CONSULTATION WITH POLAND

Third Review under the Protocol of Accession

Draft Report by the Working Party

1. The Council at its meeting on 28 April 1970, established a Working Party to conduct, on behalf of the CONTRACTING PARTIES, the third annual consultation with the Government of Poland provided for in the Protocol of Accession, to make recommendations concerning the establishment of a date for the termination of the transitional period referred to in paragraph 3(a) of the Protocol, and to report to the Council. At its meeting on 29 September 1970, the Council agreed that the Working Party should also carry out the negotiations as provided for in paragraph 2 of Schedule LXV - Poland.

2. The Working Party met on 8 July, on 17-19 November and on 26 November 1970 under the chairmanship of Mr. J.E. Larsen (Denmark).

3. The Working Party had before it the following documents containing information relevant to its work:

   L/3399: statistics on Poland's trade with GATT countries in the years 1967, 1968 and 1969
   L/3399/Add.1: statistics on Poland's imports from GATT countries in January-August 1970
   L/3416: notification by Poland concerning renegotiation of Schedule LXV - Poland
   L/3445 and addenda: notifications by contracting parties on restrictions maintained on imports from Poland.
4. The following report sets down the main points of the discussion in the Working Party under the three headings:

A. Annual review of Poland's trade with contracting parties

B. Establishment of a date for the termination of the transitional period in paragraph 3(a) of the Protocol of Accession of Poland

C. Renegotiation of Schedule LXV - Poland.

A. Annual review of Poland's trade with contracting parties

I. Polish exports to the territories of contracting parties

(a) The general trend and geographical distribution of Polish exports to the territories of contracting parties. Has there been an unexpected decline or increase in Polish exports?

5. The Working Party noted that, according to the trade figures reproduced in Annex I to document L/3399, the increase in Poland's exports to GATT countries from 1968 to 1969 was 9.7 per cent. In absolute terms the exports to GATT countries had increased from US$1,183.9 million to US$1,299.3 million. Exports to all countries had increased by 10 per cent from 1968 to 1969 and totalled US$3,143.3 million in 1969.

6. The representative of Poland said that there had been no unexpected decline or increase in Polish exports in 1969.

(b) Development of Polish exports of different categories of goods, e.g. agricultural goods, raw materials, semi-manufactured goods, machinery and consumer goods

7. The representative of Poland gave the following figures for the share in total exports of the four main commodity groups:

<table>
<thead>
<tr>
<th>Commodity Group</th>
<th>1968</th>
<th></th>
<th>1969</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>to GATT countries</td>
<td>to all countries</td>
<td>to GATT countries</td>
<td>to all countries</td>
</tr>
<tr>
<td>Machinery and equipment</td>
<td>18.3%</td>
<td>37.0%</td>
<td>21.1%</td>
<td>39.2%</td>
</tr>
<tr>
<td>Raw materials, fuels and semi-finished products</td>
<td>43.5%</td>
<td>33.1%</td>
<td>43.9%</td>
<td>33.0%</td>
</tr>
</tbody>
</table>
8. The Working Party noted that the following contracting parties had notified that they did not maintain any restrictions of the kind referred to in paragraph 3 of the Protocol:

- Argentina
- Australia
- Brazil
- Canada
- Ceylon
- Chile
- Czechoslovakia
- Greece
- Iceland
- India
- Ireland
- Japan
- New Zealand
- Nigeria
- South Africa
- United States
- Yugoslavia

The representative of Turkey said that his country did not maintain any discriminatory restrictions on imports from Poland.

9. The Working Party took note of the notifications on quantitative restrictions submitted by:

- Austria
- Denmark
- European Communities
- and member States
- Finland
- Malta
- Norway
- Sweden
- Switzerland
- United Kingdom

10. The Working Party noted that notifications had been received from thirty-two contracting parties only; more than forty contracting parties had thus not responded to the invitation to notify restrictions maintained on imports from Poland.

11. The representative of Poland recognized that the completeness and accuracy of the notifications had improved considerably since the previous consultation as a result of the adoption by the Council of guidelines for the form and content of the notifications. He pointed out, however, that some notifications were still lacking in clarity, and he hoped that the quality of notifications would continue improving.

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*See document G/14/62, pages 11-12.*
12. The representative of Austria recalled that since the entry into force of the Polish Accession Protocol Austria had liberalized many items vis-à-vis Poland. With effect from 1 January 1969, 193 items had been fully liberalized. As from the same date, for a number of items, import quotas had been established which could be overdrawn in principle. Another liberalization step had taken place on 1 January 1970. At that time Austria had fully liberalized another 157 items. With effect from the same date some of the already existing import quotas had been increased and new quotas had been opened for a number of additional items. He was also in the position to announce further liberalization measures. With effect from 1 January 1971 Austria would liberalize about 180 items vis-à-vis Poland. As a consequence of those very substantial liberalization measures, the Austrian imports from Poland between 1967 and 1969 had increased by 25 per cent. During the same period the Austrian exports to Poland had increased by 5 per cent only. The Austrian statistical import data from 1967 until the first half of 1970 showed already a certain change in the structure in the imports from Poland. The Austrian delegate referred to imports of certain manufactured and semi-manufactured products which had recently considerably increased. Austria had therefore fulfilled its obligation as specified in paragraph 3(a) of the Polish Protocol according to which the restrictions should be progressively relaxed.

13. In reply to questions, the representative of Denmark explained that the products listed in document L/3445/Add.4 as subject to licence when imported from Poland were subject to the same requirement when imported from any socialist country. For many products the licence requirement did not mean that there were any quantitative restrictions. In cases where there were no imports indicated in the list, the reason was purely commercial. Total Danish imports from Poland in 1969 had amounted to DKr 298.9 million; the imports still subject to licensing, DKr 43.4 million, represented less than 15 per cent of total imports.

14. The representative of the European Communities said, in reply to questions, that the Community notification listed as headings subject to restrictions the full Brussels Nomenclature headings even in cases where only a small part of the heading was under restriction. He mentioned as an example that the whole heading 16.02 was included in the list, although only offals and liver were actually under restriction; ham, the most important product under the heading, was completely liberalized.
15. The representative of the Communities further explained, in reply to a question whether it would not be possible for the Community to submit notifications indicating the position in each separate country, that the situation with regard to restrictions in the Community should be seen as a whole and that the liberalization movement should be regarded at the Community level. He underlined that the fact that the Community had submitted for the first time a negative list represented a major effort on its side.

16. The representative of Sweden stressed that only the seven items listed in the first category - "Quotas which constitute upper limits of licensing" - in L/3445 were subject to real restrictions. In three cases the quotas had not been utilized to a substantial extent. In 1969 the discriminatory element had been further relaxed through the increase of three of the four quotas which were of a restrictive nature. The development of Polish exports to Sweden was encouraging; from 1968 to 1969 they had increased from SKr 210 million to SKr 250 million.

17. The representative of the United Kingdom said that a difficulty in the preparation of his Government's notification had been that the list of restrictions in force on 30 June 1967 had not been wholly in tariff terms. The conversion of the list into tariff terms was well under way, and such a list could probably be transmitted in a couple of months. In those circumstances, the list of restrictions in effect on 1 May 1970 had been prepared as a list of amendments to the 1967 list. A consolidated list of restrictions in force on 1 May 1970, expressed in tariff terms, was being prepared and would also be submitted in a few months time.

(d) Other questions relating to the exports of Poland to the territories of contracting parties in the period under review, including any problems arising of the sort provided for by, or any action taken under, paragraph 4 of the Protocol

18. The Working Party noted that no action had been taken under paragraph 4 of the Protocol.

II. Polish imports from the territories of the contracting parties

(a) The general trend and geographical distribution of Polish imports from the territories of other contracting parties. Did actual Polish imports reach the quantities or values provided for in the period under review? If not, what was the reason for the shortfall in Polish imports?
19.-24. = Paragraphs 4-9 of Spec(70)93 (Note by the Secretariat on the meeting of the Working Party on 8 July 1970).

(b) Development of Polish imports of various categories of goods (e.g., agricultural goods, raw materials, semi-manufactured goods, machinery and consumer goods) from the territories of contracting parties in relation to development of Polish imports from other countries.

25.-27. = Paragraphs 10-12 of Spec(70)93.

(c) Development of Polish imports from the territories of contracting parties in relation to development of the Polish market.

28.-32. = Paragraphs 13-17 of Spec(70)93.

(d) Provision made by Poland pursuant to paragraph 1 of the Schedule of Concessions of Poland to ensure an annual increase in the total value of its imports from the territories of contracting parties.

33. The representative of Poland recalled that the increase in Poland's imports from GATT countries had been 16 per cent in the period January-August 1970, as could be seen from document L/3399/Add.1. He said that - contrary to what had been the case in the past years - imports were expected to slow down in the course of the fourth quarter of 1970. The increase in imports for the whole of 1970 was estimated at about 10 per cent.

34. With regard to 1971, the representative of Poland stressed that this year would fall within the next five-year plan (1971-75), which had not yet been approved. Very tentative and unofficial figures for 1971 based on estimated imports in 1970 from GATT countries of $1,480 million - which represented a 9 per cent increase over 1969 - gave the following comparison (figures in $ million):

<table>
<thead>
<tr>
<th>Category</th>
<th>1970</th>
<th>1971</th>
<th>Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Machinery and equipment</td>
<td>490</td>
<td>525</td>
<td>7%</td>
</tr>
<tr>
<td>Raw materials and semi-manufactures</td>
<td>750</td>
<td>800</td>
<td>6%</td>
</tr>
<tr>
<td>Food products</td>
<td>180</td>
<td>200</td>
<td>10%</td>
</tr>
<tr>
<td>Consumer goods</td>
<td>60/65</td>
<td>70</td>
<td>8%</td>
</tr>
<tr>
<td></td>
<td>1,480/1,485</td>
<td>1,595</td>
<td>7%</td>
</tr>
</tbody>
</table>
The average increase from 1970 to 1971 was thus estimated at not less than 7 per cent.

(e) Other questions relating to imports of Poland from the territories of contracting parties

35. There was no discussion under this heading.

III. Polish balance of payments with contracting parties

36. The Working Party heard an explanation by the representative of Poland concerning the balance-of-payments situation with regard to its relations with the contracting parties. The Working Party noted with satisfaction that it did not seem likely that the present balance-of-payments situation would interfere with the fulfilment of Poland's commitments for 1970 or 1971 under the Protocol of Accession.

B. Establishment of a date for the termination of the transitional period in paragraph 3(a) of the Protocol of Accession of Poland

37. The representative of Poland recalled that his Government had, at the time of its accession to GATT in 1967, accepted that Poland would not immediately be entitled to full most-favoured-nation treatment with regard to quantitative restrictions but at the same time hoped that this problem would be definitively settled in a reasonably short period. It felt, however, that after three years the time had come to fix a date, as foreseen in paragraph 3(c) of the Accession Protocol, for the termination of the transitional period during which contracting parties might maintain discriminatory restrictions on imports from Poland. In the view of the Polish government 31 December 1974 would be a reasonable date which would give the contracting parties concerned sufficient time - four further years - to remove remaining discriminatory restrictions. Several members strongly supported this proposal.

38. The representatives of several countries maintaining such restrictions made it clear that they could not undertake an unconditional obligation to remove all restrictions by 31 December 1974. They would be prepared to eliminate substantially all their discriminatory restrictions by 31 December 1974 but they stressed that any formula containing a fixed date must include a safeguard clause permitting contracting parties to maintain exceptionally beyond that date a limited number of
restrictions. Such hard core cases could, however, be subject to an examination with a view of seeking the possibilities of their elimination, e.g. in connexion with the annual consultations provided for in paragraph 5 of the Protocol for the Accession of Poland.

39. One member of the Working Party said that although his authorities inclined towards the views expressed in the preceding paragraph, he could not at the present stage commit his government to any specific formula.

40. After discussion of various alternative formulae, the representative of Poland and the members of the Working Party whose views are set out in paragraph 38 above, submitted the following text:

"Contracting parties still maintaining quantitative restrictions not consistent with Article XIII of the General Agreement may, notwithstanding the provisions of that Article, continue to apply such restrictions, provided that they shall not increase the discriminatory element in these restrictions, undertake to relax them progressively and shall have as their objective to eliminate them before the end of 1974, that is before the end of the transitional period.

Exceptionally, if at the end of such period, certain of those quantitative restrictions were still maintained for particular reasons of certain countries, they would be the subject of an examination by the Working Party with a view of seeking the possibilities of their elimination."

41. Other members of the Working Party who had supported the proposal in paragraph 37 pointed out that paragraph 3(a) of the Protocol stipulated that at the end of the transitional period any inconsistency with the provisions of Article XIII of the General Agreement should be eliminated. It would therefore not be in conformity with the Protocol to establish a terminal date but at the same time permit contracting parties to maintain certain restrictions beyond that date. Such a decision would in fact mean that the transitional period would be extended indefinitely. They considered that the concerns expressed at the possibility of market disruption caused by imports from Poland would be met by the safeguard
clause in paragraph 4 of the Polish Accession Protocol, particularly in light of the length of the transitional period that was envisaged. However, in view of the statements of several of the countries maintaining discriminatory restrictions that they expected some of these to remain after 1974, these countries were prepared to accept a text acknowledging this situation provided that any such remaining restrictions would be dealt with under the relevant provisions of the GATT, notably Article XXV.

42. The representative of Poland stated that he shared the above views and that such a solution would satisfy completely the Polish government's desire but taking into consideration the existing circumstances and the views expressed by other members of the Working Party, Poland was open for a compromise solution.

43. In view of the divergencies of opinion with regard to the establishment of the date for the termination of the transitional period, the Working Party was not in position to agree on a recommendation to the Council. In the view of some members of the Working Party, the absence of agreement on a date for the complete elimination of any inconsistency with Article XIII meant that the provisions of paragraph 3(c) of the Protocol automatically came into force, i.e. the question of fixing such a date would have to be considered at the next regular annual review.

C. Renegotiation of Schedule LXV - Poland

44. The representative of Poland explained that the aim of his government, when notifying its intention to renegotiate the Polish import commitment contained in paragraph 1 of Schedule LXV, was to transform the annual 7 per cent commitment into a 7 per cent compounded commitment over a longer period. Contracting parties would thus get the insurance of greater stability in their trade with Poland, and at the same time Poland would obtain some flexibility in the carrying out of her commitment. It was suggested that the first period would be of four years and the following of three years each.
45. The Working Party accepted the idea of converting the annual 7 per cent commitment into a compounded commitment over a longer period. It was pointed out, however, that if the first period would be of two years – instead of four years as suggested by Poland – the following periods would coincide with the periods specified in paragraph 1 of Article XXVIII. The representative of Poland said that the proposal was acceptable to his government.

46. One member of the Working Party said that in his opinion it would be reasonable to increase the annual compound increase rate from seven to eight per cent as compensation for the increased flexibility that Poland would obtain if the commitment was established for a longer period. He also pointed out, that the Polish import increases since the entry into force of the Protocol - 6 per cent in 1968, 9.3 per cent in 1969 and 16 per cent in January-August 1970 - seemed to indicate that a percentage somewhat higher than seven would not be difficult for Poland to undertake. He also recalled that the initial selection of 7 per cent had been rather arbitrary. Another member supported the thrust of this proposal in order to avoid a decrease in the Polish commitment, since it would be easier for Poland to have to meet only one overall target rather than three. These members would however, accept a seven per cent compound rate for the first two year period, if the subsequent multiple period year rates were set at 8 per cent compounded. The representative of Poland said that an increase in the base percentage was not acceptable to his government in the present conditions.

47. A member of the Working Party said that, although he was prepared to accept a longer term commitment, he felt that there should also be an annual minimum commitment which should be fixed at a lower level than the average annual increase. He suggested that the annual minimum commitment should be five per cent. The representative of Poland said that such a minimum commitment would seriously jeopardize the flexibility that was the main aim of his government; it was thus not acceptable. He suggested that, if it became apparent in the course of a period that the import increases were below the average, the matter could be taken up in the annual consultations.
48. The same member of the Working Party suggested that the Polish commitment
should contain an undertaking to make up, in the next following period, any
shortfall that might occur in one period. The Polish representative indicated
that this proposal would be acceptable to his government.

49. Some members of the Working Party said that - although the establishment
of the import commitment was not directly related to the elimination of
discriminatory restrictions - it would be difficult for them to agree to any
modification of the commitment until they knew the outcome of the discussions
on the elimination of the restrictions.

50. The representative of Poland submitted the following text of an import
commitment to replace the first paragraph of Schedule LXV - Poland:

"Subject to paragraph 2 below, Poland shall, with effect from
1 January 1971 through 31 December 1972, undertake to increase
the total value of its imports from the territories of contracting
parties by 7 per cent per annum, compounded over the two year
period, i.e., by 14.5 per cent. After that period the compound
annual increase rate of 7 per cent would cover the periods as
envisaged by Article XXVIII."

Most members of the Working Party indicated that they could accept the text
proposed by the representative of Poland.

51. A member of the Working Party proposed the following text for the Polish
import commitment:

"1. Subject to paragraph 2 below, Poland undertakes:

(a) For calendar years 1971 and 1972, to increase the total value
of its imports from the territories of contracting parties by not less
than 7 per cent per annum, compounded over the two year period and by
not less than 5 per cent during 1971;

(b) For calendar years 1973 through 1975, to increase the total
value of its imports from the territories of contracting parties
by not less than 8 per cent per annum compounded over the three
year period, and by not less than 5 per cent per annum in 1973
and 1974;"
(c) In the event the multi-year compounded commitments referred to in paragraphs (a) and (b) above are not met, Poland undertakes to increase its imports from the territories of contracting parties during the next following period, i.e. 1973-75 in the event of a shortfall under paragraph (a) and 1976-1978 in the event of a shortfall under paragraph (b), by the amount of such shortfall in addition to the increase that would have been required had there been no shortfall.

"2. The reference to 'paragraph 1 above' in the first sentence of paragraph 2 of Schedule LXV - Poland is hereby changed to read 'paragraph 1(b) above'."