeared at first sight to abolish all low duties.

Another disadvantage was that the abolition of low duties on raw materials would increase the protection granted to products further up the chain of production.

(e) Techniques for the linear reduction of tariffs

23. It was noted that the linear technique could be used to achieve different objectives and that its effects would vary depending on the depth of the reductions, their phasing and the number of exceptions. Variations in both the rate of reductions, e.g. the provision of a smaller reduction of duties in sensitive sectors, and the time-table for the reductions, e.g. the provision of a different time-table for high and low duties, could be introduced.

24. Among the advantages of this technique were the ample experience of its value, the absence of complications, its simplicity and clarity and the fact that it made it relatively easy to obtain domestic support for tariff cutting.

25. Among the disadvantages cited was the fact that it would once again raise the problem of tariff disparities, certain rates rapidly losing their protective effect while others still remained relatively high. It was suggested that this disadvantage might be met by combining a linear with a harmonization technique (see paragraph 35).

(f) Harmonization techniques

26. It was noted that there were many different harmonization techniques but that all would require high tariffs to be cut more than low tariffs.

27. Some delegations doubted whether the assumption underlying these techniques, that cuts in low rates would produce a greater increase in trade than the same percentage cuts in high rates, was necessarily true - for instance a country might have the same rate of duty on two different products but different supply and demand conditions for the products might mean that the two rates had widely different protective effects and the same would apply in the case of two countries which had the same rates on the same product. They also said that these techniques require a greater contribution from some participants than others which would give an unbalanced result which would make it difficult to achieve reciprocity. These techniques might, however, be useful in certain sectors. Some delegations said that harmonization techniques would be useful in reducing tariff disparities but would not necessarily produce a reduction in tariffs; they therefore considered these as supplementary to other techniques.

28. Other delegations said that high tariffs normally were more protective than low tariffs, and recalled the provision in Article XXVIII bis that "binding against increase of low duties or of duty-free treatment shall, in

principle, be recognized as a concession equivalent in value to the reduction of high duties". They added that a further argument in favour of harmonization techniques was that a linear reduction of any magnitude would leave low tariff countries with tariffs which had no significant protective effect and thus no bargaining power in future negotiations while other countries which had a tariff made up of both high and low rates would be left with many tariffs which still retained a significant protective effect.

(i) Reduction of rates by an agreed percentage which would depend on the initial height of the tariff on the product in the country concerned

29. It was noted that several possibilities existed under this heading and in particular that the progressivity of the reduction could be more or less steep. Among the advantages cited were that this method would reduce tariff disparities, that it would require no tariff concordances, and that it would reduce tariff escalation with the degree of processing.

(ii) Reduction of rates by an agreed percentage which would depend on the initial height of the tariff on the product in other participants

30. Possibilities included the reduction of rates which are higher than those in the tariff of another participant, or in the lowest tariff in a number of other participants, or in the average tariff in a number of other participants. Among the disadvantages of this technique are the difficulty of agreeing which participants should be taken for reference purposes and the fact that tariff concordances would be required. A similar technique had been tried in the Kennedy Round but had given rise to endless discussion during which it had not been possible to agree on a general rule of this sort.

(iii) Reduction or elimination of the difference between tariff rates and a "normative" or "target" rate or rates

31. It was noted that this approach might or might not provide for the raising of rates which were below the target rate. One variation of this approach would be to reduce all rates above the target rate to that rate (écrêtement). It would also be possible to reduce the gap between each tariff rate and a target rate by an agreed percentage. Target rates could vary from sector to sector. Different target rates could also be set for raw materials, semi-finished products and finished products.

32. Among the advantages cited were simplicity (automatic formula, no tariff concordances required).

33. Among the disadvantages was the fact that this technique might lead to an increase in effective protection and the difficulty of agreeing on the "normative" or "target" rate or rates.

(iv) Harmonization rules which provide for the reduction of the average of duties in a given sector

34. Among the disadvantages of this technique are the difficulty of choosing the type of average to be used, and the fact that some high rates might not be reduced at all. This disadvantage might be met by stipulating a ceiling rate to which all duties would have to be reduced.

(g) Combination of above techniques

35. Many possible combinations existed. It was, for instance, suggested that the problem of tariff disparities raised by a linear reduction of duties might be met by providing that participants with low rates should maintain these at their initial level until higher rates in other participants had been reduced to that level, after which all rates would be reduced by the same percentage. This solution was not without its own disadvantages, however, among which was the need for detailed tariff concordances. To avoid this disadvantage, one other solution would be to provide for a slower reduction of the low duties in the first steps of reduction.

(h) Future Work

36. It was suggested by several delegations that, although delegations had not yet committed themselves to specific negotiating objectives or techniques, future work of the Committee on techniques and modalities for the negotiation of tariffs begin with a consideration of duty-free trade in industrial products among developed countries. It was pointed out that duty-free trade is actually an objective rather than a technique. Consequently, in considering methods of achieving this possibility the other techniques included in the Committee's report would undoubtedly become involved. According to these delegations the advantage of first considering the ambitious goal of duty-free trade as the basis of future work was that it would always be possible to adapt this consideration to lesser goals.

37. Other delegations, whilst not rejecting examination of the hypothesis contained in the above proposal, as well as of other possibilities, at a suitable time and if it seemed worthwhile, pointed out that at the present stage of the Committee's work it was not practicable to give preference to one approach rather than another. Furthermore, to choose one approach now would deprive the Committee of information needed for a balanced examination of the various techniques of tariff negotiations.

Non-tariff measures

38. The Committee considered that the terms "non-tariff measures" or "non-tariff distortions" were preferable to the term "non-tariff barriers", since certain measures could act to increase rather than restrict trade but created distortions. The Committee also considered the application of the concept of reciprocity in the field of

non-tariff measures. In that connexion, some delegations were of the view that the same basic consideration, the need to obtain a balance of advantage, applied in both the tariff and non-tariff fields.

39. The Committee examined the new tasks which it would have to undertake in the context of the exercise on techniques and modalities.

40. The Committee considered that the time had come for it to review the Illustrative List (annexed to COM.IND/W/76) of non-tariff measures listed in the Inventory and that it should plan to update the Illustrative List so that it would have an overall view of the non-tariff measures which could possibly be dealt with in the negotiations. Moreover, the Committee took the view that at this stage no measure should be excluded from its work.

41. The Committee emphasized that the search for solutions gave rise to certain fundamental legal problems. In particular, reference was made to two problems that had arisen in the deliberations of the Working Parties. The first problem was the imbalance that would be created, in legal if not in trade terms, if only a limited number of participants adhered to an international agreement but were obliged to grant the benefits of the agreement to all contracting parties under the most-favoured-nation clause. The second problem was the adequacy of Article XXIV:12 to deal with measures of regional and local governments, which were not under the direct control of central governments.

42. The Committee agreed that the work of drawing up ad referendum solutions to certain problems, already under way in the various Working Groups, should be carried forward as rapidly as possible.

43. One point was raised regarding the work of the Working Groups. In certain of these Groups there was an observable tendency to draft provisions which would permit participants to continue their existing practices rather than provisions which would solve the problems identified in the Inventory. If satisfactory ad referendum solutions were to be found it was to be expected that in many areas certain participants would be making a larger contribution than others and that in these cases the implementation of solutions would have to wait until packages could be put together which would give individual participants a broad balance of advantage. These packages would not necessarily be restricted to non-tariff measures but might also include action on tariffs and other trade measures in both the industrial and agricultural fields. Some delegations said the efforts should be made to put ad referendum solution into effect even before the conclusion of the negotiations.

44. The Committee briefly discussed the different negotiating techniques set out in the secretariat's technical note.

45. The view was widely held that meaningful results could best be obtained via specific commitments on specific measures. It was suggested that general principles might be drawn up if it did not prove possible to resolve all of the individual problems listed in the Inventory during the prospective negotiations.

since it might set the framework for further negotiations on these. It was also suggested that if this approach were adopted it would be necessary to examine the principles in terms of two categories of non-tariff measures, those that are designed to restrict or distort trade and those designed for some other purpose but which incidentally have trade restricting effects.

46. It was recalled that the Committee has already carried out an extensive examination of possible multilateral techniques for negotiations on the categories of non-tariff measures identified in the Illustrative List and that this was summarized in a previous report, L/3496.

47. It was suggested that it might also eventually be necessary to conduct plurilateral or bilateral negotiations on some individual non-tariff measures where multilateral techniques were not appropriate, i.e. to hold negotiations among the countries with a trade interest in a particular measure, rather than dealing with these in the context of a multilateral negotiation on broad categories of non-tariff measures.

48. It was suggested that preparations for new negotiations should not discourage countries from reducing the adverse effects of non-tariff measures unilaterally and that such reductions should be taken into account in the negotiations.

49. It was suggested that consideration should also be given as to how solutions on non-tariff measures related to each other and to all other elements of the overall negotiations.

Sector approach

50. This technique called for all factors affecting trade in specific sectors, including tariffs and non-tariff measures to be dealt with together.

51. One conception of the sector approach would achieve free trade in stages for certain precisely defined products or groups of products thus complementing other techniques. In the view of some delegations the sectors should be large enough to induce a meaningful expansion of trade under free-trade conditions but small enough to be manageable. Prime candidates were industries which could take account of economies of scale and a range of products derived from raw materials, such as chemicals, aluminium, forest products, copper, lead and zinc.

52. In the view of other delegations another possibility was that all industrial products would be divided into sector groupings, as had already been done in the tariff study, and techniques for negotiating on all factors affecting trade elaborated sector by sector.

53. Among the advantages of the sector approach, in the view of certain delegations, were that it would make for a complete and comprehensive liberalization of trade which would permit the full benefits of comparative advantage to be obtained that it would allow relatively small countries to

develop industries which could compete on world markets and that it would enable exporters of raw materials to export these in a more highly processed form.

54. Among the disadvantages in the view of some delegations were that it would create trade distortions if barriers to trade in raw materials were reduced more than barriers to trade in the related finished products and that there might be a tendency to seek reciprocity within each sector. Lastly, it would complicate the negotiations by posing delicate problems in regard to the balance of concessions.

55. Representatives of developing countries said that this technique was well suited to their needs since their exports were concentrated in certain sectors and since it could lead to a liberalization of trade in products and sectors at present excluded from the generalized system of preferences. These countries had a particular interest in exporting their raw materials in a more processed form.

56. Some delegations said that they would be willing to participate in a working party to examine the technique of eliminating trade barriers by sectors if the Committee considered it opportune to establish one.

Safeguards

57. The Committee recalled that it had agreed to examine the adequacy of existing safeguard provisions in the context of the General Agreement, (i) in the light of present conditions and efforts to achieve and preserve a further liberalization and expansion of trade, and (ii) for ensuring the maintenance of access.

58. The Committee had at its disposal a note drawn up by the Secretariat (COM.IND/W/88 and Corr.1).

59. A proposal was made by one delegation that an integrated approach to adjustment to the effective dismantlement of tariff and non-tariff barriers to industrial trade should be explored. This approach might comprise three essential elements:

(i) Rules designed to ensure that the burden of adjustment be borne to the extent possible by the importing country, through concerted and improved programmes of domestic adjustment assistance rather than the restriction of imports.

(ii) Emergency action, including the use of import restrictions, to deal with transitional problems of sensitive industries should be governed by rigorous internationally agreed criteria, including the presence of injury or threat of injury, subject to multilateral surveillance.

(iii) Improved institutional arrangements should be established to ensure against the abuse of safeguard rules and the nullification or impairment of concessions negotiated and to provide for compensation.

The objective of such a system of safeguards should be to enhance the willingness of the industrialized countries to undertake the meaningful exchange of trade concessions and to provide more effective assurances against their impairment.

60. Some delegations stressed that the task of the Committee was to assess whether existing safeguard provisions were appropriate for future situations. In their view, the type of safeguard provision to be adopted depended on the extent of trade liberalization which was aimed at. It would be necessary to find the ideal equilibrium between, on the one hand, the progress towards elimination of trade barriers and, on the other hand, the safeguard clauses which would permit this liberalization. Some delegations recalled that the primary purpose of the Committee's work was to liberalize trade, not to facilitate the erection of new trade barriers. Some delegations did not consider the existing GATT provisions to be adequate for a future situation.

61. One representative said that negotiations on safeguards would constitute an essential part of the trade negotiations. He said that the widespread resort to measures other than Article XIX suggested that this Article was not adequate to meet the changing needs of a dynamic world economy. The emerging view of his country was that in the forthcoming negotiations it was necessary to consider a multilateral non-discriminatory safeguard system that gave economically sensitive industries in participating countries sufficient time to adjust to rapid shifts in trade. In the opinion of his country, safeguards were necessary in situations where the adjustment required was too large to be accomplished in a short period of time without excessive social and political cost. Such a multilaterally negotiated safeguard system could include agreed standards for imposing temporary protection, a procedure for international review and procedures that prevent the systems from being abused. Domestic adjustment programmes should complement the safeguard system. Effective adjustment programmes were essential in order to stimulate the reallocation of resources which would otherwise require permanent protection from the pressures of the market. His country was now exploring new methods of providing adjustment assistance to those sectors, and especially to those groups of workers which were subject to exceptionally rapid adjustment problems as a consequence of competition. In its view such adjustment assistance provisions might also be discussed internationally.

62. Another delegation agreed that the question of providing a multilateral and non-discriminatory procedure with regard to safeguards should be examined in GATT, with a view to facilitating further liberalization and also to guaranteeing the results of such liberalization. Such an examination was all the more necessary in view of the present proliferation of bilateral safeguard clauses and export restraints. In their view the elimination of bilateral safeguard clauses, quotas and export restraints should be included in the examination. The preliminary view of his country was that any review of the question should include the following elements, a linkage of the safeguard clause with domestic adjustments, a review of the criteria for the use of the safeguard clause, the setting of time-limits and time schedules, and multilateral surveillance of the use of the clause.

63. Some other delegations supported the proposals in paragraphs 59 and 62.

64. Some delegations from developing countries referred to the proposal before the Committee on Trade and Development to the effect that developing countries be exempted from emergency measures applied under Article XIX and said that it was inequitable that developed countries should apply safeguard measures, on a most-favoured-nation basis, towards exports of both developed and developing countries. This practice caused grave injury to exports of developing countries and was not consistent with Part IV of the GATT. This proposal should be taken into account when the Committee dealt with the overall problem of safeguards. They also considered that developing countries should have greater freedom to apply safeguards.

65. Some delegations of developing countries considered that further work on safeguard measures should proceed with caution. They suggested that in this work the Committee should concentrate on ensuring better access to markets and that adjustment assistance measures should be preferred to safeguard action. They stressed that safeguard action, if taken by a developed country, should be applied only temporarily and in exceptional situations. To this end they supported the development of a system of internationally defined objective criteria and the establishment of appropriate international consultation procedures which could give effective safeguard against erosion of acquired concessions by unjustifiable resort to escape clause action by developed countries.

66. Some delegations suggested that any new safeguard clause should provide for the possibility of retaliatory action, as was at present the case in Article XXII.

67. A large number of delegations stressed the importance of the safeguard question and the need to examine it in parallel with the other aspects of the work on techniques and modalities. It was understood that it would be possible to establish a Working Party to discuss this question at any time if this appeared desirable. The Committee agreed that it had had a useful first discussion of this matter and that it should return to it soon after the session.

Implications for developing countries of various suggested techniques and modalities

68. The Committee recognized that an important objective of the prospective negotiations was that they provided effective benefits for the trade of developing countries. It agreed to analyze and evaluate the techniques and modalities necessary for the participation of developing countries with this objective in mind (COM.IND/19). At the request of the Committee, the secretariat circulated a preliminary examination of the implications of the different techniques for negotiating on tariffs and non-tariff measures for the trade interests of developing countries, having particularly in mind the structure of developing countries' trade and the existence of the Generalized System of Preferences (COM.IND/W/85).

69. The representatives of developing countries reiterated their view that it was difficult to comment on the implications for them of specific techniques and modalities before a political decision had been taken regarding the objectives of the negotiations. Paragraphs 70 to 72 set out the main points which were made in the discussion on this topic.

70. Commenting on the Secretariat paper, the representatives of developing countries stated that not merely a single technique but a combination of various techniques suggested, or different special techniques may have to be used to ensure that multilateral negotiations resulted in liberalization and improvement of access for products of export interest to these countries. Unless such techniques were evolved, these countries were likely to come out of the negotiations as net losers, particularly as preferential margins on products included in the Generalized System of Preferences were likely to be eroded, through reduction of tariffs on m.f.n. basis. They therefore considered that they should be compensated for loss of their preferential advantages through improvement and broadening of the scope of the Generalized Systems of Preferences. In regard to those products which were not included in the Generalized Systems, tariff concessions agreed upon in the negotiations should be implemented in advance in one stage on preferential basis in favour of developing countries.

71. Representatives of developing countries further pointed out that there appeared to be some misapprehensions in regard to their demand for preferential treatment in removal of non-tariff measures. In regard to some of the non-tariff measures like quantitative restrictions, they saw no economic or administrative difficulties in removal of these restrictions on preferential basis. It was, however, not the intention of these countries to suggest that mandatory safety and quality standards should not be applied to imports from developing countries. At the same time it had to be recognized that such mandatory standards and regulations might pose special problems to the trade of developing countries as they may have been formulated without taking into account the production and other process prevailing in these countries. These regulations should therefore be applied with flexibility in appropriate cases and in some cases the developing countries might require technical assistance to enable them to fulfil these regulations. The concept of preferential treatment therefore in removal of such non-tariff measures in the field of mandatory and voluntary standards and valuation procedures, etc. only implied the need to find solutions taking into account the special problems faced by developing countries and their special situations. In the field of valuation especially, where certain agreements appeared to have been reached on the possible action that could be taken, it would be desirable to take advance action as would lead to facilitating imports from developing countries.

72. Representatives of developing countries said that account should be taken of resolutions adopted by UNCTAD III and of the principles embodied in Part IV of the GATT. Article XXXVI laid down that developed contracting parties do not expect reciprocity in trade negotiations from developing countries but one of the central issues was how non-reciprocity was defined.

73. The Committee expressed its understanding of the difficulties faced by developing countries. Despite these difficulties, it was recognized that useful preliminary discussions had been held in the Committee. The Committee agreed that it should intensify its examination of the implications for developing countries of various techniques and modalities for trade negotiations on the basis, inter alia, of continued technical assistance from the secretariat. The Committee believed that developing countries would be better able to assess the problems and advantages involved in effective participation in the forthcoming negotiations in the light of consideration by the CONTRACTING PARTIES of more precise definition of the principles and specific objectives of the negotiations and after further progress in the examination by the Committee.

B. WORK ON AD REFERENDUM SOLUTIONS TO PROBLEMS
RAISED BY SELECTED NON-TARIFF MEASURES

Activities since the last session

74. The Committee heard oral reports by the Chairman of the Working Groups, covering the activities of their Groups since the last session of the CONTRACTING PARTIES:

Working Group 1 - Export Subsidies	
Mr. E. Benediktsson	(Iceland)
Working Group 2 - Import Documentation	
Mr. E. Kekkonen	(Finland)
Working Group 3 - Standards	
Mr. P. Eastham	(Canada)
Working Group 4 - Licensing	
Mr. H. Colliander	(Sweden)

These are annexed to this report.

75. The Committee agreed to refer the two texts drawn up by Working Group 4 on automatic licensing and licensing to administer import restrictions (COM.IND/W/32 and Corr.1) to administrations for careful examination and for consideration of implications arising from their acceptance.

76. In addition, it proposes to the Council that contracting parties should notify changes of licensing systems at the same time as notifications are made on import restrictions, i.e. 30 September of each year.

77. Attention was also drawn to the decision of the Council at its meeting of 21 April 1971 that Group 4, when dealing with licensing, should consider licensing systems as measures of general application subject to the right of the Agriculture Committee to review the applicability to the agricultural sector of any solution evolved.

Additional topics

78. The Committee examined the question of referring other topics to the Working Groups with a view to the drawing up of ad referendum solutions.

79. The Committee agreed that, concurrently with its work on subsidy measures covered by Article XVI:4, Working Group 1 should take up countervailing duties and domestic subsidies that stimulate exports. Work on subsidy measures would proceed

in parallel with work on countervailing duties, and both aspects of the work would be reported to the Committee at the same time. It was also agreed that at least two meetings of Working Group 1 would be held before the middle of next year, the first being devoted to subsidy measures, and the second to countervailing duties.

80. The Committee also agreed that Working Group 4 should take up quantitative restrictions (including embargoes) and export restraints simultaneously and report to the Committee on both aspects of the work at the same time.

C. WORK OF THE WORKING PARTY ON THE
TARIFF STUDY

81. The Working Party's work programme under its original terms of reference is set out in the Committee's last report to the Council (L/3609, paragraphs 14 and 19). In addition, the Committee agreed that the Working Party should examine any proposals made concerning ways in which the tariff and trade data might be presented so as to facilitate an assessment of the implications of various possible negotiating techniques and modalities.

82. The Working Party held one meeting since the last session, the report on which is contained in COM.IND/W/84.

83. The Working Party examined the proposal by one delegation for enlarging the present statistical base of the tariff study with a view to providing better information and tools which may not be available to individual member governments for their use in preparing for trade negotiations. It agreed that the secretariat should make a detailed assessment of the magnitude and complexity of the problems involved in constructing a time series of available production and consumption statistics harmonized with the data on trade and customs duties. In addition, it was decided to undertake an updating of existing materials, giving priority to certain tabulations, as well as to the general analysis of tariffs and trade. The Committee agreed that the secretariat should proceed as quickly as possible with this work.

84. The Working Party examined the possibilities of presenting the tariff and trade data in forms that would facilitate an assessment of the implications of the various possible techniques and modalities for tariff negotiations, and recommended a number of presentations to the Committee. As agreed by the Committee, tabulations were made available to the members, with the exception of those referred to in paragraphs 4(d), 4(e) (the second part), and 4(g) of COM.IND/W/84, which are being referred to the Working Party and will be discussed by the Working Party at its next meeting, to be held if possible in November or December. The Committee has still to discuss the tabulations.

ANNEX I

Reports by Chairman of Working Groups 1 to 4

Working Group 1 - Export Subsidies
covered by Article XVI:4

1. As you will recall, at the twenty-seventh session the CONTRACTING PARTIES agreed that Working Group 1 should undertake work on export subsidies covered by Article XVI:4 with a view to elaborating an ad referendum text. The Group has met three times during 1972, in May, June and October. I would now like to briefly summarize the progress we have made to date.
2. The Group took as a point of departure in its work the proposed solutions that had been put forward in the 1970 report of Working Group 1, beginning with the suggestion regarding a refinement and elaboration of a definition of measures prohibited by Article XVI:4. The Group first addressed itself to the indicative list of export subsidies drawn up by a Working Party in 1960. A number of suggestions were made as to ways in which this list might be elaborated and refined so as to clarify the obligations under Article XVI:4.
3. The Group had a preliminary discussion on a possible set of general criteria for identifying a measure as an export subsidy over and above any list of prohibited practices that might be agreed upon. In the context of the discussion of general criteria the Group examined the advantages and disadvantages of retaining the two-price criterion in Article XVI:4.
4. At the October meeting, which was attended by experts in the field of export financing, the Group considered ways in which it should deal with problems of trade distortion arising from concessional export financing among developed countries. It was agreed for the time being to deal with concessional export financing in the context of a general solution to export subsidies and to keep open the possibility of a separate solution, including inter alia a contractual code, should it appear that the complexity of the issue would necessitate dealing with it on a separate basis.
5. The Group also had a preliminary discussion on a number of other points included in the 1970 report relating to:
 - (a) the possibility of extending the product coverage of Article XVI:4 to cover all industrial products;
 - (b) possible improved notification procedures;
 - (c) action that might be permitted in cases of an infraction of obligations under Article XVI:4.

6. Finally, in response to the proposals that there should be a wider acceptance of the obligations on export subsidies, two members of the Group explained why their governments had not yet accepted the 1960 Declaration Giving Effect to the Provision of Article XVI:4. These members, however, pointed out that they would be willing to give consideration to any solution that might emerge as a result of the Group's work.

Working Group 2 - Import Documentation
including Consular Formalities

1. At the twenty-seventh session the CONTRACTING PARTIES decided that Working Group 2 should undertake work on ad referendum solutions to problems arising from import documentation, including consular formalities.
2. The Working Group met on 22 June and 12 October. A note drafted by the secretariat on the first of these meetings is contained in document Spec(72)78. For the organization of its work the Group had before it a background note prepared by the secretariat - document COM.LND/W/79 - setting out the main lines of action in GATT and elsewhere on both import documentation and consular formalities. Both meetings were attended by representatives from the Customs Co-operation Council, the Economic Commission for Europe and UNCTAD who made statements on the activities of their Organizations.
3. Concerning import documentation, at the October meeting, the Group had before it a document prepared by the secretariat - COM.LND/W/79/Add.1 - which contains a short compilation of what had been done and would be done by GATT and by other organizations, in particular the Customs Co-operation Council and the Economic Commission for Europe.
4. At this last meeting the Group reaffirmed the desirability of the simplification and harmonization of import documentation. In order to avoid duplication of the work conducted by the Customs Co-operation Council and the Economic Commission for Europe it was agreed that the technical work of compiling data and preparing draft standard forms of an all-purpose entry document and of an invoice be done by those organizations. In the view of the Group the preparation of the said forms should have high priority. The Group urged that the number of items incorporated in the forms be restricted to the indispensable minimum and that a progress report on the action by the Customs Co-operation Council and the Economic Commission for Europe should be made prior to the next meeting of the Group. Those members of the Group that participate in the Economic Commission for Europe and the Customs Co-operation Council were asked to take active part in the work that will be conducted by those organizations. The Group decided that it should, in due course, continue its work on import documentations and prepare the necessary ad referendum solutions on the

basis of the work being undertaken by the Economic Commission for Europe and the Customs Co-operation Council, without excluding the possibility that their proposals might in themselves constitute adequate ad referendum solutions.

5. With regard to consular formalities, the Working Group heard oral statements from the representatives of Brazil and Portugal and examined documents Spec(72)106, Spec(72)107 and Spec(72)109 containing the information supplied by Turkey, Argentina and Italy. Members of the Group recognized that the situation in those countries had improved and urged that in accordance with the Recommendations of the CONTRACTING PARTIES of 1952, 1957 and 1962 all remaining consular formalities be abolished. Several members of the Group supported the proposal to adopt the Interpretative Note to Article VIII of the General Agreement contained in document Spec(72)104 on an ad referendum basis and to give credit, in the context of the future multilateral trade negotiations, to those countries which abolished consular formalities. A possible date for the abolition of consular formalities might be 1 January 1975 or no later than the effective date of concessions in the forthcoming negotiations. The representatives of the countries still maintaining consular formalities noted that these formalities did not constitute a violation to Article VIII of the General Agreement and were, in any case, only a minor obstacle to trade. These delegations, supported by other delegations, requested time to reflect upon these proposals.

Working Group 3 - Standards

1. This report covers the activities of Working Group 3 on Standards since the last session of the CONTRACTING PARTIES. At that time I, as Chairman of the Group, had been asked to pursue actively informal consultations on the outstanding issues. Sufficient progress was made during these informal consultations to allow further discussions and drafting to proceed and five meetings have been held so far this year, two of Working Group 3 and three of its Drafting Group.

2. The Group is working on a text of a proposed GATT Code of Conduct for Preventing Technical Barriers to Trade - it is not called a Standards Code since it also deals with problems relating to quality assurance systems. While no decision has been taken as to the nature of the instrument delegations have agreed to work on a text in contractual form for reasons of convenience and because it could serve as a basis for other types of approach, such as voluntary code or a set of principles, if one of these solutions were to be preferred.

3. A note on the last meeting of the Working Group has been circulated in Spec(72)77. Among the problems discussed by the Working Group are:

- (a) the relationship between the provisions of the proposed instrument and the provisions of the GATT;
- (b) the obligations relating to the protective effect of standards and quality assurance systems;

- (c) the provisions regarding the participation in quality assurance systems both of individual adherents and regional organizations;
- (d) the level of obligation in relation to national standard bodies and quality assurance bodies which are central government bodies as defined in the instrument;
- (e) the timing of the entry into force of the various provisions of the instrument and whether and in what manner the instrument should apply to existing standards and quality assurance systems;
- (f) the treatment of so-called quasi-mandatory standards;
- (g) the functions of the Committee to be set up under the instrument and the enforcement provisions.

4. At that meeting it was agreed that the objective was to complete the work in Working Group 3 by the end of 1972 so as to present a final report to the Committee. It was recognized, however, that a limited number of problems might remain for which the Group would not be able to find a common presentation.

5. It also agreed that the text should be amended to take into account the discussion in the Working Group and simplified without effecting matters of real substance. The Drafting Group has since met and drawn up a revised text for submission to the Working Group (Spec(72)103).

6. Working Group 3 is to hold what is hopefully its final meeting on this subject from 28 November to 8 December. As you will see, the work in this Group has not been brought to a conclusion as rapidly as the work on some other non-tariff measures. The task before the Group is, however, complex, time-consuming and difficult. It will, I believe, represent a major achievement, and be welcome evidence of a spirit of co-operation among delegations, if the work on standards and quality assurance systems can be concluded in the Group by the end of the year.

Working Group 4 - Licensing

1. At its meeting on 3-4 February 1971, the Committee decided that further work should be done within the area of problems explored by Working Group 4, and that initially this work should focus on the operation of licensing systems. The Working Group has held six meetings between March 1971 and June 1972 and has prepared texts of ad referendum solutions - one on automatic licensing and one on licences to administer import restrictions. These texts are annexed to my report, which is contained in document COM.IND/W/82 and Corr.1.

2. As part of its preparation of appropriate ad referendum texts, the Group devoted considerable time to the collation and analysis of information regarding licensing systems applied by contracting parties, and received detailed information from more than fifty contracting parties. This information was of considerable value to the Group in preparing its proposed solutions, and has been circulated in documents in the COM.IND/W/55 series and also in tabular form, in document COM.IND/W/74. On the basis of the replies to its questionnaire, the Group conducted a country-by-country review with a number of contracting parties regarding their licensing systems.

3. Having assembled its background documentation regarding individual countries' licensing systems, the Group concluded that licensing procedures could be divided into two categories - automatic licensing and licensing to administer import restrictions.

4. As regards automatic licensing, the Group has reached a fair measure of agreement on a series of rules. As you will see from my report, the Group has not, however, been able to reach agreement on paragraph 2 of this text. The major reason for this divergency of views is that some delegations consider that automatic licensing should be eliminated by a target date, while others consider that automatic licensing systems would not be restrictive of trade if administered according to the rules of the proposed instrument. The Working Group recommends that administrations should examine these two alternatives with the aim of finding, in due course, a mutually acceptable solution.

5. The other main problem which the Group has been unable to resolve, in the case of both types of licensing, relates to the question of discrimination in the operation of licensing. The brackets around paragraph 4 of Annex I and paragraph 1 of Annex II arise from the fact that some delegations consider that this problem should be examined in a wider context and that, therefore, the inclusion of these paragraphs is not appropriate. Other delegations consider that such an examination does not preclude the insertion in the texts of these paragraphs.

6. Although the Group held a discussion on the legal status of the texts, it did not attempt to reach any conclusion on this subject in view of its far-reaching implications. This question would appear to be a matter for the Committee, or some higher body of the CONTRACTING PARTIES.

7. I should draw the attention of the Committee to the fact that the Group took due note of the Council's Decision of 21 April 1971 that the Group should consider licensing systems as measures of general application subject to the right of the Agriculture Committee to review the applicability to the agricultural sector of any solutions evolved.

8. I should also point out that in our discussions of licensing procedures a certain number of proposals emerged affecting the related problem of quantitative restrictions, especially in so far as these restrictions affect the exports of developing countries. Paragraph 8 of my report summarizes these proposals, which it has been agreed should receive special attention when the Group takes up the problem of quantitative restrictions.

9. Finally, I should inform the Committee that the Group has discussed the question of keeping up to date the very useful information assembled with regard to licensing procedures. The view of the Group is that this information should be kept up to date and it is hoped that some procedure can be devised by the Committee to this end. In my personal view the best procedure would probably be to notify changes of licensing systems at the same time as notifications are made on import restrictions, which is 30 September of each year.

10. I suggest that the Committee take note of the report, and the two draft texts, which should now go to administrations for consideration.