Unofficial English translation of the explanatory section of SEC(71) 1000

COMMISSION OF THE EUROPEAN COMMUNITIES

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Implementation of the Community's offer on generalized preferences for exports of manufactures and semi-manufactures from the developing countries

A. CHOICE OF DATE OF IMPLEMENTATION OF THE COMMUNITY'S OFFER

4. Degree of finalisation of the Community's offer and questions still to be settled

The considerations of a political nature should not mask the economic problems.

To implement its offer, the Community must first complete the preparation of its full "package", which comprises a highly complex system of checks and balances (see also Chapter B.I below). In February, the Commission thought that all the technical questions outstanding could be settled in time to enable it to submit a full set of proposals to the March 30 meeting of the Council. Two vital questions, which go beyond the bounds of purely technical matters, are still awaiting solution.

The first of these concerns the allocation of tariff quotas among the Member States. The Commission appreciates the special difficulties of each Member State in this connection. However, it notes that the Member States have not all adopted national viewpoints consonant with their collective liberalism. The Commission hopes that a solution can be found which will not endanger the very principle of the customs union and will not be of a nature such as to create difficulties between the Community and the beneficiary countries (see on this subject paragraph B.I.2(h)).

The second question relates to the beneficiary countries. The Member States and the Commission have so far worked, on the administration level, on the assumption that, in a first phase, the beneficiaries would be the member countries of the Group of 77 1/ and the dependent territories of third countries. 2/ It had been agreed that studies would be continued at a later date to solve the problem of the countries that are not members of the Group of 77 (Taiwan, Cuba, Israel) and of the OECD member countries that are candidates for preferential treatment (Spain, Portugal, Turkey, Greece) and Malta. All the preliminary work (calculation of ceilings, lists of sensitive and quasi-sensitive products, treatment of textiles and ECSC products, fixing of different buffer levels, etc.) has been carried out on the basis of this working hypothesis. If the problem of these countries should now have to be settled prior to the entry into force of the Community's offer, the Commission must inform the Council that, from the technical point of view alone, the

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1/ The list of countries making up the Group of 77 is given in Annex VIII.

2/ In the case of dependent territories, the Community's offer does not cover textiles or footwear.

necessary adjustments will be very considerable and will perforce take time. These adjustments affect at least three major points: the calculation of ceilings, the lists of sensitive and quasi-sensitive products, and the fixing of buffer levels.

Because of all these uncertainties, particularly in the time schedule, the Commission suggests to the Council that it should not lay down a binding date but rather adhere to the formula of a target date. This formula is sufficiently flexible to allow the national governments to take steps now to prepare for the implementation of the Community's offer, on the basis of the solutions recommended by the Commission in the present document discussing the various aspects of the scheme.

5. Consultation procedures

European Parliament

In view of the importance of the decisions to be reached, the Commission considers it necessary that the European Parliament be consulted on the draft Regulations to be submitted shortly to the Council 1/.

Associated States

Before the draft Regulations mentioned above are adopted, the Community should complete the consultations with certain Associated States, as envisaged in its offer.

6. Timetable for waiver of the most-favored-nation clause

The donor countries are presently searching for a formula of agreement for initiating, within the framework of GATT, the procedure for waiving the

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1/ cf. resolution of the European Parliament of October 6, 1970, "Journal Officiel" C 129 of October 26, 1970, page 13
(doc. PE 24996 Def)

most-favored-nation clause. The decision of the Contracting Parties will probably be taken before the end of the first half of 1971 (see Chapter B.IV below).

Against this background, a target date for the middle of this year seems reasonable for implementation of the Community's offer.

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On the basis of the above considerations, the Commission suggests to the Council that July 1, 1971 be set as the target date for implementation of the Community's offer. This target date would appear to be the best one both for technical reasons (method of calculating ceilings on the basis of calendar-year statistics; administration of tariff quotas; utilization of buffers, etc.) and for purposes of presentation (the middle of the year represents a balanced interpretation of the concept "as early as possible" while the autumn would represent a less liberal application of this concept).

The definitive date for implementation should be decided by the Council as soon as possible when discussing the draft Regulations which the Commission is to submit shortly.

B. FINAL DRAFTING OF THE TERMS OF THE COMMUNITY'S OFFER, AND PRELIMINARY PROPOSALS BY THE COMMISSION

I. Products covered

Two kinds of preferential treatment will be granted - one applicable to processed agricultural products (BTN Chapters 1-24), the other to industrial manufactures and semi-manufactures (BTN Chapters 25-99).

1. Processed agricultural products (BTN Chapters 1 - 24)

(a) List of products covered, and preferential margin

The Community's preliminary offer drawn up by the Council on March 4, 1969 contained a positive list of processed agricultural products covering 137 tariff headings or sub-headings and representing imports to the value of some US$17 million. For these products, the Community proposed partial preferential treatment consisting of, in some cases, reduction of the fixed element of protection, and, in others, cuts in the rate of customs duty.

This offer was examined and discussed by the Special Committee on Preferences. In September 1970, in response to requests by the developing countries, the Community raised the level of preference for five of the tariff headings included in its preliminary offer and added 13 new tariff headings or sub-headings to the initial list, representing imports to the value of US$13 million.

The positive list of processed agricultural products of the Community's revised offer now consists of 150 tariff headings or sub-headings representing imports to the value of some US$30 million. These products are listed in Annex I.

The preferential treatment granted to the less sensitive products on this list will take the form of a 20% cut in customs duty or a 50% reduction in the fixed element. For certain other products designated as sensitive, the cut in duty will be 10% and the reduction in the fixed element 25%. A few products already subject to low levels of duty will be granted duty-free access. The list in Annex I shows the rate of duty applicable to each product imported into EEC under the preference scheme.

(b) Safeguard clause

In section III of its offer, the Community included a safeguard clause applicable to processed agricultural products. This clause is a necessary one, because, there being no limit on the quantity of these products which may be imported preferentially, it is essential to have the means of protecting the Community's sensitive agricultural sector from serious upset.

The safeguard clause applicable to processed agricultural products is modeled on Article XIX of GATT. It would allow duties to be partially or wholely restored if processed agricultural products covered by the preference offer are imported into the Community in such quantities or at such prices as to cause or threaten serious injury to the Community's producers of like or directly competitive products. However, to avoid such a clause being applied to preferential imports from all beneficiary countries, the Community intends, as it announced to UNCTAD, that the clause may be applied selectively to the country (countries) or territory (territories) causing the injury to its producers.

Regarding the conditions and methods for applying the safeguard clause, the Commission would like to have a procedure whereby it could issue a regulation restoring customs duties at the request of a Member State or on its own initiative. Where such action is requested by a Member State, the Commission would come to a decision within 10 working days of the date of receipt of the request and would inform the Member States of action taken. All Member States would have the right to refer the Commission's action to the Council within 10 working days of this communication. The Council would meet without delay, and could, by a qualified majority, alter or cancel the measures in question.

The Commission also makes clear that none of these arrangements will affect the application of the safeguard clauses provided for by the Rome Treaty, or the safeguard clauses laid down by Article 43 in connection with the common agricultural policy, or those laid down by Article 113 of the Treaty, in connection with the common trade policy.

2. Industrial products (BTN Chapters 25 - 99)

In accordance with Resolution 21 (II) of the second UNCTAD Conference, commodities in Chapters 25 - 99 are not covered by the Community's offer. Nor does the offer cover six processed agricultural products included in BTN Chapters 25 - 99 (see list, Annex II).

The EEC countries have agreed that these industrial commodities shall be defined as those products appearing in the unofficial list made by the UNCTAD Secretariat plus all metals not processed beyond the ingot stage. Those of these products which are subject to duty in the Community - including ECSC products - are listed in Annex III.

(a) General features of the Community's offer on manufactures and semi-manufactures

In its treatment of semi-manufactured and manufactured products (BTN Chapters 25-99) the Community's offer has three features which combine to ensure fundamental equilibrium. These are: the ceiling mechanism, exemption, and the absence of exclusions.

The existence of a ceiling on preferential imports, designed to keep their volume at levels which the markets of EEC countries can absorb, is offset by the fact that access is duty-free and that no manufactures or semi-manufactures are excluded.

(b) Method of calculating ceilings

In its offer, the Community stipulated that the ceilings of the scheme would "normally" be calculated as follows: CIF value of imports from beneficiary countries (base amount) plus 5% of the CIF value of imports from other countries (additional amount). The offer was worded in this way so as to give the Community the option of not using the "normal" method of calculating ceilings in the case of particularly "sensitive" products. 1/

The Commission is of the opinion that this option should be exercised in the following cases:

- for certain textile products: for these products it is proposed that the ceiling should not include any additional amount but only the base amount (value of 1968 imports from beneficiary countries). The textile products to which this provision applies may be easily identified in the lists in Annex VI by the fact that they have no figure in the "additional amount" column.

1/ For certain products, the ceilings will be given in tons.

- plywood and laminated wood products (TDC 44.15): At the request of the Associated African and Malagasy States (EAMA) - cf. EEC/EAMA Council of Association meeting of September 13, 1970 - the Community agreed that when calculating the additional amount for these products it would not take account of imports from the EAMA countries [1] (cf Doc. CEE/EAMA/90/70 (CA 20) of October 12, 1970).
- Tableware (TDC 69.11) and mounted transistors (TDC 85.21), C and E: These two products are highly sensitive because of the inclusion of Hong Kong; the Commission therefore suggests that the additional amount used for calculating their ceilings should be only 1% of imports from non-beneficiary countries.
- Petroleum products (TDC ex 27.10): For these products it is proposed that the ceiling should not include any additional amount because of the high level of imports from certain dependant territories and the fact that these products have been excluded by the main donor countries.

(c) The "buffer"

The Community's offer stipulates that "so as to limit the preferential treatment granted to the most competitive developing country or countries and so as to reserve a substantial share for the less competitive countries, preferential imports of a given product from a single developing country shall not, as a rule, exceed 50% of the ceiling established for that product"*.

1/ EEC imports from EAMA and East Africa (and also Tunisia and Morocco), which already received preferential treatment with no limit on quantity, are not included in the base amount. They are included, however, in calculating the additional amount.

*T.N. Unofficial translation.

This so-called buffer clause was criticized by some developing countries during the UNCTAD consultations. Those countries fear that use of the "buffer", particularly where it is reduced to less than 50%, is liable to prevent imports from attaining the ceiling in cases where there are very few competitive suppliers.

Lowering of the "buffer" below 50% is restricted to exceptional cases.[1/] The products in question are mainly certain textiles, petroleum products, and also a few products which are highly sensitive because of the inclusion of Hong Kong. For this last category, it should be noted that there were two reasons for lowering the "buffer": first, to offset the considerable increase in the ceiling brought about by the inclusion of the Hong Kong figures in the base amounts; and second, to keep the benefits to that colony within reasonable limits. In practice, the "buffers" for the sensitive Hong Kong products should not seriously hamper other beneficiary countries.

(d) Classification of products

On the question of keeping check of preferential imports, work by the Commission and discussions with Member States have led to general agreement on the principle of classifying products in three categories of "sensitivity";

- "Sensitive" products, imports of which will be regulated by the Community's tariff machinery (List A, cf. Annexes IV, VI and VII);
- "Quasi-sensitive" products, imports of which will be checked by "special surveillance" (List B, cf. Annexes V, VI, and VII);

1/ Buffers of less than 50% are indicated opposite each product concerned, in the lists given in Annexes IV, V, VI, VII.

- All other products, to be checked simply by examining import statistics.

(i) Checking methods applicable to each product category

The methods used to keep track of imports of "sensitive" products subject to tariff quotas and "quasi-sensitive" products subject to "special surveillance" will be sufficiently effective to enable the necessary measures to be taken promptly. Other products (those at present not regarded as "sensitive") will be regulated more flexibly and less quickly, given the usual time-lag in obtaining full import statistics.

In the case of products subject to Community tariff quotas, imports will be checked by national administrations, since these quotas will be shared out between Member States; the Commission will be responsible for ensuring that the ceiling and buffer are not exceeded for the Community as a whole.

As for products under "special surveillance" (for which there is no allocation of quotas among Member States), the surveillance machinery will operate on the basis of monthly exchanges of customs statistics and, when ceilings are close to being reached, consultations will be held between Member States and the Commission so that any necessary measures may be taken. These procedures for exchanging information and holding consultations have yet to be finalized, although a large measure of agreement between Member States and the Commission has already emerged as to the administrative cooperation required in this sphere.

(ii) Preparation of lists of sensitive and quasi-sensitive products

The lists of "sensitive" products (products subject to tariff quotas, lists A in Annexes V, VI, and VII) and of "quasi-sensitive" products (products subject to "special surveillance", lists B in Annexes V, VI,

and VII) were drawn up by the Commission with the assistance of experts from Member States. 1/

These lists were drawn up on the basis of the working hypothesis that in the first phase the beneficiaries would be the countries of the Group of 77 and the dependent territories of third countries (excluding, for the latter, textiles and footwear). The value of trade covered by these lists is approximately US$297 million (list A) and approximately US$52 million (list B) out of total imports of manufactures and semi-manufactures from the beneficiary countries in 1968 to the value of approximately US$473 million. The total value of the ceilings (base amount plus additional amount) established for imports of manufactures and semi-manufactures from the beneficiary countries would amount to approximately US$1,030 million.

At the time that lists A and B were being prepared, Member States' delegations unanimously agreed that these lists should not be regarded as final, but were to undergo annual revision whereby products could be withdrawn from the lists or added to them or even transferred from one list to another.

(e) Suspension of preferential tariffs (restoration of most-favored-nation treatment)

Suspension of preferential tariff treatment may apply in two ways:

- to all beneficiary countries when the ceiling for a particular product is attained;

1/ Annexes IV and V give the lists of sensitive and quasi-sensitive products with the exception of textiles. The lists of sensitive and quasi-sensitive textile products appear in Annex VI. Sensitive and quasi-sensitive ECSC products are listed in Annex VII.

- to one or more beneficiary countries whose preferential exports have reached the "buffer" level.

In each case, the preference is suspended for the remainder of the current year, and reinstated at the beginning of the following year.

(i) Products subject to Community tariff quotas

Community tariff quotas for these products will be administered in the same way as the other Community tariff quotas already in force, that is to say, each Member State will take adequate measures to ensure that the shares allocated to it are not exceeded and will respect the other provisions governing the administration of tariff quotas in close cooperation with the Commission.

For the purpose of applying the buffer rule, each Member State should prepare a breakdown according to origin of the quantities drawn on each quota, distinguishing the drawings according to whether they derive from one of the main supplier countries (which will be known in advance) or from the other developing countries taken together. Using monthly records sent in by Member States, the Commission will follow the trends in the origin of the imports and, by agreement with Member States, will call for more frequent records (weekly, for example) when a large proportion (for example, 75%) of the buffer has been reached by one or more developing countries. This will enable the Commission to act promptly to make the necessary information available so that the developing country or countries concerned can be charged customs duty for the remainder of the current year as soon as the buffer is attained.

(ii) Products subject to "special surveillance"

For these products, preferential tariff treatment should not be suspended automatically when the ceiling or buffer is reached. The Commission feels that for products in this category each case should be decided on its merits, and according to the state of the Community market.

To ensure speed and effectiveness, it would be advisable to give the Commission the power of decision in this field. The decisions in question would take the form of regulations to be issued by the Commission after consultations with the Member States.

(iii) Other products

Conditions for suspension of the preference are the same as for products subject to "special surveillance".

(f) Treatment of textiles

The textiles of BTN Chapters 50 - 63 will in principle receive the same treatment as other industrial products. However, two categories are subject to special provisions in the Community's offer:

- cotton products covered by the Long Term Agreement (LTA), and substitution products on the Kennedy Round conditional list.
- jute and coir products.

For textiles other than these two special categories, the beneficiary countries, in accordance with the working hypothesis adopted, will be the Group of 77.[1/] Of the textiles, 15 should be regarded as sensitive, 13 of which will be subject to tariff quotas. In particular, knotted wool carpets, which represented imports to the value of US$72 million in 1966, will be

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1/ The dependent territories do not qualify for Community preferences on textiles.

divided between two tariff quotas according to their texture, and will be allocated different buffers.

In the case of cotton products and equivalent there would be 16 products on list A (tariff quotas) and 17 products on list B (special surveillance).

There is also a strong likelihood that six tariff quotas will later have to be introduced for jute and coir products; thus the total number of sensitive products among the textiles of Chapters 50 - 63 would be as follows:

- 13 miscellaneous textiles + 16 cotton products and equivalent + jute and coir products (probable) = 35 products (or tariff headings) on list A.
- two miscellaneous textiles + cotton products and equivalent = 19 products (or tariff headings) on list B.
- in value of trade, the ceilings for sensitive textiles (lists A and B) (excluding jute and coir) would represent approximately US$120 million out of total imports from the Group of 77 (excluding associates) of approximately US$185 million for Chapters 50 - 63 in 1968.

The difference between these two figures is explained by the fact that for cotton products and equivalent the developing countries which have not signed the Long Term Agreement on Cotton Textiles (in particular, Yugoslavia) do not receive preferential treatment, and that jute and coir products will be governed by special measures. These two categories of products are examined below.

(i) Products covered by the Long-Term Agreement on Cotton Textiles (LTA), and substitution products on the Kennedy Round "conditional list"

The Community's offer on these products is qualified in two ways. It applies only to beneficiary countries which are signatories of the Long-Term Agreement, and it is limited to the duration of that agreement.[1/] However, in its revised offer the Community stated that "preferences may also be granted during the same period, under terms and conditions to be defined bilaterally, to countries benefiting from generalized preferences but which have not signed the LTA if they enter into commitments vis-à-vis the Community similar to those provided by the LTA"*.

Scope of the special regulations applicable to "LTA products"

The Commission feels that the special arrangements governing "LTA products" should not apply only to cotton products but also to certain substitution products, that is, to certain articles made of artificial and synthetic fibers and other textile fibers. The products in question make up all or part of 19 TDC tariff headings. All these products are directly competitive with cotton products and had therefore been included in the "conditional list" during the Kennedy Round negotiations. Hence the Community's offer on these products was contingent on an extension of the Long-Term Agreement.

Inclusion of these substitution products in the special arrangements for "LTA products" probably implies a restrictive interpretation of the Community's offer. But this interpretation is possible in view of the

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1/ The LTA will end on September 30, 1973, unless extended.

*T.N. Unofficial translation.

link which Article 6 of the Long-Term Agreement itself establishes between cotton products and substitution products. In any case, this interpretation seems economically justified. In effect, the link established between cotton products and these 19 substitution products during the Kennedy Round, as a basis for limited partial reductions of customs duties, is all the more valid a reason for complete elimination of duties in favor of the main textile-exporting countries. Moreover, had this link not been established, exporters would be free to include 51% of fibers other than cotton in a given product in order to get round the Community's arrangements for cotton products (containing by definition at least 50% cotton).

Such an interpretation is also acceptable politically. For the Community is virtually the only major donor country to include textiles in its offer. Furthermore, the present international situation in the textile sector has to be borne in mind.

Finalisation of the special arrangements for "LTA products"

Because of the two qualifications to the Community's offer on LTA products only the developing countries of the Group of 77 and signatories of the LTA will automatically benefit from the tariff preference on LTA products (including substitution products, see above), and they will do so only until the end of the Long-Term Agreement. These countries are: Colombia, India, Jamaica, Mexico, Pakistan, South Korea and UAR.

It follows that when establishing the ceilings for these products, the base amount will be calculated with reference to the 1968 imports from these countries alone. As mentioned earlier, in the case of certain

"particularly sensitive" textiles, it was found necessary to depart from the normal calculation of the ceiling by limiting it to the base amount only (imports from beneficiary countries in 1968). As a further exception to the general rule, the "buffer" was set at less than 50% for certain products, because of the large number of suppliers (see para. I.B.2(c) on this point).

Treatment of countries which have not signed the LTA

The Commission does not think it advisable to decide at this stage on the preferences which might be granted on cotton products and the 19 substitution products to beneficiary countries which are not signatories of the LTA, nor on the commitments that these countries should enter into vis-à-vis the Community. In effect, it would seem premature at this juncture to establish how much the overall ceilings applicable to LTA signatories would be raised following the inclusion of any particular non-signatory among the beneficiaries of preferences for LTA products, or what individual ceilings should apply to such new beneficiaries. Before taking these steps, it would be best to find out which countries are interested in these preferences, and obtain a better idea of the extent of the commitments which these countries would be prepared to enter into vis-à-vis the Community. For although these would still be unilateral preferences, their scope would depend on what commitments the countries in question would be prepared to make. It is therefore suggested that, when the generalised preferences come into force, the Community should renew its offer to the countries which are not parties to the LTA and invite them to apply for preferences on LTA products and the 19 substitution products, with a view to starting bilateral talks with the EEC.

In any case, the Commission considers that the "similar commitments" which non-signatories of the LTA would have to enter into vis-à-vis the EEC would need to be no less binding than the measures accepted by the LTA signatories.

(ii) Jute and coir products

In the case of jute and coir products, the Community's offer stipulates that the granting of duty-free access is contingent upon "special measures to be arranged with the exporting developing countries".

The Commission also feels that the "mechta" jute products (fabrics under ex 57.11 and sacks under ex 62.03 B II) should also be included in the special measures provided for in the Community's offer and that talks should be started on this subject with Yugoslavia.

After consulting experts from the Member States, the Commission intends, through the joint Committees set up by the existing Agreements between the Community and the exporting countries, to explore the possibilities of drawing up the special measures in consultation with those countries. It will then submit proposals to the Council.

(g) ECSC products

The problem of the inclusion of manufactured and semi-manufactured ECSC products in the generalized preferences offer has been examined by experts of Member States and of the Commission. The advisability of including these products has been accepted. The introduction of preferences for ECSC products would obviously have to take account of the detailed terms of the ECSC Treaty.

A number of these products have been designated as sensitive or quasi-sensitive and, as such, should be subject to Community tariff quotas or "special surveillance" machinery. These products are listed in Annex VII.

(h) Allocation of Community tariff quotas among the Member States

The general question of the allocation of Community tariff quotas among the Member States has been the subject of in-depth exchanges of views in various quarters. Hitherto, Community tariff quotas already established have been allocated among the Member States on the basis of the figures for past years corrected for the estimates for the quota year in question. In the case of the generalized preferences, during the discussions at administration level between the Member States and the Commission, experts from certain Member States had initially indicated their preference for continuation of this method; it subsequently emerged that an overall allocation formula would work equally well. With the proviso that the terms of application must include a Community reserve, the Commission is agreeable to a solution of this type, which would apply to the Member States an allocation formula based on criteria of a general economic nature (average of the percentages for foreign trade, gross national product and population);

Federal Republic of Germany	:	37.5%
France	:	27.1%
Italy	:	20.3%
Benelux	:	15.1%

It appears that this allocation formula could be accepted by the experts of the Member States only on the assumption that the Community tariff quotas do not include a reserve share. However, these experts have considered that such a system should be applied for a limited period, up to July 1, 1973, without prejudging either way the establishment of a reserve after that date.

The Commission wishes to point out that such a system should include a Community reserve together with provisions similar to those governing this reserve in the case of normal Community tariff quotas. The absence of a reserve would question the existence of the customs union and is likely to give rise to serious difficulties between the Community and the developing countries. For the normal Community tariff quotas, founded on a system of allocation based on past figures, such a reserve has already proved generally indispensable. A fortiori, the same should apply to a means of allocation based on an overall formula. The absence of a reserve share raises questions as to equality of access to the Community for all importers and the uniform nature of the common customs tariff and threatens to sterilize some of the quota allocations.

The existence of quantitative restrictions in certain Member States could in some cases lead to sterilization of a part of the quota allocated to those Member States for certain products subject to quantitative restrictions, and could encourage those Member States to increase the number of their requests under Article 115. To avoid such situations, which are hardly compatible with the customs union and the commitments entered into vis-à-vis UNCTAD, Member States' quantitative quotas should be enlarged where necessary to bring them into line with the quota shares allocated to them, on the basis of the ceilings, buffer and allocation formula to which they have subscribed.

(i) Coexistence of existing tariff quotas for semi-manufactures and manufactures and the tariff quotas to be established under the generalized preferences

As regards the problems raised by the coexistence of, on the one hand, Community tariff quotas for semi-manufactures and manufactures established

primarily to favor exports from certain developing countries following the Kennedy Round (handicrafts and certain fabrics woven on hand looms) and, on the other, the quotas to be established under the generalized preferences scheme, the Commission considers that the quotas in question should in due course be absorbed into the Community system of generalized preferences. Such an absorption should, nonetheless, safeguard equivalent advantages to countries which can at present benefit from the Kennedy Round quotas, through appropriate adjustments to the ceilings and buffers to be established for the products in the corresponding tariff headings.

The Commission might have occasion to submit a proposal to the Council on this subject at a later date.

(j) The question of abnormally low prices

The problems posed by abnormally low prices for certain products from certain developing countries have been examined by experts from the Member States and the Commission. It was found that the Community market for certain products displayed extreme sensitivity to the very low prices applied by certain third-country suppliers (10 to 30% below the prices of other suppliers).

In cases where the difficult situation for industry is due to dumping or bonuses or subsidies granted by the exporting countries, Council Regulation 459/6* 1/ concerning protection against dumping, bonus or subsidy practices on the part of third countries allows the setting up of the necessary commercial protection measures. Implementation of the procedure envisaged in

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*T.N. Last figure not clear on photostat.

1/ For ECSC products cf. Article 74, paragraphs 1 and 2 of the ECSC Treaty.

that Regulation is contingent on a complaint being submitted by the industry affected. It should also be noted that the Regulation in question provides every opportunity for quick action; in cases of emergency, temporary measures can be taken within 5 working days.

In any event, the Commission feels that the problem of abnormally low prices cannot present any obstacle to the implementation of generalized preferences. Moreover, the granting of these preferences is not an irrevocable commitment, and there is nothing to prevent their being later withdrawn in whole or in part (see on this subject Chapter B.III).

II. RULES OF ORIGIN

1. Introduction of the generalized system of tariff preferences requires the establishment of precise rules defining the conditions that goods imported from the developing countries must meet in order to be recognized as originating in those countries and thus qualify for the preferential system.

The importance of this question of the origin of goods was stressed at Geneva as early as 1967, and has been studied at three levels:

- In the Community, the six Member States have agreed to the principle of adopting the rules of origin applied in trade with the Associated African and Malagasy States (EAMA) - with such modifications as may be necessary - and resolved to defend this system vis-à-vis the other donor countries and the beneficiary countries;
- Within UNCTAD, an ad hoc group of experts was commissioned by the Special Committee on Preferences to endeavour to draw up a uniform set of rules on origin, a condition which the beneficiary countries consider essential for proper functioning of the general system of preferences;
- In OECD, the donor countries have through a group of experts set up by the Trade Committee, sought to find an area of agreement on what system for determining origin should be proposed to the developing countries.

The work done both in Geneva and in Paris has not produced a single set of rules meeting with the approval of all the countries concerned. Particularly as regards the criteria to be applied for the acquiring of origin by processed products whose manufacture has involved several countries, it has

not been possible to decide between the criterion of specific processing - the basis of the EAMA rules - and the criterion of value added, which is defended by the North American countries and has long been favored by the EFTA countries.

Nevertheless, unanimous agreement was reached within the UNCTAD ad hoc group on the adoption of "standardized texts" on various matters such as the definition of products obtained entirely in one country, the list of "minimal" operations, i.e. those which cannot confer origin, the condition of direct shipment of the goods, and the general machinery for justification and checking of origin. A standard certificate of origin form has also been devised.

Furthermore, except for the United States, Canada and New Zealand, the donor countries within OECD have finally come round to the Community's position and have agreed to apply the EAMA rules, with the necessary adjustments. These adjustments are presently being examined by an informal group of experts representing the 15 countries concerned.

2. Generally speaking, the rules on origin to be drawn up by the department of the Commission, in collaboration with experts from the Member States, will be modelled on the rules governing trade with the EAMA countries, duly amended to take account of the special features of the preferential system in question. A number of changes will also be made on the basis of the "standardized texts" adopted at Geneva, but these will not appreciably alter the general working of the system. Finally, a number of adjustments designed to expand or supplement the EAMA rules will be taken into account, in order to adapt them to the new context within which they are to be applied.

The work has advanced sufficiently to warrant the assumption that the full set of rules of origin will be completed shortly. For all that remains to be done is to give legal force to some purely technical rules, the substance of which has already been largely decided. What is more, these rules are essentially provisions for applying the system of preferences.

Consequently, to ensure that the rules of origin enter into force at the proper time, the Commission considers that a simplified procedure should be provided for their adoption, in the form of an appropriate provision in the draft Regulations which it is to submit to the Council regarding the introduction of generalized preferences. The most appropriate procedure in this context is that laid down in Article 14, paragraphs 2 and 3, of Council Regulation (EEC) No. 802/68 of June 27, 1968, regarding the common definition of the concept or origin of goods.

This procedure will have the further advantage of facilitating the adoption of amendments or additions to the rules which experience may show to be necessary following the entry into force of the preferential system.

III. THE GENERAL CONDITIONS THAT SHOULD GOVERN THE COMMUNITY'S OFFER

1. Declaration by the donor countries regarding the legal status of the tariff preferences

In the "joint conclusions" adopted by the UNCTAD Special Committee on Preferences, it is emphasized that the legal status of the tariff preferences to be granted by each of the donor countries (including the EEC) individually to the beneficiary countries will be governed in particular by the following considerations:

- the tariff preferences will be temporary in nature;
- the granting of these preferences will not constitute a mandatory commitment and, in particular, will in no way preclude:
  - their withdrawal in whole or in part; or
  - subsequent reduction in the customs duties granted on the basis of most-favored-nation treatment either unilaterally or as the outcome of international tariff negotiations.

2. Reservations regarding the Community's offer

(a) Reservation regarding sharing of the cost among donor countries

The Community's revised offer presented to UNCTAD was accompanied by a reservation to the effect that it had been drawn up on the assumption that all the major industrialized countries that are members of OECD would join in the preferences and would make comparable efforts in that respect.

This general reservation must be upheld.

While so far it would appear that on the basis of the revised offers the main donor countries are on the whole sharing the burden of the scheme

equitably, this equilibrium could be upset during the final drafting or the revision of these offers. Considerable time-lags between the dates of implementation of the various offers could also lead to imbalance.

In the case of products covered by the generalized preferences, it would in particular appear that the final drafting of certain other main donor countries' offers will not improve the present situation regarding products excluded from their revised offers. The Community might thus be confronted with difficulties with such products. Consequently, it would be desirable to take the precaution of making the Community's offer subject to an additional safeguard providing for possible modification of the offer for products not included in the offers made by the other main donor countries.

(b) Reservation regarding consultations with countries associated with the Community

The Community's revised offer was accompanied by a note to the effect that the offer was being submitted without prejudice to any amendments that might be made following the consultations that the EEC, in accordance with its association agreements, is obligated to conduct with certain of the countries associated with it.

A number of amendments have been made to the Community's offer following consultations with the EAMA countries.

It has also been recognized within UNCTAD that countries enjoying special preferences should not, by reason of the sharing of such special preferences, suffer injury as a result of the institution of generalized preferences. Pursuant to the discussions in the EEC/EAMA Council of Association meeting of September 30, 1970, the Community made a statement to the UNCTAD Special

Committee on Preferences to the effect that the EEC would reserve the right to take any necessary steps within its own system to remedy any harmful effects that application of generalized preferences might have for the countries associated with the Community.

Consequently, the Community's offer should be subject to this reservation, which will replace the reservation regarding consultations with the associated States, which consultations must necessarily be completed before the Community's offer can enter into force.

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In the light of the above, the Commission proposes that the Council should resolve that the notification to the beneficiary countries of the Community's offer should be accompanied by the following reservations:

"The European Economic Community wishes to confirm that the measures it has decreed within the framework of its offer regarding generalized tariff preferences have been drawn up on the assumption that all the major industrialized countries that are members of OECD will participate in the preferences and will make comparable efforts in that respect. In particular, the Community reserves the right to amend its offer for products not included in the offers of the other major donor countries in the event of industries in the Community being faced with serious difficulties."

"In order to avoid any serious losses to the countries associated with the Community as a result of the introduction of generalized

preferences, the Community reserves the right, within the framework of its system of generalized preferences, to take such steps as may be necessary to remedy any unfavorable situation that may be found to exist."*

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* T.N. Unofficial translation.

IV. WAIVER OF THE MOST-FAVORED-NATION CLAUSE

On the question of legal status, the Special Committee on Preferences recognizes in the "joint conclusions" that none of the countries proposes to invoke its right to most-favored-nation treatment in order to obtain, in whole or in part, the preferential treatment granted to the developing countries under Resolution 21 (II) of the Conference, and that the Contracting Parties to the General Agreement on Tariffs and Trade intend to seek the necessary waiver or waivers as soon as possible.

1. Waiver within the framework of GATT

The implementation of the preferences will require a decision by the Contracting Parties, acting collectively, authorizing a waiver of the provisions of Article I of the General Agreement (principle of non-discrimination). At this stage the donor countries are thinking along the lines of a decision under Article XXV permitting a ten-year waiver of the provisions of Article I - "inasmuch as is necessary to enable the developed Contracting Parties to grant preferential tariff treatment to products originating in developing countries and territories .... without granting the said treatment to similar products originating in other Contracting Parties".*

In addition, this authorized waiver would be general and collective in nature, applicable de jure to any country introducing a system of generalized preferences.

It is impossible to forecast when the Contracting Parties will arrive at their decision. However, it has been agreed to endeavor to bring about

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*T.N. Unofficial translation.

such a decision as quickly as possible. It would seem necessary to ensure that the delay does not extend beyond the first half of 1971.

2. Renunciation of most-favored-nation treatment by third countries which are not members of GATT

In the case of third countries which are not members of GATT, the legal validity of the declaration included in the "joint conclusions" might be contested. For the renunciation of rights, international law requires a stricter wording. The question thus arises as to whether the Community - together with the other donor countries - should endeavor to obtain, prior to the implementation of the generalized preferences, declarations from all third countries which are neither beneficiaries nor members of GATT, to the effect that those countries expressly and clearly renounce most-favored-nation treatment. This question is at present being studied by the donor countries within OECD, and the Commission might submit proposals on it to the Council.

CONCLUSIONS

The implementation of the Community's offer of generalized preferences may be considered as the start of a more deliberate Community policy towards the Third World as a whole. The scheme represents the practical outcome of an essential part of this policy, which has now become a matter of urgency in view of the future prospects of economic and monetary union, the wider responsibilities that an expanding Community should assume and the need to ensure the success of the Second Development Decade. This policy - which the Commission will submit in outline to the Council shortly - should reflect one of the underlying goals of the Community, viz, the systematic endeavor to share the world's resources more equitably and in a way that is more in keeping with the times. The actions that the EEC has taken up till now in the field of generalized preferences have been well received by the developing countries, which place great faith in the Community. The Commission feels that we must respond to this faith particularly by maintaining the liberal nature of the Community's offer in the final drafting of its terms. The Commission is confident that the Council shares this view. Admittedly, implementation of the offer will involve sacrifices for the Community. But in the final analysis these sacrifices will prove quite bearable, because of a whole system of machinery which will, among other things, keep them within realistic limits and ensure the overall equilibrium of marking the Community's offer.

However, these generalized preferences granted by the developed countries should certainly not be regarded as a solution to all the problems of development. The success of this entire operation depends,

particularly for the least advanced of the beneficiary countries, on efforts in other fields being maintained and even intensified. In particular, it must be recognized that many of the developing countries cannot stimulate their industrialization and their exports without an accompanying effort in the form of financial and technical assistance from the developed countries.

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In short, the Commission invites the Council to decide on:

1. July 1, 1971 as the target date for the entry into force of the Community's offer, without prejudice to subsequent setting of the definitive date (Chapter A)
2. The solutions envisaged for the following questions:
   - the products covered (Chapter B I);
   - the general conditions which should govern the offer (Chapter B III);
3. The list of beneficiary countries (Chapter A 4).

For its part, the Commission will as soon as possible submit draft regulations for the implementation of the Community's offer on generalized preferences.