SUB-COMMITTEE ON THE TARIFF NEGOTIATING PLAN

Note by the Secretariat on the Work of the Sub-Committee

1. The Sub-Committee was instructed to consider and submit to the Trade Negotiations Committee recommendations in regard to:

   (i) the depth of the tariff reductions, and the rules of exceptions;

   (ii) the criteria for determining significant disparities in tariff levels and the special rules applicable for tariff reductions in these cases.

The Sub-Committee was asked to report by 1 August.

2. Agreement was reached on a number of important points and substantial progress was made in clarifying the issues still to be resolved. It became clear, however, that it would not be possible to submit agreed recommendations by the date suggested, and that, it would, therefore, be necessary to allow a break during which the delegations principally concerned would be able to seek further instructions. This note, which has been prepared on the responsibility of the secretariat, is designed to keep members of the Committee informed of the position so far reached.

I. The depth of the tariff reductions and the rules for exceptions

   (a) The depth of the tariff reductions

3. The Sub-Committee provisionally agreed to take as its hypothesis that the general objective of the tariff negotiating plan should be a 50 per cent across-the-board reduction in tariffs, it being understood that members of the Sub-Committee may wish to revert to this question in the light of what is agreed on other aspects of the negotiating plan.
(b) Exceptions

4. The Sub-Committee provisionally agreed that there should not be a quantitative limit on exceptions and that it was not necessary or indeed practical at this stage to go beyond the wording of the ministerial Decision, namely, that there should be a bare minimum of exceptions and that they should be subject to confrontation and justification.

(c) Base date

5. The Sub-Committee also noted that, for the purpose of identifying the tariffs to be cut by 50 per cent, it would be necessary to establish a base date and that it would be necessary to examine certain other related questions, for example, whether the cut should relate to tariffs actually in force on that date or to the legal tariff, where this was different. One delegate suggested that it might not be necessary or appropriate to have the same arrangement for all participating countries and that it might, therefore, be better to allow each participating country to propose the basis on which the across-the-board tariff reduction should apply in its case, it being understood that the other participating countries would have to satisfy themselves that the basis was reasonable bearing in mind that the intention of Ministers was to secure a meaningful reduction of 50 per cent in the level of duties.

II. The criteria for determining significant disparities in tariff levels and the special rules applicable for tariff reductions in these cases

6. The Sub-Committee established an ad hoc Group to assist it on this matter. A first report on the work of the Group was circulated as TN.64/NP/1. After this report had been discussed by the Sub-Committee on 22 July, the ad hoc Group was re-established to discuss the matter further in the light of the Sub-Committee's discussion.

7. As was explained in TN.64/NP/1 the first report of the Group was based on a proposal by the United Kingdom delegate that, as a first step in the identification of significant disparities, such disparities should be regarded as existing only where, first, the "high" rate of duty is not less than a certain minimum percentage and, secondly, that rate is at least a certain percentage greater than, or exceeds by at least a certain number of percentage points, rates on the same product in the other tariff or tariffs with which the comparison is made. (It would not be possible to claim disparities between tariffs if the lower tariff were above the minimum percentage in the first of these two criteria, however much lower this tariff might be than the higher tariff).

8. Although the representative of the European Economic Community expressed some doubts about the general principle involved in this approach, it was agreed to work out a plan which took the United Kingdom suggestion as its starting point.
9. The Group agreed to take as its working assumption that the "cut-off" rate (i.e., the rate in the first of the two criteria suggested by the United Kingdom) and the "minimum gap" (in the second of the two suggested criteria) would be the same for all products, on the understanding, however, that it would be open to any delegation to propose, at a later stage, that there should be different rates for some particular group of commodities for which, in their view, the general rates are not appropriate.

10. Most delegates felt that participating countries should be free to invoke the disparity rules only where the tariffs of certain "key countries" (say, the United States, the European Economic Community and the United Kingdom) were above the "cut-off" level; if the rules could be invoked because of high rates in the tariffs of any participating government, however small, it would be possible to cite disparities which were not meaningful in trade terms and thus substantially limit the scope of the linear approach to tariff reductions. The representative of the Community, however, was inclined to prefer a formula which would apply equally to all participating governments.

11. As regards the actual levels to be adopted for the purpose of the two criteria suggested by the United Kingdom, the representative of the European Economic Community suggested that the "cut-off" rate should be 30 per cent and the "minimum gap" 10 percentage points. The United States representative suggested that the cut-off rate should be 60 per cent. A further proposal was that it should be 40 per cent.

12. The United States representative said that, excluding products in which no trade took place, there were 720 tariff items in the United States' tariff above 30 per cent. The application of a 10 percentage points minimum gap criteria would make only a very small reduction in this number. A rough calculation suggested that, even with a minimum gap of 15 percentage points, the European Economic Community could claim over 900 cases of disparities between the common external tariff of the Community, on the one hand, and the tariffs of the United States and the United Kingdom on the other. (This number could be considerably increased if disparities could be claimed in respect of high tariffs of other participating governments - see paragraph 10 above).

13. Some delegates felt that the use of rates at all near those suggested by the European Economic Community would result in the identification of so large a number of products that the small reductions of tariffs by the low tariff countries on these products would very substantially reduce the scope of the linear tariff reduction and upset the balance of reciprocity between the various participating governments. For this reason, a number of suggestions were put forward for limiting the number of cases to which the rules for tariff disparities would apply.
14. One suggestion was that individual countries wishing to claim the right to reduce their tariffs by less than 50 per cent because of the existence of disparities should agree, within the field identified by the first two criteria, to limit themselves to an arbitrary number. The general feeling in the Sub-Group was that this proposal would be too arbitrary.

15. A second proposal was that the items identified by the first two criteria should be examined further in the light of additional criteria in order to establish whether the disparities, which the first two criteria had as it were established on an arithmetic basis, were in fact meaningful in trade terms. It was suggested for example that meaningful disparities should not be regarded as existing where there was a substantial volume of imports into the country with the "high" tariff. Some delegates again felt that disparities should be regarded as existing only in those cases where the country with the "low" tariff was a substantial exporter of the product in question (or, in particular, was a substantial supplier to the country with the "high" tariff) since otherwise, in their view, the disparity would not be meaningful in trade terms. The representative of the European Economic Community, however, said that in his view a meaningful disparity could exist even where the country with the "low" tariff had little or no export interest in the product concerned but where it was a substantial importer. Whereas the "high" tariff, even when reduced by 50 per cent, might still remain very protective, the "low" tariff, when reduced by 50 per cent, might offer only a very slight degree of protection. In those circumstances, the country with the "low" tariff might then find that there was a very substantial increase in its imports from a third country, since that third country would not find it practicable to sell substantially more to the country with the "high" tariff and would, therefore, concentrate its efforts on the market of the country with the "low" tariff. Another representative, while not accepting that the problem of third country supplies was basically a tariff disparity problem, agreed that the potential exports of the product concerned by the low tariff country were less relevant to tariff disparities than their potential imports under a reduced tariff.

16. A further proposal, by the United States representative, was that, before the start of the negotiations, the countries wishing to claim disparity treatment in respect of some of their items should submit a list of the items in question and that the Committee should then examine the list in the light of whatever criteria were agreed.

Rules to apply where disparities are identified

17. On this, two proposals were put forward. The first was that all "high" tariffs should be reduced by 50 per cent and all "low" tariffs by one single smaller percentage, say 25 per cent.
18. A second proposal, by the United Kingdom, was that:

(a) all tariffs would be reduced first by the agreed linear cut (subject to (c) below);

(b) after the linear cut, all "low" tariffs would receive a rebate of 2 percentage points, plus an extra point if the "low" tariff is even less than one-half the highest equivalent tariff. This would mean that, the lower the present tariff, the shallower the automatic cut;

(c) no tariff need be reduced below 5 per cent.

A third stage - restoring reciprocity?

19. Some delegates felt that, if action taken under the disparity rules upset the balance of reciprocity, a further stage would be required in which countries would negotiate for additional concessions from others, or withdraw part of their own original offers, in order to re-establish reciprocity. In this connexion, the United States delegate proposed that when, under its proposal referred to in paragraph 16 above, the Trade Negotiations Committee had after scrutiny approved a country's list, that country would agree to include in its initial offer list concessions which would be designed to restore the imbalance which would be created by the smaller reductions it would be making on those items, with a view to making an average reduction in its tariffs of as near 50 per cent as possible. In the view of some other representatives, while such balancing might be needed, it would have to be done towards the end of the negotiations, rather than in the initial stages. The representative of the Community felt that the rules of the tariff disparities must contain their own balance, so that, once these rules were applied, there would be no question of any imbalance to compensate for. The United States representative felt that this could be achieved only if the application of the special rules were limited to what were in his view the relatively few cases where tariffs were so high that a 50 per cent reduction in them would not afford as great an opportunity for increased imports as a 50 per cent reduction in smaller tariffs.

20. In this connexion, it was noted that, where a country with a "low" tariff invoked the disparity rules in order to reduce its tariff on a certain item by less than 50 per cent, the impact of this in terms of trade might not fall primarily or at all on the country with the "high" tariff but on a third country. The United States representative pointed out for example that, in the case of most of the products in respect of which the EEC would be able to apply disparity rules in the light of the relationship between the United States and Community tariffs, most of the Community imports came not from the United States but from third countries, in particular other European countries. If, therefore, the Community made reductions of less than 50 per cent on these products, the main impact would be on those third countries, who might then feel it necessary, in order to restore reciprocity, to make less than 50 per cent cuts in tariffs of interest to the Community.
The problem of "low tariff" countries

21. This question (referred to in Section B:3(o) of the ministerial Resolution of 21 May 1963) has not yet been remitted as such to the Sub-Committee. It was, however, discussed briefly in so far as it was relevant to the discussion on the points which have been remitted to the Sub-Committee. The representative of the EEC suggested that the problem should be considered not as one of "low tariff" countries but as one of low tariffs. To illustrate this he gave as an example the case of a product on which the EEC tariff and the tariff of a "low tariff" country were both 8 per cent. In a case of this sort it might be inequitable if the Community tariff were reduced to 4 per cent whereas the tariff of the "low tariff" country, under a special rule, were left where it was. It was generally felt that any special rules applicable to "low tariff" countries should not be such as to give rise to anomalies of this sort.