Working Party on Greek Tariff Quotas

DRAFT REPORT

1. At a meeting in April 1970 the Council discussed the question of the provisions of the Special Protocol with the Government of the USSR, signed by the Government of Greece in December 1969, which provides for special tariff treatment of certain products imported from the USSR within specific quota limits. At its July 1970 meeting the Council considered a formal request by Greece for a waiver under Article XXV:5 to cover tariff quotas granted by Greece to the USSR, and established a Working Party with the following terms of reference:

"To examine the request of the Government of Greece for a waiver from its obligations under Article I of the General Agreement in order to reduce the customs duties on certain products manufactured in, and coming from the USSR, as specified in the Special Protocol of 13 December 1969: and to report to the Council."

The Working Party met on 1 and 2 October 1970 (under the chairmanship of Mr. Meere, Australia) and had before it the following documents: L/3384 (Communication from the United States), L/3387 (an unofficial translation of the Special Protocol), L/3406 (the Greek request for a waiver), and Spec(70)104 (a communication from the delegation of Greece).

2. The representative of Greece explained that the objective of the Special Protocol was to facilitate imports of industrial products from the USSR in order that balance could be restored in the Long-Term Clearing Agreement between the two countries, which at present showed a large credit balance ($6,200,000) in favour of Greece. A continuation of this surplus would make it difficult for the USSR to maintain its purchases of agricultural products of special export interest to Greece through this clearing mechanism. Greece had not been able to find adequate markets for these products, in particular, tobacco, citrus fruits and grapes, in industrialized GATT countries and consequently significant unsold stocks of these products had accumulated.
3. The purpose of the tariff quotas was to offset the competitive disadvantage faced by the USSR exports of industrial products, resulting from the reductions of the Greek tariff vis-à-vis the EEC, which had been implemented under the Agreement of Association between Greece and the Community. Arrangements of this kind had been envisaged in Article 21 of the Agreement of Association.

4. The representative of Greece asked the members of the Working Party, when considering the request for a waiver, to take into account the special circumstances of Greece, a country in the process of economic development with an unfavourable balance-of-payments position, but one which, nevertheless, maintained a liberal import régime. Increased imports from the USSR could facilitate the expansion of Greek exports and thus reduce the balance-of-payments deficit. In this context he referred to the trade figures showing a declining percentage of imports covered by exports, and pointed out that Greece was obliged to depend to an increasing degree on invisible receipts, which did not have the same stability as export earnings.

5. The representative of Greece did not believe that the terms of the Special Protocol would cause any trade diversion. He emphasized that the total value of the products covered by the tariff quotas was limited to $4,252,000 representing in 1969 only 0.30 per cent of total Greek imports and only one sixth of imports from the USSR. Furthermore, the Protocol would expire on 31 December 1971. He also pointed out that over the first six months of the operation of the Protocol, of the seventy-five products under quota only thirty had been imported from the USSR, the value of these quotas opened was $2,470,000, and the imports of these thirty products totalled $1,732,000.

6. The members of the Working Party emphasized that in order to consider granting a waiver to Greece, it would have to be determined that the "exceptional circumstances" referred to in paragraph 5 of Article XXV actually existed. While some delegations remarked that the trade figures supplied by Greece differed in some instances from those in their possession, and pointed out that invisible receipts and capital flows were relevant in assessing the balance-of-payments position, it
was generally recognized that Greece was in an unfavourable balance-of-payments situation. However, some members stressed that although many other contracting parties were in a similar unenviable position, none of them had considered it a justification for such a departure from the provisions of Article I. It was brought to the attention of the Working Party that at previous consultations of the Committee on Balance-of-Payments Restrictions, Greece had been urged to reduce its reliance on bilateral agreements not only by members of the Committee, but also by the International Monetary Fund. In the light of the above considerations, the Working Party, with the exception of one member, was of the opinion that the Greek bilateral payments position with the USSR did not constitute "exceptional circumstances" in the sense of Article XXV:5.

7. While it was generally recognized that the trade involved was not large, several members of the Working Party did not share the views of the representative of Greece that no trade diversion had, nor would, occur. One member pointed out that he was being asked to approve a waiver in a situation in which his country's exports faced discrimination because Greece, as a result of the protectionist agricultural policies, felt compelled to grant preferences to the USSR on products of interest to his country. One member suggested that the difficulties encountered by Greece to dispose of certain agricultural products should be solved in the context of its links with the Community.

8. In the course of the discussion, it was recalled that at the April Council meeting the Greek Government had been urged to consider appropriate ways for bringing the arrangement into conformity with the rules of the General Agreement. Some members of the Working Party stated that two such courses were open: to rescind the Protocol, or to place the tariff quotas on a most-favoured-nation basis. Most members favoured the latter course as it was thought that the abrogation of the Protocol could present some difficulties for the Greek Government.

9. The representative of Greece pointed out that to place the tariff quotas on a most-favoured-nation basis would reduce the possibility of achieving the desired balance of trade with the Soviet Union. The renewal of Greece's trade agreement with the USSR had been made conditional on achievement of this balance.
10. Pointing to the information supplied by the Greek delegation to the effect that the trade results had been negligible - imports by Greece of Soviet-produced machinery, for instance, was unlikely to reach the limits of the tariff concession: some members of the Working Party were of the view that placing the tariff quotas on a most-favoured-nation basis could not damage Greek interests.

11. A major objection of principle was raised by most members of the Working Party to the granting of a waiver to cover preferential tariff treatment in favour of a country not a member of the GATT. The Protocol was not compatible with Greece's obligations under Article I of the General Agreement. Approval of the provisions of the Protocol, through a waiver, would set a serious precedent which could then be invoked by any contracting party wishing to enter into similar discriminatory arrangements. Furthermore, it would constitute a serious erosion of order in international trade, as formulated in the General Agreement. Such a waiver, even granted in a case with limited trade effects, could not fail to create a serious precedent, which could well be used in cases involving large trade effects.

Conclusions

12. The Working Party, with the exception of one member, expressed serious concern over the request by Greece for a waiver from its obligations under Article I. The members concerned considered that the question of principle and precedent was of utmost importance. While expressing sympathy for and understanding of the difficulties encountered by Greece, they were not convinced that exceptional circumstances as required under Article XXV:5 existed and therefore were opposed to the grant of a waiver. In their view Greece should consider terminating the Special Protocol or extending the tariff concessions on a most-favoured-nation basis.

13. One delegation was of the view that exceptional circumstances, as defined in Article XXV:5 did exist, and suggested that the Working Party consider a waiver, limited in time - until June 1971 - not renewable and drafted so as clearly to exclude its possible use as a precedent. This suggestion was not supported by other members of the Working Party. The Working Party does not recommend that a waiver be granted as requested by the Government of Greece.