BACKGROUND NOTE FOR DISCUSSION ON MATTERS OF INTEREST TO DEVELOPING COUNTRIES IN THE PREPARATORY WORK FOR THE TRADE NEGOTIATIONS

Note by the Secretariat

Introduction

At the twenty-eighth session of the CONTRACTING PARTIES there was general agreement that, at future meetings, the Committee on Trade and Development should focus attention on matters relevant to the interests of developing countries in the forthcoming trade negotiations, including the preparatory work currently proceeding on techniques and modalities in other GATT committees and bodies. To enable it to review the existing situation in this regard and to identify areas for further work, the Committee might wish to give consideration to the following topics:

1. Current situation concerning some areas of interest to developing countries in the preparatory work for the trade negotiations including:
   - tropical products
   - tariffs
   - import restrictions
   - other non-tariff barriers
   - safeguards

2. The question of non-reciprocity including past discussions on this subject.


To facilitate discussions on the first point, notes prepared by the secretariat on each of the sub-headings mentioned are annexed hereto. It should be noted that, apart from tropical products, the problems of agriculture in general have not been referred to in detail in this background paper although certain aspects are discussed under the various sub-headings. A separate note is being circulated on point 2. With respect to the Group of Three, the Committee will be informed of the work programme envisaged in accordance with the mandate given to it by the CONTRACTING PARTIES.
Current situation concerning some areas of interest to developing countries in the preparatory work for the trade negotiations

(a) Tropical products

1. In secretariat note SGTP/26, which formed a basis for discussion on tropical products at the October 1972 meeting of the Committee on Trade and Development, an effort was made to identify areas which appeared to call for action in the course of the forthcoming trade negotiations. During the discussions, a number of delegations referred in particular to the implications of tariff escalation and special preferential arrangements for the expansion of trade in tropical products in their raw, semi-processed and processed forms, and the need to devise ways of increasing the export earnings of developing countries involved in trade in these items.

2. Tariffs and tariff escalation have been the subject of discussion at the last two meetings of the Special Group on Tropical Products and details of the proceedings on these matters may be found in documents SGTP/20 and SGTP/25. The question of tariffs on tropical products has also been taken up by the Group of Three in its two reports (L/3610 and L/3710) where it is recommended that import duties on tropical products in their raw, semi-processed and processed forms be reduced or eliminated as part of concerted action either within the context of the GSP in favour of developing countries or in some other form of concerted action.

3. With regard to special preferences, proposals for further work were submitted to the Committee on Trade and Development by the delegations of the United States and Mexico and circulated in documents COM.TD/W/175 and COM.TD/W/176, respectively. The Committee might wish to consider what further work might now be undertaken on tropical products having regard to these suggestions and any other proposals that might be submitted.

4. The secretariat has reviewed existing material concerning the existence of certain preferential arrangements for tropical products. While some references have been made to this subject in documentation prepared by other international organizations, it would appear that in recent discussions only limited consideration has been given to this aspect along the lines of the suggestions for further examination of the matter put forward at the October 1972 meeting of the Committee on Trade and Development. It should be noted, however, that a discussion of special preferences affecting trade in oilseeds, oils, fats and oilcakes is contained in a recent FAO document, CCP:OF 73/5, prepared for the seventh session of the Intergovernmental Group on Oilseeds, Oils and Fats scheduled to meet in February 1973.

5. A basic GATT study, entitled Trade in Tropical Products, was prepared by a sub-Group of the Special Group on Trade in Tropical Products in 1963 in connexion with the programme for the expansion of international trade. The study related to trade problems confronting exporting countries of coffee, cocoa,
tea, vegetable oils and oilseeds, bananas and tropical timber. It contained conclusions and suggestions for each of the products examined which had as their broad objectives an increase in the export earnings of developing countries as well as increased consumption of tropical products. With these ends in view, it was noted that commodity agreements could play an effective role in appropriate cases and that the removal of internal taxes and import duties (including tariff escalation) could also contribute to the objectives. Recognition was given to the question of special preferences both in respect to the problems their removal might create for sheltered suppliers and the difficulties encountered by non-preferential suppliers through the maintenance of preferences. It was suggested that, for certain products, these matters should be examined further in order to explore ways of overcoming the problems for particular countries through the use of safeguard and other relevant measures which duty-free entry might create. However, little further work on this subject has been carried out in GATT in recent years.

6. If it were considered that it would facilitate an examination of trade in tropical products in the context of the preparatory work for the trade negotiations, the secretariat would be able to provide for a certain number of items including coffee, cocoa and tea in their processed and unprocessed forms, tropical oils and oilseeds, bananas and spices, technical data concerning most-favoured-nation and preferential trade in 1970 by value for the main developed import markets by country of origin, as well as most-favoured-nation and preferential duty rates including an indication of the application of the GSP. Available information on internal taxes could also be inserted in the tabulations.

(b) Tariffs

7. At meetings of the Committee on Trade and Development during 1972 (document I/3760), representatives of developing countries made a number of suggestions for action on tariffs in the context of the trade negotiations. These included proposals that tariff escalation on products of export interest to developing countries should be eliminated and that preferential margins already extended or hopefully to be extended to developing countries should be safeguarded and any losses in margins of preference taken into account for the purpose of providing compensation. With regard to products which were not included in the Generalized System of Preferences, these representatives suggested that tariff concessions agreed to in the multilateral trade negotiations should be implemented in advance and on a preferential basis in favour of developing countries without reciprocity.

8. The report of the work of the Committee on Trade in Industrial Products during 1972 is contained in L/3756. Some representatives of developing countries referred to the need for decisions to be taken concerning the principles and objectives for the negotiations before it would be possible to establish special techniques and modalities to deal with the export problems of developing countries. The Committee has discussed techniques and modalities for the forthcoming negotiations, including techniques for negotiations on tariffs such as the
item-by-item technique, continuation of Kennedy Round cuts, duty-free trade in industrial products, elimination of low duties, the linear reduction of tariffs, harmonization techniques and a combination of techniques. In addition to reiterating the points made earlier in the Committee on Trade and Development, some representatives of developing countries said that all developed countries should implement their schemes of preferences and the negotiations should be used to enlarge the product coverage of the schemes as well as to increase and consolidate margins of preference. With regard to the item-by-item negotiating technique examined in the Committee, it was felt by representatives of some developing countries that while certain disadvantages were experienced in earlier negotiations, this could meet some of the concerns of developing countries since products of particular export interest to them could be chosen for negotiation or products covered by the Generalized System of Preferences could be excluded.

9. Consideration was also given in the Industrial Committee to the sector approach, which called for all factors affecting trade in specific sectors, including tariffs and non-tariff measures, to be dealt with together. Representatives of some 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. Attention was also drawn to the particular interest of developing countries in exporting their raw materials in a more processed form.

10. The secretariat note on implications for developing countries of various suggested techniques and modalities (COM.IND/W/85) was discussed in the Committee on Trade in Industrial Products. While indicating the difficulty of considering particular techniques before a decision had been taken on the objectives of the negotiations, representatives of developing countries stated that a combination of various techniques or different special techniques may have to be used to ensure that developing countries achieved improved access for their products. It was also indicated that, from the point of view of developing countries, an important question for consideration was the inclusion of processed tropical or other agricultural products in schemes for tariff reduction or elimination as well as the extent to which this will modify the existing pattern of tariff escalation in these sectors.

11. At its meeting on 18-19 January 1973, the Committee on Trade in Industrial Products decided to examine further a limited number of techniques for negotiations on tariffs, which might be used in the trade negotiations (COM.IND/W/96).

12. The Working Party on the Tariff Study, at its meeting in June 1972, instructed the secretariat to up-date the Basic Documentation for the Tariff Study and to produce tabulations which would facilitate an assessment of the implications of certain possible techniques and modalities for tariff negotiations. These tabulations have been circulated as COM.IND/W/91 and Addenda 1-10. While all these addenda are relevant to the interests of developing countries in the assessment of negotiating techniques, attention is drawn to Addendum 8 containing tabulations of developed country imports by value
in 1967 and 1970 and level of duties on BTN headings falling within Chapters 25-99 where developing countries supplied more than 20 per cent of combined imports covered by the Tariff Study. The Tariff Study also contains data on 23 industrial product categories, broken down according to the three stages of processing, which also appears to be of particular interest to developing countries.

13. The Working Party met on 24-26 January 1973 to discuss further work on the basis of certain suggestions contained in COM.IND/W/34 and in the light of the discussion in the Committee on Trade in Industrial Products (COM.IND/W/96).

14. With the objective of assisting developing countries to examine negotiating approaches and techniques in the light of their trade interests, the secretariat has so far compiled data for eighteen developing countries which have requested information. Briefly, the tabulations, which have been broken-down to BTN tariff headings and individual tariff lines, show export trade values by item for the developing country concerned with each of the developed countries covered in the GATT Tariff Study files, and indicate the most-favoured-nation duties and non-tariff barriers maintained on each product as well as the treatment accorded items under the GSP. Work is proceeding on the preparation of data for twelve additional developing countries which have requested such information.

15. In examining actions on industrial tariffs relevant to the interests of developing countries in the trade negotiations, members of the Committee might wish to take account of the further work that might be done in the Committee on Trade in Industrial Products by way of identifying or elaborating specific techniques for tariff negotiations and also of the present situation regarding market access for items of particular interest to developing countries.

16. As pointed out earlier, this background note does not deal with problems in the field of agriculture generally. However, a summary of discussions of possible techniques for negotiation on tariffs affecting trade in agriculture is to be found in the section of the report of the Working Group of the Agriculture Committee (COM.AC/W/88) dealing with the examination of techniques and modalities for negotiation on tariffs, variable levies and other special charges. Several members of the Working Group expressed the view that negotiations in agriculture on tariffs alone had little meaning and would thus need to be accompanied by negotiations on other measures. Some members pointed out, however, that there did exist some sectors of agricultural trade where access could be improved by tariff reductions. A number of members also expressed the view that if the reduction and elimination of duties were to be carried out in stages, tariffs on imports from developing countries might be reduced or eliminated in advance of others, or at a faster rate, on a non-reciprocal basis. It might be noted that until now no clear decision has been taken concerning the body in which processed agricultural products will be dealt with. A reference has been made earlier to the interest of developing countries in the tariffs on these products.
It might be noted that in addition to the data referred to under paragraph 14 which also includes agricultural items, the secretariat has circulated in document INT(72)125 information on tariffs and non-tariff measures affecting certain agricultural products of interest to a number of developing countries.

(c) Import restrictions

17. Developing countries have pressed for the removal of quantitative restrictions affecting their trade on a priority basis in a number of GATT bodies. In the Committee on Trade and Development, it has also been suggested by representatives of some developing countries that the possibility of removing quantitative restrictions on products of interest to developing countries on a preferential basis should be explored.

18. Quantitative import restrictions maintained by developing countries on products of interest to developing countries have been under consideration in a number of GATT bodies including the Group on Residual Restrictions on an item-by-item basis, in the course of which efforts have been made to identify the reasons for the maintenance of restrictions and possibilities for their reduction and removal. In this connexion, the possible rôle of measures of adjustment assistance in facilitating removal of restrictions has also been involved. The Joint Working Group on Import Restrictions has identified import restrictions in general and acted as an agent of the three main committees of GATT in their work on this matter. The Group of Three has consulted with developed countries on an informal basis concerning trade problems of developing countries and has made recommendations concerning the removal of certain import restrictions.

19. Work carried out by the Group on Residual Restrictions and the Group of Three has in general indicated that with respect to agricultural products, particularly in their unprocessed form, import restrictions tend to be only one of a range of measures designed to regulate agricultural trade. The point has been made that while there was some possibility of unilateral action, the major prospect for progress lay within the framework of the multilateral trade negotiations.

20. It should be noted that the Group of Three will be holding another series of consultations in the coming months to seek ways of ensuring the implementation of recommendations already made and to follow up any matters brought to its attention by the developing countries with a view to seeking a solution. In the course of the activities of the Group of Three and the Group on Residual Restrictions, it is to be expected that governments will continue to explore possibilities for unilateral action having regard to the recommendations made and discussions which have taken place on import restrictions in the various GATT bodies. In this connexion, it might also be noted that the Group of Three recommended in its report (L/3710), that the work of the Group on Residual Restrictions should be reoriented so as to concentrate on a limited number of items under import
restriction in developed countries and found to be of significant trade interest to a number of developing countries. This recommendation was adopted by the Committee on Trade and Development.

21. Import restrictions affecting the trade of developing countries have been among the matters discussed in the Agriculture Committee and in Working Group 4 of the Committee on Trade in Industrial Products. In the absence of a clear definition of principles and objectives for the negotiations, suggestions made by developing countries were of a preliminary nature. With regard to quantitative restrictions on agricultural items it was proposed in the Agriculture Committee that where quotas have not been fully utilized for a given period they should be eliminated, in particular where products of interest to developing countries are concerned. It was also suggested that in cases where developed countries claim that existing quantitative restrictions are used only to protect their own agriculture against products from other developed countries, these restrictions could be removed vis-a-vis developing countries on a preferential and priority basis. The importance for developing countries of the elimination of discriminatory country classifications was also stressed and attention was drawn to the recommendations of the Group of Three on this matter.

22. With regard to the activities of Working Group 4 of the Committee on Trade in Industrial Products concerning licensing, texts of ad referendum solutions on automatic licensing and licensing to administer import restrictions (COM.IND/w/82 and Corr.1) have been referred to administrations for careful examination and for consideration of the implications arising from their acceptance.

23. The CONTRACTING PARTIES endorsed the agreement reached in the Industrial Committee 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.

24. In the attachment an attempt is made to provide the Committee with an overall picture of import restrictions affecting developing country exports to developed country markets on the basis of notifications to the Joint Working Group on Import Restrictions. A table providing more detailed information on import restrictions identified by tariff line showing value of imports by developed countries from all sources as well as the developing country share of individual markets, will be circulated separately.

25. Having regard to the above background, the Committee on Trade and Development may wish to consider what specific suggestions it could make regarding future work on import restrictions in the context of the trade negotiations and how this subject might be best kept under review.
(d) Other non-tariff barriers

26. In addition to the activities of Working Group 4 on licensing which is referred to in section (c) above, Working Groups 1, 2 and 3 of the Industrial Committee have undertaken work with a view to elaborating solutions on an ad referendum basis in respect of export subsidies covered by Article XVI of valuation, import documentation including consular formalities, and standards which act as technical barriers to trade.

27. With regard to export subsidies, Working Group 1 has addressed itself to ways in which the indicative list of export subsidies might be elaborated and refined. It has also held 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. The issue of concessional export financing was taken up at the October 1972 meeting which was attended by experts on export financing. The next meeting of the Working Group dealing with export subsidies will take place in April 1973.

28. It will be recalled that in 1971, Working Group 2 prepared two draft texts, one on principles for valuation and one on understandings with respect to the application of Article VII of the General Agreement which concerns valuation for customs purposes. These were circulated to contracting parties in COM.IND/W/64 for consideration. More recently, Working Group 2 has been focussing attention on problems relating to import documentation. In order to avoid duplication of work on this subject, the Group will co-ordinate its work with that being conducted by the Customs Co-operation Council and the Economic Commission for Europe. It has also held discussions on a proposal to adopt an Interpretive Note to Article VIII (Fees and Formalities connected with Importation and Exportation) of the General Agreement drawn up on an ad referendum basis and in the context of the future multilateral trade negotiations to give credit to those countries which abolished consular formalities. Interested delegations requested time to reflect on these proposals. Working Group 2 is expected to hold its next meeting in April 1973.

29. Working Group 3 on standards is working on a draft of a Proposed Code of Conduct for Preventing Technical Barriers to Trade. This Group will meet again in March 1973.

30. With regard to future work on other non-tariff barriers, Working Group 1 will take up on an ad referendum basis in April 1973 the question of countervailing duties and domestic subsidies that stimulate exports.

31. On the basis of all the non-tariff barrier notifications on industrial products contained in the inventory, an illustrative list of barriers was drawn up by the Industrial Committee in 1969 under five main headings corresponding to
the five Working Groups. Of the twenty-seven categories under these headings, ad referendum solutions have been drawn up for two categories and a further seven categories are under consideration. All of these would seem to be relevant to the interests of developing countries. Items in which developing countries have expressed interest through the notification procedure, but which have not so far been taken up include government procurement and State trading in market economy countries (Working Group 1), anti-dumping duties and customs classification (Working Group 2), packaging, labelling and marking regulations (Working Group 3), discriminatory bilateral agreements (Working Group 4) and various charges on imports including prior deposits and statistical and administrative fees (Working Group 5).

32. At its meeting in January 1973, the Committee on Trade in Industrial Products also set in train a review of the Inventory of non-tariff barriers which will enable it to have an overall view of the non-tariff measures which could possibly be dealt with in the negotiations. It was agreed that no non-tariff measure should be excluded definitively from the negotiations and that delegations retained the right to make new notifications for inclusion in the Inventory at any time.

33. In the light of the work proceeding in this area, the Committee on Trade and Development might wish to take note of the overall progress made in dealing with non-tariff barriers of particular interest to developing countries in the course of the work on ad referendum solutions. The Committee might also wish to focus attention on other non-tariff barriers of interest to developing countries in the illustrative list which until now have not been taken up for detailed consideration. The objective would be to ensure that an overall picture of the arrangements that are being worked out in this field in so far as these are related to specific non-tariff barriers affecting exports of developing countries is available by the end of the preparatory work for the negotiations without excluding the possibility of other such non-tariff barriers being added in the course of the negotiations.

(e) Safeguards

34. It will be recalled that certain aspects relating to the application of Article XIX to developing country products has been raised in the Committee on Trade and Development. This Committee has examined without conclusion a suggestion to the effect that developing countries be exempted from emergency measures applied under Article XIX of the General Agreement. The representatives of developing countries which submitted the proposal considered that Article XIX could result in a situation where emergency action would penalize developing countries not responsible for the cause of the action in the same way as the offending country which might be a developed country. In this connexion, it was proposed that in the light of Part IV and especially Article XXXVII:3(c) of the General Agreement, imports from developing countries should be exempted when escape clause action permitted by Article XIX was taken. On the other hand, representatives of some developed countries believed that it was not appropriate to consider a revision of Article XIX in the way suggested.
35. The question of safeguards has been taken up as an element in the preparatory work for the negotiations. The Committee on Trade in Industrial Products has held a preliminary discussion on the adequacy of existing safeguard provisions in the context of the General Agreement, (i) in the light of the present conditions and efforts to achieve and preserve the further liberalization and expansion of trade, and (ii) for ensuring the maintenance of access (COM.IND/W/96). A secretariat note, COM.IND/W/88/Rev.1, containing factual information on the main features of existing safeguard provisions was before the Committee. A further note on measures to safeguard access is being prepared.

36. At that meeting, the point was made by some delegations that discussions should cover all the various elements relating to safeguard action, including the definition of injury, the imports to which action should apply, the scope and duration of action, the burden of proof, the procedure in urgent cases, consultations and international surveillance. With regard to a proposal for the establishment of a sub-group to examine the safeguard question in greater depth, the Committee agreed to defer a decision until its next meeting.

The importance of provisions regarding safeguards, as well as of arrangements in the field of agriculture and non-tariff barriers to an overall appreciation of the situation of developing countries in the negotiations, has been stressed in the course of the discussions in the various Committees.
### Import Restrictions of Sixteen Developed Countries Applicable to Developing Countries

<table>
<thead>
<tr>
<th>Description</th>
<th>All products except cotton textiles</th>
<th>Agricultural products (BTN 01-24)</th>
<th>Industrial products (BTN 25-99) except cotton textiles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Import restrictions (at the BTN 4-digit level) of 16 developed countries applicable to developing countries</td>
<td>612², 4</td>
<td>397</td>
<td>145</td>
</tr>
<tr>
<td>Import restrictions on items of export interest to developing countries:</td>
<td>375</td>
<td>284</td>
<td>40</td>
</tr>
<tr>
<td>identified by developing countries</td>
<td>130</td>
<td>51</td>
<td>62</td>
</tr>
<tr>
<td>identified by the secretariat from statistical data</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other import restrictions applied globally</td>
<td>107</td>
<td>62</td>
<td>43</td>
</tr>
<tr>
<td>By type of measures</td>
<td>Global quotas, discretionary licensing, seasonal restrictions, import prohibitions and other restrictions (type unspecified)</td>
<td>426</td>
<td>312</td>
</tr>
<tr>
<td>State trading</td>
<td>114</td>
<td>73</td>
<td>41</td>
</tr>
<tr>
<td>Minimum price requirements and screen-time quota</td>
<td>31</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Bilateral quotas</td>
<td>24</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>Export restraints</td>
<td>17</td>
<td>-</td>
<td>1</td>
</tr>
</tbody>
</table>
Notes to the table

1. (a) Sixteen developed countries covered by the table are Australia, Austria, Belgium, Canada, Denmark, France, Federal Republic of Germany, Italy, Japan, Luxembourg, Netherlands, Norway, Sweden, Switzerland, United Kingdom and United States. The three Benelux countries have been taken together, for the purpose of the figures in the table.

(b) The measures included in the table are the quantitative restrictions and other measures (e.g. State trading and minimum price requirements) which had been identified by the Joint Working Group on Import Restrictions and continue to be maintained, excluding however, measures applying to such items as gold, explosives, arms, ammunition and military equipment, radio-active materials, narcotics, import controls applied in accordance with international commodity agreements, those enforced for the protection of rare animals as well as restrictions applicable solely to imports of used materials, equipment or machinery, and automatic or liberal licensing.

2. In some cases, more than one importing country applies restrictions to the same BTN heading. If double counting of this nature is eliminated, approximately 250 BTN four-digit headings are affected by import restrictions.


4. Automatic and liberal licensing is not included in this table. Approximately one hundred items at the BTN four-digit level are subject to these requirements.