REPORT OF THE WORKING PARTY ON PREFERENCES

1. The terms of reference of the Working Party are "to study the following proposals and report to the CONTRACTING PARTIES at their twenty-first session:

(a) the granting of preferences on selected products by industrialized countries to less-developed countries as a whole; and

(b) the granting of preferences on selected products by less-developed countries to all other less-developed countries".

It may be recalled that the proposals before the Working Party derived from paragraph 24 of the Conclusions of Ministers (MIN(63)7) in which Ministers "agreed that contracting parties should give urgent consideration to the adoption of other appropriate measures (i.e. measures other than those proposed in points (i) to (vii) of the Programme of Action) which would facilitate the efforts of less-developed countries to diversify their economies, strengthen their export capacity and increase their earnings from overseas sales. In this connexion it was suggested that one of the measures which should be studied promptly would be the accordance of preferential treatment to the semi-manufactured and manufactured goods exported by less-developed countries".

2. The Working Party has held three meetings, from 7 to 11 October 1963, from 11 to 18 December 1963, and again during the present session.

3. During the first of these meetings the Working Party addressed itself in the main to the first of the proposals before the Working Party. At this meeting most members spoke as experts and a useful preliminary discussion of possible ways in which preferences might be granted was held. A summary of points raised at that meeting is contained in L/2073.
4. During the December meeting, when members were no longer speaking as experts, the Working Party had some further discussion of technical points connected with the granting of preferences by industrialized countries. This discussion revealed that there were considerable divergencies of opinion among members of the Working Party, developed and less-developed, on the conditions and procedures which might govern any such preferential arrangements. A summary of proposals at present before the Working Party is contained in Annex A. The position of the Brazilian delegation is set out more fully in Annex B.

5. During the meeting representatives of the less-developed countries on the Working Party again stated that in their opinion most-favoured-nation tariff reductions on products of interest to the less-developed countries, and particularly on their new export products, would not give rise to appreciable advantages for the less-developed countries, as similar products exported by the industrialized countries were in general more competitive. In the view of the less-developed countries on the Working Party, the granting of preferences, especially by industrialized countries, would partly redress the balance. They would increase the competitiveness of the exports of the less-developed countries and would be an important contribution to the objectives set out by Ministers. The importance of the proposals before the Working Party was illustrated by the considerable amount of work on preferences which was being undertaken by national governments, within the GATT and elsewhere. During the discussions in the Working Party less-developed countries have re-emphasized this point, and the sense of urgency which they feel should be imparted to the consideration of the proposals before the Working Party. These countries expressed their disappointment that divergencies of opinion continued to exist. Some less-developed countries stated that, in their opinion, there would be little point in continuing a discussion of technical points, or of the terms and procedures which might govern any such preferential arrangements, unless the industrialized countries could indicate that they agreed in principle to the granting of preferences; others that there would be little point in so continuing unless the industrialized countries could indicate their agreement in principle to the proposals contained in the terms of reference of the Working Party.

6. Proposals for insertion of a new Article as Article I(a) in Part I of the General Agreement were also made. As only a preliminary exchange of views has taken place, it has not been possible for the Working Party as a whole to arrive at any conclusions on this proposal.

7. Other members pointed out that its terms of reference directed the Working Party to study certain proposals and indicated that in their opinion it would not be for the Working Party to attempt at that stage to draw up a declaration of agreement in principle to those proposals.
8. Speaking on behalf of the governments of the member countries of the European Economic Community, the spokesman of the Community welcomed the idea of tariff preferences to be granted by developed countries on certain products with a view to stimulating industrialization in less-developed countries. He pointed out that a certain amount of co-operation from the other developed countries would be necessary if this idea was to yield concrete and effective results. On the second proposal in the terms of reference he said that the governments in whose name he spoke were also favourably disposed towards the idea of tariff preferences between less-developed countries.

9. The representative of the United States said that his Government subscribed fully to the objective of providing greater opportunities for the developing countries to increase their export earnings and standards of living. He hoped that in the forthcoming Kennedy Round of trade negotiations a near 50 per cent linear reduction in tariffs would be achieved. Less-developed countries would benefit from this reduction without being expected to offer full reciprocity. He questioned whether commitments to accord new tariff preferences to less-developed countries might not lead participants in the linear tariff reduction plan to reduce the scope of their general concessions. Moreover, as regards industrial products in which less-developed countries have natural economic advantages, the need was to work at the erosion and elimination of high tariffs, restrictive non-tariff measures and discrimination. In his view the adoption of new tariff preferences was likely to make this task more difficult. Furthermore, he feared that in practice any new preference system would perpetuate, complicate and extend on an unequal basis existing arrangements between developed and developing countries so that the anticipated benefits, if any, would remain with only a portion of the less-developed countries. In any event existing United States legislation provided no authority to grant preferences. Furthermore, after careful consideration of the evidence before it, and in view of the anticipated adverse effects on the liberalization and expansion of trade and attempts to establish new preferences, it was the judgment of his Government that the trade of less-developed countries would derive more immediate as well as greater ultimate benefit from the non-discriminatory reduction of tariffs and the elimination of non-tariff barriers than from a programme involving the extension of new tariff preferences by developed to developing countries.

10. The representative of the United Kingdom said that the preferences should not result in increases in most-favoured-nation rates or impede progress in the general reduction in most-favoured-nation tariffs. She stated, however, that, provided that preferences were put into effect by the governments of the major industrialized countries acting in parallel, that countries already enjoying contractual preferences on its market would be prepared to waive their existing rights on the products concerned and provided that preferences were regarded as advance reductions in most-favoured-nation rates rather than as margins her Government was prepared in principle to accept this proposal. However it was at present difficult to see how the proposal could be put into effect. The fact that many divergencies of opinion on this had emerged illustrated the great scope and complexity of the subject.
11. The representative of Japan said that preferences would be put into effect by all industrialized countries alike in respect of selected products but that they should not be extended to competitive industries. He further stated that the new preferences should be of a temporary nature and should gradually absorb the existing preferential arrangements.

12. The representatives of certain other industrialized countries said that, while they recognized the great importance attached to this question by the less-developed countries and while it seemed likely that the granting of new preferences could make a positive contribution to the aims laid down by Ministers, it would be necessary to get a clear picture of what exactly was proposed before a judgement could be made as to whether the advantages which the preferences might bring to the less-developed countries were real enough to justify a breach of the most-favoured-nation rule. Several industrialized countries emphasized that the granting of new preferences should not interfere with the general movement towards the reduction of barriers to trade on a most-favoured-nation basis, although the granting of new preferences might be regarded as a means of securing a more rapid reduction in trade barriers against the less-developed countries than might for the time being be possible between the industrialized countries.

13. Some other countries, not themselves highly industrialized, stated that they supported efforts to find new techniques to enable the less-developed countries to increase their export earnings and that they agreed that a system of preferences regulated by the GATT might provide one possible answer. Although they recognized that problems might be involved, they did not regard these as necessarily insurmountable. These countries were fully prepared to explore the whole question seriously and with open minds in the hope that a workable and equitable formula would result.

14. Certain less-developed countries represented on the Working Party referring to the emphasis placed on the most-favoured-nation reduction of duties by some developed countries, said that negotiations for new preferences might be merged with the Kennedy Round negotiations and appealed for help in assessing the value to the less-developed countries of the linear reduction in duties which it seemed likely would be made during these negotiations.

15. Problems relating to the exchange of preferences among less-developed countries could not be discussed in detail. The value of the exchange of such preferences in increasing the foreign exchange earnings of less-developed countries and in diversifying their economies was widely recognized. In this connexion, certain suggestions were made by a group of countries.
16. At the conclusion of the December meeting it was agreed that further consideration of the proposals before the Working Party should be based on concrete proposals from governments of industrialized as well as less-developed countries.

17. When the Working Party reconvened during the present session, it had before it, in addition to the proposals which it had already itself received, proposals relating to its terms of reference which had been referred to it by the Committee on the Legal and Institutional Framework. It was agreed that the secretariat should provide a paper which would summarize these proposals and give references to the documents containing the definitive statement of the proposals. This paper is contained in Annex A.

18. The Working Party took cognizance of certain proposals which had been placed before it, dealing with the possible establishment of new preferences on a regional basis. The text of one such proposal for preferences among less-developed countries has been submitted to the Committee on the Legal and Institutional Framework.

19. The Working Party was not therefore in a position to draw up a set of agreed conclusions. It is of the opinion that the large number of suggestions which have been placed before it both reflect the complexity and importance of the problems involved and the large measure of interest in these problems which governments have demonstrated. While many, but not all, delegations are in principle in favour of the granting of preferences, there have been differences of opinion on the terms, conditions and procedures which might govern any preferential arrangements. There was, however, a general measure of agreement in favour of further careful consideration being given to matters on which divergencies persist and of the desirability of holding further meetings at an opportune moment. The Working Party also wishes to draw the attention of the CONTRACTING PARTIES to the fact that certain proposals have been advanced which do not fall precisely within its existing terms of reference but which the CONTRACTING PARTIES may also feel merit detailed examination. The Working Party therefore wishes to place this progress report before the CONTRACTING PARTIES and to seek guidance and instructions on its future work.
ANNEX A

OUTLINE OF PROPOSALS ON NEW PREFERENCES

Note by the Secretariat

This paper is intended to provide a guide to proposals already before the Working Party and to proposals which have been submitted to the Committee on the Legal and Institutional Framework in so far as they are relevant to the work of this Working Party. It refers to the documents in which the various proposals appear and these should be consulted for a more definitive statement. The proposals are grouped under headings similar to those proposed by the Chairman of the first meeting of the Working Party and contained in document Spec(63)273. A check list of documents is contained on page 16.

Proposals relating to the two points in the terms of reference of the Working Party, i.e. (a) preferences to be granted by industrialized countries and (b) those between less-developed countries are separated out under each of these headings.

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LEGAL AND INSTITUTIONAL PROVISIONS

(a) Preferences to be granted by industrialized countries

Australia: An enabling clause might be inserted in Part II of the General Agreement. One suggestion might be that: "Notwithstanding the provisions of Article I of this Agreement, contracting parties may, if the CONTRACTING PARTIES so approve and subject to such conditions as they may prescribe, accord preferential treatment to imports of products originating in less-developed contracting parties". Appropriate provisions regarding preferences might also be inserted (L/2165, II, paragraph 5 and VII).

Brazil: A Declaration might be drawn up containing a new interpretation of the most-favoured-nation clause which would be open for signature by all countries including non-contracting parties (a suggested text interpreting Article I of the GATT is contained in L/2073, paragraph 26). The Brazilian delegation has suggested that preferences should be granted to developing countries as a whole without discrimination as between developing countries and that a multilateral negotiating body might be established (Spec(63)270, pages 3 and 4).

Chile: A clause should be inserted in Part II of the General Agreement, enabling contracting parties to grant special concessions which would be applicable to all under-developed countries. If criteria subject to which the countries would accord preferences were agreed upon, this enabling clause would be so worded as to cover specific arrangements complying with the agreed criteria (L/2143, III(g) and V(b)).

India: Developed countries should undertake a commitment to be inserted in Part II of the General Agreement to "accord preferential treatment to imports of products originating in less-developed countries". (L/2128, III(d).) An enabling clause should also be added to Part II of the General Agreement. This would read "that nothing in the General Agreement shall prevent the establishment of new tariff preferences on products of particular interest to the less-developed countries, provided such preferences are extended immediately and unconditionally to the trade of other less-developed countries," and "that any special arrangement in furtherance of the aims of the provisions contained in Section III above shall automatically be deemed to be an exception to the obligations under the GATT." (L/2128, V(b) and (c).)

During the deliberations of the Working Party the representative of India said that discussions were in progress in a group of less-developed countries on the following text:
"Notwithstanding anything contained in this Agreement, and without prejudice to the rights of contracting parties in Article I, paragraphs 2, 3 and 4, contracting parties may accord, with respect to all matters in this Agreement, preferential treatment to products originating in less-developed countries, with a view to promoting the economic development and international trade of less-developed contracting parties. Such preferential treatment granted by any contracting party shall be applied automatically and unconditionally to like products originating in all other less-developed contracting parties, unless under special circumstances the CONTRACTING PARTIES give, with a two-thirds majority, to the contracting party granting the preference, the right to deviate from this provision."

Japan: Preferences will be granted in respect of selected products but they should not be extended to competitive industries. A standing body should be established to perform, among other things, such functions as to decide on and review standard margins of preferences for different products.

Nigeria: Preferences should be granted on a non-discriminatory basis, with, however, the possibility of certain exceptions, to take into account the different stages of development of different less-developed countries and the importance of particular products in the economies of less-developed countries. Accordingly, the enabling clause to be inserted on preferences must have a proviso to this effect.

Nigeria has proposed the following text of an enabling clause:

"Notwithstanding anything contained in this Agreement, and without prejudice to the rights of contracting parties in Article I, paragraphs 2, 3 and 4, contracting parties may accord, with respect to all matters in this Agreement, preferential treatment to products originating in less-developed countries, with a view to promoting the economic development and international trade of less-developed contracting parties. Such preferential treatment granted by any contracting party shall be applied automatically and unconditionally to like products originating in all other less-developed contracting parties, unless under special circumstances the CONTRACTING PARTIES give, with a two-thirds majority, to the contracting party granting the preference, the right to deviate from this provision."

Since the granting of preferences in any case would be considered as and when a less-developed contracting party or group of them request to be so preferred, a procedure for negotiating these should be provided, and for this purpose an ad hoc committee, as suggested by Japan, should be established. Such a procedure would afford opportunity:
(a) generally to consider the desirability of granting preferences on the products in respect of which the request has been made;

(b) to other less-developed contracting parties interested to stake their claim for enforcing the preferences envisaged;

(c) to contracting parties who consider that their interests would be adversely affected or would be unable to grant the preferences to make the representations.

Further any contracting parties aggrieved or not satisfied with recommendations of such a negotiating committee would be entitled to refer the matter to and seek a decision by two-thirds majority of the contracting parties.

United Arab Republic: The preamble of the General Agreement should be modified so that "the importance of adopting appropriate measures which could facilitate the efforts of less-developed countries to diversify their economies, strengthen their export capacities and increase their earnings from overseas sales, including the granting of preferential treatment to the semi-manufactured and manufactured goods exported by those countries" is recognized. (L/2138, page 2.)

The United Arab Republic has also proposed the text of a New Chapter. This would contain a clause enabling contracting parties, in accordance with specified procedures, to "accord preferential treatment to semi-manufactured and manufactured products originating in developing countries, with a view to promoting economic development and international trade of less-developed contracting parties. Such preferential treatment granted by any contracting party shall be applied automatically and unconditionally to like products originating in all other less-developed contracting parties". (L/2138, New Chapter, Article I.)

It is also specified that "negotiation of preferences to be granted by developed contracting parties to developing contracting parties will be carried out through a preference negotiations committee, composed of representatives of developed and developing contracting parties, which shall seek agreement upon the products to which preferences shall be accorded by developed contracting parties and upon the standard margin of preference to be accorded to those products" (L/2138, New Chapter, Article II).
Uganda: Article I of the General Agreement should be amended to allow the granting of new preferences which should be extended to all less-developed GATT countries although nothing should bar countries from granting preferences to other less-developed countries. Less-developed countries should be divided into two groups "the least-developed", receiving a larger preference than other less-developed countries (L/2141, paragraphs 1-3).

The text to be inserted in Article I would read:

"Notwithstanding anything contained in this Agreement, and without prejudice to the rights of contracting parties in Article I, paragraphs 2, 3 and 4, contracting parties may accord, with respect to all matters in this Agreement, preferential treatment to products originating in less-developed countries, with a view to promoting the economic development and international trade of less-developed contracting parties."

(b) Preferences between less-developed countries

Australia: The enabling clause in (a) above might also permit preference between less-developed countries.

Brazil: The Declaration mentioned in (a) above might be drafted to permit preferences between less-developed countries.

Chile: The enabling clause in (a) above would also permit preferences between less-developed countries.

India: The enabling clause in (a) above in so far as it deals with tariff preferences would also permit preferences between less-developed countries.

United Arab Republic: The enabling clause in the proposed New Chapter would permit preferences between less-developed countries. It is also provided that the "negotiation of preferences to be exchanged between developing contracting parties will be carried out through a developing
countries preference-negotiations committee, composed of representatives of developing contracting parties, which shall seek agreement upon the products to which preferences shall be granted among developing countries on a specified individual item-by-item basis", subject to certain understandings set out in the text of the New Chapter, inter alia that "preferences exchanged between two developing contracting parties should be unconditionally applicable to like goods which are the product of other developing contracting parties, provided, however, that no contracting party shall be obliged to extend to other contracting parties concessions which are in force exclusively between developing contracting parties to a free-trade area or customs union" (L/2138, New Chapter, Article III).

Earlier in the work of the Committee, United Arab Republic suggested that the following conditions should meet the prerequisites and form the basis of exchanging preferences by less-developed countries on semi-processed and manufactured goods:

(i) the decision to grant preferences and the selection of items on which such preferences were to be granted should remain the sovereign and indisputable right of an individual less-developed country;

(ii) no less-developed country should have any right to expect that another less-developed country should grant preferences on items which were against the interests of its domestic industries;

(iii) preferences should be exchanged by less-developed countries on a specified individual item-by-item basis and not on a range of products;

(iv) the margin of preferences to be exchanged between less-developed countries should be not less than that at present granted on similar products by some less-developed countries to industrialized countries;

(v) preferences exchanged between two less-developed countries should be unconditionally applicable to like products originating from all other less-developed countries; and

(vi) finally, preferences thus exchanged should be applied only to less-developed countries and should not, by virtue of the provisions of the General Agreement, be applicable to industrialized countries.
Nigeria: Nigeria is prepared to take part in further studies of the problems this involves, particularly the limitation, handicap and disadvantages that may arise for some less-developed countries if existing or future customs unions and free-trade area arrangements among less-developed countries themselves or between less-developed countries and other contracting parties. This is of importance in view of discussions earlier on similar problems in respect of preferences enjoyed by some less-developed countries in some developed countries.

**DEFINITION OF LESS-DEVELOPED COUNTRIES**

(a) **Preferences to be granted by industrialized countries and (b) preferences between less-developed countries**

Israel: Article XVIII and its Interpretative Note should be used (October meeting).

Japan: Definition might be based on the classification contained in General Assembly Resolution 1875 of 27 June 1963, bearing in mind the level of per capita income (Spec(63)343).

United Arab Republic: A combination of quantitative criteria should be used (L/2138, New Chapter, Article IX).

Uganda: Various indicators should be used and less-developed countries should be divided into two categories according to their stage of development (L/2141, paragraph 1). Uganda has also suggested that the "less-developed countries" might possibly be those with a per capita income of less than $150 per annum (L/2073, paragraph 14).

**COUNTRIES GRANTING THE PREFERENCES**

(a) **Preferences to be granted by industrialized countries**

Japan: The preferences should be put into effect by all industrialized countries alike.

United Kingdom: The preferences should be put into effect by the governments of the major industrialized countries acting in parallel (L/2073, page 12).

**RECIPROCITY**

(a) **Preferences to be granted by industrialized countries**

Brazil: Preferences by industrialized countries should be extended on a non-reciprocal basis (Spec(63)270, page 3).

United Arab Republic: Preferences by industrialized countries would be negotiated without full reciprocity being given (L/2138, New Chapter, Articles II and VII).
INTERESTS OF THIRD COUNTRIES

(a) Preferences to be granted by industrialized countries and (b) preferences between less-developed countries

Australia: "Contracting parties shall have regard to the trade interests of other contracting parties" when granting preferences (L/2165, II, 6). The wording of Ministers in MIN(63)7, paragraph 3, should be borne in mind (L/2073, paragraph 21).

Brazil: Special provisions providing for sheltered or preferential access considered indispensable to the maintenance of export earnings of some less-developed countries might be retained on a temporary basis and be progressively reduced and substituted by full compensation through measures not affecting other less-developed countries, particularly through financial assistance to economic development (L/2123, II, (iv)).

Canada: New preferences should be "subject to the provisions of Article XXVIII and hence negotiable under rules involving compensation for damage to other suppliers" (December meeting).

Japan: Care should be taken to ensure that changes in the pattern of world trade should not be too abrupt nor too drastic. The new preferences should gradually absorb the existing preferential arrangements (Spec(63)343).

United Kingdom: Before the United Kingdom grants preferences, countries already benefiting from preferences on its market would have to indicate that they would be prepared to waive their existing rights (L/2073, paragraph 23).

PRODUCTS TO BE COVERED BY THE PREFERENCES

(a) Preferences to be granted by industrialized countries

Brazil: Preferences should be limited to non-primary products and might be granted item by item or by a system of linear cuts on categories of products with certain exceptions (Spec(63)270, page 4).

Ceylon: It is proposed that preferences should be granted for certain specified products (Spec(63)263).

Chile: Products of special interest to the economies of the developing countries (L/2143, III(g)).

Japan: The products to be covered by the preferences should be selected, for the first instance, on the basis of the Committee III list.
Nigeria: Preferences to cover all products, primary as well as semi-manufactures and manufactures (December meeting and L/2073, paragraph 15).

United Arab Republic: Preferences would be limited to semi-manufactured and manufactured goods (L/2138, New Chapter, Article I).

Uganda: All products including those not at present produced in less-developed countries, with limited exceptions (L/2141, paragraph 5).

(b) Preferences between less-developed countries

United Arab Republic: These should relate to semi-manufactured and manufactured goods on a specific item-by-item basis. Preferences would not be granted which were against the interests of the importing country's domestic industries (L/2138, New Chapter, Articles I and III).

THE NATURE OF THE PREFERENCES

(a) Preferences to be granted by industrialized countries and (b) preferences between less-developed countries

Brazil: In practice preferences would primarily affect the tariff (Spec(63)270, page 6) although countries with centrally-planned economies might grant preferences in other forms (Spec(63)270, page 6 and L/2123, Part VI).

Chile: Refers to "obstacles to trade" (L/2143, III(g)) and suggests that ways should be found for centrally-planned economies to grant preferences (L/2143, III, footnote to paragraphs (a) to (f)).

India: Refers to "tariff preferences" but also mentions "special arrangements" (L/2128, V(b) and (c)).

Nigeria: Preferences should be granted in the tariffs or, where free entry already exists, by means of quotas. Special quotas might also be granted if less-developed countries were adversely affected by the preferences. Countries with centrally-planned economies could grant non-tariff preferences (December meeting).

Uganda: Refers only to tariffs (L/2141).
MARGIN OF PREFERENCE

(a) Preferences to be granted by industrialized countries

United Arab Republic: A reduction of 50 per cent over and above the percentage to be agreed upon in the forthcoming trade negotiations (Spec(63)268, paragraph 21). In a later proposal the United Arab Republic has suggested that "standard margins of preferences" should be accorded to products receiving preferences (L/2138, New Chapter, Article II).

United Kingdom: Preferential treatment should be given in the form of advance reductions in most-favoured-nation rules rather than in the form of margins. It should not result in increases in most-favoured-nation rates or impede progress in the general reduction in most-favoured-nation tariffs.

Uganda: The margins of preference should be the same for all products with an Appeals Board to determine exceptions. A group of "least-developed countries" should be accorded free entry while other less-developed countries would pay half the most-favoured-nation duty (L/2141, paragraph 7).

(b) Preferences between less-developed countries

United Arab Republic: The margin of preference should be not less than that at present granted on similar products by some less-developed contracting parties to industrialized contracting parties (L/2138, New Chapter, Article III(ii)).

Nigeria: Nigeria is prepared to take part in further studies of the problems this involves, particularly the limitation, handicap and disadvantages that may arise for some less-developed countries if existing or future customs unions and free trade area arrangements among less-developed countries themselves or between less-developed countries and other contracting parties. This is of importance in view of discussions earlier on similar problems in respect of preferences enjoyed by some less-developed countries in some developed countries.

DURATION OF PREFERENCES

(a) Preferences to be granted by industrialized countries

India: Preferences should not be withdrawn when individual industries become competitive. The guiding concept should be that of the infant economy rather than the infant industry (October meeting).

Japan: New preferences should be accorded on a temporary basis and the arrangements envisaged should provide for their gradual phasing out (Spec(63)343).
Nigeria: Preferences to be withdrawn when the industry becomes competitive (December meeting).

Uganda: Duration would be limited in the sense that preferences would be eliminated automatically as most-favoured-nation duties are reduced to zero (L/2141, paragraph 8).

### Check List of Documents

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<th>Proposals by:</th>
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ANNEX B

Position of the Brazilian Delegation

The Brazilian delegation is preparing a comprehensive proposal derived from the approach reflected in the documents contained in this Annex.

I. The basic position of the Brazilian delegation is contained in their statement to the Working Party at its October meeting, which was originally circulated as Spec(63)270. This is reproduced below.

I do not think it is necessary to make any introduction to this statement. We are here to study the suggestions made by the EEC and the United Arab Republic on the possibility of granting preferences to less-developed countries as a whole. In the case of the first proposal, these preferences would be granted by the industrialized countries; according to the second, by the less-developed countries themselves. We express our thanks to the delegations of the UAR and the EEC for the timeliness of their suggestions which opened the way to a review of the basic principle of GATT, the most-favoured-nation clause, with regard to its adequacy towards the solution of the problems of less-developed countries.

The purpose of these suggestions is to rectify a situation in which the increasingly dominant trade position of the products of industrialized countries is leading to the practical exclusion of less-developed countries from international markets. The superior competitive position of products turned out by an advanced technology, with the help of abundant capital resources, is expressed not only in the field of the highly sophisticated manufactures typical of the economy of the industrialized countries, but also in that of the simple manufactures, processed primary products and even of primary products in the raw state for which the participation of less-developed countries in world trade is also decreasing. Less-developed countries, by definition, cannot compete in the production of manufactures of high technological content; there are exceptions, but they are not significant enough. As for the simple manufactures, they are able to compete, but tariff barriers and other restrictions imposed by industrialized countries have effectively barred the way to the most important markets. If their products are not competitive, the advice is given to increase productivity; if they are much too competitive, such high productivity is disregarded and concepts such as that of market disruption, appear on the scene.

However, this is not the place to voice old grievances. Our purpose, assuming that restrictions to access to products of less-developed countries are not imposed, is to increase their competitiveness through the use of preference mechanism, in order to reverse the trends of trade that lead to the stagnation of exports of less-developed countries. We know that some industrialized countries cannot grant certain concessions to products important to the trade of the less-developed countries, because this act would open the flood gates to other industrialized countries better organized to compete.
The operation of a preferential mechanism is needed to correct trends in the international flows of trade in all of which the participation of exports of developing countries declines in relation to the total. I will quote in this connexion from a Brazilian submission to the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Development: entitled *Long Term Trends Along The Main Trade Flows*, which contains the reasoning behind the arguments here advanced:

"Developing countries have exported to advanced free enterprise economies the equivalent of 19.7 billion dollars, and have imported 20.8 billion dollars, which means a deficit of 1.1 billion dollars in 1960. Other things being equal, this deficit would gradually increase to the level of 10.6 billion dollars by 1975, amounting to as much as 40 per cent of the value of exports in that year."

As percentages of the world trade, the exports from the less-developed countries to the developed countries would decrease from 15.5 per cent in 1960 to 6.6 per cent in 1975.

All those sitting in GATT for a longer or a shorter period are acquainted with the determined stand the Brazilian Delegation has always taken against preferences and discrimination as applied against less-developed countries. As an answer we have always faced the argument that such preferences were not only traditional but they were also important to countries enjoying such treatment. We fully believe the fact that they are economically important to somebody else as we feel the results of this in the damaging effects to our economy, in the markets that we lost and in the markets we are in the process of losing and which we cannot afford to.

To "prefer" comes from the latin *praeferrere*, meaning to bear or to put forward, that is, according to any dictionary, to set or hold one thing before one another in value or esteem, to put or set in front, to choose rather. There is an unescapable element of choice. We feel such a choice is unjustified among less-developed countries, when the promotion of the interests of one is made at the expense of another, that cannot bear the burden.

As a concession to less-developed countries as a whole, we believe preferences are fully justified, not only ethically, as a compensation for the manifest disadvantages suffered by less-developed countries, because of their weaker economic, social, political, and consequently, competitive and bargaining position, but also as a corrective measure intended to reverse the trends in the flows of trade that reflect their trade stagnation and, therefore, the denial of their opportunity and right to develop.
There is an element of trade diversion in any preference, but it is not a positive element, but rather a corrective one, in the case of preferences in favour of less-developed countries against industrialized countries. Such preferences are not intended to force industrialized countries out of markets, but to avoid their taking them over completely. They are not intended to lower their participation in trade, but to guarantee to less-developed countries at least a part of world trade that will ensure their chance to develop.

We could express our view of the needed amendment or rather of a new interpretation of the most-favoured-nation clause as two operational principles worded as such:

1. "The most-favoured-nation treatment should be interpreted and applied to the extent consistent with the requirements of developing countries, which means, inter alia, that developed countries should extend to developing countries, on a non-reciprocal basis, any favour, privilege, or immunity granted to other developed countries, and that clauses providing for most-favoured-nation treatment should not be invoked to preclude the extension of preferential treatment to developing countries as a whole."

2. "Special concessions should be made to developing countries as a whole, without discrimination, through the reduction or elimination of barriers to products important to their trade, without extension of such concessions to other developed countries."

What are the significant elements in the above principles? We can point to the interpretation of the most-favoured-nation clause according to the basic principle of economic development; to the non-reciprocity of concessions and to the rule of non-discrimination between less-developed countries. It is not intended to abolish present preferences. We are against them, but this is not the place to discuss it. The lowering of barriers to some products might entail a reduction of preferential margin, but this would have to be discussed when a specific case came up. There would be no automatic extension of existing preferences; we would start from scratch. For a new policy, there would have to be new methods of negotiation and a new area of application.
The principles we expressed above are a tentative draft of what might be finally formulated as a declaration of the CONTRACTING PARTIES. They could be preceded by suitable consideranda and followed by practical rules setting up a mechanism for the granting of preferences.

How could one envisage such a mechanism? From now on, we are thinking aloud and do not want to be interpreted as putting forward formal proposals. We want to explore the possibilities of what we think is a workable approach. First, we do not propose right now a formal amendment of Article I of GATT. The most-favoured-nation clause will be of course affected by the findings of this group, but we cannot prejudge what will take place in the Working Party on Legal and Institutional Matters. We assume an extensive review and amendment of the principles and rules of GATT will take place, but at the moment we do not want to bind a new interpretation of the most-favoured-nation clause within a formal and restrictive language. We are thinking in terms of a declaration to be accepted by contracting parties. This would recognize the voluntary abrogation of the most-favoured-nation clause in regard to less-developed countries. It would also be made open to acceptance by all countries, members of the United Nations that are not contracting parties. If the procedure we envisage was limited to GATT Members, some highly-developed outsiders would have a legal right to insist on most-favoured-nation treatment established in bilateral treaties and, thereby, would reap the benefit of any concession made to less-developed countries.

We wish to keep the road open to a fully universal trade system at least in so far as it concerns less-developed countries while awaiting international decision on these matters which we know will be considered at the UN Conference for Trade and Development.

As for the mechanism for granting concessions, we do not think it should be bilateral, as in that case, the procedure would be limited to the interests of a very few less-developed countries and by their reduced bargaining power. It would not contribute to solve the trade problems of less-developed countries as a group. We suggest therefore a multilateral approach in order to preserve the interests of all less-developed countries and to provide for participation by all industrialized countries willing to contribute to the solution of the problems of the first group.

The declaration, therefore, might set up a negotiating body subdivided in a greater or lesser number of ad hoc groups concerned with one product or group of products. This procedure might start at the same time as the Kennedy Round. We can envisage a less-developed country, or these as a group, calling the negotiation body into session, in order to discuss specific proposals for preferences on products significant to their economy, or to groups of products most likely to provide opportunity to increase their export earnings. All industrialized countries interested in that product or group of products would be represented in the group, as well as all less-developed countries actually or potentially able to export the products in question. The group would establish the rate of preference for less-developed countries according to the product and its category and the duration of this privilege.
In this way, we could avoid the most difficult characterization of products likely to be exported by less-developed countries according to abstract criteria; we could avoid the drafting of lists of products which would always include an element of choice imposed by unequal bargaining power, as well as the difficult decision on fixed criterion expressing the preference in percentage terms.

This does not mean that such a list and such criteria would not be useful to the negotiating group. Majority recommendations of the CONTRACTING PARTIES could establish, for the guidance of the negotiating body, lists and criteria that should, as a rule, be adhered to. In this connexion, I wish to support the suggestion made yesterday by the United Arab Republic with a view to creating a permanent preferential margin in favour of less-developed countries evaluated at 50 per cent over and above any concessions granted during the tariff negotiations. We believe this is an important guiding rule to follow, with, however, the flexibility required by the pragmatic approach.

The negotiating process we suggest would give an opportunity for all to be heard, and the industrialized countries at present important suppliers of the product or products concerned would present their case and safeguard their interest, while accepting, at the same time, quite voluntarily a certain measure of discrimination.

We stress the aspect of voluntary acceptance. Countries signing and ratifying the declaration would accept in principle limited discrimination against themselves for the benefit of less-developed countries. In the specific case of each product, they would have a chance to conciliate their specific interests with the general policy accepted before and so prove their active good will.

We believe this is a safeguard that should be sufficient to ensure their acceptance of the procedure envisaged. Information on the concessions recommended by the negotiating body would be circulated to contracting parties and non-contracting parties and come to effect after a short period. Such concessions depending on the product or list of products affected, could be made without time limitation or for a certain period, say five or ten years, after which they would be subject to review.

During review, the interested parties would study the effect of preferences granted, determine whether the margin had been sufficient to permit establishment or development of production and the overall effect on the international trade flows. It could be determined then whether to continue them as before, whether to increase the margin, or to take other measures.

What would be the material object of the preferences? We do not think practical to establish now abstract definitions of categories of products that could benefit from concessions. We believe there should be no limitation of the degree of processing or manufacture, or whether preferences should affect only products with a specified degree of manufacture. Decision would be on the merits of each special case.
However, as a guide, it might be useful for the secretariat to carry out a short study on the definition and, therefore, the distinction between primary products, semi-processed primary products, processed products, semi-manufactured and full manufactures, according to the degree of processing, or perhaps, to the value added by industry. This might be very useful for all future work of GATT.

This might help, for the use of the negotiating group, the identification of those lists of products most likely to be produced and exported by developing economies and most likely to have a positive impact on their trade earnings. I believe this line of thought fits in to a certain extent with what I understand is the procedure envisaged by the Brasseur Plan, particularly with regard to the idea of creating joint committees for the selection of economic sectors and industries in less-developed countries needing stimulation.

Should preferences affect only tariff barriers? In most cases, this would be their practical limit. Non-tariff barriers, imposed by industrialized countries for so-called market disruption, for agricultural policies and for balance-of-payment reasons would certainly be considered by industrialized countries as exceptional cases, and escape consideration. The very existence of these restrictions is in itself a proof of superior competitiveness of certain products of less-developed countries. A preference should not be necessary for these products to find a market, just equality of opportunity and freedom from artificial barriers. In this case, less-developed countries do not aim at preferential treatment; they just want a fair chance to compete. Abolition of non-tariff barriers would be enough in this case.

Preferences, however, could be granted in the non-tariff field with great advantage to less-developed countries. This would be the case for instance of countries with centrally planned economies. They could draft their plans for external trade having in mind the need to give preferential treatment to imports of less-developed countries and to increase their participation in their total imports. Therefore, we do not believe that the granting of preferences should be circumscribed to the tariff field.

In all cases, however, industrialized countries should look for compensation to the improved payments position of less-developed countries and their increased capacity to import industrialized goods from them for the purpose of economic development.

Now, all the above sounds as a very cumbersome procedure and a necessarily slow one. Such a procedure applied product by product might take years before it produced measurable effects in the trade and payment position of less-developed countries. The logical approach should be then the concession of linear cuts as preferences to less-developed countries. These cuts should affect groups of products or full categories where exports of less-developed countries are possible, but lagging. Of course, there would have to be the possibility of exceptions, but it would be easier to negotiate a list of exceptions to a general concession. The linear approach should not prevent, however, the concession of preferences on individual items of particular significance to the trade of less-developed countries and where an export capacity is already in existence.
One problem that occurs is that of the conditions to be fulfilled for such a declaration on the abrogation of the most-favoured-nation clause to go into effect. Approval by all contracting parties might take years - many crucial years for the development of less-developed countries. I would like to hear from the secretariat on what sort of arrangements could be made to provide for the validity of the declaration after approval by a significant number of countries. Even if the remaining countries were not actually bound by a declaration they did not accept, the effect on the workableness of the whole procedure would depend on their economic significance and their share of world trade.

Since, in each case, all countries significant in the trade of a product would be heard, acceptance of the declaration by all might not be essential, even though there would always be a danger of those countries not adhering to it reaping the benefits of preferences meant for less-developed countries. This is a point that deserves careful consideration.

A remaining problem is the definition of less-developed countries. This should be tackled carefully and established beyond doubt, before machinery is set up for the concession of preferences. A definition based on a single rule such as per capita income might create absurd situations. The same would be true with regard to the use, as a standard, of the percentual participation of primary products in a country's exports. However, a mixed criterion combining these two different standards of measurement might prove acceptable. In this case, the pragmatic approach might create difficult situations. We think that a preliminary paper by the secretariat on this problem would be advisable.

The Brazilian delegation wishes to stress once again the tentative character of the above considerations. We are exploring new ground and would appreciate a free exchange of views on the part of all countries represented here.

II. The Brasilia declaration by Latin American experts also contains ideas and proposals basic to the Brazilian approach. Extracts from this, originally circulated in document Spec(64)33, are reproduced below.

1. The developed countries should grant preferential treatment, without requiring reciprocity, to imports of manufactures and semi-manufactures from the developing countries. Such preferences should be granted by all the developed countries vis-à-vis all the developing countries, in accordance with the following criteria:
(a) Finished manufactures

(i) The industrialized countries should grant immediate access free of customs duties and other charges with equivalent effect to imports of all finished manufactures from developing countries, on the share of such imports which represents, in the case of each product, not more than 5 per cent of internal consumption in the importing country concerned. Furthermore, any industrialized country may grant a similar preference on imports over and above this limit, without extending it to other industrialized countries but must apply it to imports from all developing countries.

(ii) The limits for duty-free importation, as referred to in (i) above, would not include imports from developing countries under preferences established in the past, without prejudice to the provisions of paragraph 4 below.

(iii) Imports from developing countries which exceed the limits indicated in (i) above would be subject to the applicable duties and, where appropriate, to the provisions of the most-favoured-nation clause.

(b) Semi-manufactures

The developed countries should gradually reduce, so as to eliminate them within the period provided under the development decade, customs duties on imports of semi-manufactures from developing countries. This process of liberalization should commence before 31 December 1965.

2. In applying the foregoing conclusions the developed countries must consider the requisite measures for adjusting their production structure in order to stimulate larger purchases of semi-manufactures or manufactures from the developing countries, thus co-ordinating trade in manufactures with those countries.

3. In order that the benefits deriving from the preferences referred to in paragraph 1 above may effectively accrue to the relatively less-developed countries among the developing countries taken together, it will be necessary to supplement those preferences by the following measures:

(i) Special programmes should be drawn up for technical assistance and international financing, to enable the countries concerned to avail themselves fully of the preferential treatment granted and to develop real industrial export flows towards the developed countries.
In the case of those developing countries which are engaged in a process of economic integration, such supplementary programmes should preferably be channelled through the regional institutions already established.

(ii) The appropriate organs of the world trade organization which results from the Conference should periodically assess the extent to which such preferences are benefiting the less-developed countries in general, and suggest any appropriate additional measures which may be necessary in order to extend such benefits to countries which, because of their relatively lesser stage of development, have not succeeded in making sufficient use of the possibilities offered by such preferential treatment.

4. The preferences granted to some under-developed countries by some developed countries should be eliminated immediately wherever they have not resulted in trade flows. Where such trade flows have already been established, the developed countries should limit application of the preference to the volume of trade already attained in recent years, and should nevertheless gradually diminish the preference so as to eliminate it.