GENERAL AGREEMENT ON
TARIFFS AND TRADE

Working Party on the Australian Request to
Grant Preferences to Less-Developed Countries

DRAFT WAIVER

(Submitted by the Drafting Group)

Having received an application from the Government of Australia for
authority to grant preferential tariff treatment to certain goods of less-
developed countries and territories in the circumstances therein described when
such goods are the products of industries that have not reached a stage of
development that enables them to compete in the Australian market with like goods
produced in the more industrialized countries,

Having noted the statement by the Government of Australia that the establish­
ment of the proposed preferential arrangements is designed as a step by the
Government of Australia to assist the trade and economic development of less-
developed countries and territories in a manner consistent with Australia's
special economic circumstances and development needs, as a country depending
in large measure on a relatively small number of primary products and relying
on the tariff as a significant aid for further diversification of its economy
and for the economic development of Papua and New Guinea,

Having noted the statement by the Government of Australia that the
establishment of the proposed preferential arrangements is designed as a step
by the Government of Australia to assist the trade and economic development of
less-developed countries and territories in a manner consistent with Australia's
special economic circumstances and development needs.

1 Some brief notes relevant to the consideration of the text of the draft
waiver by the Working Party are set out on pages 7 to 9.
Considering that the basic objectives of the General Agreement on Tariffs and Trade include the raising of the standards of living and the progressive development of the economies of all contracting parties and considering that the attainment of these objectives is particularly urgent for less-developed contracting parties,

Considering also that the proposed action is designed by the Government of Australia to facilitate attainment of these objectives and that this initiative would provide some evidence of the effect of such action in facilitating these objectives,

Noting the declaration of the Government of Australia that it is its intention in exercising the authority granted to it, pursuant to this waiver, to continue to take account of the interest of established suppliers to the Australian market, and noting further the assurances of the Government of Australia that it will upon request promptly enter into consultations with any contracting party to the General Agreement which has a substantial interest as an exporter to Australia of any product to which this waiver is applicable and which considers that serious damage to its interest in that product is caused or imminently threatened by action under this waiver,

Considering further that the Government of Australia has declared its readiness to keep under review the operation of these arrangements and their impact on international trade.

Having noted that the proposed action is not made dependent on reciprocal concessions by the less-developed countries,

Having noted that the proposed action is not intended by the Government of Australia to impede the reduction of tariffs on a most-favoured-nation basis.
Having further noted that the proposed action is not intended by the Government of Australia to impede the reduction of tariffs on a most-favoured-nation basis, but that it is aimed by the Government of Australia at creating additional trade opportunities for all less-developed countries with a view to accelerating their economic development, 

Taking note of the declaration of the Government of Australia that it will continue its efforts to increase the number of items of export interest to less-developed countries on which preferential tariff treatment will be granted, 

The CONTRACTING PARTIES, acting pursuant to paragraph 5 of Article XXV of the General Agreement and in accordance with the procedure adopted by them on 1 November 1956, 

Decide that 

1. Subject to the provisions of paragraphs 2 to 7 of this Decision, the provisions of paragraph 1 of Article I of the General Agreement shall be waived to the extent necessary to permit the Government of Australia to accord to goods specified in Annex I of this Decision the tariff treatment specified therein when, except as provided in paragraph 3 of this Decision, such goods originate in the countries and territories having the characteristics described in paragraph 4(a) of Article XVIII, without being required to extend the same tariff treatment to like goods when imported from other contracting parties.

2. The Government of Australia may vary at any time the list of goods, the rates of duty and the size of quotas specified in Annex I; provided that, if it decides to add to the list of goods, or to reduce the rate of any duty, or to remove any quota limitation or to increase the size of any quota, the procedures set out in paragraph 4 shall be followed.

1BISD, Fifth Supplement, page 25.
3. Whenever the Government of Australia considers that any of the countries and territories referred to in paragraph 1 above are able to compete without the preferential tariff treatment provided for in this Decision in the supply of Australia's import requirements of any of the goods mentioned in Annex I, it shall notify the CONTRACTING PARTIES and provided the CONTRACTING PARTIES do not disapprove, may apply to imports of such goods from any such country or territory the tariff treatment that would have been applicable if such country or territory had not been in the category referred to in paragraph 1 of this Decision. Should the CONTRACTING PARTIES disapprove of any such action proposed by the Government of Australia, the Government of Australia would be free to remove the particular good or goods from Annex I. The Government of Australia may subsequently apply to such goods from such country or territory the preferential treatment provided for in this Decision.

3. Whenever the Government of Australia proposes to withdraw the benefit of the preferential treatment provided for in this waiver from any less-developed contracting party it shall notify the CONTRACTING PARTIES of the action which it intends to take and shall upon request consult with the less-developed contracting party likely to be affected by such action. If no request for such consultation is received within a period of thirty days of the date of the notification or if the consultation results in agreement the Government of Australia may take such action. If no agreement is reached within a period of thirty days the matter shall be referred to the CONTRACTING PARTIES for a decision. The Government of Australia may subsequently apply to such less-developed contracting party the preferential treatment provided for in this Decision.
4. After deciding to take any action to which the procedures of this paragraph apply, the Government of Australia shall promptly notify the CONTRACTING PARTIES of the action which it intends to take and shall consult with any contracting party which considers that such action threatens substantial injury to its trade with Australia and shall give prompt attention to any representation in this regard with a view to arriving at a mutually acceptable settlement or a settlement satisfactory to all concerned. Should agreement not be reached in such consultation, the question of such threat may be considered by the CONTRACTING PARTIES. The Government of Australia may take such action if, within thirty days after such notification, no contracting party has requested consultation or if it were agreed by all contracting parties requesting consultation or by the CONTRACTING PARTIES, as the case may be, that no such threat exists. If, however, the CONTRACTING PARTIES find that such threat exists, the Government of Australia shall not take such action but may take other action which conforms with any recommendations made by the CONTRACTING PARTIES.

5. Any contracting party may propose that an additional country or territory be added to the list in Annex II by advising the CONTRACTING PARTIES to that effect. The CONTRACTING PARTIES shall promptly decide whether or not such country or territory shall be added to the list in Annex II.

6. Any contracting party which considers that its trade with Australia in any product is suffering substantial injury as a result of the action taken by the Government of Australia under this Decision may request consultation with the Government of Australia. The Government of Australia shall consult with such contracting party within thirty days of receiving a written request for consultation with a view to arriving at a mutually satisfactory settlement with a view to arriving at a settlement satisfactory to all concerned.
6. The Government of Australia shall review the level of preferential duties, the size of quotas, the inclusion or exclusion of countries benefiting from preferential duties or the coverage of the products list on the request of any contracting party which considers that its interests are affected. In particular, any contracting party which considers that its trade with Australia in any product is suffering substantial injury as a result of the action taken by the Government of Australia under this Decision, may request consultation with the Government of Australia. The Government of Australia shall consult with such contracting party within thirty days of receiving a written request for consultation with a view to arriving at a settlement acceptable to all concerned or compensatory adjustment. Should such a settlement or adjustment not be reached the matter shall be referred to the CONTRACTING PARTIES in accordance with the provisions of the General Agreement.

7. The CONTRACTING PARTIES shall review annually the operation of this waiver in the light of the aforementioned objectives and considerations. In connexion with such reviews the Government of Australia shall report annually to the CONTRACTING PARTIES on the action taken by it under this Decision and shall provide information regarding imports into Australia from all sources of the products listed in Annex I to this Decision. During the maintenance of this waiver the CONTRACTING PARTIES every five years will undertake a major examination of the operation of the waiver in order to evaluate the effects thereof.

8. This Decision shall be valid up to 30 June 1969.

The CONTRACTING PARTIES

Declare that nothing in this Decision would preclude any contracting party affected from having recourse to Article XXIII of the General Agreement.
NOTES ON THE TEXT OF THE DRAFT WAIVER

The Preamble

First paragraph

This paragraph was acceptable to the delegation of Australia and most other members of the Drafting Group. Two delegations felt that there was an inconsistency between the paragraph and the list of products annexed to the waiver. One of these delegations expressed preference for the following version of the paragraph:

"having received an application from the Government of Australia for authority to grant preferential tariff treatment to certain goods of less-developed countries and territories in the circumstances therein described."

Second paragraph

This paragraph was acceptable to the Australian delegation and most other members of the Drafting Group. One delegation representing a group of countries preferred the alternative paragraph appearing in square brackets. It was also willing to accept the exclusion of the words "the statement by the Government of Australia", in the first line of the text supported by it.

Fifth paragraph

This paragraph was acceptable to the Australian delegation ad referendum, and to most other members of the Group. One delegation reserved its position on the paragraph.
Sixth paragraph

This paragraph was generally acceptable subject to confirmation by the representative of Australia of his Government's acceptance of the formulation in the last line of the text.

Ninth and tenth paragraphs

The representative of Australia indicated that his delegation could accept either of these two versions. Some delegations preferred the formulation in the ninth paragraph, while representatives of certain countries supported the tenth paragraph.

Eleventh paragraph

This paragraph was not acceptable to the representative of Australia. It was supported by representatives of certain countries.

The Operative Part of the Waiver

Paragraph 3

The first formulation of this paragraph was acceptable to the Australian delegation and most other members of the Group. Two delegations supported the second alternative.

Paragraph 4

The language appearing between the first set of square brackets was proposed by one delegation but was not acceptable to the Australian delegation. The Australian delegation was agreeable to the text in the second set of square brackets but could not accept the alternative formulations in the third and fourth sets of square brackets.

The phrase "a settlement satisfactory to all concerned" was supported by representatives of certain countries. The phrase "a settlement satisfactory to all concerned or compensatory adjustment" was supported by two delegations. These delegations also indicated that they could accept either of the texts appearing between the second and third sets of square brackets, provided that the words "or compensatory adjustment" were added.
Paragraph 5

It was generally agreed that if the formulation set out in paragraph 1 of the operative part of the waiver in regard to countries and territories benefiting from preferences were acceptable to the Working Party, paragraph 5 would no longer be necessary. The Australian representative, in this connexion, indicated that it was his intention to propose the following draft for consideration by the Working Party for inclusion in its report:

"The Working Party recognized that the CONTRACTING PARTIES had not drawn up a definitive list of less-developed countries for the purposes of the General Agreement. The Working Party did not regard itself as competent to settle this legal question. However, pending a final decision on the matter by the CONTRACTING PARTIES, the Working Party considered that the list attached to its report afforded the guidance requested by the Australian Government as to which countries and territories this scheme might apply."

Paragraph 6

The first alternative and the formulation in the first set of square brackets were acceptable to the Australian delegation. Certain countries supported the first alternative and the text in the second set of square brackets. The second alternative was supported by two delegations.

Paragraph 7

The delegation of Australia was unable to accept the last sentence of this paragraph which appears in square brackets, but had no objection to the concept being reflected in the report of the Working Party.

Paragraph 8

The Australian delegation was unable to accept this paragraph which was also not acceptable to a number of representatives. Some members of the Group supported the proposal concerning a terminal date for the waiver and one of these indicated that he was nevertheless not attached to the specific date indicated in paragraph 8.