

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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ACCESSION OF GREECE TO THE EUROPEAN COMMUNITIES

Report of the Working Party

1. At the meeting of the Council on 25 July 1979 (C/M/134, item 13) the CONTRACTING PARTIES were informed that on 28 May 1979 the European Communities and Greece had signed the instruments regarding the accession of the Hellenic Republic to the European Communities, copies of which were transmitted to the secretariat and circulated to contracting parties with document L/4845.
2. At the meeting of the Council on 6 November 1979 (C/M/135, item 9) a working party was set up with the following terms of reference:

"To examine, in the light of the relevant provisions of the General Agreement, the provisions of the documents concerning the accession of the Hellenic Republic to the European Communities (L/4845), and to report to the Council." (L/4883/Rev.2)
3. The Working Party held meetings on 24 June 1980, 14 July 1980, 19 December 1980, 1 April 1981, 19 July 1981, 16 November 1981, 30 April 1982 and 20 January 1983. The meetings of 24 June and 14 July 1980 were chaired by Ambassador A. Auguste (Trinidad and Tobago), the subsequent meetings by Mr. D. Jayasekera (Sri Lanka).
4. The Working Party had available the text of the instruments cited above, which are referred to collectively in this report as "the Act", as well as the replies by the parties to the accession to questions which had been asked by contracting parties (L/4969 and Addendum).
5. The following documentation was supplied to the Working Party by the European Communities (EC):
 - (a) the Common Customs Tariff (CCT) as of 1 January 1979, published in the EC Official Journal of 1 December 1978;
 - (b) the CCT as of 1 January 1980, published in the EC Official Journal of 31 December 1979;
 - (c) the post-MTN list of consolidations by the EC embodying
 - (i) the results of the negotiations under Article XXIV:6 after the first enlargement of the EC, as modified in 1977 following the changes in the CCC Nomenclature,
 - (ii) the MTN results, and

- (iii) concessions resulting from negotiations under Article XXVIII;
 - (d) the list of duties as provided in various agreements that the EC had concluded with third countries, published in the EC Official Journal of 10 April 1980;
 - (e) a list of concordances between the tariff lines in the CCT and the Greek tariff as of 1 January 1979;
 - (f) statistics of EC imports covering the years 1977-79;
 - (g) an assessment carried out by the EC relating to the accession of Greece to the EC against the background of the provision of Article XXIV:5(a), and details of the quantitative effects of the accession in the agricultural sector;
 - (h) an inventory of measures affecting agricultural and industrial products operated by Greece before and after accession to the EC;
 - (i) documentation relating to Greece as follows:
 - (i) the Greek tariff for 1979 and as applied on 1 July 1980;
 - (ii) the list of consolidations by Greece;
 - (iii) the ad valorem equivalents of Greek specific and compound rates for 1979;
 - (iv) statistics of Greek imports covering the years 1977-79;
 - (v) the situation of Greece after accession as regards quantitative restrictions;
 - (vi) the concordance between the 1977, 1978 and 1979 Greek statistical codes;
 - (vii) the ventilation of certain Greek statistical codes into one or several CCT tariff lines;
 - (viii) statistics relating to Schedule XXV.
6. Further submissions were made as follows:
- (a) a proposal by the delegation of Australia for the conduct of further work in the Working Party relating to agricultural products;
 - (b) a submission by the delegation of Romania relating to the trade régime of Greece before and after accession to the EC;

- (c) a submission by the delegation of the United States relating to the calculation of the ad valorem incidence of variable levies applied to major agricultural commodities;
- (d) an exposé by the secretariat regarding the technical feasibility of establishing an indication of the incidence of the protective measures relating to agricultural imports applied by Greece before and after its accession to the EC;
- (e) a technical note by the secretariat on the inventory of measures affecting agricultural and industrial products operated by Greece before and after accession to the EC.

I. GENERAL STATEMENTS

7. The spokesman for the EC recalled that this was the second occasion in which the EC had presented an enlargement of the Community to their trading partners in the GATT. The economic and commercial implications of the accession of Greece to the EC were of a quite different order of magnitude from those involved in the earlier enlargement in 1972-1973. It was important for the Working Party to bear these differences in mind, in particular the existence of a very large flow of preferential trade among the parties to the enlargement and its absence for agricultural trade. The extension of the arrangement between EC and Greece into a customs union had been the main objective of the Association Agreement between the EC and Greece - itself the first agreement of that kind to be concluded after the entry into force of the Treaty of Rome. The culmination of the process of Greece's progressive incorporation into the customs union of the EC was the completion of a process which had begun nearly twenty years ago. Virtually all of Greece's agricultural and industrial trade with the EC was duty free. This would mean that there would be no substantial changes in the pattern of trade between the enlarged EC of Ten and the rest of the world. This was a substantial difference between the present case and the enlargement of 1972-1973.

8. The spokesman for the EC underlined the relationship between the Association Agreement and the Act. The Act governed the rights and obligations of the parties in relation to the EC as a whole. It contained many provisions of interest only between the parties, which did not affect the rights and obligations of third countries. The Act went a good deal further than the Association Agreement by incorporating a number of more binding and precise obligations on Greece and on the EC. For example, Greece was required not only to apply the CCT but the customs legislation as well. The Act provided a new legal basis between the parties and introduced a qualitative change in their relationship.

9. The question of the relationship between the internal obligations and the external relations had been raised, and whether certain benefits which were foreseen between the parties to the enlargement would be extended to all GATT countries on an m.f.n. basis. In some cases the m.f.n. application

of these benefits was foreseen, in other cases it was not although this was not excluded. There was in fact no obligation in this respect under Article XXIV which permitted the creation of a customs union in derogation from other provisions of the General Agreement. It was of course recognized that, as stated in Article XXIV:4, the whole purpose of an enlargement of a customs union was to create trade, to be a dynamic element and not to raise barriers to the trade of other contracting parties. Experience had shown that the operation of the customs union within the EC and of its enlargement had been of a dynamic nature and had led to trade creation.

10. The spokesman for the EC said that Greece's acceptance of the obligations in the Act ensured that the conditions of Article XXIV:5(a) were fully met. The examination would show that a substantial credit for the enlarged EC existed in the sense that there was a considerable movement in Greece towards liberalization, i.e. greater access and reduction of tariffs for imports from third countries. On an overall basis, the general incidence of all these changes was very positive. In adopting the CCT, Greece was moving from an average duty rate of 18 per cent to one of 4 per cent, or 6 per cent when petroleum products were excluded. That figure was subject to the reductions which the EC had agreed to make in the Multilateral Trade Negotiations, the results of which were also binding on Greece from the date of accession. These figures were applicable to industrial products, but they gave an order of magnitude of the degree of liberalization which took place. The number of tariff bindings applicable to Greece would also increase by a factor of three, resulting in a considerable increase in security for the trade of third parties. As regards quantitative restrictions, Greece was liberalizing its import régime for about 200 products from the date of accession, and the benefits for third parties were very substantial. For all of these reasons, the EC thought that the conclusion of the Working Party with respect to Article XXIV:5 should be a very positive one.

11. Associating himself with the statement of the spokesman for the EC, the representative of Greece recalled that his country had been the first to enter into an association with the EC in 1962 and that the trend in trade between the parties and in relation to third countries, which had been reviewed every two years in GATT, had been beneficial to all countries and had not resulted in any trade diverting effects for third countries. The trend in the Greek global trade balance showed that the deficits were increasing to the detriment of Greece. The Act established a new framework for relations within the Community and with third countries. It was a definitive agreement consistent with Article XXIV of the General Agreement and not merely an interim agreement. Transitional provisions in the Act were of a temporary character, whereas the commitments entered into by Greece were of a permanent nature. Those commitments were all the more important in relation to third countries. Greece was accepting additional obligations vis-à-vis these countries in the framework of the external relations of the EC and the MTN without prior negotiation and without any counterpart from third countries, in particular developed countries. That was the irreversibly positive aspect of the contribution by Greece, which

had already been underlined in the MTN and before the CONTRACTING PARTIES. Although it was very difficult, if not impossible, to calculate a priori the aggregate cost for the Greek economy and to quantify it, that cost seemed very high for Greece because of the substantial concessions vis-à-vis its trade partners within GATT in the tariff and non-tariff areas that were being made in a period of recession. In accordance with the provisions of the Act regarding external relations, Greece was to apply the generalized system of tariff preferences, participate in the preferential agreements of the EC, introduce the Multifibre Arrangement (MFA) and subscribe to the results of the MTN under the conditions stipulated in the Act.

12. One member of the Working Party stated that according to Article XXIV:4, the purpose of the Act should be "to facilitate trade between the constituent territories and not to raise barriers to trade of other contracting parties with such territories". The Act did not meet the requirement of Article XXIV that no barriers should be raised to trade of other contracting parties with the constituent territories. As a consequence of the Act, the duties and other regulations of commerce of the enlarged EC in respect of trade with his country were on the whole higher and more restrictive than the general incidence of duties and regulations applied by Greece in its trade with his country prior to accession. Due to this change, at least 60 per cent of total exports to Greece by his country were subject to higher duties and more restrictive barriers, including the introduction of common organizations of market for agricultural products of major export interest to his country, such as cheese and curd, pork meat, bovine meat; this statement applied also to the exportation of buses from his country to Greece.

13. The same member said that in addition to the factors listed in the preceding paragraph, some of the export products would be subject to quantitative restrictions not consistent with Article XIII which would be a totally new and astonishing development in the import régime of Greece. Furthermore, the size of some of the quotas appearing in the Annexes to the Act was extremely low; the quotas introduced in relation to all State-trading countries together were in some cases lower than his country's present export volume alone for a given product. The open tender procedure followed hitherto by Greece would cease to exist, due to the introduction of the so-called list of approved suppliers. The export possibilities to the Greek market would further deteriorate by the application of the Common Agricultural Policy (CAP) as well as by the extension of the MFA to his country's exports to Greece. The introduction of separate quantitative restrictions listed in Annexes V and VI to the Act towards State-trading countries amounted to a violation of contractual obligations of Greece towards his country, both under the provisions of Article XIII and of paragraph 4(a) of the Protocol of Accession of his country to the GATT. The general conclusion was therefore that the Act did not meet the criteria of Article XXIV:4 and 5(a) of the General Agreement.

14. Another member of the Working Party, in recalling the views expressed by the spokesman for the EC as to the differences between this review and

the earlier one in 1972-1973, said that since the accession of Denmark, Ireland and the United Kingdom, the members of the Working Party had gained more experience which was particularly important with respect to the questions which had been left open at that earlier review. It was apparent that the Treaty of Rome and the documents relating to the 1973 enlargement and the preferential agreements of the EC were, in terms of the Working Party's terms of reference, "documents concerning the accession of the Hellenic Republic to the European Communities" and were therefore relevant to the work of the Working Party. However, the compatibility of the Treaty of Rome itself with the provisions of the General Agreement remained an open question since the Working Party which had examined the Treaty had not reached any final conclusions in this regard. Similarly, the compatibility of the 1973 enlargement with the General Agreement had also remained unresolved as that Working Party had not issued a final report. The task of this Working Party was thus to examine the situation which had existed in the EC prior to the Greek accession and to compare it with the situation following the accession of Greece. For this reason the question of the compatibility with GATT of the EC prior to the Greek accession was as fundamental to the examination by this Working Party as was the question of the accession of Greece itself which could not be considered in isolation.

15. The same member went on to say that the present review was also important because other countries were expected to join the EC. As to the beneficial effects of the enlarged EC on the development and expansion of trade between the EC and third countries, the experience of his country in the agricultural sector was far from that described by the spokesman for the EC. In some instances, trade had completely ceased, and in other instances it had been reduced to insignificant proportions. He was reserving the rights of his country under Article XXIV:6 of the General Agreement.

16. Another member of the Working Party said that the objective of his delegation in the Working Party was based on the general interest that his country held in the operation of Article XXIV and the continuing process of integration of the European economies. There was also a particular interest in ensuring that his country's rights under the General Agreement and specific trade interests were protected. The relationship between the provisions of the Act and the General Agreement had to be fully considered. He had found that in many instances the answers to questions raised by members of the Working Party, contained in document L/4969, had been less than would have been hoped, and in some instances they had been vague and evasive. Several detailed questions had been raised as to whether the Act was an interim agreement in the sense of Article XXIV but the answer had been simply that the agreement was not an interim but a definitive agreement laying down transitional measures.

17. Another member of the Working Party welcomed the opportunity to discuss the Act. The efforts of the two parties to supply information were appreciated. However, his delegation was looking at the Act from the point of view of the entirety of Article XXIV and not just at specific parts of it.

18. In reply to the member of the Working Party referred to in paragraph 14 above, the spokesman for the EC pointed out that the Treaty of Rome and the 1973 enlargement had no relevance to the work of the Working Party, whose terms of reference referred to "the documents concerning the Accession of the Hellenic Republic to the European Communities". This phrase was the description used in the document submitted to the Working Party containing the texts of the Act of Greek Accession - L/4845 - which contained only the text of the instruments regarding the accession of Greece to the European Communities. Previous treaties on the establishment or enlargement of the EC were therefore excluded from the mandate of the Working Party. The EC did not share the view that these earlier treaties constituted an open question or that their legal status was unresolved in GATT since the CONTRACTING PARTIES had formulated no recommendations under Article XXIV:7(b) for any modifications to those arrangements. It was, however, always possible for any country to seek to resume discussions of these questions in another more appropriate context.

II. CUSTOMS DUTIES

19. Several members of the Working Party took the view that since it was the task of the Working Party under Article XXIV:5(a), inter alia, to make an assessment of the changes in the tariff level of Greece, it was necessary to obtain information not only relating to the bound or legal rates but also to the applied tariff rates. These members also asked what the parties intended to do to assure third countries that the conversion from specific and compound to ad valorem rates did not impair existing tariff concessions.

20. The spokesman for the EC replied that for the purposes of the Working Party, only the bound rates were of relevance. Applied tariff rates reflected only temporary conditions and did not constitute an appropriate basis for the examination. In any event, very few applied rates were in force in Greece so that the question was rather theoretical. In the course of the work of the Working Party the EC provided the ad valorem equivalents of specific and compound duties for both the CCT and the Greek tariff, together with information on the methodology used for determining these equivalents.

21. One member of the Working Party stated that a comparison between the original level of Greek tariff positions bound with his country and those of the CCT had revealed that in the case of approximately twenty positions, the original Greek customs duties were substantially lower. With regard to these items, his country had a substantial supplying interest. His authorities reserved the right under Article XXIV:6 to enter into negotiations with the parties to the enlargement.

22. In the course of the work of the Working Party the spokesman for the EC presented an assessment carried out by his delegation which showed that the volume of trade not affected by changes in Greek duty rates was about \$1.8 billion; for a trade volume of approximately \$1.4 billion duties would be reduced, whereas for \$346 million there would be an increase in duties. On

the basis of this analysis, in terms of customs receipts, the EC had a credit of about \$100 million as a result of the enlargement. After the alignment of the Greek tariff with the CCT, more than 90 per cent of Greece's imports would be subject to bound duties, as against only 25 per cent previously. Whereas approximately 2 per cent of total Greek imports previously bound would be unbound, 85 per cent of Greek imports unbound would become bound. More than half of Greece's imports would be bound at a zero rate of duty. These data clearly demonstrated that the provisions of Article XXIV:5(a) had been fully observed.

23. In reply to a question whether this assessment had been based on CCT duties resulting from MTN reductions over five or eight years, the spokesman for the EC replied that the calculations had been made on the basis of the eight year reductions since this was a negotiated commitment of the EC in respect of its external tariff. The delegation that had raised the question could not agree with this approach since it presented too positive a picture. The EC had in its schedule resulting from the MTN reserved its right to examine, after the first five-year phase, whether to continue reductions for the remaining three years. At any rate, it would have been more proper to take as a basis the tariff level of the EC existing at the time of the enlargement, i.e. the level resulting from the second-year reduction which had entered into force on 1 January 1981.

24. Another delegation expressed the view that a decline in tariffs per se did not ensure greater trade liberalization. In view of the extension of the CAP to Greece, he did not see trade in agriculture being liberalized by the Greek accession.

III. QUANTITATIVE RESTRICTIONS

25. The spokesman for the EC stated that a very substantial liberalization was taking place in Greece in that about 200 products would be liberalized from the date of accession. The benefits for third countries would thus be very substantial. The quota régime set out in the Act, covering the five-year transitional period, showed that there could be no doubt that the incidence was positive as a whole for all of the EC's partners because the number of restrictions indicated in the relevant Annexes was very small compared to the present situation in Greece; even where quotas were relatively low, they often replaced what had been a situation of virtually no imports at all. Looking at the incidence on a particular group of countries - which Article XXIV:5 did not require - the liberalization in Greece's régime was also substantial and permitted no doubt as to the positive incidence in respect of these countries.

26. The spokesman for the EC further stated that Annex V to the Act did not contain any new Greek restrictions but listed existing restrictions which were being continued by way of a temporary derogation and would be phased out. These derogations had no implication for the import policy of other EC member countries. Greece would, on the other hand, align its trade policy to that of the EC which did not mean that for any product which was under

restriction in the EC, Greece would also have to apply a restriction. The restrictions temporarily maintained during the transitional period would be terminated at the end of 1985 consistently with Article XXIV:8.

27. One member of the Working Party said that the elimination of severe quantitative restrictions on certain Greek agricultural imports would not in fact have a favourable impact on trade, as the quantitative restrictions would, on accession, be replaced by the imposition of variable levies which would effectively preclude imports into Greece from efficient third-country suppliers.

28. Another member of the Working Party stated that, in the case of products falling under CCCN chapters 1-24 in relation to which measures, especially variable levies, were applied due to the introduction of the CAP, his delegation could not accept the view of the EC that the elimination of quantitative restrictions amounted to a liberalization of imports of the products in question. One form of restriction had simply been replaced by another which was at least as restrictive as the previous one, but much more unpredictable for third country suppliers. In addition, imports of products falling under seventeen tariff headings remained subject to quantitative restrictions and it was not clear what the GATT justification for this was. Finally, new discriminatory quantitative restrictions on certain products appearing in Annex V, Part II of the Act, had been introduced into the trade between his country and Greece in a manner not consistent with Article XIII of the GATT. Neither Article XXIV nor the relevant Community legislation required uniformity as to the regulations of commerce of the member States; Greece could thus have maintained its non-discriminatory import régime towards all third countries. Consequently, the respective provisions of the Act were not in conformity with the provisions of Article XXIV because duties and other regulations of commerce were more restrictive than before accession; they were also contrary to the provisions of Article XIII and violated paragraph 4(a) of his country's Protocol of Accession. This member, therefore, reserved his position as to the conformity of the Act with the provisions of Article XXIV and reserved fully his rights under the GATT, including his country's Protocol of Accession.

29. On the basis of information subsequently available, the same member of the Working Party stated that, due to Council Regulation (EEC) No.288/82, 32 tariff headings became subject to discriminatory quantitative restrictions. They related to 18 CCCN headings covering both agricultural and industrial products, and 14 additional CCCN headings covering textile products. This member reserved fully his country's rights under the GATT in respect of the conformity of this EC legislation with the relevant GATT obligations of the EC without prejudging action in an appropriate forum in this regard.

30. Another member of the Working Party associated himself with the previous statement. He pointed out that Greece had not in the past applied discriminatory import restrictions in the trade with his country. The accession of Greece to the EC would result in the application of common rules for imports from State-trading countries, including the application of

quantitative restrictions covered by Article 115 of the Act. According to a preliminary evaluation, the ensuing import régime would increase the protection on the Greek market. In this context he noted that the quotas so far established, in particular in Annex VI of the Act, were very low, a fact which increased the protection of the Greek market. All these elements constituted more restrictive regulations of commerce than those applied prior to the Greek accession. The quotas were contrary to the provisions of Article XI and XIII of the GATT.

31. Another member of the Working Party shared the view that the quantitative restrictions applied by Greece following its accession to the EEC were administered in a more restrictive way than in the period before accession. Access to the Greek market had been impaired following that country's accession to the EC by reason of the establishment of quotas including quotas of a discriminatory character. Furthermore, the establishment of global quotas and their allocation by country had not been carried out consistently with the relevant GATT provisions, taking into consideration past export performance of the country concerned in the relevant product in a previous representative period. To take into consideration the share of a country in the total trade of Greece (15 per cent in the case of his country) as a criteria for the country-by-country allocation of global quotas was arbitrary and led to an artificial situation that disregarded traditional trade flows. This way of allocation meant that the global quota was not accessible in practice to countries that were not exporters of such products, while traditional exporters were adversely affected by the absence of the quotas they previously had had at the level of their export possibilities. All these aspects constituted more restrictive regulations of commerce and a trade barrier, contrary to the provisions of Article XXIV:4 and 5(a) of the General Agreement.

32. In reply, the spokesman for the EC stated that the arrangements made by it had in the past and would in the future facilitate trade amongst the constituent territories and would not raise barriers to its partners. With reference to Article XXIV:5 and against the background of the very considerable liberalization of restrictions which would occur in Greece, it was hard to claim that barriers were being created; even if it might be true for one or two products, the overall situation was clearly the opposite. On the question of the alleged inconsistency of this with Article XIII, the EC did not consider this point relevant to the Article XXIV:5 exercise; the matter could be further discussed in the context of the relevant Accession Protocols for the countries concerned. The EC endeavoured to give a clear picture of its import régime in published regulations which were available to all delegations. In relation to the remark made on the size of quotas, the EC spokesman stated that the level of a quota could of course be examined and might usefully be discussed bilaterally, but particular figures which had been given did not accord with EC records and would have to be looked into again. In general terms, however, it would not be true to say that the quotas were fixed at levels lower than present trade; moreover, Article XXIV:5 of the GATT referred to "the general incidence", viz. the incidence of the trade régime of the enlarged EC on all of their partners.

33. The member of the Working Party referred to in paragraph 28 above proposed that the EC, with the co-operation of the secretariat, identify (i) the quantitative restrictions which were applied, erga omnes, until 1985, on the one hand, and those which will be maintained after the transitional period, on the other, and (ii) the quantitative restrictions applied inconsistently with Article XIII. For these groups of restrictions a comparison should be made between actual imports from third countries in 1979-80 and the size of the quotas under the Act. Another member of the Working Party expressed the support of his delegation for this proposal.

IV. OTHER MEASURES

34. Several members of the Working Party expressed the view that the introduction by Greece of the CAP would have severe detrimental effects on their exports of agricultural products to this market. It was undeniable that the major objective of the CAP was to protect domestic agricultural products against more effective and consequently cheaper agricultural imports. The price regulation and levy system of the CAP was fulfilling the same functions as those of duties, or even more as quantitative restrictions on imports. This situation was reflected in the fact that agricultural products which had not been part of a Greek national market organization had been regulated by quantitative restrictions until the introduction of the CAP in Greece. Statistics showed that over two decades the share of imports of agricultural products from third countries into the EC had decreased by almost 50 per cent : in 1957, 81 per cent of these imports came from third countries, while in 1975 the share had decreased to 53 per cent. It was estimated that as a result of the enlargement of the EC the scale of self-sufficiency of the EC would increase with respect to such products as fresh vegetables, fresh fruits (excluding citrus), wine, mutton and goat meat. One of these delegations said that a calculation made by his authorities on the restrictive effect of the introduction of a levy system on cheese and curd, pork meat and bovine meat, taking into account his country's actual export prices to the Greek market in 1978 and the average amount of levy perceived on these products by the EC in the same year, had resulted in a levy protection of 135 per cent on cheese and curd, 40 per cent on pork meat and 90 per cent on bovine meat.

35. The spokesman for the EC replied that the mandate of the Working Party was not to examine the CAP but rather to make a global judgement under Article XXIV:5. Details relating to particular products and countries would be taken up under Article XXIV:6. It would not be right to overemphasize the rôle of variable levies as distinct from other relevant factors in the agricultural sector. With respect to the figures which had been cited, he did not deem it appropriate to attempt to quantify the variable levies because a number of world market factors as well as internal EC prices were playing a rôle. It had been found impossible technically to make such calculations in a way which assisted a balanced analysis. The amounts of levy in force were in any case published. The spokesman for the EC went on to say that after an analysis of the relevant figures on agriculture, third countries taken together could expect a trade advantage since there would be

a reduction in customs receipts. The EC were well aware that any comparison between two agricultural policies having divergent objectives, by reason of a different stage of economic development and dissimilar instruments, was very difficult to make. Therefore, any assessment of the general incidence of all the duties and other regulations of commerce in force for the purpose of describing the situation before and after the accession encountered insuperable difficulties. The EC spokesman recalled that before the accession, Greece had maintained restrictions on 87.9 per cent of imports of agricultural products and that these, together with customs tariffs existing at that time, had to be compared with the present Greek import régime. A quantified evaluation also had to be supplemented by certain other considerations, the most important being liberalization of the major part of Greek agricultural imports after the accession (dairy products, cereals, meat, fish, fruit and vegetables, vegetable fats and oils, spirits, sugar, wines). Even if for certain products the amounts charged on importation might in some cases be higher, the EC considered that the impact of adoption of the CAP by Greece on overall agricultural trade between Greece and the contracting parties would be much more positive than negative.

36. One member of the Working Party noted that his country's experience following the formation of the EC and its earlier enlargement was that trade - particularly in agricultural commodities - had become more restricted rather than more liberalized. In view of the extension of the CAP to Greece, he did not see trade in agriculture being liberalized by Greek accession. Quantitative restrictions existing in Greece prior to accession had simply been replaced by variable levies which would preclude imports from efficient third-country suppliers. This member agreed, however, with the EC spokesman's comment that the examination of the Working Party should take account of all border measures.

37. Following a communication by the EC (document L/5124 dated 10 March 1981) containing the view that "duties and other regulations of commerce" in the agricultural sector were unquestionably relevant to any examination of an agreement under Article XXIV:5(a), that variable levies were covered by the phrase cited above, and that the EC were ready to supply the basic information on the rates of variable levies applicable for any product and for any period of time that the Working Party might require, one member of the Working Party made a proposal for the conduct of future work aimed at

- (i) identifying the measures which affected trade in agricultural products operated by Greece immediately prior to its accession to the EC, and by the EC;
- (ii) examining the justification, in terms of the General Agreement, for the non-tariff measures applied by the EC on agricultural products and determining their validity in the post-enlargement situation;
- (iii) establishing an indication of the incidence of the protective measures applied by Greece immediately prior to its accession to

the EC, and by the EC; and establishing developments in the application of these measures.

This member also drew the Working Party's attention to a number of documents which were attached to its proposal and noted that these documents

- (i) demonstrated the widespread use of non-tariff barriers to trade operated by the EC and, following accession, by Greece, which this member considered needed to be examined by the Working Party;
- (ii) provided estimates of the considerable increase in protection in the EC since the mid-1950's which this member considered was contrary to Article XXIV:4;
- (iii) provided estimates of the ad valorem equivalents of the variable levies operated by the EC which indicated extremely high and variable protection on most major agricultural products imported into the EC.

38. After a discussion of this proposal, the Working Party concluded that the assessment to be carried out under Article XXIV had to be a global one, covering both agricultural and industrial products. Following a request by the Working Party, the secretariat, with the co-operation of the EC and other interested delegations, elaborated an Inventory of relevant measures affecting all products operated by Greece immediately prior to its accession to the EC, and by the EC of Ten. The secretariat also prepared a technical note dealing with the approach that might be used for the second stage envisaged under point (iii) of the proposal mentioned above, i.e. the establishment - on the basis of the Inventory - of an indication of the incidence of the protective measures applied by Greece immediately prior to accession and by the EC of Ten, and the establishment of developments in the application of these measures. Both documents were before the Working Party at its meeting on 16 November 1981.

39. On the basis of the information contained in the Inventory mentioned in the previous paragraph, the spokesman for the EC said that the data demonstrated clearly that there had been a substantial liberalization of trade measures by Greece upon its accession to the EC. This ought to enable all delegations to arrive at preliminary, if not definitive, conclusions to be drawn by the Working Party.

40. While welcoming the Inventory, one member of the Working Party noted that it did not contain information on a number of measures such as health and sanitary regulations, certain quota arrangements, some import licensing requirements, voluntary export restraints, subsidies and special preferences for countries associated with the EC; for cereals no tariff rates were indicated. This member therefore expressed some reservations whether the document was sufficiently comprehensive and useful for the Working Party to be able to make the judgment which was required. He also noted that the Inventory provided evidence of the extensive use of non-tariff measures by

the EC. The same member emphasized the need to examine the GATT justification of non-tariff measures which were now applied by Greece.

41. Another member said that he could not share the view expressed by the spokesman for the EC that the information in the Inventory provided an adequate basis for the examination by the Working Party. The Greek import régime prior to accession had been presented as an extremely restrictive one. Basing itself on earlier documents of the Committee on Balance-of-Payments Restrictions, his delegation had come to the conclusion that this description was too negative because on average not more than 20 per cent of Greek imports had been subject to restrictions which were not quantitative restrictions but import licensing procedures and deposit systems. This distinction had to be made because the existence of a licensing system did not necessarily amount to the application of quantitative restrictions as such. On the other hand, the situation of Greece after accession had been described in too positive a manner. With respect to agriculture, the Inventory did not indicate the levies currently applied; an analysis of a one-year experience of Greek membership in the EC might provide a useful basis for quantifying the levies applied by Greece to its agricultural imports. His delegation was not, on the basis of the information presently available, in a position to determine the trade effects of the enlargement and its beneficial or detrimental effects to third countries.

42. The spokesman for the EC said that he took note of the questions raised and the desire of other members to obtain more detailed information. However, before improving the already available documentation, it was absolutely imperative that the Working Party agree on an appropriate methodology for the assessments that might be made in terms of Article XXIV:5. There was a high probability that when all factual data was provided, a precise evaluation of the incidence of certain of the measures the previous speakers had referred to, including quantitative restrictions, would prove impossible. The Working Party would spend much time and effort attempting to quantify the incidence of measures whose impact was in his view inherently unquantifiable, whereas Article XXIV:5 required only a generalized, overall judgement on this point.

43. Some members of the Working Party responded to the statement of the spokesman for the EC by saying that a complete factual picture had to be provided to the Working Party before an agreement on the methodology could be reached or a global assessment under Article XXIV could be made. Therefore, additional information and an improvement of the existing documentation were needed.

44. Some members of the Working Party were of the opinion that the measures maintained by Greece under the balance-of-payments provisions of the GATT prior to its accession should be eliminated from the Inventory. These were in their view completely irrelevant for the task of the Working Party and should not be included in the comparison of the situation of Greece before and after accession. The spokesman for the EC replied that Greece would not

have liberalized its trade régime as much as it had done had it not been for its accession to the EC. The elimination of balance-of-payments restrictions by Greece were part of the accession process, enshrined in the Act.

45. One member of the Working Party agreed that the analytical approach for the calculation of precise incidences of variable levies presented certain difficulties. Similar difficulties existed for the calculation of specific duties but this had in the past been done rather satisfactorily. In his view, therefore, it should be possible to use a method by which the total amount of variable levies collected under a tariff line were to be compared with total imports which would provide the weighted average incidence of the levy. Monthly averages of the ad valorem equivalents (AVEs) of variable levies applied to major agricultural commodities over a three-year period indicated that the lowest levels were still extremely high in most cases. These AVEs were representative of the magnitude of the incidence of protection provided by variable levies.

46. The spokesman for the EC stated that the data cited demonstrated that the degree of agricultural protection in the EC was decreasing even though the statements by other delegations had indicated the contrary. He pointed out that the task of the Working Party was not to examine the conformity of Greek non-tariff measures with the provisions of the General Agreement.

47. One member of the Working Party said that the examination of the AVEs of variable levies applied by the EC showed that even if some figures were lower in 1979-80, compared to 1977-78 and 1978-79, a considerable level of protection continued to exist for some products, such as corn with 90.1 per cent and sorghum with 79.2 per cent in 1979-80. It was only natural that the level of variable levies varied considerably from year to year, depending on world market prices. The EC could not derive credit from the fact that for 1979-80 most of the figures were lower than in 1978-79. A study covering a longer period of time would be more revealing. In his view, the terms of reference of the Working Party were not limited to Article XXIV:5, but Articles XXIV:4, XII, XIII, XIV, etc., were equally relevant for the examination.

48. Another member of the Working Party recalled that in the industrial sector which represented about 80 per cent of Greek imports, the duties in Greece had decreased in a considerable manner, according to the figures given by the EC, i.e. from 18 to 4 per cent. In the agricultural sector which represented about 20 per cent of Greek imports, the amount of levies averaged 70-80 per cent. In his view, Greece prior to accession did not protect its agriculture very much because it produced several products while relying on imports for others. Since the accession, the import burden for agricultural imports had risen 6-8 times. In addition, variable levies had, because of their frequently changing size, a dissuasive effect on exports from third countries. His delegation could not accept the view that third countries were not affected by the accession and that the Act was in conformity with the provisions of Article XXIV:5 of the General Agreement.

49. The spokesman for the EC replied that even if any negative effects of variable levies were taken fully into account, the balance deriving from the accession of Greece would still be positive for the EC, due to the very substantial tariff reductions in the industrial sector covering more than 80 per cent of total imports. He reiterated that the Working Party had concluded that the assessment under Article XXIV had to be a global one, i.e. that it had to cover all products. The conditions contained in Article XXIV:5 were thus met.

V. FINAL STATEMENTS

50. Following a suggestion made by the Chairman at the meeting of the Working Party on 30 April 1982 that, after consultations which he had held with members of the Working Party, there seemed to exist a consensus that the Working Party could terminate its work through the adoption of a report which would reflect in a detailed manner the various points of view expressed in the six previous meetings of the Working Party, a number of statements of a general nature in which delegations summed up their positions were made.

51. One member said that his delegation had participated with great interest in the examination of the Working Party, the main reason being that the accession of Greece to the EEC had created considerably worse access conditions for the exports of his country to the Greek market than those they had enjoyed previously. Moreover, Greece had introduced certain measures which were not in conformity with the relevant provisions of the General Agreement. The discussions of the Working Party had shown a considerable amount of divergencies in the interpretation of the provisions of Article XXIV which could not be bridged over to everyone's satisfaction. His delegation was of the view that the accession was not in conformity with the relevant provisions of the General Agreement, including those relating to the application and administration of quantitative restrictions. Neither the EC nor Greece were waived in any respect under the provisions of Article XI and XIII of the GATT by concluding and implementing the Act. The EC had rejected the discussion of this question in the Working Party as well as in the last review of the Committee on Balance-of-Payments Restrictions relating to Greece. Likewise, in the Working Party conducting the fourth consultation provided for in his country's Protocol of Accession in December 1981, the EC had not offered any justification for the existence of these restrictions. Consequently, his delegation regarded them as being contrary to the provisions of Article XI and XIII of the General Agreement.

52. The same member also said that the Working Party had not succeeded in carrying out the examination under Article XXIV:5(a) because it could not arrive at any measurable conclusion, or even a methodology to be used for arriving at a conclusion, as to the incidence of duties and other regulations of commerce applied in the constituent territories prior and after accession. For his delegation, the only welcome feature of the examination carried out by the Working Party had been that the EC had accepted that variable levies did fall under the terms of "duties and other

regulations of commerce" contained in Article XXIV. This recognition, however, had not allowed the Working Party to make the necessary comparison of the incidence of duties and other regulations of commerce. Consequently, the Working Party could not ascertain the view of the EC that the accession on the whole did not result in a higher incidence of import burdens. Finally his delegation based its view on the principle set out by the General Agreement for the conclusion of customs unions and free trade areas, as contained in Article XXIV:4, i.e. that their purpose should be to facilitate trade between the constituent territories and not to raise barriers to trade with other contracting parties. The second part of this criterion had not been met in relation to his country. His delegation could not accept an agreement as being in conformity with the General Agreement when one part of the exports from its country became subject to discriminatory quantitative restrictions and another major part thereof was exposed to a more restrictive import régime due to the CAP and the administration of quotas. As a consequence of the accession, 70 per cent of its total exports to Greece was exposed to worsened access conditions. His delegation reserved fully its rights under the General Agreement relating to the accession of Greece to the EC.

53. Another member of the Working Party pointed out that the only conclusion that the Working Party could reach was that it had not been possible to demonstrate the conformity of the Act with the GATT. This was not surprising in view of the fact that the CONTRACTING PARTIES had never determined that the Rome Treaty establishing the EEC, the agreements providing for the enlargement of the EEC in 1972-1973 and the EC's preferential agreements were in conformity with the GATT. The EC had not been able to convince the CONTRACTING PARTIES of the legitimacy of these agreements. One could therefore hardly conclude that any further EC accession agreements could be judged to be in conformity with the GATT. Notwithstanding this general point, there were also very strong grounds for questioning whether the Act in itself was in conformity with the GATT, including Article XXIV:4 and 5. His delegation welcomed the fact that the EC had finally acknowledged that variable levies constituted "duties and other regulations of commerce" in the sense of Article XXIV. This was a reversal of a position which the EEC had held since the introduction of their variable levy system and was one of the main issues which prevented progress being made in the previous Working Parties on the Rome Treaty and the 1972-1973 enlargement. His delegation had suggested a detailed work programme including a proposal to measure the general incidence of protection in the EC before and after Greek accession. Unfortunately it seemed that the Working Party had decided that the proposal was too large or too complex to justify the time and expense of this exercise. This was hardly a satisfactory outcome to the work of the Working Party and reflected poorly on the credibility of the GATT. Because previous Working Parties had been unable to "clear" the EEC, a very significant proportion of world trade could not be said to be conducted in accordance with GATT obligations. His delegation could not accept that the Act was in conformity with the EC's obligations under the GATT. The onus was on the EC to prove to the satisfaction of the Working Party that the Act met the conditions of

Article XXIV; however, the EC had been unable to do this. The only conclusion the Working Party could reach was that it had not been able to conclude that the Act was in conformity with the GATT.

54. One member of the Working Party agreed with the previous speakers that the Working Party had not been successful in its task to decide whether the arrangements for Greek accession to the EC were in conformity with the provisions of the General Agreement and in particular the requirements under Article XXIV:5. His delegation expressed regret for this situation, not only because it reflected differing interpretations of GATT articles but also because it showed an unwillingness to engage in a process of dialogue which would have enabled a realistic conclusion on admittedly complex issues. For example, although after a very long debate the nature of variable levies had finally been agreed upon, it had not been possible to proceed further to develop a method to assess the incidence of such levies. This was one of the primary reasons why the Working Party had not been able to reach a conclusion which would, however, have been possible had all parties been more cooperative in providing information, in suggesting approaches and in reacting to possible approaches which had been suggested in the Working Party. His delegation could only view this situation with regret.

55. Another member of the Working Party stated that the original Greek customs duties on a number of items bound with his country within the meaning of the provisions of Article II had been substantially lower than those of the CCT. With regard to these items his country had a principal supplying interest since it was the first or second largest supplier of these items to Greece. Its request for compensation raised in bilateral negotiations had not yet been answered by the EC. His delegation maintained the claim and reserved its rights under the relevant provisions of GATT. As his delegation had pointed out previously, his country, as a GATT contracting party, had received non-discriminatory treatment for its exports to Greece prior to Greek accession to the EC. The accession had resulted in the application of the common trade policy of the EC on the exports of his country including the application of discriminatory quantitative restrictions. The quotas had been established at low levels and consequently had increased the protection of the Greek market. Establishment of discriminatory quotas in an arbitrary way disregarding traditional trade flows as well as the introduction of additional trade formalities had adversely affected access of goods from his country to the Greek market. All these instruments had constituted more restrictive regulations of commerce than those applied prior to the accession. These quotas were contrary to the provisions of Articles XI and XIII and his delegation held the view that neither the EC nor Greece were relieved of their obligations under these Articles by virtue of having concluded the Act. A considerable part of the exports from his country had become subject to a more restrictive import régime in Greece than existed prior to the accession and in the light of the facts cited by him it was difficult to accept the view that this Act was in conformity with the relevant provisions of the GATT.

56. The spokesman for the EC, recalling the active participation of his delegation in the work of the Working Party, referred to the views of the EC which had been presented on several occasions in the previous meetings of the Working Party and which were well known to the members of the Working Party. He pointed out that the data and documentation which it had been felt necessary for the Working Party to fulfill its mandate had been provided in due course. He reiterated that Article XXIV:5 dealt with the general incidence of the effects of the creation of a customs union and that particular implications for a contracting party with respect to individual products should be discussed in another forum. It was out of the question to discuss the conformity of the Rome Treaty or any other EC agreement with the General Agreement. The spokesman for the EC expressed his regret that it had not been possible to have full agreement that the Greek accession was beneficial for all the contracting parties. In view of this fact and since no global methodology taking into account all elements, which was acceptable to certain members of the Working Party could be worked out, his delegation had to take note with regret that in the present circumstances it would be sterile to pursue further discussions although his delegation was prepared to do so if necessary. His delegation was in agreement that the Working Party adopt a report reflecting the various points of view and thus bringing to a conclusion the examination of the Act by the CONTRACTING PARTIES. His delegation was of course also ready to conclude as soon as possible the negotiations under Article XXIV:6.

57. One member of the Working Party expressed his regret that no unanimity could be reached in the Working Party. He was of the view that the work of the Working Party had been conducted in conformity with the relevant GATT provisions. Another member expressed his interest in the work being carried out in the Working Party due to his country's possible accession to the EC. In agreeing with the previous speaker, he believed that the Working Party had respected the provisions established for such work. In analyzing earlier cases of a similar nature, his delegation felt that the Greek accession to the EC was in conformity with the provisions of the General Agreement. He expressed the hope that future cases could be dealt with more efficiently and speedily than the present one.

VI. CONCLUSIONS

58. The Working Party was not able to reach an agreed conclusion on the matter covered by its terms of reference and the various views expressed are set out below. There was a general sentiment of disappointment that it had not been possible to agree whether the duties and other regulations of commerce were, on the whole, higher or more restrictive after Greek Accession than before. There was also a general feeling that substantive conclusions are desirable as to whether the creation or enlargement of a customs union or the establishment of a free trade area are in conformity with Article XXIV. Some members of the Working Party considered that it was already possible to reach a judgment on Article XXIV matters on the basis of present methods of approach. Other members stated their intention to seek

substantive conclusions in future working parties examining these matters and to have recourse to all available GATT procedures for this purpose.

59. The parties to the accession, supported by some other members of the Working Party, were of the opinion that the provisions of the documents concerning the accession of Greece to the European Communities were in full conformity with the General Agreement. They pointed out that full information necessary for the Working Party to fulfill its mandate had been provided.

60. Several other members of the Working Party could not agree that the provisions of the documents concerning the accession of Greece to the European Communities were in conformity with Article XXIV of the General Agreement. Some of these members held the view that certain provisions of these documents were contrary to the provisions of Articles XI and XIII of the GATT. All these members therefore fully reserved their rights under the General Agreement following the accession of Greece to the European Communities.

61. As the Working Party could not reach any unanimous conclusions as to the compatibility of the provisions of the documents concerning the accession of Greece to the European Communities with the provisions of the General Agreement, it considered that it should limit itself to reporting the opinions expressed to the Council.