STATEMENT BY THE DELEGATE OF BRAZIL

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 can not 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 praeferre, 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 body 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, on 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.