

TRANS- ATLANTIC TRADE

GIAN PAOLO
CASADIO



An authoritative study of international trade covering the period from the introduction of the Trade Expansion Act 1962 through the various phases of the Kennedy Round up to the current resurgence of neo-protectionism and the impending 'Nixon Round' of negotiations scheduled for late 1973. Professor Casadio, a leading authority in this field, gives a complete analysis of the principal problems involved in constructing an equitable world trade policy. The author outlines various special requirements of each participating country in the Kennedy Round of negotiations: the attempt to harmonise tariffs, the special cases of agricultural markets, East-West trade, the Third World, European interests and the emergence of neo-protectionism.

He concludes with an account of the reappraisal of trade relations now being undertaken and the hints of a more favourable attitude on the part of the USA, while emphasising the troubled background overshadowing such developments. Prominent amongst these problems he places the world slow-down in economic growth, increased inflation, disputes over international monetary policy, and concern with mounting US balance of payments deficit which has resulted in the recent readjustment of the dollar value which is here fully discussed. Professor Casadio's study constitutes an important contribution to the clearer understanding of the realities as well as the legalities of international trade exchanges.

The original Italian edition of this study was commissioned and published by the Istituto Affari Internazionale in Rome.

£4.50
Net UK only

TRANSATLANTIC TRADE

USA-EEC CONFRONTATION IN THE GATT NEGOTIATIONS

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Transatlantic Trade USA-EEC Confrontation in the GATT Negotiations

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Translated from the Italian

by

JOHN CUTHBERT-BROWN

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Published by

SAXON HOUSE, D. C. Heath Ltd.

Westmead, Farnborough, Hants, England

Jointly with

LEXINGTON BOOKS, D. C. Heath & Co.

Lexington Mass. U.S.A.

First published in Italian as

Commercio attraverso l'Atlantico:

dal Kennedy Round al neoprotezionismo

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ISBN 034701001 3

LC No. 73-3728

Printed in The Netherlands by D. Reidel Book Manufacturers, Dordrecht

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Foreword

No more timely moment could have been chosen to publish this study. If there is one thing that the stresses and strains in the international economic system have shown it is that there is a close link between international monetary and international commercial relations. Neither can work satisfactorily without the other. Professor Casadio reminds us of the painstaking effort, the detail and the many examples of good-will which, exercised by hundreds of negotiators and diplomats over many years, led to the successful conclusion of the Kennedy Round in 1967. It is fascinating, in retrospect, to discover the fine needle-work that went into weaving this intricate tapestry: the battle of wills over exception lists, rectification lists, and withdrawal lists in the course of which each country agreed to make the essential sacrifice in order not to imperil the whole; the protracted negotiations leading to the adoption of the Anti-Dumping Code; the seemingly insoluble brain-twisters presented by the sensitive sectors, which miraculously provided the final balancing items: the attempts to make progress on East-West trade and agriculture – and many others.

Such efforts are not to be thrown away lightly. Professor Casadio has rendered an invaluable service in drawing our attention to the importance of commercial negotiations.

But the reciprocal multilateral trading system is not just a feature of the 1960s. It is a continuation of a hundred years' evolution towards a pattern of rational and harmonious behaviour between countries in their trade relations. Much of this fell into oblivion in the dismal decades of the inter-war period, but sufficient knowledge survived these dark years to be re-embodied in the GATT.

The size, direction and value of world trade have since altered beyond recognition, and new problems, such as those of regionalism, of ageing industries, of non-tariff barriers, and of economic development, have been added to the sphere of international commercial diplomacy. Be it for storing this wisdom if one wants to be pessimistic, or be it for using it if one wants to be optimistic, for those who make or influence commercial policy this record will prove invaluable.

Commercial policy has traditionally been a subject for professionals, but the importance of the integration issue in Europe, the rapid growth of Japanese imports in some sectors and the drama of phrases like 'trade war' or 'trade conflict' have forcibly impressed upon the general public the vital nature of trade relations between countries, not only in achieving economic

welfare but also guaranteeing stable political relationships. While British readers have been more privileged than those in Continental Europe, the Continental European tradition has been more one of protectionism than one of free trade. It is therefore particularly interesting to note that the younger generation of European scholars are now turning their attention to problems of world-wide trade co-operation and are analysing the problems from their point of view. It is also interesting to note that the conclusions reached by a scholar like Professor Casadio, examining trade problems from a European view-point, differ in no way from those reached by his American and British colleagues – namely, that an outward-looking, equitable, and constructive world trade order is essential to the economic and political survival of the western democracies.

Gerard Curzon
Graduate Institute of International Studies
University of Geneva
March 1973

Preface

To-day, more than ever, international trade is a principal driving force of economic activity. Industrialized nations have now pledged themselves to embark on negotiations of a scope much wider than ever before attempted.

OLIVIER LONG

The underlying source of much of the strain in transatlantic relationships is the uncertainty and confusion on both sides of the Atlantic about the kind of international system we are trying to build.

MIRIAM CAMPS

As J. Bhagwati says, 'Dynamic propositions are still unknown in the pure theory of international trade. All we find there are: (a) "static" propositions which describe the properties of equilibrium in a particular situation; and (b) the propositions of "comparative statistics" which relate to the differences in configurations of equilibrium in two different situations'. And if there exists today a current of thought of which the exponents (Johnson, Corden, Black, Streeten, Vernon) seek to adapt the traditional theory to the tasks of economic expansion it is also true that the transformations in international trade require that pure theory is flanked by a strategic theory capable of explaining the economic organisation of the world starting out from the observation of reality. This is the direction in which the present survey is designed to make a contribution covering the period from the introduction of the Trade Expansion Act in 1962 to the various phases of the Kennedy Round until the spreading of protectionist tendencies and the preparation of the Nixon Round. A contribution of this nature seems to us all the more useful when it is considered that the problems relating to GATT have almost invariably been considered from the legal point of view disregarding the fundamental economic aspects.

The plan of the work comprises eleven relatively independent chapters giving the reader a complete analysis of the principal problems under discussion. The notes at the end should also satisfy the principal bibliographical requirements. My thanks are due in particular to Professor G. Curzon of the Graduate Institute of International Studies in Geneva who, being an authority in this field, kindly agreed to write the foreword; to Professor N. Andreatta, the Director of the Institute of Economics at the University of Bologna, who always encouraged me to complete this work; to the Institute of International

Affairs in Rome which has partly financed the research; and to R. Aliboni, the Secretary General of the Institute of International Affairs, who went through the manuscript with the closest attention. Essential assistance was also provided by Th. Heijzen, the Deputy Director General of the Directorate of External Relations of the Commission of the European Communities; L. C. Krauthoff of the Office of the Special Representative for Trade Negotiations of the USA; V. Vrancaviglia of the Italian Ministry of Foreign Trade; R. Savary, the Secretary General of the International Federation of Agricultural Producers; S. D'Amico of the FAO; A. Simantov and R. Viatte of the OECD; H. C. Farnsworth of Stanford University; A. Salvatori of Montedison; K. A. Hochschwender of the American Hoechst Corporation; and J. B. Boyd of Imperial Chemical Industries. Finally, I have to thank, in addition to the various officials of the GATT secretariat (in particular Peter Williams), the Ambassador G. Smoquina, head of the Italian Mission in Geneva, Minister M. Bucci of the Italian Ministry of Foreign Affairs and Minister E. Bettini, head of the Italian Mission to NATO. Needless to say, any omissions or inaccuracies that may have occurred in the work are due entirely to the author.

G.P.C.
Institute of Economics,
University of Bologna,
February 1973

1 The Most Important Trade Negotiations in History

The emergence of GATT

The General Agreement on Tariffs and Trade (GATT) came about, as Gerard Curzon said, as the result of a historical accident.¹ In November 1947 the Economic and Social Council of the United Nations called a meeting in Havana, at America's instigation, to draw up a charter which was to regulate international trade on a new and original basis and which provided at the same time for the creation of the International Trade Organisation (ITO). A text for the Havana Charter was duly prepared but it was never promulgated for want of ratification by the US Congress, which was apprehensive about the extent of the regulations it contained. And out of the ashes GATT was born. In fact, while the Havana Charter was already giving rise to serious misgivings twenty three countries assembled at the Geneva Conference of October 1947 worked out the General Agreement on Tariffs and Trade. This General Agreement, signed on 30 October 1947, came into force on 1 January 1948, and as it had not been ratified by the signatory powers it was applied in relation to them under the Protocol of Provisional Application. In 1948, therefore, everything suggested that GATT, in view of its provisional and uncertain nature and the fact that it had not been ratified by the countries concerned and was poorly constructed, was doomed before long, if not to extinction, to inaction and impotence. This, however, did not happen. On the contrary it has turned out to be 'the international institution which, with the most agile administrative apparatus, has produced the best results'.² In fact the GATT organisation, which now involves 81 contracting parties and 15 associated countries, embraces over 80 per cent of world trade, and has become the natural centre for periodical negotiations aimed at lowering, on a multilateral basis, the barriers obstructing free trade. All the major conferences concerning tariffs and customs barriers since the end of the last war have been held under its auspices, that is to say those held in Geneva in 1947, Annecy in 1949, Torquay in 1950/51, and Geneva in 1956, 1960/62 and again in 1964/67, when the Kennedy Round, the most important of the tariff negotiations came to fruition. The success of GATT is to be ascribed to the fact that this organisation – at one and the same time an agreement and an international tribunal in the commercial field – has emerged as the central and indispensable instrument for the development and reinforcement of

international free trade, to the point that 'if it did not exist it would be necessary to invent it'.³ In fact, on questions as important and politically sensitive as trade, countries need to be guided by common principles, by a 'code of good conduct' and by a series of well-defined procedures. For this purpose GATT provides a complex of rules and procedures relating primarily to:

1 Non-discrimination between the contracting parties; the most-favoured nation clause forms the basis of the commercial system of GATT; exceptions to this fundamental principle are accepted however in the case of the 'colonial' preferences existing when GATT was signed; generalised tariff preferences in favour of less-developed countries (for a period of ten years); preferences relating to sixteen emergent countries which signed a trade agreement on 25 February 1972 (for a period of five years, subject to renewal).

2 The principle that, when protection is necessary, recourse will be had solely to customs duties and not to quotas; tariff protection is in fact the simplest method of protection and the easiest one to administer, and the best way of guaranteeing non-discrimination to a commercial partner; where there are barriers of a non-tariff nature these must be modified or eliminated as quickly as possible; the only exceptions allowed are such as can be justified on the basis of obvious and serious disequilibria in the balance of payments or in special cases, such as economic development or the existence of anomalous situations of a transitory nature.

3 The principle of consultation and compromise, GATT having the necessary mechanisms for consulting the contracting parties on potential commercial problems and settling trade disputes in a mutually satisfactory manner; trade wars are thus ruled out since any conflicts of interest are settled by discussion.

4 The principle of promoting free trade by negotiations based on reciprocity and the multilateral system.⁴

GATT on the other hand has not only contributed to easing the flow of trade but has also made it more difficult to introduce new trade restrictions. In fact, a concession negotiated within the framework of GATT is considerably more difficult to retract than a concession granted in the classic form of a bilateral agreement. Today, in fact, thanks to the existence and the authority of GATT, it is no longer open to the contracting parties to adopt unilateral tariff measures and so to withdraw concessions granted without adopting a complex procedure entailing the provision of compensation for the countries affected.⁵

Towards a new style of negotiation

On the technical plane the traditional method of negotiation employed in

GATT consisted, for each contracting party, in negotiating each concession with the country that formed its principal supplier of the product in question. The concession granted by a contracting party was extended automatically to all the other parties under the most-favoured nation clause. The negotiations were thus conducted product by product. But this method proved to be increasingly unsatisfactory. And since the conference at Torquay it had become clear that various industrialised countries⁶ whose tariffs were originally lower than those of other countries were finding it difficult to effect tariff reductions beyond a certain point. It became evident in fact that a particular rate of tariff reduction would have a different effect according to whether it was applied to a high tariff or a low one. And so arose the problem of tariff disparities, that is to say the problem of disequilibrium in the tariff structures of the contracting parties.

The negotiations of 1960/62 (Dillon Round) were a first turning point in the methods of negotiation. The negotiations depended in fact on two essential premises: the power conferred on the executive authority in the USA by the law of 1958 to negotiate reductions of up to 20 per cent, and the EEC proposal to negotiate the reduction of 20 per cent which was calculated on the basis of the harmonisation of the national tariffs with the common external tariff. The community also proposed setting about the reduction of 20 per cent according to a linear method, but this proposal was only accepted by the United Kingdom, while the other contracting parties adhered to the method of negotiation product by product. The Dillon Round, however, put forward a compromise solution, partly negotiated product by product and partly by the linear method, which on this occasion had its first trial. The results of the Round, however, proved on the whole to be deceptive. Because of the disequilibrium between the tariff structures of the various countries the low tariff countries did not in fact derive from the tariff neutralisation policy such advantages for the products involved in their export trade as would ensure reciprocity.

It was found, however, that the method of negotiation product by product on the basis of the position of the principal supplier had outlived its real purpose. This method in part slowed down the negotiations to the point of paralysis; and on the other hand, confronted by the problem of the disparities, it finished up by side-stepping them, with the ultimate result that the concessions were confined to the tariff positions that offered the least resistance and that were therefore of least interest.

It was consequently recognised that new negotiations should be based on the principle of equal linear reductions, the reduction that is of all the tariffs by a uniform percentage. But the application of this principle carried the implication for GATT that the problem of the disparities had been faced and solved. If in fact at the negotiations product by product the problem of

the disparities could be side-stepped, though at the cost of a considerable reduction in the scope of the negotiations, under the equal linear procedure it proved insuperable. It was obvious in fact that if the equal linear reductions were to ensure reciprocity they would have to be combined with a procedure for the harmonisation of the tariffs. Otherwise the problem of the disequilibrium between the tariff systems would have ended by paralysing the method of linear reduction as well, since to evade the problem of tariff disparities would have led inevitably to extending the list of exceptions.

On the other hand it became increasingly urgent at new negotiations to take some action in the agricultural sector, in which the efforts at liberalisation undertaken in GATT had proved to be ineffectual. In fact, in the vast majority of countries agricultural products are excluded from the laws of the market because of state intervention in support of agricultural prices. For this reason, until the commencement of the Kennedy Round, trade in agricultural products had not been the subject of negotiations inspired by the notion of free trade. Another sector in which it was necessary to achieve some progress was that of administrative and technical regulations, that is to say of non-tariff barriers. In fact, apart from a few restrained cases to order, GATT had never taken any real steps in this direction up to the time of the negotiations for the Kennedy Round. Furthermore, certain national legislation manifestly at variance with the General Agreement, even though preceding its signature, continued to be applied. This was true in particular of the American practice as regards the American Selling Price (ASP) and anti-dumping practices in Canada and the USA. As far as trade relations between the industrial countries and countries in course of development were concerned, the rules of free trade as codified by GATT proved to be increasingly unsuited to the needs and aspirations of the third world. The emergent countries regularly abstained from participation in the GATT tariff negotiations and persistently sought the benefit in the markets of the industrialised countries of favoured treatment for their exports of manufactured and semi-finished goods – that is to say of a system of generalised non-reciprocal and non-discriminatory preferences – treatment which, however, the most-favoured nation clause did not permit. The amendments introduced in the General Agreement in the form of three supplementary articles, the so-called Part IV, represented a measure of great legal importance to GATT; by this means the developing countries were exempted from the reciprocity requirement of the tariff negotiations. But in practice the action by GATT did not succeed in the least in solving the basic problems of the third world.

Finally, it was obvious to everyone that the liberal rules of the GATT charter and the efforts to reduce tariffs made under it could not be applied in relation to countries with planned economies whose trade is controlled by state negotiations and in which tariffs play only a revenue rôle. The complex

of trade relations between industrialised countries in the Western world and countries in the East had not yet been studied and dealt with by GATT, while the commercial stimuli produced by the spirit of peaceful coexistence called at new negotiations for an initiative aimed at a revival of trade between East and West.

Not all of these considerable imperfections of a legal and institutional nature were wholly attributable to those who drafted the General Agreement. In 1947 the main preoccupation was the necessity for re-establishing a liberal economic régime in the aftermath of the suffocating *dirigisme* of the period of international economic crisis and the war period. But by the close of the Dillon Round in 1962 the international and political realities had changed profoundly. In 1947, when the General Agreement was signed, it was a question of re-establishing the trade relations existing in the period preceding the world crisis of 1929. In 1962, on the other hand, it was necessary to take account of the new elements that were emerging in the economic organisation of the world, and in particular to consider closely the creation of economic blocs of a regional character, such as the EEC, and the acquisition of independence by the greater number of developing countries. It was consequently all the more urgent in these circumstances to undertake new commercial negotiations extending beyond the confines of tariff reductions.⁷

The Trade Expansion Act

Before opening these new trade negotiations it would without any doubt have been preferable to await the completion of the customs union between the six countries of the EEC, since the common viewpoint of the six would then have been easier to define. But the American government, thanks to the far-sighted action of President Kennedy, succeeded on 11 October 1962 in getting Congress to accept the Trade Expansion Act, that is to say the law for the expansion of trade which Kennedy himself described as ‘the most important international piece of legislation affecting economics since the passage of the Marshall Plan’.

The Trade Expansion Act of 1962 was not in fact concerned simply with extending the commercial legislation of 1934 – legislation of fundamental importance authorising the President of the USA to conclude international trade agreements – as had often occurred in the past, but was intended to a large extent to replace it.⁸ The objectives of the Trade Expansion Act were wide enough to extend beyond the restricted horizons of previous commercial legislation and at the same time to make for a true and real New Deal in American commercial policy. Kennedy himself pointed out that the spirit

and the procedures of the Law of 1934 no longer suited either the circumstances or the problems to be faced. Trade negotiations could no longer be conducted on the basis of tariff reductions product by product and commercial machinery must be adapted to the new structures of world trade. He therefore proposed an initiative which would make it possible to link the economic potentials of the USA and the EEC. It was not a question of the unilateral reduction of customs barriers, but of a combined effort from the two sides of the Atlantic, intended to favour not only the exporters in the countries concerned but also the economies of all the countries of the free world. Under the guidance of the two big common markets of the Atlantic, customs barriers in all the industrial nations should have been abolished. It is in the light of this global prospect embodying the idea of economic cooperation on a parity basis under the banner of international responsibility that all the initiatives of the Kennedy administration in the matter of economic relations with Europe are to be viewed. Also springing from this overall strategic vision were the heavy pressures exercised by the USA on the Macmillan government for United Kingdom adhesion to the EEC, the attempt at a review of defence policy in the West, and finally the proposal for the big trade negotiations which were to take the name of the Kennedy Round from the same American President.

The Trade Expansion Act authorised the President to conclude commercial agreements with foreign countries and to amend the restrictions on imports in the form of tariffs or counter-tariffs for a period of five years, that is to say until 30 June 1967. In particular, authorising the President to reduce by 50 per cent the customs duties in force on 1 July 1962 made it possible for the first time to effect equal linear reductions in the tariffs, which represented a radical innovation in relation to the traditional practices of negotiation product by product. This general authority was extended nevertheless. In the case of an agreement with the EEC the President was in fact empowered to negotiate a reduction of up to 100 per cent in customs duties:

- 1 On industrial products the trade in which between the USA and the EEC represented altogether at least 80 per cent of the total value of world trade, the Communist countries excluded.
- 2 On agricultural products when the conditions of the agreement with the EEC were such as to favour the maintenance and expansion of American agricultural exports.
- 3 On tropical products, on condition that the EEC for its part had ensured for these products access to its own markets comparable to the access they enjoyed in the US market. The President was authorised, moreover, to negotiate the abolition of the tariffs on those products on which the initial duty was less than 5 per cent.

Another fundamental innovation of the Trade Expansion Act concerned the operation of protective measures under escape clauses,⁹ the abandonment of the practice of 'peril points'¹⁰ and the formulation of new machinery for assistance to sectors that might be affected by tariff disarmament. Under the Trade Expansion Act an American company, instead of having to establish that the damage sustained by it in consequence of an increase in US imports was an almost automatic result of the tariff concessions negotiated by the President, had to prove that the damage was largely attributable to the tariff concessions and that the increase in imports was the principal factor in determining the damage, whereas in the previous legislation it was enough to prove that the imports contributed substantially to causing the damage.

The protectionist use of peril points was completely abandoned, since it was realised that no objective method existed for determining their critical level and because the existence of such points hampered the American negotiators. In this way, under the Trade Expansion Act, instead of having to lay down specific rates for thousands of products below which it was considered that any tariff reductions would cause losses for American industry, the Tariff Commission had the task of supplying the President in advance with the elements necessary for establishing what would be the probable economic effects of the proposed reductions. These innovations were agreed to by Congress because the Trade Expansion Act provided for new methods of protection in the form of 'adjustment assistance', aimed at assisting in various ways the adaptation of undertakings and their workers to the new competitive conditions brought about by the consequences of the tariff reductions. Thus it was that protective practices which were scarcely objective (and which were opposed and criticised at international level because in the event of sudden losses by industry the US Government could reinstate the duties and quotas) were replaced by an entirely new practice which favoured the conclusion of international trade agreements.

The minor importance attributed to the escape clause did not however imply that it was totally ineffective. The Trade Expansion Act in fact authorised the President to conclude agreements referred to as 'orderly marketing agreements' in respect of those products the importation of which represented a threat to American industry, and up to the limits at which the establishment of such agreements seemed preferable to an increase in customs duties or other restrictions. Furthermore, under a series of completely new measures, the Trade Expansion Act provided for the possibility of withdrawing the concessions granted from countries:

Which as regards imports of American origin maintained import restrictions (whether illegal or not) having the effect of nullifying the tariff concessions offered or which represented a direct or indirect barrier to US trade.

2 Which raised barriers of a non-tariff nature to the expansion of American trade.

3 Which engaged in a policy of discrimination that was unjustifiable and prejudicial to US trade.

The President was then authorised to take any measure considered appropriate to achieve the removal of these barriers, without however being empowered to grant concessions of a tariff nature. For agricultural products, moreover, the President could unilaterally increase the customs duties or apply other restrictive measures for the purpose of preventing the introduction (or effecting the removal) of barriers of a non-tariff nature, and so obtaining for American agricultural products access to foreign markets on a parity basis.

Then there were the lists of so-called reserved products (articles the importation of which could cause a serious setback in certain fields of national production) in respect of which the President's authority was limited.¹¹

Finally, it is to be noted that the Communist countries were excluded from participation in the benefits of possible tariff concessions under the Trade Expansion Act since at that time they did not benefit under American legislation from the most-favoured nation clause. Nevertheless, as we shall see, this limitation was watered down in the course of the negotiations, during which the most active participation of various Eastern bloc countries (Czechoslovakia, Poland and Yugoslavia) is also to be noted.

President Kennedy's initiative enshrined in the Trade Expansion Act thus brought into being what has been described as 'the greatest tariff negotiations recorded in history'. In fact, on the basis of the most-favoured nation clause the tariff concessions granted to any member country of GATT have been extended to all the third-party countries which trade with the USA, with the exclusion of the Communist countries.

The preparatory conference of 1963

Under the Trade Expansion Act all the administrative prerequisites were to hand to enter into tariff negotiations unprecedented in scope. From 16 to 21 May 1963 the ministers of the member countries of GATT met in Geneva to decide on the procedure and the date for commencing the negotiations.

At the meeting the Americans submitted at the outset a proposal for a simple linear reduction of the customs duties which, according to them, should with certain exceptions have produced a uniform reduction of the order of 50 per cent in all the customs duties over a period of five years. The USA also affirmed that the inclusion of agricultural products, which alone

represented over 40 per cent of American exports to the EEC, was an indispensable condition for the success of the Kennedy Round. 'The participants in the Kennedy Round', said Herter, the special representative of the USA at the Geneva negotiations, 'have laid down as their object the liberalisation of trade because this is seen to be to their advantage. But such liberalisation cannot be achieved in any field unless it applies as much to agricultural products as to industrial products. With agricultural exports to the EEC running at the rate of \$1.6 milliard per annum, the USA would find it difficult to estimate what tariff reductions on industrial products that interest the Community it could reasonably offer if significant offers were not forthcoming from the EEC in the agricultural field.'¹²

Finally, the USA, while declaring its readiness to discuss at the negotiations the question of para-tariff barriers as well, underlined the specific importance and effect of the reductions in tariffs proper. The EEC for its part, while accepting the method of automatic linear reductions, drew attention to the fact that the structure of the American duties provided in the case of certain products – few in number but of great importance, such as textiles, chemical products, plastics, etc. – fairly high duties in relation to those of the Community. A flat reduction of 50 per cent would therefore have left the American market largely inaccessible but the Community in practice without any protection. The EEC representatives therefore demanded special treatment for the cases in which appreciable tariff disparities existed as between the two big economic areas. In particular, in April 1965 the EEC proposed that the tariff reduction of 50 per cent should not have been applied to the actual duty on each item but to the difference between the actual duties and a hypothetical 'ideal' duty: of 0 per cent for raw materials, 5 per cent for goods in course of production and 10 per cent for finished products.¹³

In this way the problem of tariff disparities would be reduced, since the American peak tariffs would be eliminated. This method of *écrêtement* would restore equilibrium between:

1 The common external tariff (CET) of the EEC, whose rates for industrial products were less dispersed and more symmetrical (that is to say they included a greater number of medium rates of duty, a smaller number of low rates and a still smaller number of high rates).

2 The USA tariff which covered a wide range with a high proportion of rates in excess of 30 per cent, as can be seen from Table 1.1.¹⁴

This method would have the advantage, moreover, that it would not entail the preparation of lists of exceptions or entering into complex negotiations product by product. The proposal was put forward by France, while the other five EEC partner countries accepted it as a starting point for the negotiations.

TABLE 1.1

Spread of rates of duty in the CET, and in the US and UK tariffs

Rate of duty	CET	USA	UK
0	6.2	6.9	8.0
1-5%	5.5	5.4	0.8
6-10%	26.7	15.0	24.9
11-15%	34.8	17.2	12.7
16-20%	22.2	17.7	26.1
21-30%	4.3	20.4	17.4
31-40%	0.1	11.3	8.8
41-50%	-	4.1	1.0
over 50%	0.1	2.0	0.3
Total	100.0	100.0	100.0

Source: J. Dugimont, 'The Kennedy Round negotiations' *Études Économiques*, Mons, Belgium, nos. 127-128, (April 1966), p. 100.

The USA's reaction was immediate and vigorous. The Americans pointed out in fact that the adoption of the French *écrêtement* method would involve an average reduction in customs duties far smaller than that proposed in the Trade Expansion Act; in particular because the majority of the customs duties in the EEC and the USA were less than 25 per cent and consequently the general effect of the tariff reductions would be limited, and this would not assist the primary purpose of the Kennedy Round which was to expand trade. The representatives of the EEC (Marjolin and Rey for the Commission, and Basseur, the Belgian Minister of Foreign Trade, President in rotation of the Council of Ministers of the Community) abandoned a large part of the 'ideal' tariff plan, notwithstanding French opposition. Nevertheless, the presentation of the *écrêtement* method produced a favourable effect because it obliged the Americans, after long and intense discussions, to recognise the existence of the problem of tariff disparities. In fact, in the final resolution of the preparatory conference published on 21 May 1963, apart from fixing 4 May 1964 as the date for the official opening of the negotiations, it was formally declared that 'in those cases where there are significant disparities in tariff levels the tariff reductions will be based upon special rules of general and automatic application'.¹⁵ Notwithstanding the clarity and validity of this official declaration, considerable differences of interpretation were raised

at subsequent discussions regarding the principles to be adopted to identify cases of substantial tariff disparities. Indeed, whereas the EEC considered it sufficient to establish an appreciable tariff difference to speak of a considerable disparity, the USA considered it necessary to examine the magnitude of the disparities on the basis of the distortions produced by them in actual trade.

As regards agricultural products the EEC declared its complete agreement with the USA on their inclusion in the negotiations, but, before committing itself on the international plane it needed to complete its own agricultural policy and in particular fix the level of common agricultural prices. In addition, adopting the French proposals, it affirmed that the increase in trade in agricultural products could not be achieved by applying the liberal rules of GATT. In fact, in the agricultural sector, even if in various cases the duty has been maintained, other support measures have now been adopted (e.g. state intervention in the market, import levies, production subsidies, export assistance, etc.) which play a decisive part in regulating trade in the principal agricultural products. It was therefore necessary to consider negotiations of two types in the agricultural sector. The first type of negotiation related to agricultural products protected by duties. The second type of negotiation – by far the more important – concerned the products for which manifold and various support measures existed within the framework of the national agricultural policy or, as in the case of the Community, within the field of common agricultural policy.

The final resolution of the preparatory conference adopted in large measure the Community proposals. While acknowledging the validity of the American proposal to include agricultural products in the negotiations, the EEC declared that it could give no undertaking to guarantee access to its own markets for agricultural exports from the big transatlantic exporting countries until such time as the common agricultural policy was complete. Lastly the final resolution brought out the fact that the negotiations would cover, in addition to customs duties, certain non-tariff measures and that various *ad hoc* working parties would be created to study the reorganisation of international agricultural markets.

In relation to developing countries, however, the industrialised countries undertook to make every effort to remove the barriers standing in the way of their exports and not to demand any reciprocal tariff reduction.

At the same session it was decided to set up the Trade Negotiations Committee, consisting of representatives of all the participating countries, for the purpose of drawing up a plan, based on the principles laid down by the Ministers in the final resolution which had been adopted unanimously and ensuring the due execution of the negotiations undertaken. In particular the Trade Negotiations Committee was given the task of considering:

- 1 The amount of reductions in duties and the rules regarding exceptions.
- 2 The principles for determining appreciable disparities in the tariff levels and the special rules applicable to the tariff reductions in these cases.
- 3 The problem created by certain countries in which the average level of duties was so low or the economy or foreign trade of which had a peculiar structure so that any equal linear tariff reductions would not produce a satisfactory balance of advantages.
- 4 The rules which would provide acceptable conditions for access to world markets for agricultural products for the purpose of promoting the development and significant expansion of international trade in such products.
- 5 The rules for regulating the treatment of non-tariff barriers (including in particular the discriminatory treatment to which the products of certain countries were subject) and the means aimed at ensuring that the value of the reductions in duties would not be compromised or nullified by non-tariff barriers.

The Trade Negotiations Committee, the better to fulfil its tasks, was subdivided into four subcommittees responsible for examining respectively the plan for tariff reductions, the problems relating to agricultural products, the non-tariff barriers and the question of the participation in the Kennedy Round of the developing countries.

Notes

¹ G. Curzon, *Multilateral Commercial Diplomacy, The General Agreement on Tariffs and Trade and its Impact on National Commercial Policies and Techniques*, (Michael Joseph, London 1965), p. 31.

² A. Philip, 'Le Kennedy Round, Europe et pays tiers' *Bulletin de l'Association des Juristes Européens* no. 23–24 (Paris 1965), p. 87.

³ 'The Kennedy Round and the Future of World Trade', a speech by Ambassador W. M. Blumenthal at a meeting of the Übersee Club of Hamburg, 10 November, 1965.

⁴ Th. Flory, *Le GATT, Droit International et Commerce Mondial*, (R. Pichon & R. Durand-Auzias, Paris 1968), p. 6.

⁵ Further details on GATT are given in the following books: J. H. Jackson, *World Trade and the Law of GATT*, (University of Michigan, 1970); K. W. Dam, *The GATT Law and International Economic Organization*, (University of Chicago Press, 1970); K. Kock, *International Trade Policy and the GATT, 1947–1967*, (Almqvist & Wiskell, Stockholm 1969).

⁶ GATT, *A New Proposal for the Reduction of Customs Tariffs*, Geneva, January 1954.

⁷ P. Keller, 'Le GATT avec son Kennedy Round joue une carte décisive' *Gazette de Lausanne* (15 April 1964).

⁸ Any renewal of the law of 1934 will entail the maintenance of the USA in GATT. Congress has never ratified the GATT Charter.

⁹ The escape clause was adopted by the USA for the first time in 1943 in a trade agreement with Mexico. From 1951, moreover, the inclusion of escape clauses was made obligatory in all new trade agreements.

¹⁰ The 'peril point' procedure, the abandonment of which was a logical consequence of the adoption of the linear method of negotiation, was designed to obviate any injury to American industry.

¹¹ S. D. Metzger, 'International trade, the trade expansion and its prospects' *Common Market Law Review* vol. i no. 3 (Dec. 1963).

¹² 'Herter Optimistic on Tariff Cuts as Envoys Converge on Geneva' *The Journal of Commerce* (New York 15 May 1963).

¹³ P. Fabra, 'L'Europe des Six et les États-Unis s'affrontent sur la formule du désarmement tarifaire réciproque' *Le Monde* (19–20 May 1963).

¹⁴ M. Mesnage, 'Comparaison statistique du tarif douanier commun de la Cee du tarif des États-Unis d'Amérique et du tarif du Royaume-Uni de Grande Bretagne et d'Irlande du Nord' Institut Statistique de la Communauté Européenne, *Informations Statistiques* no. 3 (1963).

¹⁵ P. Fabra, 'Les Américains finissent par accepter le compromis Erhard' *Le Monde* (23 May 1963).

2 The Requirements of the Participating Countries

Identification of the participating countries

The Kennedy Round negotiations opened officially in Geneva on 4 May 1964 in the course of a meeting of Ministers. The countries participating numbered 46, classified as 'linear', 'special structure' and 'less-developed' countries. The linear countries were those which had accepted the linear method and which were consequently negotiating on the basis of a working hypothesis that there would be a reduction in their customs duties by a maximum of 50 per cent, subject to certain exceptions. This group comprised practically all the industrialised countries in the Western world. The special structure countries were those semi-industrialised countries which, not having adopted the linear method, were authorised to negotiate on the basis of offers product by product. No particular criterion was applied by the Trade Negotiations Committee to determine which countries should be considered special structure countries. The criteria of average income per head and the ratio of agricultural exports (and exports of primary products) to the total exports of the country do not completely explain the way in which the countries shown in the second group of Table 2.1 were selected. Canada for example has a higher average income per head than Denmark but a lower level of agricultural exports than Denmark in relation to total exports. Nonetheless it was included in the group of special structure countries while Denmark appeared under linear countries. Actually the Trade Negotiations Committee made the selection on the basis of a simple ballot.¹ As regards the developing countries, it did not vote at all, however, confining classification as special structure countries to Yugoslavia, Israel and Spain. But as the countries concerned asked if they could be treated as less-developed countries, it was left completely open to the individual linear and special structure countries to decide whether the concessions resulting from the negotiations should be extended, without any obligation as regards reciprocity, to those countries whose status was not clearly defined.

Many emergent countries did not take an active part in the negotiations. In particular, 39 developing countries simply hoped to benefit from the undertaking given by the industrialised countries that they would not seek reciprocity for the concessions granted. Nine emergent countries expressed their intention to negotiate, on the other hand, but when they presented

their offers they did not succeed in concluding an agreement. Moreover, in the first phase of the negotiations only the linear countries participated in the work of the Trade Negotiations Committee. The special structure countries were in fact awaiting the outcome of the negotiations regarding the agricultural sector; the developing European countries claimed that their position was a special one; and the other emergent countries expected, as stated above, to benefit from the principle of non-reciprocity.

The linear countries

The linear countries (especially the so-called 'big four'; the EEC, the USA, the UK and Japan) were the main protagonists in the Kennedy Round. Among the linear countries, however, the USA and the EEC assumed a leading rôle from the start. All the main themes of the Kennedy Round (tariff disparities, the American Selling Price, the theory of the *montant de soutien*, etc.) arose from the close dialogue between the 'big two'.

The contributions made by the other linear countries were none the less notable, even indispensable, seeing that the Kennedy Round, apart from dealing with sectional economic interests, represented a new stage in the direction of free international competition, a stage that would not have been achieved without the participation and agreement of all the main industrialised countries. There is no doubt, however, that, apart from the objective of a significant liberalisation of trade, the action promoted by the United Kingdom, Japan and the Scandinavian countries – except in the case of certain products – was of a limited and partial nature, whereas action by the USA and the EEC was fairly wide in its scope. At future negotiations the American and Community proposals not adopted in the Kennedy Round seem likely to be raised again.

The importance of the dialogue of the USA and the EEC is due primarily to the following factors: the EEC and the USA are the leading trading powers in the world, as can be seen in Table 2.2; the USA is the principal trading partner of the EEC; and the EEC is the USA's most important market in the world for sales of agricultural products (\$1.1 milliard in 1962 and \$1.4 milliard in 1970).

The real reason for the outstanding importance of the US–EEC confrontation is to be found however in the consolidation of Europe's position as a result of the success achieved in the process of integration. The creation of the EEC altered the economic and commercial balance of the Western world by launching on the international scene a partner who would be valuable but

TABLE 2.1

Participation of the member countries of GATT^a in the Kennedy Round

LINEAR COUNTRIES:

EEC: Belgium, Netherlands, Luxembourg, France, Federal Republic of Germany, Italy

EFTA^b: Austria, Denmark, Finland, Norway, Sweden, Switzerland, United Kingdom^c

Japan

United States of America

Total	15
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SPECIAL STRUCTURE COUNTRIES:

Australia, Canada, Czechoslovakia, Greece, Iceland, Irish Republic, Israel, New Zealand, Poland, Portugal^c, South Africa, Spain, Turkey, Yugoslavia

Total	14
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LESS-DEVELOPED COUNTRIES:

Argentina, Brazil, Ceylon, Chile, Dominican Republic, India, Indonesia, Jamaica, Korea, Malawi, Nicaragua, Nigeria, Pakistan, Peru, Sierra Leone, Trinidad and Tobago, Uruguay

Total	17
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LESS-DEVELOPED COUNTRIES THAT DID NOT PARTICIPATE IN THE NEGOTIATIONS:

Algeria, Barbados, Botswana, Burma, Cambodia, Cameroun, Central African Republic, Chad, Congo (Brazzaville), Democratic Republic of the Congo, Cuba, Cyprus, Dahomey, Gabon, Gambia, Ghana, Guyana, Haiti, Ivory Coast, Kenya, Kuwait, Lesotho, Madagascar, Malaysia, Maldive Islands, Mali, Malta, Mauritania, Niger, Rwanda, Rhodesia, Senegal, Singapore, Tanzania, Togo, Tunisia, Uganda, United Arab Republic^d, Upper Volta, Zambia

Total	41
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^a Full member countries of GATT, countries taking part on a temporary basis in GATT, and countries actually applying the rules of GATT.

^b Portugal was the only EFTA country which did not negotiate on a linear basis.

^c The United Kingdom and Portugal took part in the negotiations also on behalf of their own overseas territories.

^d During the Kennedy Round, the UAR negotiated for full accession to GATT, but the formalities were only completed in February 1970.

also dangerous. It was primarily to meet the trade challenge of the EEC that President Kennedy, anticipating the course of events, had taken the initiative and promoted the Trade Expansion Act.

The requirements of the USA

The problem of the deterioration in the balance of payments was undoubtedly one of the most important reasons for the American initiative. President Kennedy, in his message to Congress on 25 January 1962, stated categorically: 'We must achieve a reasonable equilibrium in our international accounts by offsetting our dollar outlays with dollar sales'. And this objective could be secured in principle in two ways: by imposing a series of restrictions on imports of foreign products or by increasing exports. The former solution was rejected since it would have invited the adoption of retaliatory measures by third countries. So there only remained the possibility of following a policy for the expansion of exports, in particular to the EEC which was the principal trading area in the world. But the creation in Europe of a vast homogeneous trading bloc (in 1962 the negotiations for the accession of Britain to the EEC would have led to the formation of a single economic area) characterised by the abolition of internal customs duties, by the adoption of a common agricultural policy and of a common external tariff vis-à-vis third countries, seriously jeopardised the American programme for increasing its exports to European markets as was seen in the so-called 'chicken war'.

The USA's principal objective in the Kennedy Round was therefore to secure a substantial reduction in the Common External Tariff and to persuade the EEC to give a more liberal character to the agricultural policy of the Community. Under the Trade Expansion Act the USA had taken the initiative to ask for a substantial linear reduction in the tariffs of the principal partners in the Western world and to obtain – for the agricultural sector – guarantees of access to the markets in the EEC combined with the application of the lowest possible prices.²

TABLE 2.2

Imports and exports of the major trading powers (US \$ billions)

Imports (fob)						Imports (%)				
Year	World total ¹	EEC	USA	UK	Japan	World total ¹	EEC	USA	UK	Japan
1958	94.6	16.1	13.2	10.4	3.0	100	17.0	14.0	11.0	3.2
1959	98.6	16.2	15.4	11.1	3.6	100	16.5	15.6	11.2	3.6
1960	109.1	19.4	15.0	12.7	4.5	100	17.7	13.7	11.6	4.1
1961	112.8	20.4	14.6	12.3	5.8	100	18.1	13.0	10.9	5.1
1962	118.7	22.3	16.2	12.5	5.6	100	18.9	13.7	11.5	4.7
1963	127.7	24.6	17.0	13.4	6.7	100	19.1	13.4	10.5	5.2
1964	142.8	26.8	18.6	15.4	7.9	100	21.0	13.0	10.8	5.5
1965	154.5	28.5	21.2	16.1	8.2	100	18.5	13.7	10.4	5.3
1966	169.2	30.7	25.3	16.6	9.5	100	18.3	15.0	9.8	5.0
1967	177.4	30.9	26.7	17.7	11.7	100	17.4	15.0	9.9	6.6
1968	196.2	33.5	33.0	19.0	13.0	100	17.1	16.8	9.7	6.6
1969	218.7	39.2	36.0	20.0	15.0	100	17.9	16.5	9.1	7.0
1970	249.5	45.6	39.9	21.2	18.9	100	18.2	15.9	8.5	7.6
1971	276.3	49.1	45.6	23.5	19.7	100	17.8	16.5	8.5	7.2
Total	2,246.1	403.3	337.7	221.9	133.1	100	18.1	14.7	10.2	5.5

Exports						Exports (%)				
Year	World total ²	EEC	USA	UK	Japan	World total ²	EEC	USA	UK	Japan
1958	107.5	15.9	17.7	9.2	2.9	100	14.8	16.5	8.6	2.7
1959	114.9	17.0	17.4	9.6	3.5	100	14.8	15.2	8.4	3.0
1960	127.4	19.4	20.3	10.3	4.0	100	15.2	15.9	8.1	3.1
1961	133.7	20.4	20.6	10.7	4.2	100	15.3	15.4	8.1	3.1
1962	141.3	20.6	21.2	11.0	4.9	100	14.6	15.0	7.8	3.5
1963	153.7	21.6	22.9	11.8	5.4	100	14.1	14.9	7.7	3.5
1964	172.2	24.1	25.9	12.3	6.7	100	14.0	15.0	7.2	3.9
1965	186.3	27.0	27.0	13.7	8.5	100	14.5	14.5	7.4	4.6
1966	203.2	29.4	29.8	14.6	9.8	100	14.5	14.6	7.2	4.8
1967	214.3	31.7	31.2	14.4	10.4	100	14.8	14.5	6.7	4.8
1968	238.1	35.3	33.9	15.3	13.0	100	15.8	14.2	6.4	5.4
1969	269.9	39.2	38.0	17.5	16.0	100	14.5	14.1	6.5	5.9
1970	309.6	45.2	43.2	19.3	19.3	100	14.5	13.9	6.2	6.2
1971	331.1	50.6	44.1	22.3	24.0	100	15.3	13.3	6.7	7.2
Total	2,703.2	397.4	393.2	192.0	132.6	100	14.7	15.0	6.8	4.2

¹ Excluding Class 3 trade (countries in which the economy is under State control)² Eastern bloc included.Source: Statistical Institute of the European Communities, Foreign Trade, *Monthly Bulletin*, no 1, 1972.

To be more specific, in the industrial sector the USA asked the EEC for tariff reductions for paper, aluminium, excavating machinery, machine tools, electronic calculating and data processing equipment, fuel elements for nuclear reactors, microstructures, transistors, electronic measuring instruments and spare parts for them. In the agricultural sector, besides being interested in the conclusion of a general agreement regarding cereals, the USA asked the EEC for a substantial offer for unmanufactured tobacco; a reduction of up to 50 per cent for grapefruit; substantial reductions in the protective tariffs for poultry; tariff reductions for fish and mixed fruit preserved in syrup, and in the case of orange juice some relief from the additional duty on the sugar; reductions for prunes, canned asparagus, hops, hazel nuts, peas, dried beans, raisins, rum, Bourbon whisky, canned salmon, canned peanuts etc.

On the other hand, American requests regarding the removal of non-tariff barriers were more moderate. In fact the USA – conscious of the big technical difficulties and of resistance by industrial groups – intended to make only limited progress at the Kennedy Round and to defer to subsequent negotiations the closer examination of the larger problem. With regard to the EEC, however, the USA insisted on the abolition of the automobile road taxes which penalised American vehicles relatively severely. Furthermore, when the subcommittee on non-tariff barriers set to work the USA raised the problem of adjustments to border taxes (that is to say the duties levied on imports, which include internal taxes on invoice values and similar duties) fearing that the EEC concessions at the Kennedy Round might be nullified by internal modifications of a revenue nature.

Finally, the USA undertook on the basis of the most-favoured nation clause to extend automatically to the emergent countries the tariff reductions agreed at the Kennedy Round. Furthermore, for tropical products and forest products exported by less-developed countries, the USA – on the basis of the provisions of Section 213 of the Trade Expansion Act – declared its readiness to reduce the relative duties to zero, on the two conditions that the products in question were not produced in significant quantities by America itself and that the EEC offered comparable access to its own markets by abolishing the preferences of the Yaoundé Convention. The USA attached great importance to the realisation of a programme of food aid on a multilateral basis, a programme which, according to the American authorities, should affect about 10 million tons of cereals on a continuous basis.

Production reform and Atlantic partnership

Another of the objects of the USA – founded on the principle that competi-

tion is a condition *sine qua non* of economic development – was to promote the adoption and conversion of those sectors of the American economy which were kept going artificially by an excessive measure of protection.

But to avoid damage to the American economy, Kennedy provided in the Trade Expansion Act, as stated above, for government aid to the workers and the financing of reconstruction programmes for those industries that were not in a position to face competition from the partner countries following the substantial reduction in customs duties.

The USA also pursued some notable political aims in the Kennedy Round. From the very onset of European economic integration the Americans understood that a choice would shortly have to be made of fundamental importance to the Western world. The question was to decide whether the EEC would be a unifying force for the whole Western community or whether it would lead to the creation of a Europe with political and economic interests of an essentially ‘regional’ nature such as to provide a motive for the division of the Atlantic community and a new threat to the strength and security of the free world.³ In 1962 President Kennedy considered that the time was propitious for the creation of an Atlantic partnership in which, on a basis of full equality, the USA and Europe could make a major contribution to the interests of the whole Western world. In the speech on ‘interdependence’ he made in Philadelphia on 4 July 1962, Kennedy stated:

We do not regard a strong and united Europe as a rival but as a partner... We believe that a united Europe will be capable of playing a greater role in the common defense, of responding more generously to the needs of poorer nations, of joining with the United States and others in lowering trade barriers, resolving problems of currency and commodities and developing coordinated policies in all other economic, diplomatic and political areas. We see in such a Europe a partner with whom we could deal on a basis of full equality in all the great and burdensome tasks of building and defending a community of free nations... The United States will be ready for a Declaration of Interdependence and will be prepared to discuss with a united Europe the ways and means of forming a concrete Atlantic partnership.

On the economic plane the realisation of the American President’s grand design implied (especially for industrial products) the creation of a vast free trade area which would include, apart from the American market, the markets of the whole of Western Europe. The Trade Expansion Act of 1962 allowed the American executive to negotiate the complete abolition of US duties on all industrial products in which American trade with Europe represented more than 80 per cent of total world trade in the goods. But the

application of this clause presupposed the success of the negotiations regarding the accession of the United Kingdom to the EEC.⁴ The Gaullist veto of January 1963 therefore nullified the intention. Nevertheless, the continuation of the negotiations on the hypothesis of a reciprocal tariff reduction of 50 per cent maintained a political validity that should not be undervalued. 'The coming round of trade negotiations', Kennedy said in his speech in Frankfurt on 25 June 1963, 'are much more than a technical discussion of tariffs and commerce. They are an opportunity to build common industrial and agricultural policy across the Atlantic...' The objective of the abolition of the barriers to free trade was to neutralise the effects of 'trade diversion' consequent upon the formation of the European blocs, to reinforce the economic interdependence of the industrialised countries, and therefore to bring about an economic rapprochement between the USA and Europe.

The EEC requirements

The EEC, rather than assuming a defensive attitude as it had done at the Dillon Round, adopted from the outset a posture that was constructive but at the same time critical. It was aware of the advantages that the Kennedy Round offered: strengthening of trade relations with the industrialised countries; the possibility of avoiding the dangers of 'trade diversion' in relation to EFTA, especially after the breaking off of negotiations with the United Kingdom; the possibility of securing the reduction of the high duties ruling in some important industrial sectors of the USA; and the possibility of securing acceptance of its agricultural policy and the principles of its philosophy on the organisation of international agricultural markets. The Community managers understood quite well, moreover, that the Kennedy Round provided an almost unique opportunity to assert in the international field the economic and commercial importance of the EEC. It was the first time that the EEC was able to present itself and act as a collective personality on the international plane.

The EEC was also conscious however of the risks that had to be faced. It was as yet of very recent provenance and its internal cohesion was still weak. The Common External Tariff would only come fully into operation on 1 July 1968, and the common agricultural policy was far from complete. In such a situation a substantial and indiscriminate linear tariff reduction and the dismantling of the common agricultural policy would have practically nullified the essential elements of cohesion in the Six and would have conjured up the spectre of the disintegration of the Community.⁵

The Six, therefore, while accepting unanimously the principle of a flat-rate reduction of 50 per cent, immediately raised the problem of tariff dis-

parities. 'A flat reduction of 50 per cent in the customs schedules of the USA and the EEC', stated the President of the Hallstein Commission, 'does not represent true reciprocity.' 'The American tariff', added Jean Rey, 'is far less uniform than the European tariff, as it includes some very high duties side by side with some very low ones. A linear reduction would thus leave some American duties standing at a still relatively high level while the corresponding duties under the European tariff are sharply reduced.'⁶ The Community therefore maintained that in the case of disparities the country with a lower customs duty should effect a smaller reduction than the country in which duties are higher. And since the Trade Expansion Act authorised the USA to negotiate a maximum tariff reduction of 50 per cent, it followed that the EEC should apply – in the case of disparities – smaller tariff reductions. On the problem of exceptions, moreover, the EEC underlined the great importance of seeking a solution for the disparities as a matter of priority. If a general tariff reduction were accepted that took account of the disparities the Community list of exceptions would be reduced to a minimum. The EEC then asked if a decision could be taken on the problem of non-tariff and para-tariff barriers, which often give rise to an appreciable increase in the actual incidence of customs tariffs. In particular, the EEC applied to the USA for the abolition of the American Selling Price, a reform of the anti-dumping legislation (often invoked by the USA for merely protective purposes), a revision of the methods of customs valuation, a modification of the Buy American Act which permits the import into the USA of a vast range of European products, and the suppression of the 'escape clause' which allows the American Government to quash any tariff reduction that could damage the interests of American producers.

In the agricultural field the EEC, considering that negotiations of a purely tariff nature were insufficient, decided to seek new solutions for the effective organisation of trade in agricultural products. In particular, the Commission considered that the national agricultural policies of the importing and exporting countries would be of decisive importance to the organisation of trade in agricultural products and that the fundamental and characteristic feature common to almost all the contracting parties was the so-called *montant de soutien*, that is to say the total of the subsidies and aid which each country grants to its own agriculture. The Community therefore proposed to negotiate the consolidation of the *montant de soutien* so putting the agricultural problem on an altogether new basis. On the basis of the Commission's proposals an attempt was made to align not only the barriers to trade but also the national agrarian policies for the support of agriculture. 'We must get to the roots of the world agricultural crisis', declared Sicco Mansholt, the Vice-President of the Commission who was responsible for the agricultural sector, 'and so establish a discipline in which all forms of protection are taken into

consideration.’⁷ The Community furthermore proposed that international agreements should be concluded (for cereals, beef, sugar, fats and certain dairy products) based on the determination of an international reference price and the establishment of particular self-sufficiency levels for the producing countries in order to avoid the formation of new surpluses.

The EEC then declared its willingness to work with the USA and the other industrial countries to provide active assistance to the third world. It was opposed, however, to the reduction of duties on tropical products exported by African countries linked with the Community on the basis of the Yaoundé Convention. ‘The USA’, stated Jean Rey, ‘will not wish to insist that the Europeans should abandon systems hallowed by experience that continue to render valuable services to the cause of the free world.’⁸ The EEC, besides, taking its cue from the Commission and the French Government, supported the idea of organising the international agricultural markets and maintained that the problems of tariffs and of quantitative restrictions were not the only problems hampering exports from the third world but that a series of other factors (e.g. the problem of prices, the diversification of production, the techniques of product sales, etc.) were actually more important.

Requirements of the individual member countries of EEC

The definition of a common position in Geneva by the Executive Commission in Brussels proved difficult. The Six were not in agreement either among themselves or with the Commission. There was in particular a conflict of interests between France and Italy on the one hand and the Federal Republic of Germany and the Benelux countries on the other. France and Italy ran the greatest risks from a substantial reduction in the Common External Tariff. The latter was calculated on the basis of the arithmetical mean of the four tariffs in force before 1 January 1959. For the Federal Republic and Benelux the reduction of 50 per cent in many cases merely signified a return to the situation of 1959, and in any case a reduction well below that of France and Italy, whose customs duties for the majority of products were previously above the arithmetical mean for the CET. France in particular played a leading part in defining the Commission’s position in Geneva. For a long time, however, fears persisted that sooner or later she might sabotage the Kennedy Round just as she had brought the Maudling Committee’s negotiations to a standstill. The French protectionist factions showed reluctance to participate in the Kennedy Round. The employers’ group, the Patronat, and the Minister of Industry himself, Maurice Bokanowski, announced that they were opposed to any substantial tariff reductions on the grounds that the European undertakings could not stand up to competition from American

companies. As regards agricultural products, competition from American and other transatlantic countries threatened to ruin the hopes of France, who had joined the Common Market purely with a view to becoming the principal supplier of the partner countries, and more particularly of the Federal Republic, the most important importer of foodstuffs in the Community. In the initial phase of the negotiations therefore France adopted an attitude of strict reserve, maintaining as a prior requirement that:

1 Customs duties in the participating countries should be harmonised to ensure that the stronger countries (the USA and the Federal Republic of Germany) should not be the only ones to profit by the negotiations.

2 No serious negotiations between the EEC and the USA would be possible in the agricultural sector until such time as the common agricultural policy was completed, especially as regards the establishment of common prices and the definition of the financing mechanism. So began a long duel on the Community level involving in particular the divergent interests of France and the Federal Republic of Germany.⁹

Italy, while declaring itself in favour of the linear method, toed the French line on the question of tariff disparities and exceptions and on the way in which the negotiations should be conducted with regard to agriculture, and confined itself to seeking protection for its own interests in certain sectors, such as the case of fruit and vegetable crops. Similarly, the Benelux countries, desiring to trade with all countries in the world, supported the German position aimed at opening up the EEC to the outside world, especially after the breakdown of the negotiations with Great Britain. In May 1963 the Federal Republic of Germany succeeded in securing acceptance of the principle of inclusion in the negotiations of agricultural products and of the principle of synchronisation of inter-Community development and customs disarmament in relation to third countries. Subsequently, however, the French position hardened. In the big agricultural marathon of 23 December 1963 France succeeded in obtaining a satisfactory agreement as regards the conditions for the financing of Community agriculture. In the directives issued by the Council for participation in the Kennedy Round, France also succeeded in obtaining agreement that the linear reduction of 50 per cent should be considered purely as a working hypothesis, that a new method of negotiation should be adopted in the agricultural sector and that a special formula (the formula of the 'double ten') should be applied to solve the problem of disparities. By the Brussels agreements of 15 December 1964 France then secured the establishment of common prices for cereals. Furthermore, in the face of hesitation on the part of the Germans and the federalist temptations of the Eurocrats in Brussels, Gaullist France, adopting the policy of the empty seat for almost

seven months, brought the activities of the Community to a halt and paralysed the Geneva negotiations. And only by the agreements of 15 May 1966, when the Federal Republic of Germany gave its full assent to the financial regulation of agricultural policy, did France accede to the German request for the resumption and conclusion of the negotiations for the Kennedy Round, thus blatantly demonstrating not only that Europe could not get on without France but that the success of the Geneva negotiations was conditioned by the French position. The fears were thus proved unfounded of those who held that General de Gaulle was determined to veto the German negotiations. The General, though opposed to the Kennedy Round viewed as an integral part of the grand design of an Atlantic partnership, understood on the practical plane that it would be advisable for France to seize the opportunity of the negotiations to ensure the completion of the agricultural policy by the Federal Republic and to extort some important concessions from the USA.¹⁰

Requirements of the EFTA countries

The United Kingdom, Switzerland, Austria, Sweden, Norway and Denmark, member countries of EFTA, and Finland, an associate member, accepted the linear method. After the breakdown of the negotiations of the accession of the United Kingdom to the Community, the fundamental preoccupation of the EFTA countries was to avoid the negative effects of the division of Western Europe into two distinct economic blocs. For these countries therefore the Kennedy Round appeared as a sort of alternative solution to moderate the effects of trade diversion and to reduce the incidence of protection under the Common External Tariff before this came into effect at all. The position of the EFTA countries was severely criticised by the French, however, who pointed out that in essence EFTA aimed at 'dissolving the Common Market for the benefit of an Atlantic Community whose frontiers would merge with the deserts of Australia and the icebergs of Canada'.¹¹ And the most important member of EFTA, the United Kingdom, defended at the Kennedy Round a free trade policy that aligned it more with the position of the USA than with that of the EEC. In particular, in the agricultural sector the United Kingdom, desiring to continue obtaining its supplies in international markets at low prices, defended the free trade arguments of the big exporting countries (Australia, New Zealand, Canada and the USA), affirming that it was prepared to grant them guarantees of access to its own markets. In the industrial sector, on the other hand, the United Kingdom and the other EFTA countries gave direct support to the US proposals for a linear tariff reduction of 50 per cent, proposals viewed with caution however by the EEC. On the subject of disparities, moreover, the United Kingdom and

the other EFTA countries, while sharing the EEC preoccupations regarding the high 'peaks' that marked the US tariffs, expressed reservations regarding the application of corrective rules for the tariff disparities. The criticisms expressed by the French, however, were exaggerated. In the event, the EFTA countries at the Kennedy Round intended to extract the greatest advantage possible from the duel between the USA and the EEC. The EFTA countries, apart from their intention to reduce the incidence of the protection afforded by the CET, also proposed to improve their opportunities of penetrating into non-European markets, primarily into the American market. All the EFTA countries (especially the United Kingdom and Switzerland) at once adopted the EEC proposal to persuade the USA to abolish the American Selling Price. Moreover, the United Kingdom, contrary to American wishes, declared that it intended to maintain imperial preferences¹² and was prepared to enter into an undertaking regarding a fundamental instrument of its cereal policy, that is to say the volume of production that enjoys the benefit of a guaranteed price. On the other hand, the United Kingdom, the biggest importer of foodstuffs in the world, could not agree to pay higher prices for its purchases of agricultural products, while even the French with their theory regarding the consolidation of the *montant de soutien* demonstrated that they wanted to maintain the common agricultural policy intact, without making any substantial concessions.

There is no doubt on the other hand that the rigid attitude assumed by the United Kingdom at the negotiations regarding the iron and steel industry was to be deplored. The United Kingdom was the only country not willing to accept a proposal for a general alignment of the tariffs applied to steel by the principal big producing and exporting countries.

Among the requirements of a specific nature from the EFTA countries, other than those of the United Kingdom already referred to, special mention may be made of those of Switzerland and the Scandinavian countries. Switzerland applied to the EEC for substantial concessions for the clock and watches sector, textiles, chemical products and foodstuffs. For clocks and watches and various other products (e.g. dyestuffs) Switzerland invoked the 'European clause' with regard to disparities, but the EEC made any concession conditional on the removal of barriers of a non-tariff nature. Switzerland also applied for a series of concessions for particular products of the engineering industry (sewing machines, milling machines, woodworking machines, etc.), and for the maintenance of the system of exemption for engines intended for sea-going vessels. For chemical products Switzerland requested that the EEC should effect reductions without conditions in at least six tariff items in Chapters 29 and 32 for which she is easily the biggest supplier of the EEC. Switzerland feared that she would be penalised if the US Congress failed to ratify the agreement for the abolition of the American Selling

Price. As regards textiles Switzerland asked for additional concessions for cotton yarn, while the foodstuffs industry sought concessions for chocolate. In the agricultural sector Switzerland insisted on obtaining from the EEC a limitation of the refunds granted on cheeses exported to that market.¹³

As far as the Scandinavian countries were concerned, their interest as regards the EEC concerned the sector of paper pulp, paper and paperboard, aluminium, ferro-alloys and magnesium. The paper pulp, paper and paperboard sector was of cardinal importance. The EEC market takes about 40 per cent of Scandinavian exports. The EEC was reluctant, however, to make generous offers in view of the syndicated nature of the industry in the Scandinavian countries. For paper and paperboard the Scandinavian delegation was opposed to the adoption of an escape clause which, in case of necessity, would have permitted the EEC to restore autonomously any reductions that had been made in the duties. For ordinary paper, on the other hand, the Scandinavian delegation favoured the EEC proposal of reducing the duty by about 25 per cent, but did not intend to enter into any undertaking regarding the Community's request to revise the marketing conditions. With regard to newsprint the Nordic countries pointed out that their exports to the EEC already amounted to 725,000 tons – the EEC were proposing a duty free quota of 560,000 tons – and that in view of the increase in demand it would be reasonable to increase the tariff quota each year by a percentage to be negotiated. For aluminium the Nordic delegation insisted that the offer of a quota (130,000 tons) should be replaced by a tariff offer. For ferro-alloys Norway pressed for better access conditions. The EEC, on the other hand, proposed to treat as exceptions almost all the tariff lines except ferro-silico-manganese. The Nordic delegation consequently requested an enlargement at least of the quotas for ferro-chromium and ferro-silicon as well. For magnesium, Norway, the EEC's principal supplier, who had always benefited in Germany by duty free quotas, requested the consolidation of the tariff quota in force.

Norway feared losing her outlet in the German market, since the Community proposal to reduce the duty on raw magnesium from 10 to 8 per cent might prompt German industry to use aluminium instead of magnesium.

In the agricultural sector the Scandinavian countries, especially Denmark, asked for better opportunities for access to the EEC for live cattle and for beef; for dairy products (especially cheeses); pigs and pigmeat; eggs and poultry; fish products (trout, herrings, certain fish preserves and especially deep frozen fish fillets). Denmark, moreover, was in favour of signing a regional agreement (with the EEC, the United Kingdom and Ireland) for livestock and fresh meat. Norway was prepared to enter into an undertaking for a minimum percentage of imports in relation to the total consumption of cereals. And Sweden gave positive consideration to the Community method for the consolidation of the *montant de soutien*.

Japanese requirements

The only country in the Eastern hemisphere to form part of the group of linear countries, Japan, occupied a special position at the negotiations. While she accepted in the industrial sector the principle of a linear reduction of 50 per cent she insisted in particular on the abolition of quantitative restrictions and other non-tariff barriers holding up an increase in her exports. 'Japan', stated Morio Aoki, the head of the Japanese delegation at Geneva, 'cannot participate in the negotiations on a footing of equality if the discrimination against Japanese products persists.'¹⁴ The linear offer by Japan was consequently characterised by the presence of lists of exceptions, total and partial, and by the maintenance of import restrictions on a vast range of industrial products (coke, lignite, coal, the bulk of antibiotics and their compounds, cinematographic film, leather and skins, various leather goods – footwear, leather garments, etc. – textiles containing more than 30 per cent of wool, lace, certain types of glass, various types of steel alloy, internal combustion engines for motor vehicles, automobiles and the relative coachwork, typewriters, calculating machines, etc.). Japan also invoked the provisions of Articles XX and XXI of GATT (general exceptions and exceptions for reasons of security) to exclude from the negotiations an important series of products, such as nuclear products and the whole of the aircraft sector, together with other products of more limited interest such as narcotics, arms and munitions. As regards the EEC, however, Japan sought better access to the markets of the Six especially in the chemical sector, in ceramics, metals and engineering. In particular she showed keen interest in tariff items 69,07 and 69,08 (ceramic tiles), 82,25B (porcelain insulators), 85,15 (radio telegraphic equipment, etc.) and 90,02 (optical lenses, etc.). The maintenance of quantitative restrictions by one party or the other and the existence of numerous exceptions made the negotiations heavy going, however, But in the particular sector of motor vehicles Japan seemed prepared to accept the tariff reduction of 50 per cent provided Italy increased the import of Japanese motor cars. The Commission for its part was willing to provide better access to the markets of the Six for Japanese chemical products, provided Japan (participating, like the principal industrial countries, in a general agreement for the entire sector) accepted a tariff reduction of 50 per cent without any substantial exception.

As regards agriculture, Japan agreed to the inclusion of agricultural products in the negotiations, but being, like the United Kingdom, an importing country, she proposed to follow a free trade policy aimed at holding down prices in international markets. She therefore refused to give undertakings regarding her own internal policy, to increase the international price of cereals or to participate in a programme of food aid on a multilateral basis. Again like the United Kingdom, Japan was only prepared to provide sales guarantees

to the big cereal exporting countries. As far as tariff concessions were concerned, Japan proposed the consolidation of the current duties and a reduction for a certain number of products of the order of 25 per cent and presented a long list of exceptions concerning the whole range of dairy products, flax, brandy wines and hops. In particular, in relation to the EEC, Japan applied for better access for her fish products (especially for certain shellfish, shells and fish preserves). Japan also hoped to secure some indirect advantages from agricultural offers by the USA and the Scandinavian countries. On the problems of the less-developed countries Japan shared the American view regarding the abolition of duties on tropical products and supported the GATT programme of action of May 1963. Nevertheless, Japan maintained serious reservations regarding the launching of a system of generalised preferences.¹⁵

The semi-industrialised countries

The second group of countries participating in the negotiations consisted of the so-called semi-industrialised countries (headed by Canada, Australia and New Zealand) with a special economic structure that are exempted from applying the linear reduction on the grounds that their export interests are concentrated to a large extent in the agricultural sector or in one or few markets. Canada's objectives in the Kennedy Round were to increase the level of exports of raw materials and foodstuffs and to obtain new outlets for the country's manufactures. In particular, as regards the USA, far and away the most important market, Canada was interested in obtaining a reduction in customs duties for her typical export products (wood, paper, wood products, fish products, agricultural products) and a wide range of manufactures (from whisky to telephone and television equipment). Canada was also in favour of the abolition of the American Selling Price on the view that in the long run her chemical industry would derive important advantages therefrom. In the industrial sector by not following the linear method Canada produced a positive selective offer that only concerned certain products, for which, however, rates of reduction were provided that on the whole were fairly modest. The Canadian manufacturers were opposed to granting big tariff reductions just as they opposed any attempt at weakening their own anti-dumping code. The EEC, which never viewed with favour the non-application of the tariff discipline in a strict sense derived from the linear system by the semi-industrialised countries, let it be understood on the contrary that it was not prepared to grant a substantial reduction in the Common External Tariff duty of 9 per cent on raw aluminium and other reductions on certain products exported from Canada (paper, lead, zinc, etc.) unless the

Canadian offers were appreciably improved. The EEC also stressed the necessity of revising the complete Canadian customs nomenclature and the techniques of customs valuation. These factors, together with the notoriously restrictive character of the anti-dumping legislation in Canada, restricted the exports of the Six. In the agricultural sector, Canada favoured increasing the reference prices in the international agreement on grain, but was not prepared to give up the internal subsidies for stockpiling, denying that such a policy could constitute a support element for its products. An undertaking on internal agricultural policy, however, was only considered by Canada as a means of achieving access to the markets of the importing countries. But like the US delegation, Canada declared her readiness to examine the possibility in certain circumstances of entering into undertakings regarding a self-sufficiency ratio for cereals. In relation to the less-developed countries, Canada was agreeable to reducing (or abolishing) the duties on a certain number of tropical products and to promoting a multilateral food aid programme. Canada nevertheless insisted, in agreement with the United Kingdom, on her desire to maintain imperial preferences.¹⁶

Australia was excused from adopting the linear method for two reasons:

- 1 Eighty five per cent of her exports consisted of raw materials and agricultural products.
- 2 The Australian tariff was an essential element in the development of its emergent industry and in diversifying its economy.

It was decided, however, that Australia, like New Zealand, would only present the list of its selective offers when precise rules had been agreed for conducting the negotiations in the agricultural sector. Subsequently, however, as it did not prove possible to define such rules, it was decided that Australia, like the other participating countries, should present her offers on 16 December 1965.

Australia's objectives in the Kennedy Round related almost exclusively to the agricultural sector. Australia sought:

- 1 An increase in the minimum price in the new international agreement on grain.
- 2 Better access to the Japanese market for many raw materials (wool, coal, ferrous metals, skins) and agricultural products (beef in particular).
- 3 Better access to the EEC markets (especially for frozen meat and certain other products such as coal, dried fruit, etc.).
- 4 A reduction in the high US duty on raw wool. Australia also hoped to conclude an international agreement on beef (together with New Zealand

and Argentina on the one hand and the EEC on the other) with a view to making the EEC regulations more flexible.

But Australia was opposed to giving undertakings regarding its internal policy directly related to the remuneration of the producer. Finally, as regards the third world, Australia favoured the reduction and suppression of duties on tropical products but was opposed to any reduction in imperial preferences.¹⁷

New Zealand, excused from following the linear method because of the high incidence of her agricultural exports, strove in the Kennedy Round to achieve a twofold objective:

- 1 To secure better access for its own agricultural products to markets in industrialised countries.
- 2 To reduce the export subsidies employed by other countries.

In particular she aimed at concluding a general international agreement on dairy products based on a system of reference prices for butter (which would leave unchanged the United Kingdom system of quotas, however), the adoption of specific undertakings for the reduction both of export subsidies and of support for internal production (in countries in which prices were particularly high), and the adoption of multilateral measures for solving the problem of surpluses. The New Zealand proposals thus conflicted with the EEC plans, which aimed rather at reducing the scope of the United Kingdom's quantitative regulation of imports of butter and which were opposed to the reduction of the support contained in the Community's internal policy. New Zealand on the other hand opposed the Community's proposal to freeze the *montant de soutien*, holding that the EEC's agricultural prices were set at too high a level and being opposed to the method of protection selected by the Community for its own agriculture.¹⁸ Unlike Australia and Argentina, New Zealand did not favour the conclusion of an international agreement for beef. For that product, in fact, New Zealand considered that there would be no particular difficulties regarding sales provided that market forces were allowed free play. On the tariff reduction plane, moreover, New Zealand was very interested in obtaining better access to the US and Japanese markets for sales of mutton and lamb.

The state trading countries

A most active part was played in the Kennedy Round by the state trading countries, in particular Poland, Yugoslavia and Czechoslovakia. The reasons

for the lively interest displayed by the socialist countries in the Kennedy Round were:

- 1 The growing importance of the role of these countries in foreign trade,
- 2 The great importance that goods acquired from the market economy countries was assuming in accelerating the development of their economic systems.
- 3 The hope that the new tariff negotiations would provide an opportunity for normalising East–West commercial relations;
- 4 The conviction that at these negotiations important results would be achieved on the practical plane.

In this latter respect an article in the Polish periodical *Rynki Zagraniczne* of 9 May 1964, under the title ‘A far-sighted policy’, made the point that:

The results of the Kennedy Round will have a certain importance: what is at stake is not simply the problem of the reduction of import tariffs for industrial products but also the problems of the market in agricultural products, which are assuming enormous importance for our exports to Western countries, together with the problems relating to quantitative restrictions and import quotas. Only our own active participation in the negotiations will serve to protect our interests and provide us with an opportunity to negotiate concessions.

The contracting parties of GATT, at one time reluctant to include in the General Agreement the countries with planned economies in which foreign trade is a state monopoly, warmly welcomed the decision of the socialist countries to participate actively in the Geneva negotiations.

There were still some considerable difficulties to be overcome, however, particularly with regard to Poland’s accession to GATT as a full member. Unlike Czechoslovakia (a founder member of GATT) and Yugoslavia (a country associated with GATT in 1964 which, thanks to the reforms in progress in the country, already possessed a tariff system comparable to that in force in the countries with a free market economy), Poland – a country with a planned economy – had participated in the work of the contracting parties of GATT since November 1959 but ‘on special conditions’. Under these conditions, to extend automatically to Polish products the tariff reductions agreed by GATT necessarily meant evolving new principles and methods for trade between socialist countries and countries with a free market economy. Poland, not being in a position to offer tariff reductions, produced a number of constructive proposals which made her the pioneer in the Kennedy Round in the search for solutions and possibilities of collaboration be-

tween different economic and commercial systems. In particular, Poland declared her readiness to increase by 40 per cent her imports from the free market economy countries over five years. In return she demanded the unconditional and complete application of the most-favoured nation clause in the matter of customs duties. Furthermore, she declared her readiness to negotiate for the inclusion in her own import plans of certain products the import of which could produce greater increases than the average increase for imports as a whole. In return she sought the recognition of a contractual right to tariff reductions in cases in which she had an interest as supplier. Poland was then prepared to furnish an assurance that the sizable gains obtained from an increase in her exports in consequence of the tariff reductions would be used to increase imports. In return, however, Poland demanded non-discriminatory treatment in the matter of quantitative restrictions.

Fearing the effects of the EEC's common agricultural policy, Poland also asked that the level of her traditional exports of agricultural products should be maintained, undertaking in return to hold annual consultations concerning her entire commercial policy. Finally she sought the application of the general GATT rules regarding customs formalities and regulations, including the provisions regarding valuation for customs purposes, and also gave undertakings regarding the level of selling prices and the adoption of suitable escape clauses inspired by Article XIX of GATT.¹⁹

Yugoslavia for its part only proposed a consolidation and linear reduction of duties in the new customs system. In 1965 she adopted a new customs tariff, the characteristics of which were very similar to those of the systems in force in the countries with a free market economy.²⁰ Yugoslavia indeed, as regards the agricultural sector, requested more favourable conditions of access and showed keen interest in negotiating an agreement concerning live cattle and fresh beef. She then justified the small scale of her offers with two arguments:

- 1 Her status as a less-developed country.
- 2 The fact that the incidence of the new customs system had been reduced by 50 per cent as compared with the provisional customs system of 1961.

Czechoslovakia's offers on the other hand were of a 'mixed' nature. Czechoslovakia proposed on the one hand a linear reduction of 50 per cent on all imports and on the other hand, following Poland's example, an undertaking to increase imports on certain conditions by 30 per cent over five years. The heterogeneous nature of the Czechoslovak offer is explained by the (formal) maintenance of a customs tariff dating from the period in which this country had not yet adopted a planned economy but was already a member of GATT. Given however that under the present economic system the customs tariffs

do not exercise any influence on imports, the Czech negotiators also gave an undertaking to purchase. Like Poland, Czechoslovakia called for the abolition of all quantitative restrictions and proposed annual consultations to verify the execution of the reciprocal concessions.²¹

The less-developed countries

Notwithstanding that since its commencement the Kennedy Round had assumed the character of a commercial confrontation between highly developed countries, the less-developed countries still entertained high hopes. In the Trade Expansion Act, in the GATT action programme of May 1963 and in the resolution of 6 May 1964 adopted by the Trade Negotiations Committee there were provisions that suggested the possibility of a true and proper reform of commercial policy in industrialised countries in relation to the third world. The possible reduction of agricultural protection in the main industrialised countries – following the inclusion in the negotiations of the agricultural sector – raised hopes of an expansion of exports by the emergent countries in the temperate zone. The prospect of abolishing customs duties on tropical products encouraged the belief that discrimination between countries in the third world would soon stop. And the proposal to organise markets with a view to stabilising the prices of certain important agricultural products (sugar for example) prompted the belief that satisfactory solutions would soon be found for all concerned. The optimism of the less-developed countries, however, had its counterpart in greater attention by GATT to the commercial problems of the third world, which was to lead in due course to the adoption of the new Chapter IV of the General Agreement. But the hopes entertained by the third world were destined to be disappointed to a large extent. The failure to apply the principle of reciprocity in relation to the emergent countries automatically placed the vast majority of the less-developed countries in the position of ‘silent partners’, that is in a position of isolation on the very fringes of the negotiations. In actual fact, if the emergent countries obtained any concessions of advantage to them, these could only be the result of what was decided by the industrialised countries, who negotiated with one another on the basis of the strict observance of the principle of reciprocity. However, other factors conspired to weaken the position of the emergent countries in the Kennedy Round. The existence of preferential régimes of a regional nature (the Commonwealth, the Yaoundé Convention) drew attention to the interests of the emergent countries. And the serious hold-up of the entire negotiations in consequence of the prolonged crisis in the EEC hindered investigation of the aspects of particular interest to the developing countries. Finally, it should not be forgotten that

a number of emergent countries (the group of 75 having by then become 77) were seeking a radical solution of the problems of underdevelopment outside GATT, especially within the compass of the resolutions that could be passed at the United Nations Conference on Trade and Development (UNCTAD), a conference that as it happened was held in Geneva almost simultaneously with that for the Kennedy Round. Now this conference, at which a strong anti-GATT bias prevailed and which was openly sponsored by the USSR (so much so that there was talk of a Krushchev Round in opposition to the Kennedy Round), was treated with hostility by the industrialised countries of the Western world, who, while acknowledging that they should do more to assist the third world, referred back to GATT any discussion regarding customs reductions on semi-manufactured industrial products imported from emergent countries.²²

Position of the economic organisations

The International Chamber of Commerce, in which business representatives of 45 countries take part, formulated a series of recommendations in July 1963 inviting businessmen throughout the world to support their governments' participating in the Kennedy Round. In particular, the International Chamber of Commerce, besides demanding the inclusion of all products and supporting the linear method with a tariff reduction of 50 per cent called for the removal of all non-tariff barriers and the limitation of the use of escape clauses, pointed out the necessity (in certain circumstances) for taking tariff disparities into account and limiting the exceptions to a minimum, the possibility of applying lower percentage reductions in the case of countries whose tariff rates were already low and the possibility for the special structure countries to negotiate product by product, and called for the extension of the advantages of the negotiations to the emergent countries without compensation. As regards raw materials it recommended the application of the maximum percentage reduction (without providing for exceptions), the speedy removal of duties not exceeding 5 per cent, and the dismantling of non-tariff barriers. Furthermore, in the case of tropical products it accepted the resolution of the ministerial meeting of May 1963 and proposed a guarantee of free access to the principal markets also for products that have undergone a simple transformation. Finally, it considered it necessary to adopt special rules for conducting the negotiations in the agricultural sector to put in motion a new series of international undertakings relating to both exporting and importing countries. And in this connection it suggested that international agreements should be negotiated on a different basis from that of the traditional agreements so as to guarantee better equilibrium between

supply and demand and to stabilise prices at remunerative levels for producers regarded as reasonably efficient.²³

European businessmen for their part attached great importance to the success of the Kennedy Round. The representatives of thirteen Industrial Federations of the EEC and EFTA meeting at the Hague on 13 June 1964 seeing that the success of the Kennedy Round had helped to solve the difficulties created by the existence of two economic groups in Europe, solemnly declared that 'all the industrialised members of GATT should participate in the negotiations', this being an indispensable condition for obtaining true reciprocity and mutual advantages. The European businessmen also underlined that the problem of linear reductions was not to be dissociated from the problems of tariff disparities, of exceptions and of measures of a non-tariff nature, as they were closely connected problems the solution of which would have a great influence on the solution of the others. Finally, it was assumed that all the parties would recognise the 'vital interests' of the participants and that, as regards agricultural problems, the solutions aimed at would take account of the necessity for achieving genuine reciprocity.

The Union of Industries in the European Community (UNICE), an organisation consisting of the employers in the EEC countries, underlined that 'success for the Kennedy Round was desirable, not only from the point of view of the reciprocal reduction in duties, but essentially as an important step towards the economic unification of the EEC, the USA, the EFTA countries and the other industrial states in the Western world'. On the subject of tariff disparities it recommended that solutions should be shaped so as to avoid serving special interests and to take account of the true interests present and future of the foreign trade of the EEC. The Union of Industries in the European Community also favoured keeping the number of exceptions down to the lowest figure possible, abolishing the American Selling Price, preparing an anti-dumping code, and securing a guarantee that the results of the negotiations would be protected against unilateral measures by other member countries of GATT.²⁴

The unions of American workers making up the American Federation of Labour-Congress of Industrial Organisations (AFL-CIO), while expressing some reservations regarding the effects of the tariff reductions, gave vigorous support to the concessions contained in the Trade Expansion Act. Similarly, the heads of American industry who formed the Committee for Economic Development were supporters of a major free trade offensive providing for a reduction of 50 per cent in customs duties with a minimum number of exceptions.²⁵

The European industrialists in the Committee for Economic and Social Progress, however, insisted that the reduction of 50 per cent should only be regarded as a working hypothesis, that the essential feature of the negotiations

was the differentiation within the tariff, that 412 products in the US tariff had never been the subject of any customs negotiations and that industry in the USA enjoyed more protection than European industry both from the zero tariff on raw materials and from the high tariffs imposed on manufactured products.²⁶ Among industrialists in the EEC countries, however, a Franco-Italian bloc was forming in which the Kennedy Round aroused defensive reflexes. The German and Dutch industrialists, however, tended to set off the US position against that of the Commission, even though, in the final analysis, they tended to side with the EEC's presentation.

The Committee of Professional Agricultural Organisations of the EEC (COPA), created in 1958 by the principal agricultural organisations of the six member countries of the EEC, affirmed its determination not to see the common agricultural policy sacrificed to American interests. The President of the Committee, M Deleau, at a conference held in Strasbourg on 15 November 1963, asserted categorically that 'the existence of the common agricultural policy is an essential prerequisite for negotiations on agricultural products in GATT, and such policy cannot be called in question'. 'The protection of European agriculture', went on M Deleau, 'must not be reduced. The level of prices cannot be discussed within the framework of tariff negotiations, nor can quantitative guarantees be granted to the USA and the other countries, since this would have the effect of denying to European agriculture any possibility of technical expansion. The political pressures exerted by certain big extra-European exporting countries are unacceptable.'²⁷ COPA accordingly insisted that at the negotiations economic equilibrium should be achieved in the reciprocal advantages for the agricultural products of the EEC, and considered that the problem of agricultural exchanges could only be solved within the framework of a common market organisation at international level, and on the basis of disciplines and reciprocal undertakings capable of rising above the purely commercial aspects of the problem.

The American Farm Bureau Federation, an organisation embracing over 90 per cent of American producers, was in favour of the Kennedy Round, holding that with the reduction of the restrictions on trade the American farmers would increase their exports. The fundamental objective of the American Farm Bureau Federation was to prevail on the American negotiators to undertake to get the EEC to fix maximum limits for agricultural levies, the reduction of which would subsequently be the subject of new negotiations. The American Farm Bureau Federation, in contrast to the American Government itself, was opposed on the other hand to the conclusion of international agreements, considering it unjustifiable to endorse the protectionist policies of the EEC and limit US producers – described as 'the most efficient producers in the world' – in their search for new outlets. The organisation of

the American farmers accordingly rejected the concept of partition of the markets and even the notion of guaranteed access to the markets of the EEC. The slogan favoured by the American Farm Bureau Federation was 'the need is for international trade agreements, not international commodity agreements'.²⁸

Methods of negotiation

The negotiating methods employed in the Kennedy Round varied according to the condition of the participating countries and the type of products considered. The linear countries followed the linear method for industrial products. The other countries, however, followed the method of negotiation product by product. For agricultural products all the countries negotiated on the product by product basis. For industrial products the linear countries negotiated in particular on the basis of exceptions to the linear rule, exceptions which, according to the resolutions passed at the conference of May 1963, should be kept to a minimum. The special structure countries, on the other hand, negotiated on the basis of the product by product method. The offers and exceptions concerning industrial products, and the offers product by product in the agricultural sector, were subject however to revision on a multilateral basis. The offers and exceptions concerning industrial products were to be submitted to the contracting parties by September 1965 or within 30 days of presentation of the actual lists if the programme was not adhered to. But because of the EEC's delay in completing its agricultural policy, the agricultural offers were only presented complete in August 1966. Similarly the less-developed countries also suffered a delay.

The negotiations necessarily went ahead on the basis of specific offers. But whereas the offers have to be identified, the national tariffs often employ the so-called tariff nomenclature. At the Kennedy Round the Brussels nomenclature in use by the majority of member countries of GATT was adopted as the basic working instrument for the entire round. Nevertheless, to enable the Brussels nomenclature tariffs to be compared with those of countries that used (and still use) different nomenclatures (as in the case of the USA and Canada), concordance tables were drawn up with much labour making it possible to pass easily from one type of nomenclature to the other.

Notes

¹ US Tariff Commission, *Operation of the Trade Agreements Program*, 19th Report, Washington (1967) p. 172.

² Ch. Herter, 'US Aims in the Kennedy Round' *The Atlantic Community* Baltimore, vol. 2, no. 2 (1964) p. 246

³ J. D. Steinberg, 'New forces and old impulses in a changing world economy' *The Atlantic Community* Baltimore, vol. 3, no. 1 (1965), pp. 76–78 and p. 81.

⁴ If trade between the USA and the EEC alone is considered, the 80 per cent clause would have applied to only three categories of products (aircraft engines, perfumes and margarine). See: G. Weil, 'Le Kennedy Round vus des États-Unis' *Revue de l'Action Populaire* November (1964) p. 1086.

⁵ Hallstein said: 'We have no flag, no common language and no emblem, nothing to establish our identity except our common external tariff.' See: G. Taber, *John F. Kennedy and a Uniting Europe*, College d'Europe, Bruges, 1969.

⁶ *Europa-America, Partenaires Égaux*, Villa Lubin, 8–9 November, 1963.

⁷ S. L. Mansholt, 'Kennedy Round: un'occasione per creare un equilibrio agricolo mondiale' *Comunita' Europee* (October 1965) p. 5.

⁸ 'Europea e Stati Uniti alla vigilia del negoziato Kennedy' *Comunita' Europee* (December 1965) p. 5.

⁹ 'France, Germany clash on GATT', *The Journal of Commerce* New York (5 April 1966).

¹⁰ A. M. Alting von Geusau, *Beyond the European Community*, A. W. Sijthoff-Leiden, 1969, p. 125.

¹¹ G. de Beaurepaire, 'Les chances du Kennedy Round entre un marché de dupes et un partnership occidental' *Perspectives* no. 942, Paris, June 1964.

¹² 'Kennedy Round basis agreed in principle, but Commonwealth obstacle remains' *The Financial Times* (23 May 1963).

¹³ A. Weitnauer, 'La Suisse et le Kennedy Round' *Revue Économique et Social* no. 2, (May 1964).

¹⁴ 'Differing views on tariffs' *The Japan Times* (21 May 1963).

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¹⁶ 'Canadians seek tariff breakthrough' *The Ottawa Citizen* (15 May 1963).

¹⁷ 'The GATT "Kennedy Round" of trade negotiations' *Current Notes on International Affairs* Canberra, vol. 38, no. 7 (July 1967).

¹⁸ 'New Zealand's attitude to the outcome of the Kennedy Round', *External Affairs Review* vol. XVII, no. 11 (November 1967).

¹⁹ 'La Pologne négocie dans le cadre du Kennedy Round' *Echo de la Bourse* (20 May 1967).

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²¹ GATT, *Participation of Czechoslovakia in the Trade Negotiations*, Tn/64/16 (21 April 1964).

²² R. N. Gardner, 'GATT and the United Nations conference on trade and development' *International Organization* Boston, vol. 18, no. 4 (1964).

²³ GATT, *Proposals by the International Chamber of Commerce*, Tn/64/5 (12 July 1963).

²⁴ 'La position de l'Unice' *L'Usine Nouvelle* no. 16 (20 April 1967).

²⁵ 'Kennedy Round: les syndicats américains prennent position' *La Tribune de Genève* (27 February 1964).

²⁶ 'Les négociations du Kennedy Round, les divergences entre industriels américains et européens' *L'Usine Nouvelle* no. 24, (11 June 1964).

²⁷ COPA, *Rapport de M. Delau*, Strasbourg, 15 November 1963, pp. 13–14.

²⁸ 'U.S. trade goal should be reduction in EEC fees' *The American Farms Bureau Federation's Official Newsletter* vol. XLIII, no. 1, (6 January 1964), p. 1.

3 Difficulties in the Way of Harmonising Customs Tariffs

Identification of tariff disparities: the formula of '30 per cent + 10'

On the basis of the mandate conferred on it by the Ministers at the preparatory conference of 16–21 May 1963, the subcommittee responsible for studying the programme of tariff reductions set to work at once to lay down criteria for identifying disparities. On the proposal of the United Kingdom delegation, which was adopted by all the delegations, two criteria were adopted as working hypotheses for the selection of appreciable disparities:

- 1 An absolute minimum gap between the two duties.
- 2 A minimum level for the higher duty.

For this purpose the EEC proposed initially as a basis for examination the formula of '30 per cent + 10', that is to say identification of a disparity on the basis of a minimum gap between the two duties of 10 points where the higher duty is at a minimum rate (called 'threshold' or 'cut-off') of 30 per cent (*ad valorem*). The US delegation, on the other hand, while supporting the British proposal, put forward a similar but less rigid formula of '60 per cent + 20', that is to say identification of a disparity on the basis of a minimum gap of 20 points where the higher duty is charged at a minimum rate of 60 per cent (*ad valorem*). The EEC, moreover, on the basis of partial estimates submitted to the special group for tariff disparities (appointed under the auspices of the subcommittee for tariff negotiations) pointed out that under the 30 per cent + 10 formula 557 cases of disparity could be invoked against the USA, concentrated for the most part in the chemical product sector (189 cases) and the textile sector (108 cases). It added furthermore that of the 557 subheadings in the Common External Tariff that could be invoked against the USA under the 30 per cent + 10 formula, only about 250 cases represented significant disparities from the commercial point of view if the calculations were based on Community imports in substantial¹ quantities from the USA.

But the two criteria proposed by the UK delegation presented serious difficulties. It was pointed out that the criterion of an absolute minimum gap (which was aimed at establishing an initial minimum difference between the two duties such that, after application to it of the equal linear percentage

reduction, the final difference would be no longer appreciable) obscured the fact that in reality the same gap can provide a different degree of protection according to the quota of added value incorporated in the product. The disparity is higher the lower the percentage of added value incorporated in the product. In actual fact, since the rate of duty affects the entire value of the goods, the effective protection of the processing is equal to the total amount of duty applied to the product. For example, if the value of a product incorporating value added equal to 20 per cent is put at 100, and assuming a duty of 5 per cent, the duty of 5 per cent corresponds to 25 per cent of the processing value and consequently represents a corresponding rate of protection. If on the same assumption the value added were equal to 10 per cent the protection of the processing factor would be equal to 50 per cent. Conversely, the higher the quota of added value, the higher the protection of the processing element tends to be in terms of the simple numerical level of the duty. In this way, the application of the same gap to finished products (so incorporating a high quota of added value) and to semi-finished products (presenting a lower quota of added value) ran the risk of not singling out particularly significant disparities.²

The criterion of the minimum level of the higher duty corresponded, on the other hand, to the idea firmly held by the American delegation of limiting the problem of disparities solely to cases of high duties. But even this criterion was of a fairly arbitrary nature in that in certain cases it made for disparities not of any particular significance while in other cases it excluded some substantial disparities. Thus on the basis of the 30 per cent + 10 formula (incorporating the British proposal) two duties of 80 and 90 per cent respectively would be considered disparities, while on the other hand in the case of a relatively low duty of 12 per cent and a relatively high one of 29 per cent there would be no disparity, even though in the latter case the disparity would be substantial.

A third particularly serious objection was also put forward by the delegations of Norway, Sweden, Switzerland, the United Kingdom and the USA, who on 14 October 1963 pointed out in a memorandum submitted to the EEC that in many cases third countries would be indirectly prejudiced by the existence of disparities – not imputable to the third countries – between the EEC and US tariffs. In a large number of cases the third countries happened to be the principal suppliers of the Community and the USA at one and the same time. In this case the invocation of the disparities, having the practical result of producing a smaller reduction in the lower duty compared with the higher one, would do serious harm to the third countries and would thus prejudice the whole of the negotiations.

The delegate for Switzerland, the country principally concerned in this question since it was the principal supplier of the three key countries (the

USA, the EEC and the United Kingdom), for a wide range of products (clocks and watches and dyestuffs in particular) then asked, with the full support of the EFTA countries as well as the USA, who were quick to seize this opportunity to isolate the Community, that the special rules for the reduction of the duties in cases of appreciable disparity should be applied, not automatically, but only if the principal supplying country appealed for it to be applied.³ Thus only the European countries concerned, the 'principal suppliers', would be qualified to appeal against the disparities. And by not appealing against them an equal linear reduction would be applied both to the American duties and the EEC duties with the final result that a sharper reduction would be made in the protection enjoyed by the Community than if the Community itself had been in a position to invoke the disparity. To overcome such difficulties new formulas had therefore to be sought.

The formula of the 'double écart'

For this reason following a resolution of the Council on 23 December 1963 the EEC delegation proposed in January 1964 an entirely new mathematical formula known as the *double écart* (expressed in the form '2:1 + 10'), according to which a disparity existed when a high customs quota in a key country (USA, EEC, UK) was at least double the tariff applied by another country to the same item, and the difference between the two tariffs was at least 10 percentage points. The rule of 10 points, however, would be applied only in the case of finished products and raw materials, since the identification of disparities in the case of semi-manufactures was to be effected on the basis of the first criterion, that is to say the ratio 2:1. Furthermore, the EEC argued that disparities would not arise in two cases:

- 1 Where the country with the low tariff was not at that moment producing the goods in question and was not proposing to produce them in the near future.
- 2 When the imports of the product in question by the country with the low tariff were negligible in amount.

Finally, the Community announced that it was prepared to enter into bilateral negotiations so that the provisions on disparities might possibly not be invoked:

- 1 When the high tariff country had a substantial amount of imports from the low tariff country.
- 2 When invoking the disparity rules might have serious consequences for a third country.

But the new formula proposed by the Community had the grave defect of increasing considerably the number of cases of disparity. In fact, according to estimates made by a special working group of the subcommittee for tariff negotiations, under the *double écart* formula the EEC could have invoked as disparity cases (in the industrial sector) in relation to the USA and the UK practically half the items in the CET (1,030 out of a total of 2,163, excluding the items in the coal and iron and steel sectors). Under the 30 per cent + 10 formula, on the other hand, the EEC could have invoked against the USA and the UK no more than 800 of the common industrial tariff items.⁴ This situation did not change substantially on the other hand when the estimate were related to the disparities that were 'significant from the commercial point of view' taking into account the reductions brought about by the application of the two qualitative criteria (provided for in the *double écart* formula) and by the limitation of the ten points rule to finished products and raw materials only. On the basis of the estimates by the GATT working group mentioned above, the cases of disparity 'significant from the commercial point of view' which the EEC could have invoked in relation to the USA and the UK would have concerned about 740 items, representing 18 per cent of EEC imports of non-agricultural products subject to duty.

The formula of the *double écart* therefore entailed the risk of seriously reducing the effect of the Kennedy Round. In fact, if a territory as important as the EEC excluded so large a proportion of its tariffs from the linear reduction the other countries as well, by a logical defensive reaction, would be prompted to follow the Community example, and in so doing would deprive the entire principle of a 50 per cent linear reduction of all significance. In various countries the suspicion therefore arose that with the *double écart* formula the EEC did not aim at settling the complex question of tariff disparities so much as at avoiding any substantial reduction in the CET. This suspicion was reinforced by the fact that the *double écart* formula, as presented by the EEC, gave rise to two surprising observations:

1 The increases in the cases of disparity invoked by the EEC primarily concerned the UK rather than the USA.⁵

2 The USA was able to invoke in relation to the EEC a particularly large number of cases of disparity (407 headings in the US tariff compared with the 71 headings of the 30 per cent + 10 formula, and as regards disparities 'significant from the commercial point of view', over 500 headings in the US tariff compared with some 70 cases under the 30 per cent + 10 formula, representing about one third of the US imports subject to duty).

The EEC delegation, however, retorted that such a suspicion was unfounded and that what really interested the Community was not the figures, but the principle that the countries participating in the negotiations should

undertake to settle the problem of the disparities rather than try to eliminate it without solving it as some countries seemed bent on doing. On the other hand, the possibility could not be excluded that the surprising consequences ensuing from the application of the formula of the *double écart* were the result of a technical mistake by the technocrats in Brussels arising from the excessive haste of the Community to submit to GATT a proposal of their own.⁶

The debate on the formula of the double écart

On 26 February 1964 the USA presented a counter proposal to the Community formula suggesting a solution founded on the concept of a minimum level, a level which, according to American wishes, would be above 40 per cent *ad valorem* with a gap between the two duties of ten percentage points.

The USA hastened to add, however, that if this new formula proved unacceptable they would adhere though reluctantly to an improved version of the formula of the *double écart*. But such a declaration by the Americans amounted to acceptance of the formula of the *double écart*. It was obvious that the EEC would not accept the American counter proposal as it presented in substance all the defects of the 30 per cent + 10 formula. In this way the big debate on disparities seemed on the way to a solution.

The amendments which the USA sought to introduce into the Community's formula, with the evident intention of reducing and circumscribing the number of disparities, were as follows:

- 1 To apply the gap of 10 points to all products (and not only to finished products and raw materials as proposed by the EEC).
- 2 To introduce two new qualitative criteria on an automatic basis to protect the interests of third countries, and eliminate from the rules on disparities those cases in which, notwithstanding the existence of a high tariff, a substantial volume of imports came into the high tariff country from some normal supplying country (and not only from the low duty country, as the Community maintained).

The application to the formula of the *double écart* of these two new qualitative criteria would have appreciably reduced the cases of significant disparities. In fact, according to estimates made by the GATT secretariat, the number of cases of significant disparities from the commercial point of view which the EEC could have invoked in relation to the USA would have dropped by 700 (using the formula of the *double écart* with the two qualitative criteria proposed by the Community) to about 270 (using the formula of the *double écart* with the two qualitative criteria proposed by the Community

plus the two new qualitative criteria proposed by the USA). The majority of the reductions could be attributed to application of the criterion of the 'principal supplier' (over 400 cases of significant disparities were in fact eliminated in this way). The introduction into the *double écart* formula of an automatic criterion designed to protect the interests of the principal third country suppliers of the Community was welcomed in particular by the representatives of Switzerland, Sweden and Norway, who saw in it recognition of the suggestion put forward by Switzerland in November 1963. The Community delegation, on the other hand, retained its preference for bilateral negotiations with third countries case by case, stressing that only such a procedure would make it possible to reconcile the conflicting interests of the Community (which aimed at effecting tariff reductions which would leave a certain margin of bargaining power) and of the principal European countries supplying the Community (interested in a massive reduction in the common external tariff duties). The question of third countries, added the EEC delegation, was too complex to apply an automatic rule which would not take account of the true commercial significance of the cases of disparity. The delegations of Japan, Norway, Sweden, Switzerland, the UK and the USA, on the other hand, pointed out to the Community that: there was no reason why a principal supplying country with a 'low' tariff should be deprived of the benefit of a reduction of 50 per cent as a result of the invocation of a disparity simply because a country – which might have no interest in exporting – had a 'high' tariff; there was no guarantee that the consultation procedure proposed by the Community would provide satisfactory results for the principal third country suppliers, and in such a position of uncertainty it would be difficult for the third countries to present their own offers; the Community proposal in fact only envisaged negotiations with certain European countries (Switzerland in particular). These countries however were the principal suppliers in only 217 of the 740 cases of disparity which the EEC could have invoked in relation to the USA and the UK under the *double écart* formula; the Community proposal would have led to a series of bilateral negotiations product by product which would have constituted an important departure from the concept of the linear approach; and if such consultations had then failed a series of reactions could have followed that would have compromised the multilateral linear character of the negotiations.

Another controversial point was the problem of the application of the formula of the *double écart* to semi-manufactured products as well. In this matter the delegations of Japan, Norway, Sweden, Switzerland, the UK and the USA maintained that it would be more appropriate to apply the rule of the ten percentage points to semi-manufactures as well. In fact, even if the argument advanced by the EEC proved valid in certain cases, the problem was actually extremely complex and the position varied from case to case, as

was shown by a study carried out by a group of experts in GATT.⁷ The UK delegate, however, suggested a compromise solution, and that was to leave the possibility open for a country to invoke the disparity if the gap was less than ten points. Furthermore, the delegations of Israel, Norway, Sweden, Switzerland, the UK and the USA criticised the EEC proposal not to extend the ten points rule to semi-manufactures as well, since in this way numerous duties in the tariffs of various developed countries – duties invested with special interest for the developing countries – would have been excluded from the reduction of 50 per cent. In this matter, however, the Austrian delegation held, and rightly, that a satisfactory solution of the problem of third countries would also reduce any negative consequences for the emergent countries.

As regards the criterion of a high level of imports by a high duty country, the EEC delegation, taking note of the amendments proposed by the USA, observed that when this automatic rule was applied the more one tried to reduce the cases of disparity the more the importance of the remaining disparities increased. Moreover, the Community was opposed to taking account of imports from any particular source since the fact that a third country could export did not necessarily imply that the duty was not protective. The delegations of Japan, Sweden, Switzerland, Norway and the UK held on the other hand that it was not reasonable to conclude that a high tariff was prohibitive simply because exports from low tariff countries were incapable of competing with those from third countries.

Finally, various delegations criticised the criterion proposed by the EEC of ‘no production or import in a low-duty country’, since this seemed to favour the tendency to put off the abolition of illegal quantitative restrictions. To this objection the EEC replied that its own proposal was not to be interpreted as meaning that once a disparity was recognised the low duty country had the right to maintain illegal restrictions, but as meaning that such a qualitative criterion should not be applied when the low level of imports was the result of the existence of quantitative restrictions, since where the imports were restricted by other measures than duties the low tariff country could have an interest in importing.⁸

Treatment of disparities

Closely connected with the problem of the singling out of disparities is of course the problem of the treatment of the disparities themselves. A fundamental objective of the special rules for the treatment of disparities was to bring about at the same time a reduction in the amount of protection and a harmonisation of the tariffs. Theoretically such harmonisation, once a deci-

sion had been taken regarding the level of the equal linear reduction, could only be achieved in two ways:

- 1 By reducing the higher duty by something in excess of such rate.
- 2 By reducing the lower duty by something short of such rate.

But such an alternative did not exist in reality since the USA could not negotiate reductions in excess of 50 per cent. The only possible solution was therefore to effect a smaller reduction in the lower duty.

Having accepted this principle it was observed that there were two alternatives for achieving the solution:

- 1 Reducing all the 'high' duties by 50 per cent and all the 'low' duties by a lower uniform percentage, e.g. 25 per cent.
- 2 Effecting the reductions according to a declining scale, which would have the result that the lower the smaller duty, the lower the tariff reduction would be.

The second of these alternatives was the one to be adopted. In this connection the UK delegate submitted a specific proposal⁹ which provided for:

- 1 The initial application to all the duties of the linear reduction.
- 2 The concession in favour of the 'low' duties – after such linear reduction – of a premium of two points, plus a supplementary point if they proved to be less than half the corresponding higher duty; in this way the automatic reduction would be lower, the lower the duty in force turned out to be.
- 3 No duty below 5 per cent would necessarily have to be reduced.

The EEC delegation, taking its cue from the so-called 'Japanese formula'¹⁰ proposed instead a formula for reduction proportional to the level of the lower duty. The Community proposed drawing up a scale of reductions based on the lower duty, a scale of reductions the average rate of which should not exceed 25 per cent. In drawing up this scale of reductions the Community selected series that were wide enough to avoid the disadvantages inherent in the application of an identical reduction to different levels of duty. The Community thus proposed a theoretical percentage reduction ranging from 15 per cent to 35 per cent so as to provide an average rate of reduction of about 25 per cent. However, some fixed elements were also included in the formula. Thus it was proposed to apply an identical reduction to duties of less than 5 per cent on the one hand, and to duties in excess of 25 per cent on the other.

At the meeting of the subcommittee on tariff negotiations of 29 April 1964

the regressive type of scale proposed by the EEC was adopted as a working basis. Serious difficulties were encountered on the other hand in arriving at a compromise on the proposal by the Community that the average rate of reduction should not exceed 25 per cent. The USA, in fact, supported by the delegations of numerous countries, maintained that the average reduction should be greater than 25 per cent so that the lesser reduction applicable in the case of disparities should be as close as possible to the general rate of reduction. But to this objection the EEC replied that no purpose would be served by defining disparities if the rates of reduction were then to be fairly close to the general rate of reduction.¹¹

Reduced importance of the problem of disparities

After the intense discussions over the period 1963–1964 the problem of tariff disparities lost much of its hold. The reasons for the sudden shelving of this question which for many months had engaged and held the delegations of all the principal countries participating in the negotiations were as follows:

- 1 The problem of the disparities had been exaggerated. Viewed as a whole, without considering the importance of cases of disparity in certain specific sectors (chemical products, textiles, precision instruments, clocks and watches) the application of the formula proposed by the EEC, taking account also of the US amendments, involved cases of disparity that did not exceed 10 per cent of the total imports into the Community.
- 2 At the negotiations the EEC found itself in a difficult situation, since practically all the delegations had formed a common front against the Community propositions, initially to contest the very existence of the problem and subsequently to restrict to the utmost its field of application.
- 3 The EEC did not intend to settle the problem of disparities before the lists of exceptions had been presented, fearing that the USA might be moved to insert in the lists some important items regarding which the Community might have invoked disparities.
- 4 The criteria debated in the GATT subcommittee on tariff negotiations contained some important technical limitations. The customs experts encountered some considerable difficulties in arriving at a true comparison of the tariffs of the key countries: the nomenclatures were different; one single tariff in the CET might be spread over tens of items in the US tariff; the European duties (imposed on the cif value of imported products, that is to say on the value assigned to them at the port of entry) had to be adjusted to the US duties (in general calculated on a fob basis, that is to say on the value at the port of departure) etc.

5 Finally, on the theoretical plane – even if the consequences of a tariff reduction are still not fully understood – the method of analysis adopted by the subcommittee on tariff negotiations was found to be inadequate. The adoption of ‘nominal’ rates for measuring tariff protection contrasts with the more recent analysis aimed rather at comparing the ‘effective’ rates on the basis of the difference between the rates of duty applicable to raw materials and semi-manufactures on the one hand, and the rates of duty applicable to finished products on the other.¹² Nevertheless, in seeking to identify the cases of disparity no serious attempt was made to take account of the various levels of productivity in the industries concerned. It thus proved difficult, if not impossible, to establish whether in reality a tariff of 40 per cent was more protective than one of 20 per cent. The USA contested the theory at the root of the EEC demands¹³ and insisted that the existence of a higher level for a particular tariff did not necessarily mean that it was more protective than a lower level for certain other tariffs. This was confirmed by the fact that in the USA as in the EEC there were high tariff levels above which a considerable volume of imports came in. Moreover, added the Americans, this was often because imports were already considerable at the high tariff. Consequently, a reduction of 50 per cent for the item in question would in practice have a more liberalising effect than a reduction by the same percentage of a lower duty where the similar industry happens as regards exports to be in a highly competitive position.

The EEC adopts the formula of the double écart

But the fact that the problem of disparities was put on one side did not mean that it would be shelved completely. In a confidential report prepared by the EEC a few months after the conclusion of the negotiations it was stated that ‘the solution of the general problem of disparities is one of the conditions of a final balanced agreement’. Indeed, having deferred to the end of 1966 the principal technical obstacle (the preparation by the experts of the concordance tables of tariffs for the key countries), at the end of January 1967 the EEC issued a new list (called ‘gross lists’) of the disparities that it could invoke against the USA and the UK.

This list contained a large number of cases of disparity (1,400). However the Community was at once prepared to simplify the list to the utmost by excluding:

- 1 First of all the items for which the EEC had called for exceptional treatment.
- 2 The tariff lines for which imports into the EEC were nil or negligible

(amounting in value to less than US \$ 50,000), together with the majority of the lines in partial disparity for which the imports in disparity represented less than 30 per cent of imports for the entire line.

3 A large number of disparities for which the Nordic countries and Switzerland and Austria had applied for the benefit of the 'European clause' as principal suppliers or at least substantial suppliers of the products in question as regards the EEC.

4 Treating as a special case, to be negotiated on a global basis, the numerous disparities (a good 450) in the chemical product sector, and certain other sectors (steel, clocks and watches).

By the end of March 1967 the EEC had thus drawn up a condensed list embracing about 225 tariff lines in the CET (excluding the chemical, steel and clocks and watches sectors).¹⁴ For the selection of disparities the EEC therefore applied the formula of the *double écart*, that is to say the formula proposed by it from the start of the negotiations. Similarly for the treatment of the disparities the EEC formulated at the outset a proposal to effect a variable reduction ranging from 15 per cent (for the lowest duties) to 35 per cent (for the highest duties), giving an average rate of reduction of about 25 per cent. Certain adjustments were made, however, in the case of partial disparities. In fact, seeing that it was impossible in many cases to register in the CET the many lines in the American and British tariffs that were in disparity, the EEC worked out a weighted average duty, so effecting greater reductions for various lines in partial disparity. In cases, on the other hand, in which the key country had placed the product in disparity on its list of exceptions, the EEC did not effect any reduction (as for example in the case of wool, which was treated as a total exception by the USA).

In invoking disparities, the EEC, although adopting an automatic rule, still displayed signs of pragmatism, especially in its application of the 'European clause'.¹⁵ On the other hand the EEC did not apply the *double écart* formula on a unilateral basis. Apart from the discussions with the Nordic countries and Switzerland and Austria, the EEC secured acceptance by the USA of the list of disparities, with a reservation merely to make certain modifications (of little importance however). The USA maintained in fact that in certain cases actual disparities did not exist even if the US tariff was precisely double that of the CET. The US tariff (based on fob values) when converted into cif values resulted in slightly lower duties than those in the CET. In this case, therefore, the EEC adopted the American proposal and dropped the idea of invoking disparities for these items. As a result, altogether, allowing for about twenty items abandoned in the period from March to May 1967, the EEC succeeded in invoking in relation to the USA and the UK only just over 200 tariff lines of the CET.

This applied in particular in the case of the steel sector; the chemical products sector (on condition however that the American Congress ratified the special protocol appended to the final Act of the Conference) and to a lesser extent the machinery sector (in which the Community invoked a total of disparities relating to 54 tariff lines) in particular as regards specified interchangeable tools, rolling mills and related appliances, together with certain machine tools; the sectors of precision instruments, optics and musical instruments (in which the cases of disparity invoked by the EEC related to 25 tariff lines) in particular binoculars, photographic and cinematographic apparatus, projection apparatus, apparatus used in photographic and cinematographic laboratories, geodetic apparatus, medical and surgical apparatus, gas and electricity meters, and apparatus for sound-recording and reproduction; and, to a lesser extent, the footwear sector, gloves, dressed fur skins and waste products; the non-metallic minerals sector, fluorospar, slate, grindstones of abrasive agglomerates and mica work; the sector of ceramic products including objects for technical use, stoneware crockery and other ceramic material; glass and glassware, glass in balls, rods or tubes, sheet glass and domestic glassware; and seven lines in Chapter 85 of the CET (relating in particular to electrical resistances, starting equipment and flat-irons). And finally a series of other products, among them silk yarn; artificial yarns; artificial textiles; the majority of synthetic and artificial raw materials in staple form; hemp yarn, and corded yarn and textiles; bolduc, tulles and lace; laps in synthetic and artificial textile materials, 'non-woven cloths', certain rubberised fabrics, straps and certain materials and manufactures for technical uses; articles for babies; gloves, socks and stockings; magnesium; practically all ferrous metals; basket work; hoods and hat-forms, felt hats; certain arms (notably sporting guns); tennis rackets; stylograph pens, lighters and pipes.

The recognition by the key countries of the above-mentioned cases of disparity was effected on a pragmatic basis by returning, in view of the impossibility of agreeing an automatic and objective formula, to the classic method of negotiation product by product or, at the most, sector by sector.

Lists of exceptions

Closely connected with the problem of appreciable disparities was that of the exceptions, that is of the products to be excluded totally or partially from the negotiations. In its general outline the problem of exceptions, undoubtedly another aspect of fundamental importance to the negotiations, had its origin in the very method of the negotiations, that is to say in the principle of equal linear reductions. It was clear that the application of a general system of

customs alignment required, owing to its very general nature, that the possibility of exceptions should be accepted.

In consequence, the Ministerial resolution of 21 May 1963 laid down that the multilateral negotiations should be based on a programme of substantial linear reductions and that the exceptions should be kept down to a minimum, though they would still have to be justified and agreed. At subsequent meetings of the working group appointed by GATT on the procedure for tariff reductions the US delegation proposed that a ceiling should be fixed for the exceptions, suggesting that each country should undertake to present at the outset a list of exceptions not exceeding a specified percentage of total imports. This American proposal was rejected however. The delegations of the other countries (EEC, Japan, Norway, etc.) pointed out that the American proposal would have prompted the governments concerned to present at the start of the negotiations the maximum number of exceptions irrespective of whether or not they were necessary. It would be more appropriate, as the Norwegian delegate indicated, only to permit the presentation of lists of exceptions satisfying precise requirements laid down by common accord. Unfortunately, however, no objective criterion could be arrived at, since each country wanted to retain the maximum freedom of action in deciding its own list of exceptions.

The Ministerial resolution adopted by the Trade Negotiations Committee on 6 May 1964 remained vague about fixing the common criteria for the exclusion of particular items from the linear reduction, and only succeeded in establishing:

- 1 That the lists of exceptions should be dictated by 'considerations of higher national interest'.

- 2 That the final agreement on tariff reductions should be adapted to the solutions adopted for the other problems at the negotiations (tariff disparities, agricultural problems, non-tariff and para-tariff problems), and in general to the achievement of a satisfactory measure of reciprocity.

At the same Ministerial session of 4–7 May 1964, 10 September was appointed as the date for the deposit at GATT of the lists of exceptions, but at the subsequent meeting on 29 May 1964 the date was postponed to 16 November 1964 because of the enormous volume of work entailed in the actual compilation of the lists and to meet the wishes of the US and UK delegations who preferred to submit their own lists after the elections being held in their countries in November and October respectively. But before the lists of exceptions came to be deposited on 16 November 1964 some substantial difficulties had to be faced. The USA insisted on leaving the deposit of the lists of exceptions until a start was made on negotiations in the agricultural sector. The Community, on the other hand rejected the idea of any parallelism between the various economic sectors, holding – under French pressure – that any progress in the agricultural sector of the Kennedy Round

was only to be made after the fixing of the common prices for cereals scheduled for 15 December 1964. The conflict, which actually held up the negotiations, was settled however in October 1964. Herter announced in a press communiqué of 3 November that the USA would honour the date of 16 November 1964 irrespective of the progress achieved in the agricultural sector. After settling this conflict with the USA, however, the Community was faced with another difficult problem, which was how to succeed in defining a list of exceptions so as to satisfy the requirements of protecting the six partner countries without prejudicing the validity of the entire negotiations. For this purpose the Commission had drawn up on a provisional basis, with the help of the experts in the Committee under Article 111, a relatively restricted list of exceptions comprising some 11–21 per cent of the EEC imports subject to duty under the CET. This list, however, once in the hands of the six countries was considerably extended (mainly in consequence of demands by France and to a lesser extent by Italy and Belgium) so as to cover 30–34 per cent of EEC imports subject to CET duties.

But the production of so sizable a list of exceptions provoked reactions by the Federal Republic of Germany and the Netherlands who, though in favour of extending the Commission's provisional list to some extent, intended to give the Kennedy Round the widest scope possible and so considered it necessary to keep to a list that did not exceed in all 20 per cent of the EEC imports subject to duty (on the understanding, however, that such list would be further reduced in the course of the negotiations to take account of the reductions effected by the other countries participating in the negotiations).¹⁶

The principal points in dispute between the Six with regard to the formulation of a single list of exceptions concerned:

- 1 Motor vehicles, which only Italy, in sharp contrast to the Federal Republic of Germany who was concerned to increase sales to third countries, demanded should be made a complete exception.
- 2 Separate parts of motor vehicles, for which Belgium, in sharp contrast to Italy, asked that a partial exception should be made in order to maintain a significant gap between the CET duty on motor vehicles and the duty charged on separate parts to safeguard the assembly plants in the Antwerp district (Opel, Vauxhall, etc.).
- 3 Agricultural material, which Italy wished to treat as a total exception, while France confined herself to requesting that only tractors be placed on the list of exceptions.
- 4 The machinery sector, in which France – in sharp contrast to the German Federal Republic – requested treatment as an exception of a vast range of products (machine tools, sewing machines, transport material, marine engines, knives and cutlery, etc.).

Nuclear reactors and parts thereof together with fissile material of enriched uranium, which France – in contrast to the Federal Republic of Germany and Euratom – wanted to make a total exception.

6 Aluminium, considered a critical sector handicapped by the relatively high cost of energy in the EEC, for which France sought the retention of the duty in force (9 per cent).

7 Light aircraft and helicopters (not over 15 tons), which France wanted to treat as a total exception, she being the principal producer in the Community.

8 The electronic industry, for which France and Italy wanted numerous products made exceptions (electric piles, portable lamps, certain radio-TV equipment, television tubes, electronic measuring instruments, etc.).

For a series of other particularly important products – textiles, chemical products, paper and paperboard, clocks and watches, etc. – the idea prevailed among the Six of making their non-inclusion in the list of exceptions subject to the concession of specific set-offs by the other countries participating in the negotiations.

A compromise solution was finally adopted at the end of an exhausting Ministerial marathon spread over four days and an entire night (from 12 to 15 November 1964). Thanks to the will to succeed of France (how especially in the machinery sector, withdrew a large part of her demands), to the good will of the Federal Republic of Germany (who did not oppose the addition of a certain number of products to the list presented by the Commission), to the spirit of collaboration of Italy (who renounced her demand that motor vehicles should be made an exception) and to the complaisance of Belgium (who, as regards separate parts, contented herself with the promise that in case of difficulties at the assembly plant at Antwerp the Six would be consulted), the EEC on the date agreed of 16 November 1964 succeeded in presenting to the GATT secretariat a list of exceptions acceptable as a starting point for the negotiations. The Community excluded from the linear reductions only about 19 per cent of the total imports of industrial products subject to duty, thus clearly demonstrating – as the German Neef, who presided at the meeting of the EEC Council of Ministers, was to underline – that they ‘had no protectionist aspirations, preferring rather the development of trade on a multilateral basis’, since about 80 per cent of their imports would be subject to equal linear reductions.¹⁷

Presentation and justification of lists of exceptions

On 16 November 1964 the lists of exceptions prepared by the USA, the EEC, the United Kingdom, Japan and Finland were presented to the GATT

secretariat.¹⁸ The other 'linear' contracting parties, the Scandinavian countries, Switzerland and Austria, did not call for any exceptions at the time, subject however to satisfactory reciprocal concessions being granted to them during the negotiations. Among the semi-industrialised countries, Canada confined herself to depositing a list of the concessions that she was prepared to offer while, alone among the state trading countries, Czechoslovakia presented a special offer subject to the normal condition of reciprocity.

The lists deposited with GATT contained exceptions of different categories:

- 1 Total exceptions (small in number, aimed at maintaining the duty at the level prevailing).
- 2 Partial exceptions (more numerous, aimed at reducing the customs duties by a lesser amount than that provided by the general rule of 50 per cent).
- 3 Conditional exceptions (limited to particular cases, aimed at subordinating the application of the linear reduction to a satisfactory measure of reciprocity). This last category of exceptions, however, involved holding a series of bilateral negotiations (e.g. between the EEC and Switzerland on clocks and watches; between the EEC and the USA on the abolition of the American Selling Price; between the EEC and the Scandinavian countries on paper and paperboard, etc.) with a view to overcoming the restricted tariff barriers.

The EEC list contained about 700 exceptions concentrated in the following sectors:

- 1 Machinery, for which the Community declared its intention to maintain a certain protection for a series of products the duties on which were already fairly low in comparison with those of the other key countries, to stand up to competition from some powerful foreign firms in other products (agricultural tractors, heavy commercial vehicles and buses, certain material for public works), and to safeguard the possibility of expansion in its own industry for certain articles (electric calculating machines, microstructures, nuclear reactors, machine tools numerically controlled, etc.) which it was intended to build up in future but now exposed to American competition; and to face the threat of imports from low price countries and state trading countries (articles of cutlery, sewing machines, transistor insulators, certain optical products, etc.). The Community asked besides for a satisfactory measure of reciprocity for private motor cars and as regards separate parts only gave Belgium an assurance of assistance in case of difficulty at her assembly plants. In particular, the clocks and watches sector was finally to be considered as excluded altogether until Switzerland had negotiated with the Community a more liberal régime for her exports and imports.

2 Chemical products, of which a great number were excluded from the general reduction until the USA had responded to the Community request to negotiate on the abolition of the American Selling Price. All the same the Community put certain articles in the total exception category (phosphorus, liquid ammonia, polystyrene and numerous rubber products).

3 Textiles, in the case of which the Community laid claim to a higher national interest for a large part of artificial and synthetic textile materials, for jute manufactures and for certain articles of clothing and carpets. The Community also made it known that in the sector of cotton textiles and substitute products its offers were dependent on the renewal of the International Agreement on Cotton Textiles and the adoption by the contracting parties of measures corresponding to the objects of the agreement.

4 Steel, for which the Community announced that it hoped to achieve the maximum harmonisation of tariff protection and provide for total exceptions for wires and tubes. For ferro-alloys as well the Community raised exceptions for almost all the tariff lines because of the active competition from the industries in third countries supplied with energy at lower cost.

5 Non-ferrous metals, of which the Community put on the list of almost total exceptions aluminium, magnesium, molybdenum, tungsten, tantalum, and the sensitive products such as lead and zinc, and titanium (this last product in order to maintain a production at the development stage).

6 Pulp, paper and paperboard, for which the Community made any concessions dependent on the reform by the Nordic countries of their marketing conditions.

7 Non-metallic minerals, of which the Community raised exceptions for salt used for chemical transformation and products with an asbestos base. For ceramic products, however, the Community proposed to maintain the maximum level of protection in relation to the low price countries and the state trading countries.

8 Hides and skins, for which the Community proposed to oppose the restrictive practices of certain exporting countries (raw hide, cow hide, plastic travel goods) and the severe competition from low wage and state trading countries (plastic and rubber footwear).

9 Wood and woodwork, on which the Community sought consultation with the African states associated with it.

10 And a series of articles (umbrellas, artificial flowers, brushes, tooth-brushes, paint brushes, toys, buttons, etc.) to meet competition from products from low price countries and state trading countries.

The list presented by the USA showed exceptions under three heads. The first category contained products excluded from the general reductions 'for economic reasons': sardines, sawn timber of all types, practically the whole

of the wool sector, pottery and porcelain, glassware, television tubes, electronic receiver tubes, footwear, gloves, electric measuring instruments and umbrellas. The second category contained products excluded 'for constitutional reasons', such as lead, zinc, certain carpets, and certain instruments for medical use, etc. These two groups of products, in which goods of a labour intensive type prevailed, would be negotiated with the other key countries on a basis if necessary of reciprocal concessions.

The third category, on the other hand, related to products, such as petroleum and titanium, that were totally excluded from the negotiations 'for reasons of national security' and were not of a kind in any case to give rise to reciprocal concessions.

The United Kingdom list contained a relatively modest number of products, i.e.: tantalum (alloys and derivatives) to ensure the development of the key aerospace and nuclear industries; various metals for which the tariff levels were already relatively low (titanium, zircon, etc.) feeding an industry in a phase of formation; coals, lignite-coke for which the consolidation of the zero duty was not provided; silicon, from which consolidation was similarly withheld, this being an industry in a phase of development; beryllium, for its growing technological importance in the aerospace industry; lead and zinc, the incidence of the respective duties being lower than in the USA and the EEC; cotton textiles, raised as total exceptions, extensive advantages having already been provided for the industry in the emergent countries and to permit the reconstruction of the entire sector; jute, because of employment difficulties that had arisen in the Dundee area; artificial and synthetic textiles, treated as partial exceptions; certain types of alcoholic ethers, because of occupational difficulties; plastic materials, to avoid penetration of surplus production by foreign industries, as the duties protecting the British market were already relatively low compared with those in the EEC and the USA. The United Kingdom finally requested for various products (woollen textiles, motor vehicles, steel and chemical products), in return for the linear reduction, a satisfactory measure of reciprocity, and recalled that for certain products subject to preferential treatment she had to obtain the agreement of the Commonwealth countries directly concerned.

Japan's list contained a substantial number of products split up into four categories. The first of these included all the products (natural graphite, manganese ores, tungsten, mercury, camphor, citric acid, gelatine for industrial use, hides, belts, cork products, paper and paperboard, woollen textiles; linen threads, jute textiles, leather footwear, artificial flowers; copper products, etc.) the exclusion of which was justified by political and social considerations (small enterprises, danger of unemployment, industries in decline, difficulties in depressed areas, and unfavourable effects for low income groups). The second category contained products (such, for example,

as silicon, lead, antimony, petrochemical products, electronic instruments, office equipment and certain machine tools, motor vehicles for the transport of persons, electric generators, electrical measuring instruments, etc.) the exclusion of which was justified by the necessity for maintaining and developing industrial techniques, industries in course of development and industries in course of reconstruction. The third category comprised products the exclusion of which was justified by the necessity of ensuring continuous and regular supplies to national industry (coal, for which the consolidation of duty was excluded; liquefied petroleum gas and other oils derived from petroleum; fertilisers; ferro-alloys; copper; nickel alloys; aluminium; zinc; magnesium; tantalum; and chemical compounds for agriculture). And lastly the fourth category contained products (pharmaceutical products for example) excluded from the general reduction in the interests of public welfare and for reasons of security.

Comparison of exception lists

Since 9 December 1964 the lists deposited with GATT were subjected, as was foreseen, to a multilateral procedure of justification and comparison.

The justification procedure was based, as has already been noted, on a single, and somewhat vague, objective criterion, that of the higher national interest, so that it proved rather difficult for the group of GATT experts to judge how close the lists deposited came to satisfying the principle. The EEC, however, at its first meeting, let it be understood that the criterion of the higher national interest was to be interpreted in the widest sense. In fact the Community, besides ensuring that the items classified by it as exceptions fully satisfied the principle of the higher national interest, hastened to add that in certain cases it was necessary to guarantee not only global reciprocity but also reciprocity in the sphere of specific categories of products. In particular, the EEC stressed that the solution that would be provided for the problem of non-tariff barriers (such as the American Selling Price and the system of customs valuation used by the USA) would be of decisive importance in assessing reciprocity. This broad interpretation was still further amplified by the USA, however, who, at the same meeting on 9 December 1964 declared that 'the list of American exceptions was prepared with an eye to obtaining a satisfactory measure of reciprocity not only for the tariffs for industrial products and non-tariff barriers but also as regards trade in agricultural products'.¹⁹

To this extent, as it was not in practice possible to define precisely the criterion of the higher national interest and as the key countries were determined to avoid recourse to complex automatic criteria (the efficacy of which

would still have been doubtful, as was seen in the case of tariff disparities), the multilateral justification procedure was limited to a mere explanation of the arguments used by the various countries in drawing up the lists deposited.

As regards the central problem of comparing the lists, the EEC, in a comparative confidential study, found an overall satisfactory balance between the lists of the key countries in the fact that:

1 The linear US offer covered 87 per cent of the total import of industrial products coming from the six countries, while the total exceptions of the EEC concerned 6.6 per cent of total industrial products from the USA and the partial exceptions 12.7 per cent of total industrial imports.

2 The linear offer of the United Kingdom covered 91 per cent of total imports of industrial products coming from the six countries, while the total exceptions invoked by the EEC concerned 8.5 per cent of total industrial imports from the United Kingdom.

However, in various sectors of great importance (chemical products; textiles; iron and steel; non-ferrous metals; paper and paperboard; and clocks and watches) the situation with regard to some conditional exceptions was rather uncertain. For these categories of products it was not possible therefore to adopt a procedure for multilateral comparison, but only to conduct negotiations on a bilateral basis or one related to particular sectors at which the comparison of the respective positions would be limited to the principal protagonists. In fact, on the proposal of the same Director General of GATT, Wyndham White, working groups were set up for each of the above mentioned sectors in the spring of 1965, composed only of the countries directly concerned, for the purpose of finding a solution that would facilitate application of the general reduction.

Rectification lists

The USA and the United Kingdom asked the countries that had presented the longest lists of exceptions (EEC and Japan) to make an 'effort' to reduce them, and added that if a reduction could not be made they would be obliged to withdraw a certain number of offers.²⁰ A similar request was presented to the EEC by the countries which had abstained from presenting lists (the Scandinavian countries and Switzerland), which, as the principal suppliers to the Community of an extensive range of goods, would be particularly affected.

In accordance with the procedure laid down by the Director General of GATT, the USA, the UK, the Nordic countries (Finland, Sweden, Denmark and Norway), Switzerland, Austria and Canada presented on 30 November 1966 a balance sheet of the respective offers indicating the changes they would wish to make in their initial positions having regard to the offers of the partner countries.

In particular, the USA requested an improvement of the EEC's offers in the following sectors:

- 1 Machinery (43.2 per cent of the total), especially for bulldozers, broadcasting and receiving equipment for radio telegraphy, spare parts for office equipment, and electrical and electronic measuring apparatus.
- 2 Iron and steel (37.3 per cent of the total) for products of the European Coal and Steel Community.
- 3 Chemical products (8.4 per cent of the total).
- 4 Processed paper (4.5 per cent of the total).
- 5 Synthetic textile fibre threads (3.8 per cent).
- 6 Crude aluminium (2.9 per cent),

threatening otherwise to withdraw their own initial offers in the following sectors: textiles (17 per cent of the total), metals (28 per cent of the total, especially aluminium); cine cameras and projectors (20 per cent of the total); machinery (10 per cent); optics (8 per cent); firearms (6 per cent); minerals (4 per cent); electrical appliances (2 per cent); and various other items (5 per cent). The USA in turn undertook to grant the EEC improvements on the original offers in the form of tariff reductions on four products (including porcelain) and exemption for ferro-nickel.

The United Kingdom sought an improvement in the EEC offers in the following sectors:

- 1 Machinery (62.8 per cent of the total).
- 2 Textiles (14.7 per cent of the total).
- 3 Steel (11.8 per cent).
- 4 Non-ferrous metals (3.4 per cent).
- 5 Paper and paperboard (3.2 per cent).
- 6 Ceramics (0.9 per cent).
- 7 Chemical products (1 per cent).
- 8 Sundry products (2.3 per cent),

threatening otherwise to withdraw her own initial offers in the following sectors: machinery (28 per cent of the total of the list of withdrawals); chemical products (15 per cent, especially fertilisers); minerals and metals (17 per cent of the total, especially glass and steel); textiles (7 per cent of the

total, especially wool and carpets); sundry other products (48 per cent of the total, especially footwear, paper and paperboard and timber).

The Nordic countries applied to the EEC for improvements in the following sectors:

- 1 Timber, paper and paperboard (48.3 per cent of the total).
- 2 Machinery (20.2 per cent).
- 3 Non-ferrous metals (8.2 per cent).
- 4 Steel (8.1 per cent).
- 5 Chemical products (4.2 per cent).
- 6 Ferro-alloys (3.9 per cent).
- 7 Textiles (2.3 per cent).
- 8 Other items (4.7 per cent),

threatening otherwise to exclude from the negotiations a series of products representing 32.4 per cent of their total industrial imports from the EEC. In particular the following products would be affected: machinery (49.2 per cent, especially motor vehicles); textiles (25.3 per cent of the entire list of threatened goods); minerals and metals (6.2 per cent, especially aluminium, glassware, iron and steel); chemical products (15.3 per cent, especially plastics and rubber); and other items (4 per cent of the entire list of threatened goods).

Switzerland, besides demanding the elimination of all the disparities regarding which she was the principal supplier to the Community, asked the EEC for improvements in practically the whole of the products put on the exceptions list exported by her to the Six. The following sectors were concerned in particular:

- 1 Machinery (43.6 per cent of the total list of improvements).
- 2 Textiles (37.7 per cent).
- 3 Non-ferrous metals (5.3 per cent, especially aluminium).
- 4 Chemical products (4.9 per cent).
- 5 Steel (3.9 per cent).
- 6 Paper and paperboard (2.9 per cent).
- 7 Ferro-alloys (0.5 per cent).
- 8 Other items (1.9 per cent),

threatening otherwise to exclude from the negotiations a series of products amounting to 33 per cent of her imports from the EEC (on the assumption that the Community would apply the general rules of negotiation) and to 47 per cent (if cotton textiles and clocks and watches were excluded from Chapters 29, 32 and 39). The following sectors in particular would be affected:

textiles (38 per cent of the total list of threatened goods); machinery (32 per cent, especially motor vehicles); chemical products (21 per cent, especially plastics); minerals and metals (4 per cent, especially glass); other items (especially paper).

The EEC's reaction to the presentation of the amended lists was particularly strong, especially as regards the USA and the United Kingdom. The Executive Commission of the EEC pointed out:

1 That the US lists would involve the withdrawal of trade to the value of about \$116 million (in relation to 1962), equal to 5.4 per cent of total industrial imports from the EEC.

2 That the UK list of possible withdrawals would entail the exclusion of a wide range of products that would affect sizable flows of exports from the Six to the value of about \$303 million (in relation to 1962) representing 20 per cent of total imports and 30 per cent of imports subject to customs duties.

3 That the withdrawal list of the USA had been drawn up on the basis of working assumptions that were completely arbitrary (for instance, the USA took no account of disparities; and in the case of aluminium the Americans considered that the offer of an EEC quota would be replaced by a substantial tariff reduction, etc.).

4 That the list of British withdrawals was similarly based on somewhat unrealistic assumptions (in fact, in the steel sector the United Kingdom valued its offers on the basis of the duties shown in the agreement concluded with the EEC in 1958).

5 That with the deposit of the lists of exceptions there was substantial harmony between the offers of the Community, the USA and the United Kingdom.²¹

The Council of the EEC, therefore, in an exhaustive debate on the subject in January 1967, stressed that the lists of potential withdrawals presented by the various countries did not seem justified²² and that they also entailed a danger of touching off a growing number of withdrawals that could prejudice the success of the entire negotiations. If, in fact, part of the offers of the partners were actually withdrawn, the Community too would be obliged to withdraw its offers on those products the duties on which afforded protection of a relatively high order and the volume of imports of which was substantial. The EEC, however, declared its readiness to improve its offers in the sectors of specific interest to the Scandinavian countries (paper and paperboard, aluminium, ferro-silico-manganese and magnesium) and to Switzerland (textiles and certain machine products), on condition that these countries abstained for their part from withdrawing the products of particular interest to the Community.

The EEC therefore emphasised that:

1 For a certain number of very important sectors any concession to the Nordic countries and Switzerland was subject to the result of the negotiations in progress at the general level and at the sectoral level, in particular as regards cotton textiles, paper and paperboard, aluminium and above all inorganic chemical products.

2 For motor vehicles, any listing as exceptions by Switzerland or Scandinavia would entail the automatic withdrawal of certain Community offers on grounds of lack of sectoral reciprocity, as was clearly laid down by the Council in the directives issued on 15 November 1964.

3 For clocks and watches any concession to Switzerland remained subject to the abolition of the restrictions on imports and exports in force in that country.

A global compromise solution

Finding a meeting point acceptable to all the principal countries proved extremely difficult. Each country in fact was preoccupied with the business of ensuring a balance between its own concessions and those of others. In the last few months of the negotiations a certain hardening of positions was evident, more particularly between the EEC and the USA, prompting the Six to consider withholding any liberalisation in the sectors of vegetable oils, tobacco and poultry, all products exported by the USA to the Community in considerable quantities. In January 1967, however, the EEC Council of Ministers decided to go ahead with the negotiations and avoid as far as possible having to withdraw such offers, and pressed the Commission to carry on the negotiations in the fields in which there had been delay, that is to say the field concerned with the problems of disparities and the problems of non-tariff and para-tariff barriers, including the question of the American Selling Price.

In the last days of the negotiations the deadlock was therefore broken, thanks to a series of bilateral and multilateral contacts between the principal delegations concerned, who understood that if the failure of the Kennedy Round was to be averted some sacrifice must be made in the form of further concessions. The final phase of the negotiations was thus reached in which the EEC and the other countries principally concerned strove to arrive at an overall compromise solution acceptable to their respective economies, even if neither the EEC nor the other countries were prepared to improve on the various concessions sufficiently to give complete satisfaction to the countries seeking them.²³

Notes

¹ By 'substantial' was meant quantities equal to at least 20 per cent of EEC imports to a value of at least \$ 50,000.

² H. G. Johnson, *The Theory of Tariff Structure with Special Reference to World Trade and Development*, Librairie Droz, Geneva, 1965.

³ GATT, *The Problem of Tariff Disparities, Statement by the Delegate of Switzerland*, Tn/64/Np/5, 27 November 1963.

⁴ The previous estimate of 557 items did not include the disparities that the EEC could invoke in relation to the United Kingdom.

⁵ GATT, *Report of Fact Finding Group*, Tn/64/Np/6, 20 February 1964.

⁶ The American press spoke in fact of the 'superiority' of their own electronic calculators compared with those used by the EEC. See: 'Disagreement on GATT, disparities issues' *The New York Times* (15 April 1964).

⁷ GATT, *Group of Experts on the Application of a Double Ecart Formula to Semi-Finished Products*, Tn/64/14/Rev. 1.

⁸ GATT, *Tariff Negotiating Plan, Report Summarizing the Position Reached*, Tn. 64/15, 10 April 1964.

⁹ GATT, *Note du Secrétariat sur les travaux du sous-comité*, Spec (64) 227, 2 August 1963.

¹⁰ The 'Japanese formula' (so-called because the Japanese delegates conceived the idea of proposing it during the Ministerial Conference of GATT in 1963) consisted in applying reductions that varied according to the level of the duty: the higher the duty the greater the reduction.

¹¹ P. Fabra, 'Les négociations tarifaires avec les États-Unis vont s'enfoncer dans la ténébreuse querelle des disparités' *Le Monde* (1–2 December 1963).

¹² On this point, however, it is to be noted that certain authoritative economists (Travis, 1968; Ruffin, 1969; and Tan, 1970) have expressed scepticism regarding the validity of the theory of effective protection and the possibility of establishing an accurate measure of effective protection. H. B. Grubel and H. G. Johnson, 'Effective tariff protection', *Proceedings of a Conference Sponsored by the GATT and the Graduate Institute of International Studies*, Geneva, 17–20 December 1970.

¹³ The EEC's theory was based on the hypothesis that the elasticity of demand for imports was lower in the USA than in the Community because of the relative rigidity of import demand for a comparatively large number of items subject to high or low duties under the US tariff. See: A. H. Albrechts and J. W. Van De Gevel, 'The negotiating techniques and issues in the Kennedy Round' *Economics Relations After the Kennedy Round* A. W. Sijthoff (1969) pp. 24–25.

¹⁴ P. Fabra, 'L'affrontement entre les États-Unis et les Six domine le petit sommet de Genève' *Le Monde* (31 March 1967).

¹⁵ J. Dugimont, 'Les négociations du Kennedy Round (II)' *Etudes Economiques* Mons, no. 137, pp. 7–8.

¹⁶ P. Fabra, 'Les Six vont essayer de mettre au point leur liste d'exceptions le 16 novembre' *Le Monde* (4 November 1964).

¹⁷ P. Fabra, 'Les Six acceptent de négocier une réduction tarifaire sur plus de 80% de leurs importations industrielles' *Le Monde* (17 November 1964).

¹⁸ 'Les États-Unis, la Cee, la Grande Bretagne et de nombreux pays ont déposé leurs listes d'exceptions' *Le Monde* (18 November 1964).

¹⁹ GATT, *The Procedure for the Justification of Exceptions Lists*, Tn. 64/Sr, 9 December 1964.

²⁰ 'Le secrétaire américaine au commerce demande la réduction des longues listes d'exceptions' *Le Monde* (2 November 1966).

²¹ The EEC was opposed to the idea of drawing up a balance sheet of the offers of the various countries based solely on the criterion of reciprocity (expressed in terms of the volume of trade and/or the collection of customs duties). Such a balance sheet would be distorted in fact by the level of custom duties and by the volume of trade in the sectors treated as exceptions by the two parties.

²² *Considerate pericolose le liste dei ritiri al Kennedy Round*, (Lists of withdrawals from Kennedy Round considered dangerous), *Comunita' Europee*, no. 2, 1967, p. 19.

²³ The EEC from the 700 items originally treated as exceptions came down to about 300 customs positions (made up for the most part of partial exceptions).

4 Special Problems in Certain Industrial Sectors

In the industrial sector the negotiations began with a multilateral study of the initial offers made by the participating countries. As we saw in Chapter 2 these offers were essentially of two types:

- 1 'Linear' offers by the countries which had accepted the negotiations on a linear basis.
- 2 Offers 'product by product' made by the special structure countries.

The analysis on a multilateral basis of the initial offer by the 'linear' countries and the 'special structure' countries related to both total and partial exceptions. The object of this multilateral study – which came rapidly to an end at the beginning of 1965 – was to prepare the ground for a general evaluation of the tariff reductions offered in the industrial sector in order to arrive in the concluding phase of the negotiations at a satisfactory level of reciprocity. Subsequently, from the spring of 1965, the negotiations in the industrial sector assumed the essential character of bilateral negotiations between the principal commercial partners. In this way notable progress was achieved for a vast range of products. In certain 'critical' sectors, however, the negotiations seemed blocked, so that at the end of 1965 and the beginning of 1966, the Director General of GATT suggested that special working groups should be set up by the delegates of the countries directly interested. Five working groups were thus formed for aluminium, paper and paper pulp, steel, textiles and chemical products.

The negotiations conducted within the groups for the various sectors, though varying in character according to the product concerned, turned out to be very interesting. In fact, apart from tariff concessions, many other aspects of commercial policy (industrial structures, existence of non-tariff barriers, distribution of consumption, etc.) were discussed. In this chapter, however, we shall be concentrating our attention on the work performed by the groups for the various sectors, but we are leaving until Chapter 5 the analysis of the problems in the chemical industry because of the close connection between that sector and the question of the American Selling Price. Subsequently, after examining the bilateral agreement concluded between the European Community and Switzerland on clocks and watches, we leave until

the beginning of Chapter 9 an examination, brief but comprehensive, of the results of the Kennedy Round in the other sectors, in which on the basis of negotiations product by product substantial tariff reductions were agreed by application of the generalised linear principle.

Aluminium

The aluminium industry throughout the world, like pretty well all the non-ferrous metal industries, is characterised by the presence of a few big undertakings of international importance integrated both horizontally and vertically. The producers of prime aluminium have in fact safeguarded the energy reserves they need for their foundries and have integrated upwards by the acquisition of bauxite mines and downwards by building up industries producing semi-manufactured goods or, in certain cases, finished products. The six most important undertakings in this sector in the world, Alcoa, Kaiser and Reynolds in the USA, Alcan in Canada, Pechiney in France and Alusuisse in Switzerland, control over 60 per cent of the annual world production of prime aluminium. The cartel structure of the aluminium industry naturally has an influence on the trend of prices, which in practice are governed by the two principal multinational undertakings in the sector (Alcan and Alcoa). The prices of the primary product are kept as stable as possible in order to increase total demand in relation to competing products (especially copper), with the result that profit margins are fairly modest and the entry of new competitors into the sector finds little encouragement. At the Kennedy Round the position of the EEC (and especially that of France) was severely criticised by the USA, Canada and Norway.¹ The Aluminium Association, the body representing the big US producers, asked mainly that the EEC's common external tariff of 9 per cent should be aligned with that of the USA. The major American producers maintained that the appreciable tariff reductions effected from 1930 onwards had facilitated access to the US markets for foreign exporters, and that the moment had therefore come to secure reciprocity for American sales in European markets. In November 1964, when the EEC on France's insistence made crude aluminium a partial exception, the American producers put pressure on their own authorities to exclude aluminium completely from the negotiations.² Subsequently, however, the American delegation to GATT made the offer of a linear reduction in its own duties conditional on a 'substantial reduction' of the CET by the EEC. Similarly, Canada and Norway, who attached great importance to a reduction of the US duty as they exported principally to the American market, made their offers in other industrial sectors conditional on a 'substantial reduction' in the EEC duty. The EEC, on the other hand, maintaining at

France's instigation that the European aluminium industry was an 'exposed' sector (suffering under the disadvantage of the relatively higher cost of energy in the European Community and from competition from powerful foreign undertakings enjoying economies of scale and more capital) was not prepared to offer a linear reduction. M. Raoul de Vitry, the President of the Pechiney complex, stressed that a duty of 9 per cent, apart from not being particularly high, was essential to avoid the dumping measures that had been experienced, and that the USA (by imposing a series of high duties – averaging 19 per cent – on a wide range of derived and semi-manufactured products) removed about 50 per cent of its market from foreign competition.³ At the Council meeting of 13–14 June 1966, the EEC Council of Ministers, faced with a choice between a limited reduction in the duty of 9 per cent (accompanied by the abolition of the tariff quotas provided for in Protocol XII of List G) and the consolidation of a tariff quota at a lower duty in favour of the supplying countries, opted for the latter solution. The EEC accordingly granted a tariff quota of 100,000 tons, raised in the last weeks of the negotiations to 130,000 tons, at a duty of 5 per cent. Consequently, following the EEC's decision only to make a quota offer, the USA's linear offer was withdrawn and replaced by a partial offer (reduction by 20 per cent) which brought the customs duty of 1.25 cents per pound (about 5 per cent) down to 1 cent per pound (4 per cent) for aluminium metal. The Scandinavian countries too, while admitting that it was not realistic to expect a linear reduction on the part of the EEC, expressed dissatisfaction and withdrew certain offers in the industrial sector. Japan for its part restricted her tariff reductions (from 13 to 9 per cent), while Canada reduced her tariffs by 20 per cent. By the close of the negotiations on 30 June 1967, the limited nature of the concessions on aluminium agreed between the principal industrial countries had become clear.⁴ But a closer analysis on the other hand shows that the protection terms had actually been levelled off. This emerges from the fact that out of 200,000 tons of crude aluminium imported from the EEC 130,000 tons were subject to a duty of 5 per cent and about 70,000 to a duty of 9 per cent, which was equivalent to applying an effective tariff of about 6 per cent, a tariff that is to say of roughly the same amount as in the USA. However, in the last phase of the negotiations, the EEC Council of Ministers reserved the right to replace this tariff quota by a reduction of two points in the duty of 9 per cent. In fact on January 1971 the EEC, following the negotiations conducted with the principal suppliers (Norway, the USA and Austria), dropped the tariff quota and introduced a uniform protection of 7 per cent. Moreover, under the agreement for industrial products concluded between the EEC and EFTA on 22 July 1972 the Community decided to begin reducing the basic duty on aluminium from 1973 so as to eliminate it completely over eight years, and achieve free trade entirely in the European area.

Paper pulp, paper and paperboard

The search for a solution in the paper pulp, paper and paperboard sector provided the basis for a general agreement between the EEC and the Scandinavian countries. In effect the Community market accounts for about 40 per cent of Scandinavian exports of paper pulp, basic paper and, to an increasing extent, finished products with a paper base. In this sector the EEC faced the difficulty of making the most favourable offer possible to third countries and more especially to the Nordic countries, and at the same time of maintaining a certain measure of protection for its own industries. In this matter it was stressed by France⁵ and Italy in particular:

1 That it is absurd that big modern states should depend almost exclusively on foreign countries for their supplies of paper and paperboard, products which play an unchallengeable part in the fields of instruction, defence, marketing, etc.

2 That the Scandinavian industry (and for that matter the American industry too) operates under privileged conditions, enjoying advantages both natural (enormous forest resources, low cost energy, high quality timber, etc.), structural (on the average 75 per cent of the factories are integrated in the Nordic countries, compared with 20 per cent in the EEC), and artificial (the laws prevent foreign firms from obtaining forests or establishing industries in Scandinavia; and the Nordic industry is heavily cartellised, so as to influence the earning margins of the industry in other countries).

3 That the theory of reserving to the Scandinavian industry the exclusive production of ordinary paper (newsprint, wrapping paper, printing and writing paper) and leaving to the Community the production of special papers should be rejected, as the idea of producing special papers with an industry equipped to produce newsprint and wrapping paper cannot be entertained.

4 That the Nordic countries were raising the prices of the raw materials (pulp for paper) for export while the prices of the finished product remained stable and were even the subject of refunds and considerable discounts on invoice prices.

Having regard to these factors the EEC Council of Ministers decided in June–July 1966:

1 For newsprint, to maintain the customs duty of 7 per cent and to consolidate a Community quota of 420,000 tons (raised subsequently to 625,000 tons) exempt from duty;

2 For paper pulp, to reduce the duty from 6 to 3 per cent over five years while maintaining the consolidated tariff quotas exempt from duty; and, in

order to put the paper pulp industries in a position to meet the tariff reductions, to grant aid on a reducing basis (so as to reach elimination point within 7 to 10 years of the introduction of the tariff reduction) to the industries in the sector to facilitate amortisation of the existing plant and to develop production on the basis of new techniques.

3 For basic paper and finished products in paper and paperboard, to limit the Community concessions to a reduction of about 25 per cent if the governments of the Nordic countries did not grant satisfactory concessions in the matter of marketing conditions.

In this last respect the Committee formed under Article 111, in the course of the meetings held in October and November 1966 expressed the opinion that 'consultations should be held with the exporting countries concerned whenever abnormal marketing conditions were found to entail serious difficulties for the Community industries concerned', and that 'the Community should suspend the concessions granted on basic paper whenever a normal situation was not re-established'. The delegates from the Scandinavian countries, while recognising that the EEC offer on pulp conformed to the rules for linear reductions laid down by GATT and that the quota offer for newsprint represented a positive advance (even if not an altogether satisfactory one), considered the EEC offer on basic paper insufficient and announced moreover that it was not within the power of their governments to act on the conditions laid down only in the law of contracts. The delegates from the Nordic countries, however, stated at the meeting of 6 July 1966 that they were prepared to study the possibility of developing an instrument that would make it possible to face the risks of market disorganisation due to abnormal marketing conditions in the exporting countries. But this constructive attitude on the part of the Scandinavian countries was not maintained. The Nordic countries, contrary to the assurances given at the meeting of 6 July 1966, refused to enter into any undertakings regarding the practices complained about, and they rejected moreover any idea of sanctions in the form of the withdrawal of concessions granted in the course of the negotiations.⁶ Consequently the European Community reduced the duties on basic paper from 16 to 12 per cent, and similarly, to secure a margin of protection for manufacturing industry, the EEC harmonised and stabilised uniform rates ranging from 12 to 15 per cent for the duties on articles of paper and paperboard. Certain tariff lines, however, were subject to a reduction of 50 per cent. Moreover the EEC secured the insertion of a clause calling for consultation in cases in which exports by the Nordic countries to the Community seriously prejudiced the Community's paper industry. Subsequently, however, under the agreement for industrial products concluded on 22 July 1972 between the EEC and EFTA, the Community decided to reduce (from 1977) the duties

on basic paper, duties which will be eliminated completely in the European area by 1984. In the meantime – still in relation to EFTA – the EEC has laid down at the Community level maximum amounts for imports (based on average EEC imports in the period from 1969 to 1971 increased by 12 per cent and ‘modulated’ according to the product to favour Finnish industry, whose exports of paper go to the Community area as to over 60 per cent) which enjoy total tariff exemption and which are increased by 5 per cent per annum.

The United Kingdom, on the other hand, limited itself to granting at the Kennedy Round (for the majority of items) reductions of about 10 per cent. Profiting however by its admission to the Community, the United Kingdom (which admitted imports duty free from the Nordic countries) has decided to apply the duties ruling in the CET, that is to say generally speaking 8 per cent.

The reductions made by the USA at the Kennedy Round were considerable. In fact the United States reduced practically all their specific duties by 50 per cent, and in some cases even more, so that by 1 January 1972 the US tariff ranged from 0 to 7.5 per cent for the majority of items making up the Community’s exports. And finally Japan made no reduction at the Kennedy Round in the duties on basic paper (ranging from 10 to 20 per cent), but reduced its own duty from 20 to 10 per cent on glazed paper, the only item imported on any scale from the EEC.

Steel

The problems concerning the products of the steel industry were negotiated on a sector basis mainly because of the unsatisfactory initial offers made by the ECSC. The ECSC, in fact, wanted to negotiate on the basis of the tariff levels ruling in 1951, whereas the United Kingdom, the USA and various other countries maintained that the ECSC offer should take as its starting point not the ‘legal’ duties, but the ‘effective’ duties, that is to say the duties actually applied. Created in 1951, the ECSC had not promulgated a common customs tariff for the products under its jurisdiction, but had merely provided that at the end of the transition period the tariffs of the six member countries should be harmonised for the purpose of avoiding distortions in trade. In 1951 the average legal rate of tariffs in the six member countries considered as a whole was about 14 per cent. In 1958 the ECSC external tariffs were considerably ‘harmonised’, so that the average rate of the six countries came down to 7 per cent.⁷ The argument about the ‘legal’ and ‘effective’ tariff rates in the ECSC was complicated by the fact that in 1958 the United Kingdom and the ECSC had concluded a bilateral agreement, outside GATT, on the

basis of which the ECSC was to maintain the rates of 7 per cent in return for substantial tariff reductions by the United Kingdom. In 1958 the British rates came down from their 15–33 per cent to around 10 per cent.

In January 1964 the ECSC increased a good part of its effective tariffs from 7 to 9 per cent. In addition, in its initial offer at the Kennedy Round, the ECSC proposed a linear reduction of 50 per cent in relation to its 'legal' tariff rates of about 14 per cent. This offer was considered unacceptable by the other partner countries, who pointed out that the tariff of 14 per cent, though consolidated, had never been applied. The other countries participating in the Kennedy Round therefore made their offers in this sector conditional on an improvement in the ECSC offer based on the tariff rates (of about 7 per cent) ruling before January 1964. The most decided opposition to the ECSC proposal came from the United Kingdom which, having already 'paid' once (under the bilateral agreement of 1958) for maintenance of the ECSC tariffs at 7 per cent, considered it unjust to have to reduce its own customs duties a second time to obtain the same tariff rates of 7 per cent. The United Kingdom's fierce criticism of the ECSC's initial offer, although well founded, was complicated by the fact that certain British customs duties on particular products in the sector had been suspended, so that for certain items the tariff reductions agreed with the ECSC in 1958 were not strictly new reductions. The tariff confusion in the steel sector was aggravated by the weak state of world markets (characterised by a cyclical trend in which phases of boom conditions and of overproduction alternated, and by competition from substitute products such as aluminium and plastics) and by the strong pressure exercised by the big US companies on their own government to bring about (thanks to the dismantling of the ECSC tariffs) the deflection to the Europe of the Six of the growing exports from Japan (the biggest exporter in the world) to the American market. In this situation the negotiations in this sector were completely blocked for a long time. Towards the middle of 1965 it was decided to open negotiations between a limited group of countries (the two European Communities, the USA, the United Kingdom, Japan, Sweden and Austria), and only in May 1966 did the steel group begin to negotiate. However, the difficulties encountered (especially the resistance put up by the United Kingdom) threatened to compromise the outcome of the negotiations until the last few days. And only in the closing phase of the package deal was it possible to reach a compromise on the basis of which the duties applied in the Community on 30 June 1967 were accepted by the Community as a starting point. These duties had been recommended in January 1964 and represented an alignment to the Italian level (of 9 per cent on the average) of the duties in the other five member states. On the other hand from the succession of meetings of the working group for the sector it became increasingly evident that the object of the Kennedy Round in this

sector was to secure a general harmonisation of the levels of protection in the big steel producing and exporting countries, rather than merely to effect some linear tariff reductions. The United Kingdom was the only country that did not want to accept the objective of a general realignment of tariffs, and this by reason of the previous concessions offered to the ECSC in 1958 on the occasion of the conclusion of the agreement on trade relations. Nevertheless, during the final stage the United Kingdom agreed to a reduction of 20 per cent in her *ad valorem* and specific duties, duties however which by 30 June 1977 will be brought into line with those of the CET following the subsequent successful outcome of the negotiations for Britain's accession to the EEC. In this way the objective was achieved at the Kennedy Round of the 're-alignment of the levels of protection'.⁸ In fact, the ECSC offers crystallised in a reduction of 33 per cent in the arithmetic mean of the rates ruling on 30 June 1967 (from 8.55 to 5.74 per cent). In the sector of ordinary and carbon steels the USA aligned their rates to the final ECSC rates (leaving unchanged the rates that were already lower than the final ECSC rates) and in the steel alloy sector they aligned the basic element in the duty on ordinary steel to the ECSC level (reducing furthermore by 50 per cent the difference existing in the protection enjoyed by ordinary steels and alloy steels).

Japan reduced her duties on steel in general by 50 per cent from 15 to 7.5 per cent (subject to exceptions in the case of certain products in fine carbon steels and alloy steels). Notwithstanding the results secured it must nevertheless be pointed out that the ideal of placing all the producers on terms of equality was not achieved. In fact, the abolition of the non-tariff barriers (especially in the form of export subsidies and fiscal concessions) has not been dealt with in this sector.⁹ It is therefore to be assumed that at future negotiations the question of the harmonisation of non-tariff barriers will be in the forefront of matters for consideration as far as steel is concerned.

Textiles

Textiles constitute one of the main groups of products in the exports of manufactured and semi-manufactured products by the emergent countries. The development of international trade moreover is of fundamental importance to the economies of the emergent countries to enable them to earn the foreign exchange needed to sustain the process of industrialisation, use their own crops (especially cotton in the case of the UAR, India, Pakistan, etc.) and employ the abundant supplies of labour that would otherwise be unemployed. Of recent years, moreover, the emergent countries have shown themselves to be highly competitive in the textile sector, so that they could easily become the suppliers of basic textiles to the developed countries in exchange for sup-

plies of machinery and industrial equipment, products which the emergent countries still normally produce on a modest scale and at high cost. But the tendency towards productive specialisation in international textile markets faces defensive measures by textile industries in the developed countries, which raise social considerations (the still relatively high quota of manpower employed in the sector) to prevail on their respective governments to impose restrictions on imports of textiles from low wage countries. The position regarding international trade in textiles is complicated, however, by the fact that certain Asiatic countries (Hong Kong, South Korea, Formosa, etc.) ought not to receive the advantages granted to the emergent countries (in fact the textile industries in those countries are American and Japanese owned), and also by the large volume of exports from Japan (especially to the USA).

The textile industry has thus proved to be one of the most difficult to deal with at the Kennedy Round. None of the highly industrialised countries intended to grant substantial tariff reductions, as they were facing a rapid transformation of structure and growing competition from the low cost countries. Many tariff items in this sector were consequently included in the lists of exceptions presented by the key countries in November 1964. The EEC pleaded higher national interest in the case of a large part of the artificial and synthetic textile materials, jute manufactures, various articles of clothing and carpets. Moreover, it let it be known that in the sector for cotton textiles and substitute products its offers were conditional on the renewal of the International Cotton Textile Agreement or the adoption of corresponding measures for the same purpose. The United Kingdom claimed treatment as a total exception for all cotton textiles and jute and as a partial exception for artificial and synthetic textiles. The USA invoked treatment as a total exception for practically the whole of the wool sector. In the course of the negotiations the respective positions hardened rather than otherwise. Thus for example the United Kingdom and the EEC withdrew woollen products from the negotiations by reason of the American exception based on an extremely high level of duties and the USA adopted the level of reductions granted by the EEC on cotton and substitute products. The linear offers of other industrialised countries (especially Switzerland and the Scandinavian countries) were practically all withdrawn before the agreements were concluded. All this resulted, upon the conclusion of the negotiations, in a considerable contraction of the field of application of the concessions as regards the categories of products not excluded from the negotiations.

Cotton textiles In 1956 Japan agreed, under pressure from the USA, to limit voluntarily for five years her exports of cotton textiles to the American market. In the spring of 1961 President Kennedy, under pressure from the

professional organisations in the USA, succeeded in giving a multilateral character to the quantitative restrictions on imports of cotton textiles from low wage countries, first by a short term agreement (covering 1961/62) and then by a long term agreement (covering the period from 1 October 1962 to 30 September 1967). This agreement, negotiated in Geneva under the auspices of GATT, even though in principle the GATT charter does not permit recourse to quantitative restrictions without the justification of balance of payments difficulties,¹⁰ has as its object 'the rational and orderly development of trade in cotton textiles' to eliminate the consequences of disorganisation in both importing and exporting countries. In particular, the long term international cotton textile agreement has two objects that are not easily reconciled: on the one hand the liberalisation of trade in cotton textiles in an orderly fashion to promote exports from the emergent countries; and on the other hand the avoidance of disturbances to the markets of importing countries. The agreement, apart from being used by importing countries to 'legalise' illegal restrictions, has become an instrument for keeping control of exports of cotton textiles by countries in course of development. The operation of the agreement is particularly restrictive with regard to the exporting countries. Article 3 provides that a member country whose market is upset (or even only 'threatened') may ask another member country to limit its exports to a specified level.¹¹ If the exporting country does not comply within 60 days, the importing country may 'unilaterally' limit the admission of the products in question (to a level no lower than that ruling in the first 12 of the preceding 15 months) without having to provide any material evidence of market disruption. The concept of market disruption is furthermore so vague and ambiguous as to put the less developed countries in a difficult position, especially when it is considered that the importing countries are in the event the sole judges in any disputes that may arise.¹² Each importing country decides by itself what it means by 'market disruption'. The contractual weakness of the exporting countries stands out when it is considered that the importing countries can alone determine and administer the quotas and fix the amounts of the quotas, the base year, the annual increase in the quotas, etc. In this situation, therefore, the exporting countries rather than run the risk of incurring the restrictions sanctioned by Article 3 are obliged to agree to limit their own exports 'voluntarily' on the basis of bilateral agreements concluded with the developed countries, as authorised in Article 4 of the agreement.

At the Kennedy Round the developed countries (especially the EEC and the USA) from the very start of the negotiations subordinated any tariff concessions to the renewal of the long term agreement for a further five years without any amendment.

The emergent countries and Japan¹³ on the other hand fiercely criticised

the long term agreement on the grounds *inter alia* that five years should be more than sufficient to solve the 'temporary' problem of reorganising the textile industry in the developed countries; that in substance the long term agreement was designed to give the developed countries time to make their own textile industries more competitive, which could be detrimental to the textile industries in developing countries; that the rate of expansion of exports by various countries had declined since the introduction of the agreement; that the quotas only served to freeze trade flows at the time the agreement came into force; and that an entire industrial sector was isolated when the modest incidence of the imports by the developed countries on consumption and internal production required, rather than a long term agreement imposing restrictions on all cotton textiles, only a suitable mechanism for the protection of certain products. They accordingly sought suppression of the agreement or at any rate its radical revision. In particular, the head of the Indian delegation, Doraiswamy, proposed to the principal importers (the USA, the EEC and the United Kingdom) that they should:

- 1 Give up resorting to Article 3 to block imports on the basis of the 'market disruption' clause in return for an undertaking by the exporting countries to control carefully the level of their sales so as to prevent sudden and disturbing increases.
- 2 Increase their quotas.

In addition, Wyndham White, the Director General of GATT already referred to, in an attempt to get the negotiations in this sector moving again, suggested in return for the renewal of the agreement that tariff reductions should be made in favour of the emergent countries and that the quotas should be liberalised and administered on a more flexible basis.¹⁴

In view of the fact that the renewal of the agreement could not be effected without some revision in favour of the exporting countries, the EEC Council of Ministers, at the meeting of 7 March 1967, made the following concessions:

- 1 The period for which the agreement was renewed was reduced to three years, instead of the five years previously regarded as a minimum.
- 2 In accordance with Article 4 of the agreement, emergent countries outside Europe were offered the opportunity of concluding bilateral agreements providing on the one hand for the temporary suspension of the quantitative restrictions provided for in Article 2, and on the other hand for renunciation of the right to resort to the escape clause in Article 3, within the maximum limits laid down.

For India, Pakistan, the UAR, South Korea, Formosa and the other

emergent countries participating in the agreement, the maximum limits so fixed by the EEC amounted for the three years of the agreement to an annual average of 19,850 tons, which represented an appreciable improvement on the actual exports by the countries concerned (4,331 tons in 1963, 8,491 tons in 1964 and 7,461 tons in 1965). As regards Japan and Hong Kong, however, the EEC maintained the previous system and proposed for the products still subject to quantitative restrictions an annual increase in the quotas at a similar rate to that applied between 1962 and 1967.

The total quantities offered by the EEC proved sufficiently attractive to dispose the emergent countries to renew the agreement. In fact on 22 March 1967 the International Cotton Textile Agreement was renewed for the period from 1 October 1967 to 30 September 1970. In these circumstances, in view of the renewal of the agreement for three years and the changes made in the practical application of the agreement, the EEC considered that it could not grant a linear tariff reduction for cotton textiles and substitute products.¹⁵ Consequently the European Community made more modest tariff reductions of the order of 17 per cent. And naturally enough the EEC's decision only to grant limited tariff concessions prompted the majority of the industrialised countries, particularly the USA, to withdraw the initial offers and only to grant concessions up to the limits conceded by the EEC. Finally it may be noted that in the last days of the negotiations the EEC and the USA inserted in the agreement what is known as a 'snap back' clause¹⁶ under which the tariff reductions granted would be cancelled if the agreement was not extended beyond 1970 (which did not occur, since in May 1970 the GATT textile committee decided to renew the agreement for three more years, that is to say until 30 September 1973).

Clocks and watches

The clocks and watches sector was characterised by long and difficult negotiations between the European Community and Switzerland.¹⁷ In November 1964 the EEC Council of Ministers took a decision, which was to influence all the negotiations in this sector, to make a linear reduction in its own duties only if the obstacles to trade of a non-tariff character instituted by Switzerland were modified in a satisfactory manner.¹⁸ The government and the Swiss producers, combined in powerful associations, raised effective barriers to imports and exports of products of the clockmaking industry. The obstacles to exports consisted essentially in the policy of *antichablonnage*. The supply of mechanisms, rough castings, regulating arms and other parts was restricted to a limited circle of producers subject to very strict conditions. Among other things they were forbidden to *chablonner*, that is to sell the parts pur-

TABLE 4.1

Countries participating in the long term Cotton Textile Agreement as at
1 January 1971

Group I Industrialised countries

Australia	Finland	Netherlands
Austria	France	United Kingdom
Belgium	Italy	Federal Republic of Germany
Canada	Luxembourg	Sweden
Denmark	Norway	United States of America

Group II Developing countries

Colombia	Israel	United Arab Republic
Jamaica	Mexico	Taiwan
Greece	Pakistan	Republic of Korea
Hong Kong	Poland	Spain
India	Portugal	Turkey

Group III Industrialised country (exporter)

Japan

chased in Switzerland, and also parts of their own production, to customers other than the few manufacturers authorised by the Swiss Chamber of Clock and Watch Makers (producers 'of good faith'). The obstacles to imports were also very severe. It was forbidden among other things to import rough castings and regulating arms, and for imports of springs from the Federal Republic of Germany and of spare parts from France there were rigid quotas. In addition, the professional association of manufacturers of parts and rough castings granted 'loyalty premiums' (rebates of 3-4 per cent) to Swiss manufacturers of pallet clocks who dealt exclusively with them.

During the first phase of the negotiations, the Swiss delegation, headed by the Ambassador, Weitnauer, tried to persuade the EEC to adopt a common industrial policy in the clockmaking sector based on sales of complete clocks in order to assist the liberalisation of trade with the European Community. But the reply from Brussels was unfavourable. The EEC considered that the Swiss proposal 'rather than establishing a satisfactory equilibrium based on reciprocal concessions tended to reinforce the existing disequilibrium by maintaining the non-tariff barriers and erecting new ones that would hamper the EEC in its relations with third countries'. The EEC also stressed that:

1 The Swiss government was making no efforts to institute a system of free exports of goods.

2 Restricting the supply of Swiss goods to producers 'of good faith' conflicted with the provisions of the Treaty of Rome regarding the free circulation of goods and the rules of competition.

The second phase of the negotiations began on 20 July 1966 when Switzerland sent to Brussels a new memorandum in which, in return for a linear reduction in the EEC customs duties, she declared her readiness:

- 1 To make a substantial liberalisation in her exports of rough castings, regulating arms and mechanisms in favour of producers in the EEC.
- 2 To place a time limit on the private restrictions limiting the import of parts from the Community.
- 3 To establish close collaboration between the Swiss and the EEC clock-making industries within the framework of the industrial and financial associations.

The new Swiss offer was favourably received in Brussels. From that moment on the negotiations could proceed more speedily. Discussions on the inter-governmental plane were supplemented moreover by meetings between leading Swiss and Community businessmen in the sector concerned, which helped to lay the foundations for the conclusion of a general agreement.

The Swiss delegation for its part encountered certain major difficulties. In particular, on 30 June 1966, following the denunciation of the agreement linking the various sectors of the Swiss industry and of the supplementary agreements between the Clockmakers Federation on the one hand and the enterprises (ASUAG and various groups of UBAH) on the other, imports of parts from the EEC were liberalised in practice, so that the Swiss negotiators lost a precious bargaining counter.

Under these conditions the clockmaking industries in the EEC set about attacking the obstacle represented by the system of premiums in force in the sector of ASUAG (a holding company formed in 1931 to assist rationalisation of the Swiss clockmaking industry) and of Ebauches SA (a limited liability company founded in 1926 combining 17 casting factories). It was this last key problem that in the final stages of the negotiations gave the negotiators some food for thought. The Swiss delegation were at pains to demonstrate that the premiums in question formed part of the delivery terms for the rough castings and regulating arms so that they could not be regarded in the light of a non-tariff barrier. But this attempt failed.

The EEC stood firm on its positions and let it be clearly understood that failing an effective opening of the Swiss market to the Community products in question agreement would never be reached. Finally a compromise was arrived at on the basis of which the Swiss manufacturers of pallet clocks

would not lose the advantage of the premiums from the ASUAG and Ebauches SA to the extent to which their purchases of rough castings and regulating arms from undertakings situated in the EEC were charged to a quota the management of which would be entrusted jointly to the Swiss Chamber of Clockmakers and the professional organisations of clockmakers in the European Communities.

In particular the agreement concluded in Geneva between the EEC and Switzerland contained the following concessions.

Swiss concessions:

1 Switzerland undertook to reduce her own tariff in three annual stages of 30 per cent.

2 From 1 January 1968 Swiss exports of products of the clockmaking industry (including tools) would not be subject to any restrictions, public or private, provided they were for industries in the sector domiciled in the EEC, that is to say for producers who would utilise such parts or instruments for their own production; the ban on *chablonnage* would apply moreover only to Swiss parts, and European producers would be quite free to sell and assemble abroad products of their own manufacture.

3 The conditions of sale in force in the Swiss industry would also be applied in a non-discriminatory manner to the customers in the EEC.

4 From 1 January 1968 all barriers, public and private, to imports of products of the clockmaking industry from the EEC were abolished.

5 In the rough casting and regulating arm sector (the abandonment of the principle of 'reciprocal loyalty' having been confirmed) Swiss clock and watch manufacturers could obtain supplies freely in Community countries provided they renounced the ASUAG and Ebauches SA loyalty premiums; in addition Swiss customers would not lose the benefit of the loyalty premium to the extent that their purchases of rough castings and parts in the Community did not exceed certain limits laid down in a quota (1968: 2 million Swiss francs; 1969: 3.5 million Swiss francs; and from 1970: 5 million Swiss francs).

EEC concessions:

The EEC undertook to lower its own tariff of 30 per cent in two stages (20 per cent on 1 July 1968 and 10 per cent on 1 January 1970) and to abstain from applying or introducing any non-tariff measures that could influence trade. In this latter respect, however, the clockmaking industries in EEC countries gave a similar undertaking, it being understood that consignments of castings and regulating arms from the EEC to Switzerland would be made on the same terms as obtained on the internal market of the exporting country (which excluded the practice of dumping and that of the double price).¹⁹

The bilateral agreement between the EEC and Switzerland also laid the foundations for closer collaboration between the clockmaking industries in Switzerland and the Common Market. On the private plane there was instituted an inter-professional mixed commission within which the problems of general and common interest to European clockmaking are debated. On the public plane the agreement inaugurated a mixed commission (composed of representatives of the authorities of Switzerland, the EEC and the Member States) responsible for supervising the execution of the undertakings given and for promoting closer collaboration between the authorities and the industry in Europe. The bilateral EEC–Swiss agreement was thus a new feature of great importance. The agreement, by bringing the EEC and Switzerland together, encouraged the process of European integration and laid the seeds of integration at the industrial level in the European zone. On 1 January 1970, however, the EEC did not introduce the final reduction of 10 per cent in the CET on products of the clockmaking industry because of the indication of origin ‘Swiss made’. The EEC held that this description (to the extent to which it requires that at least 50 per cent of the value of all the component parts of the movement, including the dial but excluding the assembly, are Swiss) constituted an obstacle to the export to Switzerland of rough castings (accompanied by regulating arms) from the Community. The Swiss representatives maintained on the other hand that the indication of origin could not be regarded as a non-tariff barrier and that the real obstacles to the import of rough castings from the EEC consisted in the high prices in Germany (which had ceased to be competitive upon the revaluation of the mark) and in the French technical specification (which did not always meet Swiss requirements).

But even the problem of the indication of origin ‘Swiss made’ was overcome. Under the Agreement for Free Trade in Europe signed on 22 July 1972, Switzerland agreed that parts of Community origin could represent up to 50 per cent of the final cost of products of the clockmaking industry, provided that strict control of quality was ensured. In this way, with the conclusion of the EEC-Swiss agreement of 22 July 1972 the EEC agreed to effect the last tariff reduction resulting from the Kennedy Round (10 per cent of the duties of 1962). Moreover, within the European zone customs duties will be completely abolished by 1977²⁰ and true industrial cooperation established between the parties (by the creation for example of associations on a European scale).

And with this prospect in view the conclusion can be foreseen of inter-governmental agreements providing for closer collaboration on the industrial and commercial plane and a commercial policy that takes account of the essential requirements of economic development in general and of European integration in particular.²¹ With this stimulus, it should be possible

to dismantle progressively and reciprocally the remaining non-tariff barriers, abolish the obstacles hampering liberty of investment, establish collaboration to protect industrial property and harmonise official ordinances regarding the control of work in precious metal.

As far as the position of the USA is concerned, the Kennedy Round can claim credit in this sector for the return, thanks to the decision taken by President Nixon on 11 January 1970, to the American duties in force prior to the Eisenhower decree of 27 July 1954 (which raised by 50 per cent the duty on clocks and watches and on movements with 17 jewels or less in consequence of an escape clause). The return to the duties of 1954 for clocks and watches and movements with 17 jewels or less, although it excluded the latter from any concession, gave rise to a linear reduction in the other tariff positions (duties on movements of 18 or more jewels and on spare parts). Even though the US tariff as a whole remained very high, the concessions agreed in the Kennedy Round were substantial. The prohibitive duty of \$10.75 on movements with 18 or more jewels came down to \$5.37 while the reduction in duties on cases mitigated to a certain extent the heavy tariff borne by complete clocks sold in the USA. To these concessions American industry reacted sharply, however, maintaining that the system of missile construction (which uses clock mechanisms) was prejudiced thereby and that the assembly of clocks in the US territories of the Virgin Islands, Guam and Samoa was discouraged.²²

Japan, despite certain difficulties, has lowered all her customs barriers by 50 per cent. Thus the Japanese duties on clocks to a value not exceeding 6,000 yen were brought down from 30 to 15 per cent and the specific duty of 300 yen on these articles came down to 150 yen. For clocks to a value of over 6,000 yen the duty was lowered from 40 to 20 per cent.

Machinery

Reciprocal concessions by the principal industrialised countries in the machinery sector were substantial. For certain products, however, the tariff reductions were more restrained. In particular the EEC strove to maintain relatively moderate protection in the following cases:

- 1 A series of products the duties on which were already very low, especially when compared with those in other key countries.
- 2 To enable the Community manufacturers of agricultural tractors, heavy commercial vehicles, buses, etc. to continue to withstand competition from powerful foreign companies enjoying the advantages of scale and financial resources.

3 To enable certain industries (electronic computers, microstructures, nuclear reactors, machine tools numerically controlled), in course of development, to withstand competition from the USA which enjoys important advantages in the field of research.

4 To protect Community production of certain articles (cutlery, sewing machines, insulators, transistors, certain optical articles, etc.) which are threatened by imports from low price countries and state trading countries.

The final rates applied by the principal industrialised partners in this sector as at 1 January 1972 were more or less at the same level, and in some cases well below those ruling in the EEC. Moreover, in application of the disparity rule, the high tariff countries (especially the USA) in certain cases made bigger reductions than those granted by the EEC. The European Community succeeded besides in obtaining the maximum concessions in its traditional export markets.²³

Notes

¹ G. A. Baudart, 'Le Kennedy Round est ouvert' *Revue de l'Aluminium* (April 1964) pp. 395-397.

² 'Move to keep aluminium out of Kennedy Round' *The Financial Times* (4 March 1965).

³ 'L'industrie française de l'aluminium devant la concurrence internationale', *L'Usine Nouvelle*, no. 14 (8 April 1965).

⁴ House of Representatives, *Aluminium Tariff Disparities in the Kennedy Round*, Hearings before the Committee on Ways and Means, Part 7, 21 and 24 June 1968, p. 3355.

⁵ 'L'industrie papetière affronte le Kennedy Round', *L'Usine Nouvelle*, no. 17 (27 April 1967).

⁶ Swedish Paper Mills' Association, *Kennedy Round Concluded*, no. 4 (May 1967).

⁷ Following this harmonisation the European iron and steel producers maintained that by 1958 the ECSC had effected the linear reduction requested at the Kennedy Round. See: 'La sidérurgie demande que l'acier soit exclu du Kennedy Round' *L'Usine Nouvelle* no. 18 (30 April 1964).

⁸ Peter Dreyer, 'GATT steel accord held satisfactory' *The Wall Street Journal* (6 June 1967).

⁹ J. Lecerf, 'Querelle entre les sidérurgistes américains et français sur le dumping' *Le Figaro* (30 September 1964).

¹⁰ Unctad, *Study of the Origins and Operation of International Arrangements Relating to Cotton Textiles*, Td/20/ Supp. 3 (12 October 1967).

- ¹¹ Such a request is accompanied only by a mere indication of the reasons.
- ¹² M. Subhan, 'Trade in textiles' *The Economic Times* Bombay, (29 August 1966).
- ¹³ 'Attaque du tiers monde contre les États-Unis' *L'Echo de la Bourse* (3 December 1964).
- ¹⁴ E. Wyndham White, 'International trade in cotton textiles' *World Trade*, Bombay (1966).
- ¹⁵ The emergent countries themselves, rather than bigger tariff reductions, preferred a 'quantitative' agreement to enable them to withstand competition from Hong Kong and Japan.
- ¹⁶ It is interesting to note that this clause also referred to certain synthetic fibres, which suggests that in 1967 the EEC was considering the possibility of extending the long term agreement on cotton textiles to include certain artificial fibres.
- ¹⁷ Notwithstanding strong competition in international markets (especially from Japan and the USSR), Switzerland remains the leading producer in the world of clocks and watches.
- ¹⁸ 'Le statut horloger suisse mis en cause à Bruxelles' *La Gazette de Lausanne* (12 November 1964).
- ¹⁹ 'Résultats du Kennedy Round dans le secteur horloger' *Journal de Genève* (17 May 1967).
- ²⁰ It should be noted, however, that the EEC will not reduce the minimum duty on cheap clocks and watches until 1975.
- ²¹ G. M. Witwer, 'L'application de l'accord horloger Suisse-Cee' *La Suisse Horlogère* (17 April 1969).
- ²² House of Representatives, *The Domestic Horological Industry*, Hearings before the Committee on Ways and Means, Part 8 (25 June 1968) p. 3724.
- ²³ OECD, *The Engineering Industries in North America, Europe, Japan*, Paris, 1969.

5 Non-tariff and Para-tariff Barriers

Negotiations limited in scope

One of the features of particular interest in the Kennedy Round was the extension of the negotiations to include non-tariff and para-tariff barriers, that is to say restrictive practices other than customs tariffs employed either by governments (in the form of import quotas, 'voluntary' restrictions, variable levies, exceptional customs valuation procedures, health regulations, etc.) or by private companies (price control, control of technology, division of markets, restriction of supplies, patent agreements, dominant rôle of multinational enterprises, etc.). In this connection, in June 1964 the subcommittee on non-tariff barriers set up working groups (composed of representatives of the governments principally interested) on the systems of customs valuation, on government policy in the matter of public contracts, on administration and technical regulations hampering trade, on the system of valuation applied by the USA to imports of bottled spirits, on anti-dumping policies and on state trading practices. The subcommittee on non-tariff barriers eventually recommended the Trade Negotiation Committee to set up a working group on the problems concerning trade in coal and to study the possibility of examining other non-tariff barriers. However, notwithstanding a full debate, the negotiations finally concentrated on three particular obstacles: the American Selling Price, the system of taxation of motor vehicles in Europe and the procedure for applying anti-dumping legislation. But as upon the conclusion of the Kennedy Round the American Selling Price was not abolished (and consequently the techniques of the automobile road taxes in Belgium, France and Italy were not adjusted) an agreement in principle was reached only on the harmonisation of administrative procedures regarding anti-dumping legislation. The limited and circumscribed character of the negotiations regarding the various barriers raised by customs duties is attributable mainly to the fact that certain delegations (the American delegation especially) did not possess the necessary powers to commit their respective governments, and also to the great complexity and delicacy of most of the non-tariff barriers. The practices standing in the way of trade have deep roots in politics, in social legislation and in general in the laws of each country. These are connected with objectives of an internal nature such as the encouragement of employment in depressed areas, the protection of key elec-

toral wards, the replacement of imports for reasons connected with the balance of payments, and the like. On the conclusion of the Kennedy Round it therefore emerged clearly that the problem of non-tariff and para-tariff barriers would be left for future consideration as an almost unexplored field in international trade negotiations.

American Selling Price

Introduced in 1922 to protect the American production of organic products derived from benzene, at that time rather vulnerable, the system of the American Selling Price (ASP), which is to day applied to only four groups of products (benzenoids, rubber soled footwear with fabric uppers, canned clams and certain wool knit gloves) consists in adopting as a basis for customs valuation (where competitive products are concerned) the price of a similar product manufactured in the USA (a price generally higher than that ruling in other countries), without taking any account of the value of the article imported. In this way, coupled as it is with relatively high duties, the ASP system provides an extraordinarily high level of protection. In fact, as can be seen from Table 1, third column, in which the US duties indicated in brackets subject to ASP have been replaced by 'converted' duties, the ASP system provides for certain benzenoids (the most important group of articles subject to this method of customs valuation) the highest level of protection to be found in any American exports, a protection which for certain items presents rates in excess of 100 per cent (172 per cent in the case of dyestuffs).¹ However, unlike the EEC's Common External Tariff which consists essentially of *ad valorem* duties, the US tariff includes a large number of specific and mixed duties: 375 out of 872 tariff items relating to chemical products. Now even if they are nominally relatively modest in amount such duties can be prohibitive, especially in relation to products of modest value that have already borne relatively high transport costs. Thus a duty of 10 cents per pound on bromine, for example, represents an *ad valorem* duty of 55 per cent. Furthermore, the protective effect of such specific or mixed duties is boosted progressively by the fact that the prices of chemical products tend to decline structurally.

The ASP system also gives the American producers some exclusive advantages that are altogether unfair. Within the limits set by the competitive forces operating in the US market, the American producer can establish the level of protection for his own product by manipulating prices, or even by simply indicating to the customs authorities (assuming he is not at present selling a product like the one imported) the price he would be willing to receive.² The ASP system fosters a form of economic parasitism. The domestic

manufacturer can exclude at any moment the importer from the market by listing an ASP price just high enough to ensure that the sum of the resulting higher duty, added to the importer's landed cost for the product, is above the domestic price. Thus, if a European product is exported to the USA at a price of \$6, and after payment of duty at 40 per cent on an ASP of \$4 it is sold at \$7.70, it can subsequently be excluded from the market when an American producer, deciding to sell a similar product at \$8 pushes the price of the imported article up to \$9.20. On the other hand, one of the more negative aspects of the ASP system is its uncertainty. An exporter of a product (potentially subject to ASP), cannot tell when he signs the contract or despatches the goods to the USA whether the product will be subject to ASP (inasmuch as it may be considered 'competitive') nor does he know the price at which the product will be offered or the total amount of customs duty that will be payable.³

The ASP system, being incompatible with the customs valuation procedures adopted by the member countries of GATT, is in direct conflict with all the multilateral forces aimed at expanding world trade. Were there no waiver clause permitting continued recourse to practices already in use at the time the GATT Charter was concluded, the ASP system would be illegal. Article VII, subparagraph 2(a), of the GATT Charter lays down in fact that for customs purposes the value of the goods imported should be based on the actual value of the goods on which the duty is charged, and not on the value of comparable goods of national origin or on arbitrary or fictitious values. Nor should it be forgotten that in the protocol for the temporary application of GATT the USA and the other contracting parties assumed an obligation to align their respective legislations to the GATT principles.

The ASP system is thus conspicuously difficult and costly to administer, as well as time consuming. The products potentially subject to ASP run into thousands. For dyestuffs alone the US customs authorities are obliged to keep schedules for some 4,000 articles. The import procedure is complex and takes up precious time. To establish the 'competitive' character of imported products the American customs must effect laboratory tests on a vast scale and ask the national producers for technical details and commercial information. The US customs authorities usually rely on the information furnished by national companies, but if an importer challenges such information the result is a long series of investigations.⁴

The ASP system furthermore is now outdated, since for some time the principal reasons for its introduction have ceased to apply. The American chemical industry, which was newly formed at the time of the first world war, is today the most powerful in the world. Turnover in the US chemical industry amounted in 1970 to over \$49 milliard, thus well exceeding the production value of the chemical industry in the principal countries

in Western Europe. The US chemical industry is one of the five sectors of the American economy with the highest productivity. The incidence of labour costs in 1969 was down to near 22 per cent. The industry is 'research oriented', so that it is characterised by the development of a very wide range of new products. US foreign trade in chemical products earns a substantial surplus (\$2.4 milliard in 1970), much of it with the EEC and Japan. Similarly the benzenoid sector has developed favourably. Thus, the average annual rate of increase in the US production of benzenoids in the last 10 years has been higher than that for the entire chemical industry (10 per cent against 8 per cent). Sales amounted in 1969 to about \$4 milliard, representing about 10 per cent of sales of all US chemical products. Moreover, in 1968 American exports of benzenoids realised \$734 million (one fifth of total exports of chemical products), while imports were no more than \$107 million (barely 2.9 per cent of consumption). The surplus on US trade in benzenoids (\$627 million in 1968) is still more significant when it is considered that in 1968 imports of 'competitive' products alone came to barely \$53 million (only 1.5 per cent of US production in this sector). Moreover, the USA certainly does not fear foreign competition in the plastics sector, in resins, active agents for detergents, pesticides or in general chemical products utilised in agriculture, aromatic materials and perfumes. And the US dyestuffs industry, the one most resistant to the abolition of ASP, has a higher production (\$501 million in 1970) than the dyestuffs industry in Germany (\$408 million in 1970), Switzerland (\$160 million in 1970) or Britain (\$157 million in 1970).

The supporters of the ASP system, who by and large make up the Synthetic Organic Chemical Manufacturers Association (SOCMA), the members of which produce over 80 per cent of the benzenoids manufactured in the USA, point out that American wages are far and away higher than wages in other industrialised countries and that in the dyestuffs sector in particular this disadvantage cannot be offset by recourse to machine production as in other sectors of the chemical industry. It is known, however, that in the chemical industry the cost of labour does not play so important a part as in other industrial sectors. Professor Walter W. Haines, who has conducted an enquiry into the effects of tariff reductions in the benzenoid sector on behalf of the American Importers Association, considers that labour costs represent no more than 15.6 per cent of total costs in the US chemical industry.⁵ And if the incidence of labour costs is higher in the benzenoid sector (especially as regards various dyestuffs) it must not be forgotten that the decisive factor in any comparison is productivity, a factor on which the USA is clearly in the lead. In 1970 sales per person employed in the chemical industry were more than double those in the Federal Republic of Germany (\$49,345 compared with \$19,732). And similarly, in that year the value added per person em-

ployed was double the figure in Germany (\$27,210 against \$13,420). The relatively great advantage enjoyed by the American chemical industry, attributable *inter alia* to more abundant and less expensive supplies of basic raw materials (coal, petroleum and natural gas), is confirmed by an analysis of sales, profits, number of plants, etc. of the big US chemical groups operating at international level. On the other hand, there is no substance in the argument of 'import penetration' on the basis of which the American lobby maintains that imports of benzenoids tend to increase more rapidly than exports. In reality certain increases in imports into the USA are attributable to insufficient production by local industry (especially as regards carbolic acid, styrene, aphanthalic anhydride, etc.) and to special factors (such as the increase in imports of explosives in 1967 as a result of the war in Vietnam). Moreover, as has already been stated, total imports of benzenoids are at a negligible level (barely 4.5 per cent of American production) and only about half such imports consist of 'competitive' products. Even in the dyestuffs sector, in which US imports are more substantial (11 per cent of consumption) and have increased more rapidly than exports, no serious danger exists for American industry.

The US trade deficit for the dyestuffs sector (\$26.7 million in 1970) is a modest one and is comfortably covered by the trade surplus for the entire benzenoid chemicals sector (\$627 million in 1968). More controversial is the question of prices for chemical products. SOCMA, on the basis of a study covering 10,000 commercial operations, observing that the same product is often sold by the European producers at different prices in different international markets, ascribes the variations in prices not to the American companies (which have to observe the anti-trust laws) but to the European companies.⁶ In the chemical industry sector there are cartels both in Europe (and in Japan) and in the USA. Professor Walter W. Haines notes that American Cynamid, Bristol Myers and Pfizer can all fix high prices for a wide range of antibiotics seeing that they control the production, distribution and sales of such products. Moreover, there is a *de facto* monopoly in the USA in the benzenoid sector as well: 63 per cent of the intermediate products for dyestuffs are produced by a single company; 70 per cent of drugs are produced by a single company; and 52 per cent of dyestuffs are produced by a single company. And Yale L. Meltzer, a representative of H. Kohnstamm & Co., emphasised in a statement to the Committee on Ways and Means that the level of concentration in the dyestuffs industry is high everywhere. In the Federal Republic of Germany four companies control 95 per cent of production, in Switzerland three companies control 92 per cent of production, in France one company controls 90 per cent of production, in Japan five companies control 79 per cent of production, in Italy one company controls 70 per cent of production, in the United Kingdom one company controls 70

TABLE 5.1

Comparative tariff levels for chemical products before and after the Kennedy Round if the American Selling Price had been abolished.^a

Number of Brussels nomenclature	Group of products	Tariffs pre-Kennedy Round			Tariffs post-Kennedy Round		
		USA ^b	EEC	UK	USA	EEC	UK
28	Inorganic chemicals	10.5%	8-15%	10%	5%	4-7.5%	5%
29	Organic chemicals ^d	10-45% (19-115%) ^c	14-18%	33.3%	5-20% ^e	7-12.5%	12.5%
30	Pharmaceutical products	10.5-25% (17-106%) ^c	14-22%	10%	5-25% ^e	7-11%	5%
31	Fertilisers	Exempt	3-10%	8-33.3%	Exempt	1.5-6%	4-12.5%
32	Dyestuffs ^d	20-40% (22-172%)	15%	33.3%	30% ^e	10%	15%
	Varnishes ^d	8.5-15% ^c	15%	12.5-16%	4-7.5%	7.5%	7.5%
	Powders and explosives ^d	Exempt-22.5% (41%) ^e	11-24%	10-20%	Exempt-19% ^e	5.5-12%	5-10%
38	Miscellaneous chemical products	10.5%	10-18%	10%	5%	5-9%	5%
39	Plastics	18-20% (25%) ^c	20-23%	10%	9-10%	10-11.5%	10%

^a In view of the forthcoming GATT negotiations (Nixon Round), the EEC, on 19 December 1972, withdrew its agreement to the extension of ASP Protocol concluded in Geneva in 1967.

^b The US rates do not take account of specific duties, whereas, especially for cheap products of considerable tonnage (such for example as plastics and certain benzenoid chemicals), the incidence of specific duties is particularly high.

^c The rates quoted in brackets are *ad valorem* duties 'converted' on the basis of the U.S. *Tariff Commission* report of July 1966 which replace the US duties subject to the American Selling Price.

^d Valuation on the basis of the ASP system.

^e Valuation on the basis of the value of exports.

per cent of production, and in the USA one company controls 52 per cent of production.⁷

Also to be rejected is the SOCMA contention, a contention always dear to protectionist groups, that the US benzenoid industry is defended because its products are of vital importance to national defence.⁸ Article XXI of the GATT charter permits member countries to take 'any action required to safeguard essential interests of security', and the National Security Amendment, put forward in the USA in 1954, and then included almost unchanged in the Trade Expansion Act of 1962, permits the American administration to adopt a series of restrictive measures if vital national interests are threatened.

On 10 June 1964 SOCMA, which has been particularly active since the start of the Kennedy Round, suggested, as an improvement in administrative practices, that the status of an imported product would not be changed from non-competitive to competitive without a 30- or 60-day notice; that domestic companies would have to renew their reports on competitive products annually or every six months, otherwise this competitive status would become obsolete; that an arbitration panel of experts from the domestic industry and from importers would be established to help the Customs laboratory determine the similarity of 'competing' domestic and imported products; that Customs would make certain that a domestic company that claimed to have a 'similar' product actually participated in the market, that the company makes it known that the product is for sale, and that it would offer reasonable delivery times.⁹ But SOCMA's astute manoeuvre (which was aimed essentially at excluding the problem of ASP from the Geneva negotiations in exchange for a modest improvement on the administrative plane) failed owing to the opposition of the EEC. The Community considered the chemical industry to be one of the sectors of key importance to the whole negotiations, both because it was this sector that embodied, and still embodies, the most significant and numerous cases of disparity, and because (after the USA's obstinate refusal to grant substantial tariff reductions in this sector at the previous international negotiations) the European chemical industry intended to increase the sales of its own products in the US market.¹⁰ And these objectives were certainly not to be achieved by a mere improvement in administrative practices in the ASP system (as proposed by SOCMA) or by an inadequate reduction in the US tariff, but only by the prior abolition of the ASP.¹¹ When it deposited its list of exceptions in November 1964, the EEC consequently informed its partners that it would reject any reduction in Chapters 29 (organic chemicals), 32 (dyestuffs) and 33 (plastics) of the Brussels nomenclature unless the disadvantages of the ASP system and of certain other non-tariff barriers (such as the 'standard of strength') in the chemical sector were removed, or if the effect of removing them were nul-

lified or seriously reduced by the introduction of other methods. Moreover, the EEC presented a particularly sizable list of exceptions for the so-called 'sensitive' products and drew attention to a number of disparities arising from the high duties in the US and UK tariffs.

The position taken up by the EEC was also strengthened by support from various other industrialised countries (the United Kingdom, Sweden and Switzerland in particular). The question of the abandonment of the ASP was thus not simply a clash between the EEC and the USA but also closely concerned the interests of third countries, notably the chemical industry of Britain, Switzerland and Sweden.¹² SOCMA, however, did not capitulate. It maintained, especially in the period 1964–65, that the US administration had no authority to modify the ASP system, nor to enter into negotiations with GATT. The problem of the 'illegality' of the negotiations regarding the ASP flared up in particular in March 1966 when Blumenthal, the head of the US delegation at Geneva, stated at a conference that 'the United States is prepared to negotiate on ASP in the Kennedy Round'; all the diplomatic skill of Christian Herter, the first Special Representative to lead the American delegation to the Kennedy Round, was then needed to take the heat out of the exchanges on the statements made by Blumenthal. However, the question of the 'illegality' of the negotiations on the ASP, though it remained open until the last days of the Kennedy Round, brought out one very important fact, and that was the partial disposition of the American Administration to achieve some result in this sector. The Special Office for Trade Negotiations, by advancing the thesis that 'the President does have authority to enter into a trade agreement providing for the modification of the ASP system' even if Congress must then approve or disapprove the agreement,¹³ showed that it realised that the exclusion of an industrial sector as important as the chemical industry could jeopardise the entire negotiations, and that only by abandoning the ASP system could any European non-tariff barriers (such as the road taxes on motor vehicles in EEC countries) be removed.

The negotiations proper on the chemical sector commenced on 3 May 1966 when the US delegation, in response to the stand taken by the EEC, put forward as a working hypothesis the possibility that the ASP system could be abolished by restructuring the relative duties, that is to say by incorporating the effects of the ASP in *ad valorem* duties of equivalent amount. The USA declared, moreover, that provided it might treat certain products as exceptions and on condition that it obtained adequate reciprocal benefits, it would be prepared to apply a uniform reduction of 50 per cent to such converted duties, and also to the duties of all other chemical products not subject to the ASP. But the working hypothesis presented by the USA did not kindle any enthusiasm on the part of the EEC or the other countries concerned. The load of work imposed on the Tariff Commission,¹⁴ to which was en-

trusted the task of converting the rates of duty based on the ASP into rates based on export values, confirmed that the effective duties produced by the ASP system were very high and that consequently the converted *ad valorem* duties only perpetuated the effects of ASP under another label. In particular the EEC Council of Ministers stressed at the meeting of 12–13 June 1966 that:

- 1 An offer based on the American working hypothesis would leave in being the disadvantages of a high level of US tariff protection (which might even be consolidated in GATT at the close of the negotiations).
- 2 Even after a reduction of 50 per cent in the converted duties, the level of the US tariff would exceed the limits of reasonable protection (the average incidence of the US duties would still be 25.5 per cent, while that of the CET would be no greater than 11.5 per cent).
- 3 The duties on 25 of the 109 positions in the US tariff for the chemical sector would be over 30 per cent *ad valorem*.
- 4 The number of cases of disparity would increase, especially in the ‘basket’ categories (in which competitive and non-competitive products are combined).
- 5 Even in the event of the abolition of the ASP system doubts would remain regarding the effects of the US methods of customs valuation (methods not in accordance with the Brussels definition of value) on the real incidence of the converted duties.

The EEC, however, in face of the united front presented by the United Kingdom and Switzerland on these points, requested an improvement of the American position, suggesting:

- 1 The establishment of a ceiling for the highest of the converted duties.
- 2 An adjustment of the ‘basket’ positions.
- 3 That guarantees should be furnished regarding the methods of customs valuation upon abolition of the ASP system.

The USA’s informal offer of 3 May 1966 was also attacked by American producers, especially as regards the conversion technique utilised by the Tariff Commission. Counsel for SOCMA pointed out that ‘this substantial protection is subject to considerable erosion. Because of the relationship of the converted rate to the old ASP rate, the protection will remain equivalent only as long as the relationship between foreign value and ASP remains the same.’ And as this relationship ‘clearly tends to be modified through the manipulation of the “export value” by foreign producers, the incidence of converted duties on imported products will be reduced’. Even worse, he added, was the fact that ‘converted duties for the so-called basket categories

(that is for a group of products in which competitive and non-competitive products are combined) result in a unilateral tariff reduction of from 14 to 44 per cent because the converted duty of a "basket" is the average of converted duties of all products included in the very same basket'. For example the average converted rate for competitive dyes was 72 per cent and that for non-competitive dyes was 40 per cent, about the same as the ASP rate. However, the actual converted rate for the entire basket is 48 per cent, namely a 32 point decrease in the protective level for competitive dyes. And these unilateral reductions 'are all the more dangerous when it is considered that such groups of products include some of the most important competitive products in the United States and several of the so-called tomorrow's products'.¹⁵

Notwithstanding its failings, the working hypothesis formulated by the USA, a hypothesis that never became a formal offer, represented a first step along the right road. On 25 July 1966, with the publication by the Tariff Commission of the definitive list of converted duties (a list that was modified in some cases to take account of criticisms by American producers and the EEC), the US delegation had at its disposal the necessary basis material on which to launch a discussion. In December 1966 the US delegation put forward a proposal for a procedure (*découpage*) aimed at splitting the negotiations in the chemical products sector into two: the first part ('the first package deal') would consist of tariff concessions (as far as possible by 30 June 1967) for all chemical products (including organic chemistry products); and the second part ('the non-tariff package deal') which required ratification by Congress, involved the abolition of the ASP system in return for the removal of a certain number of non-tariff barriers by the principal partner countries (road taxes on motor vehicles in Italy and France that penalise vehicles with a high cylinder capacity; the prohibition on advertisements for whisky in France; limitations imposed on the number of American films shown on television in the United Kingdom, etc.). But none of the partners of the USA seemed prepared to enter into the 'double' negotiations. The EEC, under particular pressure from the French chemical industry, rejected the US proposal on the grounds that if the Six made prior concessions regarding organic chemical products they would be left with no bargaining counters for inducing Congress to abolish the ASP.¹⁶ A no better welcome awaited the proposal of the Director General of GATT, Wyndham White, to reduce duties on both sides by 50 per cent over five years, leaving it open to the EEC to limit its concessions to the first two years if in the meantime Congress had still not abolished the ASP. In February 1967, however, the EEC announced that it was willing to conclude a 'global agreement' under which:

1 The USA would abolish the ASP, limit to 40 per cent all the converted

duties above that level, reduce by 50 per cent all duties (both the 'limited' ones and those at lower rates) and limit the exceptions to a minimum.

2 The United Kingdom would reduce the duties from 33·3 to 12·5 per cent, so granting a weighted average reduction of the whole of the British duties of about 56 per cent, and harmonise the tariffs for plastics with the CET duties, it being understood that no duty would exceed 10 per cent.

3 Switzerland would reduce her duties by 50 per cent.

The EEC for its part would undertake to reduce its duties by 50 per cent and give up invoking disparities (for Chapters 29, 32 and 39 as well), except in the case of certain tariff positions the amount of which would not exceed 1 to 2 per cent of the volume of imports by the EEC in this sector.

At the beginning of March 1967 the EEC proposal for a 'general' agreement was reinforced by a firm recommendation by the Tariff Commission that the ASP should be abandoned in the interests of simplifying the US tariff system.¹⁷ But the American delegation, while confirming its willingness to negotiate on the ASP, recalled that its abolition depended entirely on Congress. Consequently, in view of the short time available, the abolition of the ASP by 30 June 1967 could not be contemplated. It was therefore necessary to reach a compromise. In fact, after long bilateral and multilateral negotiations overshadowed by the danger that a large part of the negotiations could fail, the good will of the countries directly concerned prevailed. The EEC, thanks to the mediation of Wyndham White, who had presented his previous formula again in an improved form, accepted the idea of *découpage*, so abandoning the requirement that the ASP should first be abolished, but reduced in the 'first package' the majority of its own duties by no more than 20 per cent (in return for a uniform reduction of 50 per cent in the converted US duties and in the duties on all the other US chemical products not subject to ASP), leaving for a 'second package' the adoption of a further tariff reduction of 30 per cent and the adaptation of the modalities of the road taxes on motor vehicles in Belgium, France and Italy, only if the US Congress approved the abolition of the ASP system. Furthermore, the EEC granted in the 'first package' reductions of 30 per cent on certain products (heterocyclic compounds, vitamins, drugs and dyestuffs) of which Switzerland is the principal supplier to the Community. In the end the EEC decided to grant reductions of 30 per cent on eight CET tariff lines of 25 per cent or over. For their part the USA, besides undertaking in the 'first package' to reduce by 50 per cent the duties entered in the American tariff whether subject or not to ASP, also undertook to 'employ every effort for the speedy passage of the necessary legislation to repeal the ASP'. Furthermore, in the event of the abolition of the ASP, since 'converted' duties give rise, as we have already pointed out, to very high rates (sometimes in excess of 100 per cent), the USA decided to

fix for such duties a maximum of 40 per cent (a maximum that on the insistence of the EEC and Switzerland was set for dyestuffs at 30 per cent and for sulphur drugs at 25–27 per cent). In addition, owing to pressure from the European countries, the USA also decided that in the event of the abolition of the ASP the specific duties on certain dyes would be converted into *ad valorem* duties with a view to eliminating the inconveniences of the ‘standard of strength’ system.

In turn the United Kingdom decided under the first package to reduce by 20 per cent duties of less than 25 per cent and to reduce by 30 per cent duties of 25 per cent and over (so as to reduce the duties from 33·3 to 23 per cent). The United Kingdom duties on products of particular interest to Switzerland were reduced by 35 per cent, while the duty on synthetic dyestuffs was cut from 33·3 per cent to 15 per cent. But no concession was made by the United Kingdom on the majority of the duties on plastics (in general 10 per cent) which were below the basic CET rates. On 80 tariff lines of relatively small importance the United Kingdom finally made no concessions (hydrocarbons and burning oils) or granted only partial reductions (nitrogenous fertilisers, dextrans, caseins, etc.). Under the second package, subject to ratification by Congress, the United Kingdom undertook to reduce further by 30 per cent all the items already reduced by 20 per cent, to reduce (by variable percentages) the duties of 25 per cent or over (to bring them down to 12·5 per cent), to reduce the duties on plastics in excess of the final EEC duties and to reduce by about 25 per cent the margin of Commonwealth preference in the revenue duty on unmanufactured tobacco. Switzerland and Japan decided to effect the tariff reductions irrespective of whether the ASP was abolished or not. Switzerland decided in particular to reduce her own duties in general by 50 per cent, except for 19 items treated as exceptions. Japan on the other hand invoked a large number of exceptions. Switzerland moreover, in the event of the abolition of ASP, undertook to ensure that prepared or preserved fruits would be free from restrictions imposed by reason of the presence of corn syrup. The Nordic countries, associate members under the general agreement, decided to apply the same package of concessions as the EEC and the United Kingdom. In the first package, however, Norway, Finland and Denmark undertook to effect unconditional reductions other than the obligations imposed by the agreement for numerous chemical products mainly of importance to the EEC. Sweden, for its part, while effecting unconditional reductions for certain items, introduced a subdivision in conformity with its objective of harmonising its own tariff with the final rates for the EEC. In the event of the abolition of the ASP, the Nordic countries undertook to effect linear reductions with lists of limited exceptions. Sweden, however, announced that she was in favour of harmonisation with the EEC duties.

The Geneva agreement was welcomed in Europe, where attention was

drawn to the equality of the reciprocal concessions, and for the first time to the important progress made towards the harmonisation of customs duties in the chemical products sector. Jean Rey, who headed the EEC delegation, declared himself to be extremely satisfied. And the European chemical industry incorporated in the Centre Européen des Fédérations de l'Industrie Chimique (CEFIC) pointed to the international importance of the reciprocal advantages obtained by the European and American chemical industries.¹⁸ In the USA favourable reactions were expressed by the Office of the Special Representative for Trade Negotiations as well as by the importers and certain producers.¹⁹ And the Ambassador W. M. Roth declared that the agreement brought about a fair and balanced exchange of trade opportunities. In particular, Roth pointed out that the US tariff reductions in the first package, although greater (43 per cent on the average compared with the 26 per cent conceded by the European partners) concerned imports to a value of \$440 million (on a cif basis for 1964) in return for concessions relating to \$890 million of American exports. On a weighted basis, however, the US offer in the first package affected \$288 million, while the offer by the other countries applied to \$463 million. Roth also pointed out that in the second package, in return for further reductions of 5 per cent and the abolition of the ASP, the European countries would have reduced their duties by 30 per cent and made non-tariff concessions in addition. The USA had thus obtained important concessions (with few exceptions) in the 'basket categories' and for plastics (where the EEC and UK tariffs, if the ASP was abolished, would be cut to about 10 per cent). Finally, concluded Roth, when all the tariff reductions concerned were introduced, the US tariffs would still be substantially higher than those in force in the partner countries.²⁰ On the other hand the reaction of the majority of the US producers was plainly unfavourable. Peter W. Rodino, the Member of Congress for New Jersey, termed 'most damaging' the 30 per cent ceiling for dyes and pigments contained in the second ASP package negotiated at Geneva. James D. Mahomey, the President of SOCMA and the Vice-President of Monsanto stated that the USA had given in once again and sacrificed the interests of American industry. David H. Dawson, the Vice-President of Du Pont de Nemours described the Geneva agreement as a severe blow to the US chemical industry and the entire American economy. Ernest M. May, the President of Otto N. May Co. predicted grave consequences for the US benzenoid industry. Carl Gestacker, President of Dow Chemical, described the agreement as 'terrible' and 'utterly non-reciprocal'. Chester M. Brown, President of Allied Chemicals, asked Congress not only to refuse to abolish ASP, but also to reject the first package of concessions. The Manufacturing Chemists Association, in contrast to the moderate tone it had adopted in the past, followed the critical line taken by SOCMA. Furthermore, the Dry Color Manufacturers Association

and the trade unions in the powerful AFL-CIO also came to defend the position taken by the US chemical industry.²¹ The US protectionist lobby, moreover, launched a major campaign to prevent the abandonment of the ASP. In particular SOCMA asserted that ‘the first package (namely the 50 per cent – 20 per cent deal) is unreciprocal.’ Therefore

it is sheer nonsense to eliminate ASP to obtain in exchange a 30 per cent tariff reduction which the United States has already paid. The reciprocity of the Geneva agreement can only be established by its effect on foreign trade in chemical products in the years to come, and not as the Ambassador W. M. Roth suggests, by reference to foreign trade in 1964. And the tendency is towards a larger increase in imports, an increase which the 50/20 package cannot fail to accelerate.

In addition, despite the EEC 20 per cent tariff reduction, on July 1 1968, the duty on US chemicals entering Germany and the Benelux (which account for over 70 per cent of US chemical exports to the EEC, and about one half of our chemical exports to the EEC and EFTA combined) will rise from 11.5 per cent to 11.7 per cent – a rise of 1.7 per cent – in Germany and from 10.3 per cent to 11.7 per cent – an increase of 13.6 per cent in the Benelux countries.

Incredible is, on the other hand, the fact that the US delegation in Geneva has neglected the effects of development in “border taxes”. The GATT border tax rules permit a country to slap a border tax on imports, equal to the indirect tax burden borne by a similar domestic product. These privileges do not apply to direct taxes, however, and because European countries rely on indirect taxes much more than the US, the rules give them a competitive advantage in international trade.

US exporters must pay their direct taxes in the US and pay another country’s indirect taxes when their products cross the border. Foreign exporters, on the other hand, do not have to pay US direct taxes when they export to this country, nor do they have to pay their own indirect taxes. Their advantages become particularly significant in third country markets. In Geneva the US delegation not only has neglected this discriminatory fiscal mechanism, but has also forgotten that the harmonization of the fiscal legislation in the EEC (particularly with the switch to VAT) has drastically raised border taxes and, at the same time, considerably reduced fiscal imposition for European exports. As a result of this situation obstacles to our exports are higher than before the conclusion of the Kennedy Round.

SOCMA then, after pointing out that the tariff reductions of the 'basket categories' would be higher than 50 per cent (from 57 to 69 per cent), which was a price that had not been asked of any other sector, contended that 'the non-tariff concessions made by the Europeans were not really concessions. Three EEC countries – Belgium, France and Italy – did not really agree to modify their road taxes, which discriminate against American-made cars.' 'Instead', claimed Mr Barnard, 'they agreed to set in motion the necessary constitutional procedures in order to adjust the modalities of their road taxes. Nor will the British tobacco concessions – the United Kingdom agreed to reduce the Commonwealth preferential tariff advantage by 25 per cent – mean increased imports of US tobacco. US tobacco sells in Britain on the basis of quality not price. Even without the preference, Commonwealth tobacco is priced well below American tobacco. The reason for the actual large exports of US tobacco to Britain is her sanctions against Rhodesia. When they are removed, the US will not be able to compete any more. The non-tariff concession of Switzerland rather than a concession is really a rather unpleasant threat as it implies that the Swiss will stop importing canned fruit containing corn syrup unless we implement the ASP package as we know that we have been exporting canned fruit containing corn syrup to Switzerland for a long time.' Finally, going on to consider the economic effects of the Geneva agreements on the market for US chemical products, a crucial question in the ASP battle, SOCMA added in conclusion that the big companies (Dupont, Monsanto, American Cyanamid, etc.) faced with lower import prices and consequently reduced profits, would be obliged to invest abroad (thus creating jobs in overseas markets rather than in the USA) while other companies would have to stop production, confine themselves to importing or resign themselves to being taken over.²²

The offensive launched by SOCMA did not go unanswered. Robert B. Stobaugh, in a report submitted to the Committee of Ways and Means at a hearing in June 1968, maintained that 'adoption of the ASP package would result in an increase of approximately \$110 million in the United States net trade balance in chemicals in 1972', that 'the United States will continue to be a major exporter of chemicals', that 'the US tariff of 30 per cent on all dyes provides sufficient protection to enable a United States dye manufacturer to compete with the German chemical industry' (on the average for the same sized plant) and that 'there is evidence that the European competitive strength in dye manufacture is based on research and development rather than low labour cost'. Moreover, at the hearings in June 1970, Stobaugh, besides confirming the views he had already expressed, contended in a further report that 'in the first two years under the Kennedy Round agreement, the output of the domestic benzenoid industry increased more than in the last two years prior to the agreement', and that despite inflation 'the net trade balance of

the US chemical industry has shown a continuous expansion of our exports'.²³ Martin Pomeranz of the Office of the President's Special Representative for Trade Negotiations rebutted point by point the contention of Desmond FitzPatrick,²⁴ maintaining that the abolition of ASP 'will not bring about any significant increase of US imports' and that 'most parts of the benzenoid industry would not be seriously injured by the elimination of ASP and the reduction by 50 per cent in the equivalent duties computed on the normal basis of valuation'. The Ambassador, William M. Roth, after examining carefully the more sensitive sectors of the US benzenoid industry concluded that 'our industry has every prospect of further increasing its export surplus', and if in some cases 'some of the smaller firms may have to face some difficulties they can resort to the "trade adjustment assistance programme"'.²⁵

The contrasting viewpoints advanced by the supporters and opponents of the ASP were defended with such conviction and wealth of detail by both sides that it is sometimes difficult to assess the validity of the facts. It would therefore be useful to turn to the opinion of an impartial technical body. In 1966 at the request of the Ambassador, W. Roth, the Tariff Commission prepared an accurate analysis of the overall problem of the ASP. But this report, classified as top secret, has never been published. The polemics regarding the ASP have consequently continued, and they are still of great topical interest today. The US Administration not only failed to secure Congressional approval for the abolition of the ASP but did not even succeed in turning to account four successive extensions of the time limit (up to 31 December 1972) granted by GATT through the good will shown by the EEC, the United Kingdom and Switzerland. Indeed the intense activity displayed by SOCMA and the supporting protectionist groups, which in recent times, by skilful diversionary tactics, have linked the question of the ASP with a series of assorted problems (textile quotas, the deterioration in the American balance of payments, political manoeuvres in advance of elections, etc.) seems to have met with success. So far the ASP has not been abolished. But the success of SOCMA's activities is illusory. The problem remains open. The ASP has become for Europeans 'the symbol of US protectionism', so that any future GATT negotiations will have to deal again with this problem. The ASP is an indefensible para-tariff barrier. The Geneva agreements, if applied as a whole, provide in substance for effective reciprocity. It is not to be denied that as a whole the US chemical industry is very strong and that the European producers have in fact accepted considerable tariff reductions. The US protection levels (in relation to imports which fall far short of exports) remain relatively high, however, so as to exclude the danger of big increases in US purchases from Europe. The majority of small and medium sized undertakings, all more or less openly tied to the big companies, will not come to any harm. Certain smaller undertakings will undoubtedly face difficulties,

however, but they should turn to a more efficient 'trade adjustment assistance programme'. It is patently absurd, moreover, that after 50 years of very powerful protection, US industry should risk prejudicing trade relations with Europe merely to protect a handful of inefficient concerns. On the other hand, as the enlargement of the Community implies the levelling down of the highest tariffs of the EFTA countries to the lower ones of CET, the USA, by insisting on the maintenance of the ASP, is in practice renouncing an increase in its sales in Europe.²⁶ Furthermore, the fears entertained by US industry regarding the strengthening of European and Japanese competition should be allayed by the introduction of the second package described in Geneva. The harmonisation of tariffs throughout the chemical sector would reduce the risk of dumping practices, to which the big companies often resort today to dispose of surplus stocks. The problem of revenue taxes imposed at the frontier has nothing to do with the elimination of ASP. Moreover, border taxes apply in the same way to both the European producer and the US exporter. The German producer and the American exporter thus face the same revenue charges when they sell in the German market. And any increase in the rates of such taxes does nothing to alter this situation. Undoubtedly, however, the diversity of fiscal systems (that is to say the heavier incidence of indirect taxes in the EEC in relation to the USA) and the current rules of GATT (which permit changes in taxes levied at the frontier for internal fiscal reasons) create difficulties which ought to be ironed out at future GATT negotiations. But only by the abolition of ASP can this problem too be dealt with at new negotiations. If, however, the real reason for the opposition of the US chemical industry to the abolition of ASP is that the big international American companies, established as they are in both the USA and Europe, prefer to maintain a protected market on both sides of the Atlantic in order to maximise their profits, the European countries, apart from denouncing the damage that these advanced forms of neo-protectionism do to the American economy (loss of jobs, loss of foreign currency earnings from potential exports, higher prices for consumers, etc.), should take steps (within the framework of Community industrial policy) to control US investment. Sight should not be lost of the fact that the American Department of Justice, if only to maintain competition, also exercises control over the European companies, as was seen in the case of the amalgamation of CIBA and Geigy. Nor should it be forgotten that US foreign investment in the chemical industry amounted at the end of 1968 to the considerable figure of \$8 milliard (of which over \$2.5 milliard was in the EEC) and that in 1967 this investment produced sales of \$9 milliard (compared with only \$2.8 milliard of US exports).²⁷ To test the good will of the USA, the EEC might take the initiative in proposing the creation of an international commission (composed of specially qualified persons of unquestioned impartiali-

ty) to settle the controversies that are bound to arise between the chemical industries in the USA, Europe and Japan upon the abolition of the ASP. In fact, on 19 December 1972 the EEC withdrew its agreement to the extension of the ASP by the USA in view of the forthcoming negotiations in GATT at the Nixon Round.

Anti-dumping code

Despite the attempts made in the period between the two world wars to reach international agreement, the 'legal' battle against dumping (which developed historically primarily after the first world war) assumed a different character from country to country. A standard definition of dumping recognised on the international plane was taken in 1947 from Article VI of the GATT Charter. In 1947, however, the national anti-dumping legislations of the member countries of GATT were not yet harmonised, since the existence of 'protocols of provisional application' provided that the legislation in force prior to the implementation of the GATT Charter could be left unchanged. The provisions of Article VI were consequently to a certain extent only respected by the countries (especially the European countries) whose anti-dumping legislation was introduced after their accession to GATT. Moreover, the general provisions of Article VI were often interpreted in an arbitrary fashion, since no precise requirements were laid down regarding the procedure to be followed in applying the anti-dumping measures. The coexistence of legislations that were not harmonised with Article VI and laws that came into force after the implementation of the GATT charter and the general diversity of administrative procedures for its application which obstructed the process of liberalisation of international trade, gave rise to some fairly sharp conflicts between the principal industrialised countries. In particular, the European countries stigmatised the American legislation as protectionist. In fact, the American anti-dumping law of 1921 (United States Code, Section 160–173), in the event of an enquiry being opened into alleged anti-dumping practices, prohibited the customs clearance of the imported goods pending the outcome of the enquiry. And since the investigation (effected by stages and before various bodies) into differences in price and assessments of the damage suffered could take a fairly long time (300–400 days on the average), the result was that the import of the goods in question was practically blocked, which enabled the national producers to take the necessary measures to eliminate the foreign competition. The European countries, however, pointed to the abuses of the US anti-dumping system, seeing that the American administration could open an enquiry into alleged dumping practices either at the instance of a producer (even in the absence of

any elements of proof) or (in various cases) even without prompting by the parties concerned. And the protectionist character of the US legislation becomes even plainer when it is realised that only in a tiny fraction of the cases investigated were the measures taken justified. In fact, in the period 1955–1965 out of 110 cases of alleged dumping only in 45 cases was a significant difference in price established and only in 9 cases was material injury sustained.²⁸ The USA, for their part, criticised the excessively restrained character of the anti-dumping procedures in the European countries, especially the United Kingdom. The methods of the anti-dumping administrative procedures in various European countries were not in fact known, so that it was difficult for the US administration to protect the interests of their own exporters. Europeans and Americans, on the other hand, attacked the Canadian anti-dumping legislation. Canada, in fact, was the only country of any importance that came down (with an anti-dumping duty) on foreign goods each time the selling price of the imported goods fell below the normal price ('the fair market value') ruling in the exporting country. Moreover, the imposition of the anti-dumping duty, apart from having retrospective effect for two years and, in certain cases, for an almost unlimited period, took no account of whether the imported goods caused injury or threatened to cause injury to the Canadian industry. The only requirement demanded for applying the anti-dumping legislation was that the goods imported should be of a kind or type produced in substantial quantities in Canada (sufficient according to the Canadian legislation to provide for 10 per cent of normal consumption).

These legislative and administrative divergencies in the methods and modalities of execution had long been considered a cause of disunity in international commercial relations. As early as 1955 the Secretary of GATT had received from the member countries a mandate to draw up a list of the anti-dumping laws and regulations in force. In the following year GATT was invited to make a systematic analysis of the law as it stood in the member states. This report was published in 1958. Subsequently, GATT decided to entrust to a group of experts an exhaustive enquiry into certain technical problems regarding anti-dumping and countervailing duties. The report by the group of experts was approved by the member countries of GATT and was published in 1961.²⁹ The report contained a very valid interpretation of the contents of the provisions of Article VI and a reasoned opinion on the modalities of enquiry and execution to be observed in the event of anti-dumping action being taken. Nevertheless even these efforts were insufficient to harmonise the national legislations and regulations. The GATT report did not induce the member states to adapt their national legislations. The great opportunity to harmonise anti-dumping legislation on both sides of the Atlantic occurred, however, at the Kennedy Round. In July 1965 the United Kingdom drew attention to the incompatibility of the legislation in

the USA and the provisions of Article VI, and tabled a proposal for the definition of an anti-dumping code in application of the principles laid down in the GATT Charter. The British proposal came at an opportune moment. The EEC was then putting the finishing touches to Community anti-dumping regulations and was prepared to promote their harmonisation on a wide geographical basis. And the USA, apart from wishing to discourage the protectionist leanings of certain sectors in its own industry, was worried about growing recourse to anti-dumping measures in respect of its own exports, especially on the part of European countries. The British proposal consequently received support from the principal industrialised countries so that in the autumn of 1965 a special working group set about removing the obstacles to trade arising from the restrictive application of the anti-dumping regulations. Nevertheless, notwithstanding the favourable circumstances, at the outset progress was slow. The USA, which was anxious to establish the principle of 'fair and open procedures' (that is to say of enquiries based on a maximum amount of publicity) and to obtain substantial modifications of the Canadian legislation, sought to limit its own concessions to a minimum (to avoid changes in its own legislation that would require ratification by Congress), while the EEC favoured the adoption of an especially effective anti-dumping code. Subsequently, however, thanks to a pragmatic approach, even if it was narrower in scope, an intermediate line prevailed, so that the negotiations went ahead to their conclusion on 1 May 1967, two weeks before the 'final package' of the negotiations.

The anti-dumping code laid down in Geneva represents an achievement of some importance, as it can serve as a model for drawing up other international codes on non-tariff barriers, on condition that certain conditions for such codification exist (reference to the principles of the GATT Charter as a basis for detailed negotiations, and the presence of circumstances that prompt the principal industrialised countries to seek a general agreement). Moreover, the provisions of the compromise reached in Geneva, and transposed obligatorily into national legislations, should ensure the harmonisation of the legislations of all the signatory powers. In addition, by bringing into operation a procedure for the provision of information and annual consultation under the aegis of a suitable special committee of GATT composed of representatives of the signatory states, a valuable instrument was created for bringing under international control the measures of execution not subject to the provisions of the code, and to settle any controversies and promote the necessary cooperation between the signatory powers to solve any problems of application.³⁰ From the point of view of the EEC, the importance of the code consists essentially in the fact that it should make for a normalisation of the anti-dumping policies of the USA and Canada. To this end, in fact, the anti-dumping code provides that:

- 1 The adoption of provisional measures is subject to two conditions: that a preliminary decision has been taken when dumping is occurring; and that a critical examination of the declaration of dumping discloses sufficient evidence of the existence of material injury. The period of application of provisional measures is limited however to three months generally speaking.³¹
- 2 The initiation of an investigation into dumping cannot absolutely prevent customs clearance of the goods on the basis of the normal tariff (even if the administration has the right to demand as a precaution a deposit or bond as security for the duty that may be payable when the results of the investigation are known).³²
- 3 The establishment of dumping must be made by a 'competent authority', that is to say, rather than by the customs administration by a body or organisation suitably constituted.
- 4 The procedure is speeded up by proceeding simultaneously to an examination of the evidence of dumping and injury at the time of acceptance of the complaint, and thereafter starting on a date not later than the date on which provisional measures may be applied.
- 5 The retroactive application of anti-dumping measures is strictly limited; in particular, besides excluding any retrospective effect in the event of a simple threat of injury, in the event of severe damage the retrospective effect is limited in time by the imposition of specified conditions justified by consideration of an economic character and customs procedure.³³
- 6 The anti-dumping duty can only remain in force for the length of time necessary to neutralise the dumping and cannot be maintained as a measure of customs protection.

In relation to the European countries, moreover, especially as regards the procedures followed in the United Kingdom, the anti-dumping code calls for the specification of the provisions of real right and greater publicity for the action taken. No substantial change was demanded, however, in the anti-dumping legislations of the European countries, which confirms the substance of the critical position assumed in Geneva in relation to the USA and Canada.³⁴

The adoption of the anti-dumping code was welcomed by European industrialists who supported an effective anti-dumping policy free from any protectionist taint. Also in favour of the arrangements was the US Administration which, among the advantages obtained, underlined the notable concessions made by Canada,³⁵ the adoption of 'open and fair procedures' by the European countries, and the fact that the possibility of refusal by America to change her own anti-dumping measures had not moved the EEC to adopt a restrictive Community code.

Various sectors of US industry, on the other hand, fearing a reduction in

the protection provided under the Anti-Dumping Act of 1921, attacked the agreement concluded in Geneva and appealed to Congress to reject it. And various senators – notably Senators R. Long and V. Hartke – tabled a motion that ‘the international code of Geneva violates US legislation at various points’ and it should therefore be ‘submitted for approval by the Senate as a separate treaty’. To this critical reaction the US Administration replied that the anti-dumping code was not a treaty but ‘a mere agreement on procedure which does not conflict with American legislation’.³⁶ In the autumn of 1968 the conflict between the opposing views was settled by a compromise by which the changes made in the international code were incorporated in the American anti-dumping administrative procedure ‘in so far as they are in conformity with the Anti-Dumping Act of 1921’ and on condition that ‘in case of conflict the provisions of the Anti-Dumping Act of 1921 will prevail over those of the international code of Geneva’.

The compromise arrived at between the Administration of the US Senate was severely attacked by the European countries. In fact, notwithstanding the improvements introduced, the preference given by the USA to its own internal legislation could in future endanger the efficacy of the international anti-dumping code and lead to its abandonment by the signatory countries. The EEC emphasised that the US legislation does not respect the anti-dumping code in that it does not insist among the conditions necessary for the application of anti-dumping measures on the establishment of ‘material injury’ to the national producers. Moreover, the EEC points out that the US Treasury has taken more vigorous action against dumping. From 1 July 1970 to 30 June 1971 the American government promoted 22 new anti-dumping measures, whereas the Community, observing the anti-dumping code, only put forward one in the same period.³⁷

In April 1972, moreover, the US Treasury requested foreign exporters to increase the prices of goods sold in the American market by an amount corresponding to the currency realignment, and announced the adoption of possible anti-dumping measures against foreign exporting firms that continued to sell their goods at the old prices.³⁸

On the other hand, it must also be pointed out that notwithstanding the important contribution made to the realisation of the objectives of GATT, the same international code drawn up in Geneva at the Kennedy Round also contains provisions which leave excessive liberty of action to the national authorities. For example, even if the period for the application of provisional measures is limited to three months, this period can be extended subsequently. And if the subject does not lend itself to the formulation of precise legal regulations, regulations which for that matter often give rise to conflicting interpretations, this does not remove the necessity for ensuring the maximum possible freedom of action in international trade, while guaranteeing the

effective protection of production against forms of dumping that are actually prejudicial.³⁹ In future, therefore, further steps must be taken to ensure greater uniformity in the rules for valuation and in the anti-dumping measures. Moreover, frequent recourse to forms of protection akin to anti-dumping duties increases the urgency of extending the search for solutions to restore equilibrium between conflicting interests in order to ensure that the purpose of the international anti-dumping code is not evaded. This applies in particular to the countervailing duties applied with ever increasing frequency in recent times by the US Administration (at its own discretion) on the basis of the Tariff Act of 1930 to foreign products which enjoy subsidies or premiums granted directly or indirectly to the producer or exporter in the country of origin or of export.

Notes

¹ The existence of such high rates confirms the views of those who regard the ASP system simply as a method of concealing very high protective duties. See: P. Millet; 'A European views American selling price' *European Community* (September 1966), Washington.

² This is the 'willing to receive' clause specified in the American legislation on the ASP system of customs valuation. See: Statement of the Swiss Union of Commerce and Industry, Zurich, *Switzerland before the Committee on Ways and Means, House of Representatives*, Washington (1 July 1968), p. 6.

³ K. A. Hochschwender, *Statement in Behalf of the Organic Chemicals Group American Importers Association*, Committee on Ways and Means, US House of Representatives (1 July 1968).

⁴ For a study of the controversies regarding the application of the ASP system see: Y. L. Meltze, *Chemical Guide to GATT, The Kennedy Round and International Trade*, Noyes Development Corporation (1968), Park Ridge, New Jersey.

⁵ W. W. Haines, *Statement before the Committee on Ways and Means* (1 July 1968), US House of Representatives, p. 5.

⁶ Statement of Thomas P. Turchan, President of the Synthetic Organic Chemical Manufacturers Association (28 June 1968), Committee on Ways and Means, House of Representatives, pp. 13–16.

⁷ E. V. Anderson, 'ASP: the little giant' *Chemical and Engineering News* (6 January 1969), p. 70.

⁸ SOCMA, *American Selling Price, The Illusory Trade Barrier* (July 1965), New York.

⁹ In this connection, interesting letters were exchanged on 7 and 12 July

1965 between the President of SOCMA, C. S. Oldach, and the Member of Congress, Th. B. Curtis. See also the text of the SOCMA proposals prepared by the consultants Barnes, Richardson and Colburn of New York.

¹⁰ J. B. Boyd, 'The Kennedy Round and the chemical industry' *Chemische Industrie* (October 1968), p. 65.

¹¹ While the CET duties (15 per cent) are not a real obstacle to the rapid expansion of US sales to the EEC, the US tariff duties (from 50 to 200 per cent *ad valorem*) put a considerable brake on sales of European products. See: 'Le Kennedy Round est sans objet si l'Américain Selling Price est maintenu' *L'Usine Nouvelle*, no. 8 (23 February 1967).

¹² For third countries as well, in fact, the maintenance of the ASP is a serious obstacle to exports to the US market. With Britain's accession to the EEC and the signing of the free trade agreement between the EEC and EFTA on 22 July 1972, the British, Swiss and Swedish chemical industries receive the benefit, however, of the tariff reductions in the CET (in full by 1977).

¹³ *Statement of Ambassador Carl J. Gilbert, Special Representative for Trade Negotiations, Hearings before the Committee on Ways and Means, House of Representatives, Part 3 (14 and 18 May 1970), pp. 645-737.*

¹⁴ U.S. Tariff Commission, *Products Subject to Duty on the American Selling Prices Basis of Valuation, Conversion of Rates of Duty on Such Products to Rates Based on Values Determined by Conventional Valuation Methods, Report to the Special Representative for Trade Negotiations, Publication 181, (25 July 1966), Washington.*

¹⁵ Statement of Robert C. Barnard, Counsel for the SOCMA, Before the Committee on Ways and Means (28 June 1968), House of Representatives, pp. 31-35.

¹⁶ P. Fabra, 'L'Union des industries chimiques veut absolument obtenir la suppression de l'ASP' *Le Monde* (17 February 1967).

¹⁷ 'La Commission américaine des tarifs douaniers récommende l'abandon de l'ASP' *L'Echo de la Bourse* (10 March 1967).

¹⁸ 'CEFIC Meets U.S. Complaints on Kennedy Round' *European Chemical News* (11 August 1967).

¹⁹ 'Organic importers see benefits from Kennedy Round package' *The Chemical Marketing Newspaper* (8 July 1968), New York.

²⁰ Office of the Special Representative for Trade Negotiations, Statement (11 July 1967).

²¹ House of Representatives, Tariff and Trade Proposals, Hearings Before the Committee on Ways and Means (10 June 1970), vol. 12.

²² Statement of R. C. Barnard, Counsel for the SOCMA and the Dry Color Manufacturers Association, Before the Committee on Ways and Means, House of Representatives (28 June 1968); T. P. Turchan, The Case Against

the Separate Package Agreement, a speech delivered at a Chemical Forum Luncheon of the Manufacturing Chemists Association in Washington (17 February 1970).

²³ R. Stobaugh Jr., *Effects of a Proposed 'ASP Package' on United States Chemical Exports and Imports*, June 1968, Graduate School of Business Administration, Harvard University.

²⁴ 'Desmond FitzPatrick Considers Some of the Effects of the Tariff Agreements' *Chemical Age* (15 July 1967).

²⁵ 'W. Roth finds no data that supports claims that ASP abolition would harm benzenoid chemicals industry' *Chemical and Engineering News* (15 June 1968).

²⁶ Statement Before the Committee on Ways and Means of Karl A. Hochschwender (10 June 1970), Hearings on US Foreign Trade Policy.

²⁷ J. Backman, *The Economics of the Chemical Industry*, Manufacturing Chemists Association (February 1970), Washington, pp. 283–300.

²⁸ 'The Six and anti-Dumping, another EEC–USA confrontation', *Common Market*, vol. 6 (June 1966), p. 125.

²⁹ GATT, *Anti-Dumping and Countervailing Duties* (July 1968).

³⁰ If the consultations should not produce any results the party who considers that he has suffered injury can always invoke Articles XXII and XXIII of GATT.

³¹ Such period may be extended to six months with the agreement of the importer and the exporter.

³² Abuse of this measure has always been in the forefront of the European countries' criticisms of the US legislation.

³³ It amounts to 90 days before the application of the provisional measures rather than 120 days before the submission of the complaint.

³⁴ The new provisions have been incorporated in the EEC anti-dumping regulations (issued on 1 July 1968) and in the Customs Duties Act 1969 in the United Kingdom. C. Goudeau, 'Le nouveau code international anti-dumping: une brèche dans le protectionnisme américaine' *Informations Industrielles et Commerciales* (15 September, 1967 Paris).

³⁵ The new anti-dumping legislation in Canada duly came into force on 1 January 1969. It will be recalled that the signatory countries of the anti-dumping code are the following: Canada, Denmark, the EEC, Finland, Greece, Japan, Norway, Sweden, Switzerland, United Kingdom, USA, Yugoslavia, and Czechoslovakia. See: GATT, *Anti-Dumping Legislation, Anti-Dumping Laws and Regulations of Parties to the Agreement on the Implementation of Article VI of Gatt*, Geneva (1970).

³⁶ J. B. Rehm, 'Development in the law and institutions of international economic relations: The Kennedy Round of trade negotiations' *American Journal of International Law* vol. 62 (April 1968) p. 427.

³⁷ Commission of the European Communities, *European Community and the United States in 1972*, Memorandum, Brussels (June 1972), p. 7.

³⁸ 'Les exportateurs étrangers devront relever leurs prix en dollars sur le marché américain' *Le Monde* (1 April 1972).

³⁹ H. W. De Jong, 'The significance of dumping in international trade' *The Journal of World Trade Law* vol. 2, no. 2 (March-April 1968).

6 Organisation of International Agricultural Markets

Surpluses and price distortion

For reasons that may be described as social (to guarantee farmers a stable income), political (given the importance of the rural vote), economic (to overcome balance of payment difficulties) and sometimes strategic (to ensure the supply of foodstuffs), almost all industrial countries protect their own agricultural sector with a wide range of measures (import duties, minimum prices, farm levies, quantitative restrictions, obligations to use national products, etc.). The priority accorded by governments in industrial countries to the pursuit of national objectives in the agricultural sector has had some negative effects in the international field. A reduction in demand by the major importing countries (in consequence of an increase in self-sufficiency and the erection of special barriers to reduce imports) has been matched by heavier pressure from suppliers. Internal policies of price support, combined with the effects of technological progress on production, have given rise to a build-up of costly surpluses which with the aid of subsidies are placed to a large extent in international markets at artificial prices (often below the cost of production of the most efficient producers) causing serious disequilibrium in world agricultural markets, ruinous price wars and, paradoxically, the economic development of the principal industrial competitors.¹ As a result, the French ex-Minister of Agriculture, Edgar Pisani, observed, 'the world-wide market is by no means a market in the objective meaning of the word; it does not tackle technological or economic capacity, it simply tackles political capacity. In actual fact only agricultural systems in countries which are capable of arranging subsidies can manage to make their way in a world market which has become a market with excess supplies involving public interventions'.²

Agriculture under GATT

GATT has not succeeded in preventing a general reinforcement of agricultural protectionism. In the majority of cases agricultural products have been excluded from tariff negotiations, and to the extent that customs duties on certain farm products have been reduced no significant impact has been felt

in international trade, since other restrictive measures of considerable import have been introduced. The principal restrictions on international trade in agricultural products do not take the form of customs tariffs but that of a range of non-tariff barriers which, though they contravene the rules of GATT to a large extent, the governments of the industrial countries have erected and maintained to satisfy the demands of their own farmers. In the early years of the post war period an increase in agricultural protection by importing countries was encouraged by special measures legitimately introduced to meet balance of payments difficulties. Subsequently, however, once the balance of payments in the countries concerned had returned to a satisfactory position no significant liberalisation of import policy was adopted. On the contrary, requests by the importing countries to regard agriculture as a special case (so as to justify special treatment) became more and more insistent. And in March 1962 the contracting parties, upon the conclusion of the EEC negotiations on the basis of Article XXIV, virtually accepting the economic union of the member countries of the Treaty of Rome (and consequently the Community agricultural system of variable levies), removed the agricultural policy of the European Community from any form of international discipline.³

The intensification of agricultural protectionism is certainly to be ascribed to the incapacity and the inability of the governments of the industrial countries (under pressure from agricultural organisations) to apply to international trade in agricultural products the basic rules of the General Agreement. Moreover, even the GATT Charter itself, characterised as it is (as regards agricultural products) by exceptions and exemptions, allows the importing countries to resort to pretexts to circumvent the rules (without formally violating them) and the exporting countries to protect their own internal programmes of agricultural support and maintain their own exports (by means of import quotas and export subsidies). There are the provisions of Article XVII which, by permitting state trading, ensure the most complete protection for 'sensitive' products. There is the Torquay Protocol, under which the contracting parties must conform to the General Agreement, while national legislation 'in force' on 21 April 1951 remains valid. There is Article XVI which sanctions the use, if only within certain limits and on certain conditions, of export subsidies for basic products. There is Article XXV, Section 5, which enables the consenting parties to obtain waivers from the obligations imposed by the General Agreement, waivers that are granted more readily for agricultural products because most of the industrial countries are similarly subjected to pressure from their agricultural organisations. And there is Article XI, sub-paragraph 2(c), which permits as a permanent exception the adoption of quantitative restrictions on agricultural products imported in any form, provided it is a case of necessary restrictions for the

application of governmental measures imposing limits on internal production or on sales, and provided that certain limits are not exceeded. Many countries have availed themselves of Article XI, which was originally couched in restrictive terms. The most striking case, which dealt a serious blow to the prestige of GATT, occurred in 1955 when the contracting parties, taking advantage of Article XXV, Section 5, granted the USA a substantial waiver in respect of its agricultural policy (permitting the introduction of quotas on the basis of Article 22 of the Agricultural Adjustment Act, for cotton, wheat, groundnuts, rye, barley, oats, dairy produce and certain other processed products) without any time limit and subject only to an obligation to produce an annual report. Such waiver, which is still in force even though the US quantitative restrictions only apply today to grain and its derivatives, cotton, groundnuts and dairy produce, was not an isolated case however. In fact, various European countries used (and still use today, although to a declining extent) the transitional formula of the so-called 'hard-core restrictions' instituted by GATT on the same day as the waiver concession to the USA to maintain a series of quotas no longer justified by balance of payments difficulties.

The efforts of GATT to remove non-tariff barriers in the agricultural sector (in relation of course to temperate zone products) were not unsuccessful. Within the orbit of the Programme for the Expansion of International Trade a group of experts under the guidance of Professor Haberler produced a report in 1958 in which it was acknowledged *inter alia* that 'agricultural protectionism in the highly industrialised countries is now a major factor restricting the world trade in agricultural products'.⁴ The Haberler Report provided a basis for setting up three special committees, one of which (Committee II) had the task of studying the application and the effect of non-tariff protective measures on agricultural trade in agricultural products. Consultations were held on the subject in 1959–1961. In December 1961, moreover, the contracting parties decided to notify GATT regularly of any changes made in their agricultural policies. Committee II, in the final report presented to the Ministerial Meeting in November 1961, also cast doubts on GATT's ability to promote trade in the agricultural sector.

In view of the impossibility of applying the rules of free competition to agricultural products the French Ministers Baumgartner and Pisani took the initiative in November 1961 in proposing in GATT and the FAO respectively that international agricultural markets should be organised on a planned overall basis. Under this plan the international prices of the principal products would be raised to the level of those ruling in the biggest importing area (that is to say the EEC level). In this way both export subsidies (in the exporting country) and the system of levies (in the importing country) would be neutralised, while a single international price would obtain in all the mar-

kets. The exporting countries, even with a lower volume of trade, would obtain higher earnings, which would enable them to finance food aid programmes in favour of the less developed countries. In return for the advantage of securing higher prices for their exports, the exporting countries like Canada, Australia and Argentina would undertake not to increase their production, while another group of exporting countries (headed by the USA) which were already guaranteeing their own exporters relatively high prices, would have to intensify the control of their own production. Finally, any surpluses in the importing countries would be utilised to carry out a concerted international food aid programme to stimulate the consumption of products from the temperate zone by the emergent countries by suitable measures of technical assistance.⁵

The new proposals submitted to GATT by the two French ministers, though they aroused considerable interest, were received with scepticism. In particular, the proposal (which was of basic importance to the entire plan) to align world prices at the level of Community prices gave rise to numerous criticisms.⁶ The contracting parties therefore confined themselves to setting up two working groups (one for cereals and the other for beef) to study the instruments best suited to avoiding agricultural surpluses and a price war in international markets. But, notwithstanding its defects, the French plan, known from then on simply as the Pisani Plan, had the great merit of blazing a new trail that could be followed to create a true and proper organisation of the markets at international level. In particular, the global approach so well mapped out in the Pisani Plan could not in the long run fail to have repercussions. It was destined to influence to a marked degree the EEC proposals for drawing up a general agreement on cereals in the Kennedy Round.

Total amount of support

As has already been pointed out in Chapter 1, the USA subordinated any progress in the negotiations in the industrial sector to the liberalisation of trade in the agricultural sector. The strong interest shown by the USA in the agricultural negotiations at the Kennedy Round is to be explained by the fact that America, the biggest exporter of farm produce in the world, was worried about the autarkic tendencies of the common agricultural policy (as was seen in the test case of the so-called chicken war). The USA therefore attached great importance to maintaining its own currents of trade so as to obtain a guarantee of access to EEC markets (the biggest world importers of agricultural products and the principal outlet for American agricultural exports). 'Our proposals', declared Mr Freeman, Secretary of State for Agri-

culture as early as 1961, 'are very simple. Their purpose is an honest distribution of the markets based on historical considerations, adapted to take account of the new conditions resulting from the birth of the EEC, and paying attention to the spirit of the problems of the Community, as well as of third countries.'⁷ 'We have stated clearly', added Christian Herter, 'that the common agricultural policy must be so shaped as to leave the possibility open to efficient producers to compete in Community markets.'⁸

Among the American preoccupations the question of foreign trade in cereals occupied a prominent position. It was obvious that the protectionist effects of the common agricultural policy would be felt principally in the cereals sector. Hence the insistence of the US government on drawing up in the Kennedy Round a general agreement on cereals providing not only for a quantitative guarantee of access but also for an increase in the minimum prices laid down in the international agreement on wheat, and for an undertaking to be given by the principal producing countries that they would make a combined effort to preserve equilibrium between imports and internal production. In this connection the model which inspired the USA was the cereal agreement concluded in April 1964 with the United Kingdom. On the basis of this agreement the United Kingdom, in return for the right to fix minimum prices for the import of grain, grain flour and the other principal edible cereals, undertook to guarantee to the suppliers acceptable conditions of access to her market. In particular, the suppliers of cereals to the United Kingdom were given an assurance that their own flows of trade would be maintained at least at the level of British imports over the previous three years, and that they would have the opportunity to participate to a fair and reasonable extent in the development of the British market.⁹

In face of the purely commercial objectives of the USA, the EEC presented a highly ambitious global project. In December 1963, Sicco Mansholt, author of the Community agricultural policy, after pointing out that it had not yet been possible to find adequate solutions to the commercial problems regarding agricultural products because 'a purely commercial approach' had been followed, went on, 'we hope to see the Kennedy Round as a beginning towards a true international agricultural policy. We must get a grip on the roots of world agricultural crisis. To do so all elements should be put on the table, levies, sluicgate prices, producers, subsidies, quotas, export subsidies, state trading, monopolies, all of them.'¹⁰ On 18 February 1964 the EEC submitted to the contracting parties the 'Mansholt Plan No. 2', in which it was proposed that the agricultural negotiations should aim at consolidating the maximum amount of support (*montant de soutien*), inclusive of any direct aid provided by the individual countries for their own agricultures. The EEC, in particular, suggested that the amount of support should be evaluated for all the products and all the partner countries of GATT,¹¹ and that each

country should effect the consolidation at a specified maximum level for an initial period of three years. After such period the commercial and agricultural policies followed by the contracting parties should be reviewed and compared with a view to modifying and if possible reducing the *montants de soutien*. This *montant de soutien* for a given product is defined as the difference between the price of the product in the world market and the price obtained for it by the farmer in a particular country (inclusive of any 'direct' subsidy). The reference price could be either the price established on the basis of the average price on the world market during a reference period or the franco frontier price at a particular moment, or if a representative world price could not be established, a price negotiated between the contracting parties. If the *montant de soutien* came to nil, the contracting party concerned would have to undertake not to provide any support in future for the product in question. If on the other hand the price in the world market should fall below the reference price, the *montant de soutien* would be automatically increased by the difference between the two prices. If on the other hand the world market price should rise above the reference price, the *montant de soutien* would remain unchanged until consultation can take place between the contracting parties. A further element of flexibility in the Community proposal was provided for the case of a change in the exchange parities between two contracting parties. Any of the contracting parties would also be able at any time to renounce consolidation of the *montants de soutien* if this was found to be necessary for compelling reasons on condition that adequate compensation was offered to the other contracting parties. Finally, the undertaking in question would not entail harmonisation of the *montants de soutien*, which could legitimately be set at different levels for the various member countries of GATT to take account of differences in their agricultural structures.

The general method described above had then to be completed for certain products for which supply normally outstrips demand by the conclusion of international agreements. Such agreements would have as their objective the stabilisation of prices at a fair and remunerative level. The level of prices had to be set that is to say so as to reconcile the requirements of the exporting countries, whose export earnings were considerably reduced by the progressive weakening of world prices, with those of the importing countries, which had to be able to continue to guarantee adequate earnings for the producers and to safeguard the legitimate interests of the consumers. Furthermore, since it would be useless to stabilise prices without at the same time providing ways of mopping up any surpluses, the EEC proposed on the one hand that producer countries should be required to avoid the formation of fresh surpluses, and on the other hand that a concerted policy should be worked out to direct the surpluses to cover the requirements of the less developed countries. The products regarding which Mansholt Plan No. 2 provided for the world

organisation of the markets were grain, secondary cereals, beef, sugar, some dairy produce and oleaginous products.

The USA criticised the EEC plan severely, underlining that the mere consolidation of the *montant de soutien* would allow a considerable gap to remain in the levels of protection without helping to close them (as the Kennedy Round was to propose), and that the system of variable levies would be extended to practically all farm products, isolating the agricultural production of the importing countries almost completely from external competition. The USA also made the point that the system proposed by the EEC would entail new restrictions on those products the duties on which had already been consolidated in GATT; that thanks to the escape clauses the level of protection could be increased in case of internal inflation or a slump in world markets; and that the exclusion of 'indirect' farm aid from the computation of the *montant de soutien* left the member states of the EEC the maximum liberty to manipulate public expenditure in favour of their own farmers. Finally, the USA observed that the EEC plan, which had to be renegotiated every three years, prevented the exporting countries from adopting medium and long term programmes and that the practical implementation of the Community system would entail a mass of work (having to establish reference prices and identify internal prices not only for agricultural products but also for thousands of processed products) still without achieving the principal object of reducing commercial barriers.¹²

At the end of March 1964 the USA submitted to Committee No. 2 of GATT a set of counter proposals to Mansholt Plan No. 2 suggesting 'a pragmatic rather than a dogmatic approach'. In particular, the USA requested that the consolidation should be maintained at zero for certain products already negotiated (cotton, soya beans, etc.); that tariffs reduction should be granted for products subject only to tariff barriers (fresh and preserved fruit, etc.); and that guarantees of access and the possibility of participating in increases in consumption should be provided for certain products protected by 'mixed' measures (customs duties and non-tariff barriers), as in the case of poultry, rice, etc. For certain products too (cereals, beef and some dairy produce) the USA said it was prepared to consider the 'freezing' of protection levels provided it could maintain its own exports at the established level over a representative period of time, and would have the opportunity to participate to a fair and reasonable extent in the development of the Community market.

On 4 August 1964 the EEC replied forcefully to the criticisms framed by the USA. Rather than making for an extension of the system of levies, observed the representative of the European Commission to GATT, the *montant de soutien* method should 'respect the particular character of the national systems and leave the contracting parties free to utilise the instru-

ments they considered most suitable', provided they were in accordance with the rules laid down in the General Agreement. Observance of the reference price by the partner countries in the EEC combined with the consolidation of the support margin would moreover entail 'smaller fluctuations in the variable levies in the common agricultural policy'. The EEC's proposal did not imply the mere maintenance of the *status quo*, since with the new method of negotiation 'the autonomy of the contracting parties in the agricultural sector would be reduced in the interests of getting international cooperation launched on a permanent basis'. The fact that the support margin should be adjusted whenever the offer prices dropped below the reference price did not provide an escape clause but 'an obligation on importers and exporters to observe the reference price'. Similarly, the adjustment of support margins to cope with changes in exchange rates was 'purely for the purpose of maintaining the support at the same level'. And in the event of selling prices moving above the reference prices, unless they could be justified by a drop in production, an increase in the margin of support could not be effected unilaterally but only 'in consultations with the partner countries'. As regards the inclusion in the *montant de soutien* of purely direct aids, the EEC wished 'to simplify the calculation of such amount to avoid difficulties regarding the identification of forms of indirect aid and their correct allocation to the various products'. The EEC representative added that there was no justification for including indirect aid of a social nature in the *montant de soutien* because such aid 'contributes to the transformation of the agricultural structures and the reallocation of part of the active farm population'. By the proposed method the EEC did not intend to bring up for discussion again the consolidation already effected in GATT. If some de-consolidation were necessary 'this would arise for totally different reasons from those relating to the method of support and the EEC would grant the compensation provided for in the General Agreement'. The EEC recognised, on the other hand, that the method of calculation and control of the *montant de soutien* had not yet been tested and announced that it was prepared 'to indicate some form of adjustment' and 'to introduce an element of flexibility in the method suggested'. The possibility of waivers being introduced for certain products was thus not excluded by the EEC, even if such a possibility should be 'strictly limited'. The pragmatic approach enjoined by the USA should not constitute 'a pretext for failing to examine the Community method thoroughly'. Approximately 53 per cent of agricultural imports was subject to non-tariff barriers, so that it was difficult to formulate for these products 'a method of negotiation different from the *montant de soutien*'. The three yearly revisions should be held within the framework of 'permanent collaboration'. In conclusion, it was necessary 'to abandon the sterile discussions in favour of some effective collaboration and regular consultations' so that the contract-

ing parties could decide 'to accept reciprocal undertakings in the field of production policy and commercial policy'.¹³

Strengths and limitations of the EEC plan

The EEC's plan aroused keen interest. From the conflicting viewpoints of the Community and the USA it emerged clearly that if world trade in agricultural products was to be seriously liberalised, the negotiations must move towards a 'global approach', that is to say towards a type of negotiation that would take account of all relevant factors, including national agricultural policies and their effects. The EEC, moreover, by confining itself to proposing the consolidation of the *montant de soutien* showed that it had grasped that to be valid even a global approach must start from the premise that the economic theory of the international division of labour based on comparative economic advantages is not applicable in the farm sector without considerable amendments. 'All we can work for is enlightened agricultural protectionism', wrote Roger Savary, Secretary General of the International Federation of Agricultural Producers, 'and this in itself would represent immense progress compared to the present state of chaos in world agricultural markets and to the fact that the industrialised countries have no intention of abandoning the agricultural policies they have been following for 50 to 80 years.'¹⁴ It was obvious, moreover, that the EEC, at least until it had completed its own agricultural policy, could not propose a reduction in the *montant de soutien* without provoking reactions from the farmers in the six member countries. COPA, in fact, which represents in Brussels all the principal agricultural organisations in the EEC, although in favour of the *montant de soutien* approach, was opposed to a freezing of farm prices for three years, so that the European Parliament saw fit in July 1966 to formulate a suitable resolution demanding that the consolidation of the *montant de soutien* should be limited to two years instead of the three years previously proposed. COPA, however, asked that in the event of agreement the possibility should be provided of reviewing farm prices annually to take account of increases in the cost of production, the erosion of the value of money and the legitimate aspirations of the farmers to participate in the improvement in the standard of living of the population in the EEC.¹⁵

Naturally the presentation of the EEC plan in GATT also met some very specific tactical requirements. In the international field the EEC, besides trying to side-step the USA's free trade requirements, aimed at getting its farm policy embodied in a system of agreements which would denote its conformity with international practice (that is to say with the traditions and rules of GATT), and also at projecting abroad the schemes of common

agricultural policy with their rules for the regulation of production and commerce, coupled with reference prices, and with the system of variable levies. On the internal plane, moreover, the EEC plan presented to GATT was intended to promote the common agricultural policy by exerting pressure on the member countries, especially Germany, to define rapidly the level of uniform Community prices (since without common prices the EEC could not consolidate its own *montant de soutien*). And if the hope of fixing uniform prices at relatively moderate levels was frustrated by the intransigence of the German agricultural organisations (which in December 1964 prevailed on the EEC to adopt prices that without any doubt were too high in the key sector of cereals), this does not disguise the fact that the Community proposal to GATT had the merit of being the first serious attempt to launch a realistic policy to solve the basic problems of international trade in agricultural products.

The resistance met with in GATT to the EEC plan was easy to understand. If the Community proposals won over some converts among the less-developed countries, which saw in the international organisation of agricultural markets the possibility of recapturing certain outlets compromised in recent years by exports subsidised by industrial countries, they received an icy reception both from the principal big exporting countries and from the major importing countries. The big exporting countries, for a long time past under the dominating influence of the USA, a country which occupied (and still occupies) a position in the forefront of the world market for farm produce and which had no real interest in modifying a system of which it was the principal beneficiary, did not see in the EEC proposals an instrument likely to secure them better access to the Community market, and feared at the same time that they might lose certain positions already gained in particular markets. And the big importing countries (like the United Kingdom and Japan), faced with the prospect of a steep increase in the cost of supplies of agricultural produce, feared a reduction in the competitiveness of their own exports and serious balance of payments problems. It was therefore obvious that in the Kennedy Round the EEC proposal could only be the start of new negotiations in the agricultural sector. The concept of a 'global approach' had to mature if it was to be considered more closely by GATT.¹⁶

Moreover, notwithstanding the reassurances provided by the EEC in GATT in reply to the criticisms from the USA, the Community plan undoubtedly presented some shortcomings and weaknesses. From a doctrinaire point of view, the EEC proposal was certainly too rigid. In addition, from a practical point of view it was difficult to establish the reciprocity of the undertakings that the contracting parties would have to assume. Notwithstanding the notable labours performed by Committee II, the secretariat of GATT was not in possession of a complete inventory of the various forms of direct

aid to agriculture for all the products and all the member countries. The principal weakness in the EEC plan, however, was to imagine that a single negotiating technique – that of the *montant de soutien* – could be applied to practically all the sectors of agriculture (and even to the processing sector) without regard to the considerable differences marking the vast range of farm produce and without considering that to avoid surpluses in certain sectors, it was essential to combine the freezing of prices with some form of control of production. It must also be recognised that the *montant de soutien* measure itself proved to be very difficult to apply. Owing to the inevitable uncertainty regarding the ‘real’ level of international reference prices, for the determination of the *montant de soutien* it was assumed that the reference prices were fixed by common accord by the contracting parties without its being necessary to resort to the quotations in international markets. Accord between the contracting parties was perhaps possible on the reference prices for products of a certain quality, relating to a particular marketing stage, normally quoted in international markets. But if for certain products and certain countries the formation of cif and fob prices is effected in a precise and uniform manner, in many other cases the prices are arrived at arbitrarily, especially in the case of fob prices which can vary according to the destination or may not exist at all. In the case of products not quoted at the international level the Commission suggested that international reference prices should be extrapolated on the basis of the European quotations. But for particular products (fruit and vegetables, fishery products, processed products, etc.) calculation of the *montant de soutien* proved particularly difficult since all the quotations relate to the wholesale market level. It must also be recognised that to be comparable to the reference price the remuneration received by the producer must necessarily be corrected to take account of qualitative differences between the product for which the reference price could be determined and the average product to which the calculated internal remuneration should relate. In this connection the Commission suggested that recourse should be had to the coefficients of equivalence already arrived at in the common cereal market organisation. Moreover, to take account of the particular marketing stage in the reference price, the Commission proposed to increase the remuneration obtained by the producer by the margin for marketing and the transport costs incurred as far as the wholesale market. For processed products it was thus essential to turn from the remuneration obtained by the producer for the basic product to the equivalent remuneration arising at the level of the processed product. It was therefore necessary to take account of processing coefficients and of costs relating to processing, elements which the Commission suggested should be calculated on a flat rate basis, so introducing an arbitrary factor into the calculation of the *montant de soutien*.

In particular, from a planning point of view, three sectors could be distinguished to which to apply the Community method:

- 1 A first sector relating to those products for which the elements necessary to the calculation of the *montant de soutien* could be determined without excessive effort.
- 2 A second sector relating to products for which the calculation of the *montant de soutien* proved particularly difficult.
- 3 A third sector relating to processed products.

The first sector included cereals and beef. For cereals the information on the situation in international markets seemed sufficient to enable the reference prices to be determined.¹⁷ It remained to establish as precisely and regularly as possible the prices 'really' received by the producers (unit values), including the direct subsidies. For beef it seemed possible to calculate the *montant de soutien* by comparing the international quotations for beef and the remuneration of the national producers in general expressed in kilos on the hoof and for a certain standard of quality. It was necessary, however, to convert the remuneration of the national producers into kilos net weight (on the basis of average returns) allowing for the fixed charge for slaughtering and for certain other minor adjustments. The second sector contained products (fruit and vegetables and fishery products) the prices of which – subject to extensive variations (because of the wide range of qualities) and to frequent fluctuations in time (because of the relatively stable demand to be met by a highly perishable product) – could only be assessed at the wholesale market level. For these products there was no question of international reference prices. In the fruit sector, for example, there was (and is) an effective international trade only in a few products (apples, citrus fruits). On the internal plane, moreover, it was unrealistic to think of being able to determine the remuneration of the producer. Notwithstanding such difficulties the Commission hoped to apply the Community method to fruit and vegetables and suggested limiting the calculation of the *montant de soutien* to certain typical products ('pilot products') regarded as representative of the type under consideration, based on market prices and taking account of any aids granted. In a confidential report, however, the Commission admitted that the existence of quotas and import schedules raised some extremely delicate problems regarding application of the *montant de soutien* method, especially in determining the prices of products from third countries. In the third sector, the products included dairy produce and sugar. For dairy products based on butter, a relatively homogeneous product, estimates of the amount of support did not seem to raise great difficulties. It was mainly a question of 'recasting' the internal price on the basis of the average return to the producer from

milk in order to eliminate the incidence of numerous double price systems (in relation to liquid milk and the processed product). Similar calculations could be made for other milk derivatives, especially cheese and preserved milk. A 'recast' price had also to be calculated for sugar, based on the price of beetroots and taking account of by-products. It remained to determine the reference price, on the one hand, within the framework of the international agreement and bilateral agreements, and, on the other hand, on the so-called 'free market'.

The pragmatic approach prevails

The debate on the EEC proposals proved inconclusive. The work of the Agricultural Committee, which had the task in the first place of examining and drawing up special rules for negotiations in the agricultural sector (on the basis of the resolution of the Ministerial Conference of GATT in 1963) produced no positive results. Moreover, by the decisions of 27 January 1965 the contracting parties, agreeing to adopt as a basis for their labours the plan for negotiations presented by Wyndham White, seemed to be moving towards a pragmatic approach based on the presentation of lists of firm offers, especially as regards products for which the conclusion of international agreements was not contemplated. This new working hypothesis, however, embracing the possibility of excluding certain products from the lists of offers and of negotiating, after a first phase of multilateral confrontation of agricultural policies, on the bilateral plane as well, indicated a preference for a type of procedure fairly similar to that adopted in the industrial sector. Nor was the hard work performed by the EEC in Geneva during the long phase of multilateral confrontation of agricultural policy (10 May–9 July 1965) crowned with success. In this phase, on the contrary, the American theory of a 'distribution of the markets' of the importing countries was gradually to gain strength, favouring as it did the creation of a sole front by the big exporting countries founded on a common interest in dismantling the external protection assured to the EEC by the common agricultural policy.

There is no doubt, however, that the long months of paralysis of Community activity (July 1965–February 1966), apart from putting in doubt the successful outcome of the general negotiations themselves, was a loss of precious time as far as the completion of the common agricultural policy and closer examination of the scope of the Community proposals were concerned. Except in the case of the cereals sector in which an offer (albeit an incomplete one) was made on 17 May 1965, the EEC could not present its own agricultural offers on the agreed date of 16 September 1965. And only after the decisions taken by the Council of Ministers of the Community

on 26 July 1966, were the Six in a position to present a list of offers covering almost the whole of the agricultural sector. Moreover, on examining the Community agricultural offers it is to be noted that the Community itself departed from a 'global' concept for the negotiations, adhering for agricultural products for which the conclusion of an international agreement was not contemplated to the conduct of negotiations on classical lines (product by product, country by country) based on tariff reductions and displaying considerably reduced interest in certain international agreements either through less complete and organic proposals (beef, dairy produce), or through failure to formulate proposals for certain products (sugar) or simply offers of any nature (oleaginous products), as was to be noted also in subsequent decisions by the Council on 14 January 1967.

The comparison of the offers submitted to GATT by the principal countries participating in the Kennedy Round was not to produce any worth while results as regards a conclusion of general importance to the negotiations. The Community agricultural offers – which concerned pigs, eggs and poultry, fruit and vegetables, wine, rice, fishery products, cork, agricultural products listed in Appendix II to the Treaty of Rome (honey, live horses and horse-flesh, offal of all kinds, etc.) and agricultural products not shown in Appendix II (beer, etc.), and also the completion of the offer relating to the cereals sector and a proposal for a limited agreement regarding dairy produce and beef – were turned down by the partner countries. In particular, the USA stressed 'the irrelevance of many offers of tariff reductions (especially in the fruit sector), the uncertainty of the significance of certain offers (in the case of poultry and rice), the practical increase in protection through the introduction of new elements in the negotiations (reference price for fruit and vegetables, additional duty on sugar for fruit juices and preserved fruits), and the lack of offers for various products of considerable commercial interest (canned asparagus, tobacco, and dried fruits)'.¹⁸ The EEC, for its part, observed that:

- 1 The US offers, of a merely linear nature, would only help the development of Community exports to a limited extent.
- 2 The offers by the United Kingdom were of psychological rather than commercial importance, especially in the case of such products as drink and tobacco which are subject to excise duties.
- 3 Sweden put its principal products on the exceptions list on the pretext that its agricultural policy was in course of revision.
- 4 Switzerland formulated its offers in such general terms that it was impossible to assess their value.

The attempts made by the EEC Commission to resume discussions on the

whole of the negotiations were systematically obstructed, moreover, by the refusal of the partner countries (the USA, United Kingdom, Switzerland, etc.), to give undertakings regarding the substance of their respective internal policies. Only Denmark showed some interest in giving undertakings on agricultural policy, but such interest had to be considered in the context of being able to draw up regional agreements with the EEC on particular products.

The move towards an increasingly pragmatic slant to the negotiations was thus reinforced. The big exporting countries, especially the USA, considered that in view of the limited time available the only possibility of success for the agricultural negotiations was to draw up a series of tariff concessions and conclude an international agreement on cereals. This was the line that prevailed in the final phase of the negotiations.

Tariff concessions

In the spring of 1967 the bilateral method of negotiation was to gain ground sufficiently to bring about the abandonment of the linear method of reduction of rates of duty and its replacement by the presentation of lists of positive offers, lists which disguised an actual withdrawal of concessions. The bilateral negotiations had as their chief protagonists the USA and the EEC. In particular, the USA made constant efforts to obtain from the Community tariff concessions on so-called 'priority' products. The EEC, to avoid any risk of having to assume a much heavier responsibility than the mere failure of the agricultural negotiations and to avert the final breakdown of the negotiations, ended up by granting the majority of the American requests. 'With the exception of soya oil, canned asparagus and the parts of a chicken', stated Coldiretti in the Presidential report to the XXth National Congress, 'all the other requests submitted by the USA to the EEC for the presentation of an offer or the improvement of earlier ones were granted'.¹⁹

In particular, the tariff reductions granted by the EEC to the USA can be split up into three categories:

- 1 Small tariff reductions: one point on fruit juices and most preserves and preparations made from garden fruits. Bigger reductions were granted on grapefruit juice and preserved shell fruits. For canned fruit salad the duty dropped from 25 to 22 per cent. On canned chicken and turkey and other birds the tariff reduction averaged 20 per cent.
- 2 Medium tariff reductions: a reduction of 20 per cent was granted by the EEC on hops.
- 3 Large tariff reductions: these reductions related mainly to grapefruit

(reduction of 50 per cent), dried peas (50 per cent), lentils (60 per cent), offal from various animals (between 25 and 50 per cent), industrial seeds (exempt from duty) and other seeds (reduction of 25 per cent).

For unmanufactured tobacco, one of the key products of the greatest importance to the USA, the EEC, after establishing that third countries were not prepared to consider the offer to negotiate the *montant de soutien*, granted an average reduction of 18 per cent (bearing in mind that the reduction in the upper limit was greater than that in the lower limit). On manufactured tobacco the EEC granted a reduction of 35 per cent and on cigarettes a reduction of 50 per cent. On most beverages (whiskey, beer, etc.) the EEC granted reductions of from 30 to 24 per cent. No concessions were made, however, on table wines, since the principles of a common market organisation had not yet been laid down. For wines of specified origin alone the EEC granted reductions of the order of 7.5 per cent. As regards the USA's request to abolish the additional duty on sugar applicable to fruit preserved in syrup (peaches preserved in syrup, fruit salad, segments of grapefruit) the Community arranged to fix a ceiling of 5 per cent of the value of the product when the sugar content was between 9 and 25 per cent. The EEC also decided to grant exemption from duty when the sugar content fell below 9 per cent, while, when it rose above 25 per cent, the application of the additional duty on the sugar would follow the Community regulations in force. Thus marmalade, which contains much more than 25 per cent of sugar, would be assessed either as marmalade or on the quantity of sugar added to the fruit. In the sector of foodstuffs (chocolate, products with a sugar base not containing cocoa, child food preparations, bakery products fine and ordinary, etc.), which apart from the USA, also concerned Switzerland, the United Kingdom and the Nordic countries, the Community offer affected the entire system of import protection, that is the fixed element (intended to protect processing operations) and the variable element (intended to cover the difference between the prices of basic materials incorporated in the Community products and the prices of basic materials incorporated in products imported from third countries). In particular, for the fixed element the EEC presented a complete offer covering all the products in the foodstuffs sector, an offer which in general represented a reduction of 50 per cent on the base rate already established. For the variable element, on the other hand, the EEC made an offer based on an average reduction of 20 per cent in the protection previously contemplated. On the whole the EEC's proposal was favourably received by the partners concerned. Certain countries, however, especially Switzerland and the United Kingdom, expressed some doubts regarding the scope of the Community offer, notably with regard to the amount of the payment based on the variable element. Objections were raised with the EEC to the effect in

particular that in certain cases the incidence of the overall protection (fixed element and variable element) could exceed the level of protection previously secured by the duties levied under the common customs tariff. And in such cases Switzerland and the United Kingdom did not hesitate to point out that they would safeguard their own rights by recourse to the procedures provided for under GATT.

The EEC also granted a tariff reduction of 100 per cent on meat extracts and meat meal (essentially in favour of Argentina and South Africa), a reduction of 15–25 per cent on horse-meat (in favour of Argentina and Ireland), the consolidation of an exemption for live game from Poland and Yugoslavia, a tariff reduction of over 50 per cent on fish meal (in favour of Peru and Chile) and on cork not in blocks or sheets (in favour of Spain and Portugal), reductions of up to 15 per cent on honey (in favour of Argentina and the USA) and the consolidation of an exemption for beet pulp imported from the USA and partly also from Poland. In the fish sector, moreover, the Community while defending its own customs protection (in the absence of guidelines on a common policy), increased the tariff quotas for tunny fish and herrings (from 14,000 to 30,000 tons and from 32,000 to 46,000 tons respectively) linking these concessions with a tariff reduction for certain other fish (trout, halibut, Nordic shrimps, etc.) provided that a reference price was observed, a price which on the basis of the negotiations was fixed at \$175 per ton for herrings and \$350 per ton for tunny fish of the albacora type.

But the extent of the concessions made was offset in some measure by the fact that the EEC withdrew some important offers. Thus a proposal to improve the Community offer in the poultry sector was not proceeded with when it became clear that the USA did not intend to give up the retaliatory measures they had taken in the wake of the 'chicken war'. On the other hand, apart from this problem of a bilateral nature with the USA, the abandonment on 10 and 11 May 1967 of the principle of internal policy undertakings in the cereal sector was responsible on the general plane for the withdrawal of all the EEC offers directly connected with elements of its internal policy. This concerned as well as eggs and poultry, the products of the pig breeding sector, rice and all the fruit crops the system of protection for which entailed (and still entails) a reference price mechanism. Nor did the EEC grant any tariff reduction for soya oil, which the Six import mainly from the USA, because the conclusion of an international agreement on edible oil seeds was always opposed by the USA and tariff reductions on imports of soya oil would prejudice the position of the associated member countries of the Community.

It is also to be noted that in return for its own concessions the EEC secured others from the partner countries. The USA thus granted a reduction of

50 per cent on the following products: tomato soup and tomato sauce; prepared or preserved tomatoes; strings of onions; essential citrus oils; and Marsala in bottle. The USA also granted partial reductions for sheep's milk cheese, vermouth in bottle, sausages and similar products. The United Kingdom for its part granted reductions to the EEC, generally of the order of 50 per cent, on tomato juice and preserves, fresh grapes and lemon juice; shelled almonds, oranges and peaches. Switzerland reduced the duty on black-grape juice, prepared meat (salami, etc.), and for red wines increased the quota. Sweden granted a reduction of 50 per cent on almonds, dessert grapes, peaches, hazelnuts, vermouth and wines, etc. Norway granted a reduction in duties to 50 per cent on fresh citrus fruit and Denmark a reduction to 50 per cent on dessert grapes, lemons, peaches, vermouth, rice, tomato juice, and ordinary wines in bottle of 14 per cent or less.

Cereals

The proposals presented by the members of the cereals group on 17 May 1965 showed that the exchanges of views that had occurred since the presentation of the Pisani Plan had not been in vain. All the participating countries accepted the principle that the undertakings given should be reflected in internal policies. The majority of the members of the group also declared themselves in favour of the introduction of binding minimum prices both for the exporting and for the importing countries. Furthermore, the non-commercial operations were considered from the two points of view of the establishment of a discipline for non-commercial disposals of surpluses and the expansion of non-commercial demand by the adoption of a food aid programme. Subsequently, however, sharp divergencies emerged between the Community's proposal²⁰ (in practice a new version of the Pisani Plan based on the establishment of an international reference price and an undertaking by all the partners to consolidate their respective *montants de soutien*) and that of the USA (the essential object of which was to obtain guarantees of access to commercial markets and to share the cost of financing food aid). In particular, the exporting countries requested that the consolidation of the *montant de soutien* should be coupled with a provision that would guarantee the quantitative effects held out for the consolidation, that is to say the maintenance of the flows of trade, and in this respect the USA and Australia sought that support by the EEC should be limited to a specified quantum of production.

The Community showed that it had grasped that without some form of access guarantee (even an indirect one) the exporting countries would not negotiate. Therefore, by the Council's decisions of 10 May and 14 June 1966

the EEC, besides proposing an adjustment to the upper limit of the international fob price of grain in the last three years within the limits of a spread of \$2.5–3.5 per ton and the fixing of a reference price for coarse grains based on average prices for the past three years, declared its willingness to fix its self-sufficiency ratio at 90 per cent (which might be reduced by negotiation to 89 per cent), leaving the remaining 10 per cent to the exporting countries and undertaking to withdraw any surplus quantities (to store them or hand them over without payment to needy countries) if the said self-sufficiency ratio were exceeded.²¹

The exporting countries, while accepting all the implications of the so-called 'equivalence of the undertakings', were opposed to the formula of the self-sufficiency ratio suggested by the EEC. It was objected in fact that the formula was too vague to provide assurances of access to the Community market; that the consolidation of the EEC's self-sufficiency ratio had been effected at an appreciably higher rate than the one actually existing (85–86 per cent); that the EEC's undertaking to withdraw from the market was really dependent on the existence of surpluses in the world market; and that the consolidation was related to a period of only three years with no subsequent guarantee. The exporting countries were also opposed to giving undertakings regarding a self-sufficiency ratio which they considered unsuited to their particular situation (for them the self-sufficiency ratio was essentially an instrument for arriving at the conditions of access), and they proposed instead another system, which was to give an undertaking not to place on the world market any quantities in excess of 'the upper limits of their carry-over stocks'. The exporting countries also requested a reduction of 10 per cent in the EEC's *montant de soutien*, the conversion of the self-sufficiency ratio into a quantitative guarantee and the participation of all the countries in a multi-lateral food aid programme of 10 million tons of cereals a year (a programme in which the USA offered to participate to the amount of 40 per cent).²²

The EEC considered that the requests by the exporting countries were unacceptable. In particular, the EEC refused outright to furnish quantitative access guarantees, to lower the support price granted to Community producers and to reduce appreciably the self-sufficiency ratios. Furthermore, the EEC considered that the undertaking by the exporting countries to limit their own stocks of cereals could not be regarded as the equivalent of the undertaking assumed by the importing countries unless a mechanism was introduced that would guarantee observance of the reference price. The EEC was consequently reluctant to assume obligations of a continuing nature regarding a food aid programme for 10 million tons costing \$650–750 million, of which \$138–164 million would be for its own account. On the assumption that the food aid was to be handled in close connection with the surpluses, the EEC held that the agreement in question should aim

above all at introducing a new order in the world market and that the real needs of the emergent countries should be assessed carefully if their agricultural development was not to be upset. The EEC, however, while rejecting the attempts of the exporting countries to link the amount of the food aid programme to a reduction in its own self-sufficiency ratio, decided subsequently to negotiate on its participation in a food aid programme of the order of 4 or at the most 4.5 million tons on condition that the aid was furnished in kind (as requested by France) and administered by itself (in selecting the beneficiary countries).

But to the existing difficulties other differences were added, such as the USA's refusal to include coarse grain in the agreement and Japan's opposition to the food aid programme, so that on the night of 9/10 May 1967 the presentation of a new US agreement from which any undertaking regarding internal policy, self-sufficiency ratios or stock levels was dropped led the EEC to renounce the idea of any general agreement on cereals. The reason for the stand taken by the USA was to be found in the political pressure (in 1968 the presidential elections would be held in America) exercised by the US producers on their delegation to reject any restraints on the internal policy for production and marketing, since the USA, producing grain 20 per cent in excess of its own requirements, held that its exports to the EEC for the next three years would be maintained and even increased (especially in the case of secondary cereals). The EEC on the other hand complied with the USA's request both because an agreement on cereals (limited only to provisions in the matter of price and to a food aid programme) was a prerequisite for the success of the negotiations as a whole, and because it seemed to fear the freezing of internal prices. As regards the latter it should not be forgotten that with the appointment of Faure to the French Ministry of Agriculture (in place of Pisani) 'the abandonment of the notions of the *montant de soutien* and the self-sufficiency ratio was considered a victory for good sense' in ensuring that the common agricultural policy was not determined by GATT.²³

The final negotiations accordingly concerned only the system of international prices of grain and the implementation of a food aid programme. The particular and practical provisions were then negotiated in Rome in August 1967 in connection with the International Grain Conference. This procedure, which was effected at two separate conventions, was necessitated by the fact that certain of the countries, notably the USSR, were not members of GATT and only intended to participate in the Grain Convention. The new GATT Convention maintained unaltered practically all the characteristics of the International Agreement in London in 1962 (which expired on 31 July 1967 and was extended until 30 June 1968). The most important point was the increase in the minimum and maximum prices to \$ 1.73 and 2.13 a bushel

respectively for the basic Hard Red Winter No 2 fob Gulf ports. At the technical level, moreover, the new convention contained a more precise definition of the differences in price (referring not to a single minimum price as in the old agreement but to 17 prices for the more important types of grain); it took as its basic quality the Hard Red Winter No 2 rather than the Manitoba Northern No 1 (owing to the fact that the winter freeze-up of the Great Lakes and the St. Lawrence caused an increase in the prices of all other types of grain); it took as a reference point (for comparing prices for the other types of grain) the markets in Rotterdam and Yokohama rather than UK ports, to take account of the changes that had occurred in the structure of international trade; it set up a committee to examine prices to ensure that the minimum price was being observed independently of market conditions; and it called on the member countries to acquire the bulk of their requirements from signatory countries and on the exporting countries to make grain available to importers at prices in line with the agreed level. It should be noted finally that the EEC was regarded at the same time as an importer and an exporter, and that it assumed the relative rights and obligations. The Food Aid Convention laid it down that altogether 4.5 million tons of grain or other cereals for human consumption, or the equivalent in cash, should be put each year at the disposal of the emergent countries over the period 1 July 1968–30 June 1971. The signatory countries agreed to participate in the financing of the programme (at a cost of \$300 million a year) as follows: USA 42 per cent (equal to 1,890,000 tons); the EEC 23 per cent (1,035,000 tons); Canada 11 per cent (495,000 tons); Australia, United Kingdom and Japan 5 per cent each (225,000 tons); and Sweden 1.2 per cent (54,000 tons). The rest was spread in small quantities over Switzerland, Denmark, Argentina, Norway and Finland. It was also laid down that in the case of contributions in cash these would be utilised as to at least 25 per cent for purchases from less developed countries participating in the convention and that the aid could be provided either in the form of gifts or in the form of ‘sales in the currency of the importing country’.

The undertakings embodied in the Memorandum of Agreement on grain, however, turned out to be considerably less ambitious than those initially proposed. They did not provide for the organisation of markets to ensure the true and proper international coordination of policies on prices, support and provisioning, so much as for a system of voluntary coordination which did not prove able to withstand prolonged disequilibrium between supply and demand. In fact, barely eight months after implementation of the agreement, in consequence of the ‘green’ revolution in the less developed countries (and accordingly a reduction in demand by India and Pakistan), the return to international markets of the USSR (which had not signed the agreement), France’s exports to Asiatic countries (subsidised by FEOGA: the Fonds

Européen d'Orientation et de Garantie Agricole – the European Agricultural Guidance and Guarantee Fund) and abundant harvests in the exporting countries, prices dropped below the minimum level agreed, giving rise to mutual accusations by the principal countries of violations of the convention. Subsequently, to moderate the price war the five major exporting countries (the USA, Canada, the EEC, Australia and Argentina) expressed at a series of meetings their common desire to control production. However, at the negotiations regarding the renewal of the agreement for a further three years, in the face of Canada's proposal to undertake to reduce permanently the area sown to grain and the EEC's proposal that minimum prices should be fixed for all qualities of cereals, the USA succeeded in getting the idea adopted that no price should be fixed and that no reference type of grain should be established. The suppression of the minimum prices desired by the USA, however, can easily give rise to new trade conflicts when it is considered that, with the accession of the United Kingdom and other European countries to the Community, producers in the Six will seek to replace the USA, Australia and Canada in the British market and also in the Scandinavian market.²⁴

The Food Aid Convention represented (and still represents) an important new initiative in a sector in which international cooperation (apart from the satisfactory procedure for consultation worked out by the USA in the FAO – Food and Agricultural Organisation – for the execution of Public Law No 480) has so far been very limited. In particular, the food aid programme could be a particularly useful instrument to enable the EEC to contribute to the development of the emergent countries, as well as to deal with unforeseen contingencies. The programme in question has, on the other hand, been used to a great extent for disposing of surpluses and winning new markets. 'The Member States', declared M Vredeling, 'have taken advantage of the undertakings given by the Community for the purpose of furthering their relations, positive or otherwise, with particular countries in course of development.' 'The food aid promoted by the existence of surpluses (about 5 million tons of grain in the EEC) has not conduced to the realisation of a very definite policy of development; there is not yet any talk with the beneficiary countries and little is known of the utilisation of such aid.'²⁵ The Convention itself also presents difficulties. The cost of transport of normal supplies (i.e. non-urgent) is borne by the beneficiary countries. No provision has been made for collaboration with the FAO and the World Food Programme to ensure that the aid provided does not disturb the regular channels of trade. In this respect on the contrary it is to be noted that the EEC, having succeeded (under pressure from France) in preserving complete independence in the selection of beneficiary countries, has prevailed on the USA to threaten not to go on submitting its own programmes to the multilateral consultation procedure of the FAO, so that a valid method of international collaboration risks being interrupted.²⁶

The emergent countries for their part have repeatedly stressed that their basic problem is not food aid, but the possibility of being able to export more to the developed countries at remunerative prices. Food aid cannot provide a long term solution but only a temporary expedient (to save foreign exchange, cover food deficits, etc.). On this point various less-developed countries have welcomed the food programme and asked, indeed, when the convention comes up for renewal, that the total aid should be increased to 10 million tons. Such request has not been met, however. On the contrary, owing to opposition from the United Kingdom (who refused to undertake to furnish her own quota), the programme (which at Italy's request may also take in rice) has been reduced to 3,974,000 tons from 1 July 1971. Moreover, the USA is to be criticised for trying to convert part of its aid into commercial transactions as a result of the inclusion in the new convention of a clause providing for the possibility of effecting sales on credit repayable in foreign currency at a 'reasonable' rate of interest in 20 or more years' time.²⁷

Beef and dairy produce

For beef it was not possible to achieve a uniform multilateral agreement in view of the heterogeneous nature of the product, the diversity of internal policies, the particular features of the distribution networks and the interest the principal exporting countries have in maintaining the *status quo*, there being no surplus in this sector and consequently no 'state of crisis'. In these circumstances the EEC proposed to negotiate an agreement limited to the most standardised product, that is frozen beef. Such an agreement, which should be based on a consolidation of the global amount of support (*montant de soutien*) for production, the observance of a reference price and a consultation procedure in case of difficulty in the world market, would be a first contribution towards achieving a multilateral solution or facilitating the conclusion of a series of bilateral or wider agreements within the scope of certain general principles. But the exporting countries (Australia and New Zealand in particular), interested only in obtaining a pledge of access, did not intend to give any undertaking regarding internal policy. And Argentina as well, while claiming to be prepared to control her production, called on the importing countries to fix a maximum self-sufficiency ratio and to undertake to ensure free access to their markets for quantities not covered by internal production. In the course of the discussions the group of countries interested in the negotiations consequently finished up considerably reduced in number. And the EEC, faced with two groups of suppliers (those interested in trade in livestock and those interested in sales of frozen meat) proposed to negotiate only on the mechanisms of price stabilisation, adapting the system of protec-

tion at the frontier accordingly. The Community thus concluded two bilateral agreements: one with Denmark, the principal supplier of livestock for industrial processing; and one with Argentina, the principal supplier of frozen meat. The agreement on livestock for processing, an autonomous agreement not subject to consolidation in GATT, required the EEC to reduce its customs duties (from 16 to 13 per cent) and to limit the amount of levies according to the time of year, with reductions of up to 20 per cent. In return, Denmark undertook to even out supplies and to renounce the quota for livestock previously assigned to her for the German market in particular. On the other hand, the agreement regarding frozen meat (including that intended for consumption), apart from a reduction in the duty (from 20 to 16 per cent), provided for a limitation in the amount of the levy according to the time of year, up to its complete suppression in the period (considered 'non-sensitive') 15 April–15 September. The agreement with Argentina was at once denounced by the Community farmers, especially the French farmers who organised public demonstrations. And the French Government, openly repudiating the Commission's negotiators, induced the Council to modify the agreement by excluding frozen meat for consumption and maintaining the levy system throughout the year without making any distinction between 'easy' and 'difficult' periods. In this way it only remained for Argentina, who still attached the greatest importance to the agreement in view of the important role of meat in her total exports, to reject the new Community proposals.²⁸

For dairy produce too the EEC proposed to limit the negotiations to butter and to powdered milk full cream and skimmed. But the Community proposal, based on the fixing of international reference prices, the consolidation of the *montant de soutien* and the realisation of concerted action for introduction to the market and measures of improvement, met with opposition from the big exporting countries and the United Kingdom. In fact, New Zealand, Denmark and Australia were anxious to maintain their position as privileged suppliers to the British market, and the United Kingdom was opposed to the increase in the international price which was intended to become the world reference price. In addition, the big exporting countries requested the EEC to integrate its offer by undertaking to limit export subsidies by fixing a self-sufficiency ratio without making as a counterpart any change in the system of quotas for import to the British market (to enable the Community to increase its exports of butter to the British market). On the other hand, the USA's refusal to give any undertaking regarding its internal policy or to make its system of imports quota more flexible led to the breakdown of the negotiations, since the big exporting countries were determined to preserve their privileged outlets to the British market, as they could not count on increased sales in the important American market. With

the abandonment of any possibility of agreement on butter and powdered milk, some success was achieved in the cheese sector. Under the negotiations with Switzerland for the deconsolidation of Emmenthal, the EEC consolidated the specific duty on this product at a lower level (on the basis of a higher minimum import value); introduced a minimum price for processed cheese (of the Emmenthal type); and fixed a specific customs charge for the various types of milk for medical use. In addition, in the negotiations with Denmark the EEC fixed a price free at frontier for Tilsit (Havarti) cheese, while the duties on Cheddar were deconsolidated to bring them into line with the indicative price for milk in the Community. Finally, the EEC obtained from the USA a reduction of 50 per cent for Roquefort cheese and one of 25 per cent for sheep's milk cheese, though the effect of these concessions was tempered by the adoption by the American authorities of new restrictive measures relating to Italian cheeses immediately the negotiations were concluded.

Notes

¹ For example, the economic miracle of Japan can also be accounted for by the fact that that country (which is far from self-sufficient in foodstuffs) can obtain supplies in world markets at very favourable prices.

² FAO, Discours de M. E. Pisani (9 November 1971), p. 4.

³ J. H. Richter, *Agricultural Protection and Trade Proposals for an International Policy*, Pall Mall Press, London (1964).

⁴ GATT, *Trends in International Trade*, a report by a panel of experts (October 1958), Geneva, p. 87.

⁵ Ministère de l'Agriculture de la République Française, Discours prononcé par M Wilfrid Baumgartner (27 November 1961).

⁶ J. H. Richter, 'A Note on the "Pisani Plan"' *International Journal of Agrarian Affairs* vol. III, no. 5 (June 1963).

⁷ P. Halle', 'Partage des marchés, une proposition irrecevable' *Le Producteur Agricole Français* (30 March 1964).

⁸ The Role of Agriculture in Trade Expansion, address before the Economic Club of Detroit at the Veterans Memorial Building, Detroit, Michigan (30 March, 1964) p. 4.

⁹ 'U.S. and U.K. conclude grain agreement', *Department of State Bulletin* (May 1964).

¹⁰ S. L. Mansholt, Trans-Atlantic Farm Policy, a speech delivered at the National Farm Institute Des Moines, Iowa (11 February 1965).

¹¹ The EEC, however, agreed with the less developed countries to increase its agricultural production, GATT, *Statement by the Representative of the*

EEC before the GATT Committee on Agriculture, Tn/64/Agr./1 (19 February 1964).

¹² GATT, *Statement of the United States Delegation on its position concerning the proposal of the EEC for agricultural negotiations in the Kennedy Round, Tn/64/Agr/4* (17 June 1964).

¹³ GATT, *Contribution of the EEC Relating to the Negotiations on Agricultural Products in the GATT Trade Negotiations, Tn/64/Agr/5* (3 August, 1964).

¹⁴ Statement by R. Savary, Hearings before the Sub-Committee on Foreign Economic Policy on Trade Policy Toward Developed Countries (19 March 1970), p. 2.

¹⁵ COPA, *Resolution de l'Assemblée Générale Extraordinaire du 1er décembre 1966 à Amsterdam*, p. 4.

¹⁶ H. J. Kraus, 'A Post-Kennedy Round look at some problems in agricultural trade' *Journal of Agricultural Economics* vol. XX, no. 1 (1969).

¹⁷ H. C. Farnsworth and K. J. Friedman, 'French and EEC grain policies and their price effects, 1920–1970' *Food Research Institute Studies* vol. VII, no. 1 (1967) pp. 120–125.

¹⁸ 'Agriculture in the Kennedy Round' *Common Market* vol. 6, no. 1 (December 1966).

¹⁹ Coldiretti, *Relazione del Presidente* vol. III (27–29 March 1968), p. 40.

²⁰ P. Fabra, 'La Commission expose son projet d'organisation du marché mondial des céréales' *Le Monde* (9 April 1965).

²¹ Parlamento Europeo, *Relazione Lücker sui problemi connessi alla organizzazione dei mercati mondiali dei prodotti agricoli, in particolare dei cereali*, Doc. 136 (28 November 1966), pp. 15–17.

²² 'Les quatre pays extra-européens exportateurs de blé formulent des propositions éloignées de celles des Six' *Le Monde* (26 November 1966).

²³ 'Les Six renoncent à leur projet de politique agricole mondiale concertée' *Le Monde* (12 May 1967).

²⁴ Ph. Lemaitre, 'L'échec de la conférence sur le blé compromet les accords internationaux' *Le Monde* (6 April 1971).

²⁵ European Parliament, Doc. 55 (11 June 1970) pp. 3–6.

²⁶ E. H. Fugax, 'The Community and food aid' *Common Market*, no. 12, vol. 8 (December 1968) p. 277.

²⁷ 'Les pays exportateurs de blé essaient de mettre fin à la guerre des prix sur le marché mondial' *Le Monde* (10 September 1969).

²⁸ On 1 January 1972, however, a non-preferential trade agreement between the EEC and Argentina came into force whereby imports of Argentine frozen meat into the Community are facilitated. In return Argentina undertook to keep a check on the regular movement of its meat exports to the EEC.

7 Multilateral Basis of East-West Trade

East–West trade

In the 1950s the cold war crystallised East–West relations in a confrontation of political blocs on the economic front as well. In fact, in the period 1948–1953 the proportion of the total trade of the socialist countries conducted with the countries with a free market economy dropped from 42 to 14 per cent. The Eastern bloc countries, which in 1949 had created Comecon to develop trade between the countries of the socialist zone, pursued such a rigidly autocratic policy that shortly before his death in 1953 Stalin acclaimed with satisfaction the disintegration of the international world into two parallel markets.¹

In the West too the range of protectionist measures (high customs duties, strict quotas and anti-dumping laws, lists of embargoes, etc.) was extended for the purpose of drastically reducing trade with the East. Simultaneously a series of initiatives (the creation of the OEEC, GATT and the International Monetary Fund, the multilateralisation of trade, the convertibility of currencies and the removal of customs duties) promoted a sharp increase in cooperation between the countries enjoying a free market economy.

In the 1960s, however, changes in the political situation and the transition from the cold war to peaceful coexistence produced an appreciable development in East–West trade. Over the ten years 1960–1970 exports from the socialist countries to the countries enjoying a free market economy (Western Europe, North America and Japan) more than doubled (from \$2·8 to 6·8 milliard). Similarly the imports of the Western powers from the East rose in the period from \$2·8 to 7·8 milliard. It is also significant that in the period 1965–1970 the proportion of the trade of the socialist countries conducted with the West rose from 18·6 to 25·2 per cent and for the Western countries from 2·7 to 4·5 per cent – and that trade between the Comecon countries declined from 71 per cent in 1965 to 60 per cent in 1970. The consolidation of East–West trade was not interrupted even by the Czechoslovak crisis. In fact, in 1969 Western European trade with the socialist countries rose by 12 per cent (16 per cent with the USSR).² Moreover, following Czechoslovakia's example Poland, Yugoslavia and Rumania became members of GATT (while Hungary is supposed to be joining GATT soon), declaring their readiness to observe the rules regarding multilateral international trade.

Undeniably at that point the gap separating the contrasting economic systems was narrowed. In the West mixed economies with a relatively strong public sector were organised, and in the East certain principles of the centralised planning system were revised in a more liberal direction. In addition, the signature of the Bonn–Moscow and the Bonn–Warsaw Treaties and the opening up of China to the Western world held out a prospect for the 1970s of a new era in the expansion of East–West trade. The easing of tension (which after more than ten years of ups and downs in the international political scene has come to smooth the uneasy equilibrium between the two blocs) seems to have found common ground in the convergence of interests in the commercial and economic fields.

Underlining the strengthening of economic collaboration between East and West is the realisation on the socialist side of the failure of Comecon and the recognition that a system of economic planning, if it is to be effective, must utilise the mechanisms of the market and obtain the support of Western advanced technology. ‘The socialist leaders’, writes Samuel Pizar, ‘have no choice. To do otherwise would be to accept permanently a lower standard of living and an inferior position in a technological universe’.³ ‘Today’, Alexei Kosygin has solemnly declared, ‘it becomes increasingly obvious that the scientific and technical revolution in progress in the modern world has need of more liberal international contacts and is creating conditions of vast economic exchanges between the socialist and capitalist countries’.⁴ The West in turn is interested in trade with the East because of its need for increasing quantities of energy resources (petroleum and its derivatives) and raw materials (which represent two thirds of imports from the East), its need to open up new markets as an outlet for expanding production and to secure firm orders by concluding long term contracts that will not be affected by the trend of the national economy. Particular attention is paid in the EEC countries to the problem of diversification of outlets. Indeed, having regard to the competitiveness of Japanese exports and the protectionist tendencies ruling in the USA, it is clear that the markets in the socialist countries (which number three hundred and fifty million consumers) are indispensable to the countries of Western Europe. Foreign trade in Western Europe is centred as to over 65 per cent in the EEC area and the USA, so that any crises in these areas could take a severe toll of the European economy without any possibility of adopting counter measures in time.

Notwithstanding the progress achieved, total trade between the free market countries and the socialist countries (worth \$14.7 milliard in 1970) still represents only a modest fraction of world trade (about 5 per cent in 1970). Moreover, for developed market economy countries, imports from the socialist countries (including China) only represent about 4 per cent of their total imports (a quota which breaks down into 77 per cent for the Western

group and 14 per cent for the less developed countries). And although for the socialist countries' exports to the West represent a substantially higher proportion (22 per cent in 1970) trade with the Comecon area still preponderates (over 63 per cent). In particular, as regards the EEC countries, which are the ones most directly interested in trade with the European countries, the Federal Republic of Germany plays a leading role (in 1971 its exports to the East and China amounted to almost \$3 milliard), followed at some distance by Italy (\$1.8 milliard), the United Kingdom (\$1.6 milliard), France (\$1.5 milliard) and Benelux (\$1 milliard). Exports from Japan also showed a substantial increase (over \$2 milliard in 1971). On the other hand, trade with the USA remained at a modest level (\$0.6 milliard in 1971). As regards the Eastern bloc countries, exports by the USSR, Poland and Czechoslovakia make up about 70 per cent of total sales from the East to Western Europe.⁵ The USSR, moreover, alone sells to Western Europe over 40 per cent of its total exports (\$2.3 milliard in 1970), and in 1971 the total foreign trade of the USSR attained the record figure of \$26 milliard.

East–West trade tends to follow an asymmetrical pattern. The traffic is of greater importance to the socialist countries than to the market economy countries. In particular, for the European socialist countries (Poland, Rumania and Hungary especially⁶) East–West trade accounts for about 30 per cent of their total foreign trade. For the Western countries, on the other hand, as has already been pointed out, the incidence of trade with the East rarely exceeds 5 per cent. Moreover, in the Western countries trade with the East normally concerns less than a dozen companies rather than the entire national economy, which explains why the socialist countries are much more concerned about bilateral equilibrium between their imports and exports.⁷

Political and economic obstacles

Notwithstanding the easing of tension, various obstacles of a political and technical economic nature restrict the extent of East–West trade. On the political plane the restrictions today mainly come from the sensitivity of the US Congress to Soviet behaviour both inside and outside the Soviet Union's borders. Russia's brutal repression of the civil rights of many of its own people, the imposition of a head tax on Jews to prevent them from leaving the Soviet Union and the threat of more serious restrictions still to come, the encouragement to other countries to expropriate American interests – all such actions – as *The New York Times* noted on 28 November 1972 – are calculated to inflame American public opinion and to jeopardise the future growth of Soviet–American relations. In addition, the slogan of the politically

more conservative sectors of the USA is that it is useless to fight communism and at the same time help to develop its industry. The fear of military strength in the socialist countries is also an important factor limiting East–West trade, as it is obvious – said Mr Nutter, the Assistant Secretary of Defence in June 1969 – that in those fields of military importance in which the West has an advantage over communist countries prudence demands that it should not be lost by an uncontrolled commercial policy.⁸ Moreover, it is stressed that by giving soft credit or prices the economic growth of the East will be subsidised, thus enriching and strengthening an ideological enemy. Consequently, despite the removal of restrictions, trade between the USA and Eastern countries will be only \$1.3 billion in 1973 (i.e. barely 1.2 per cent of US foreign trade) excluding one shot grain deals.

The rapprochement between USA and USSR is also causing perplexity in Europe, as it is feared that any intense application of American technology to Russian resources could compromise international political equilibrium. Moreover, excessive dependence on the East for power supplies is not viewed with favour in the West, where it is feared that the Kremlin might use East–West trade subtly to divide the USA from its European NATO partners to undermine the Atlantic Pact, slow down the process of economic integration in Western Europe and discourage the West from cementing its relations with China. In fact, it is painfully obvious – remarked *The New York Times* on 1 January 1973 – that, unless the United States and its allies in the Community can agree on a mutually satisfactory set of new trade and finance arrangements and then join Japan and other nations in forging wider international economic reforms, the NATO shield will crumble and Western political solidarity in negotiations with the Soviet side evaporate. The USSR, opposed as it is to a European or Atlantic Europe from which it would be excluded, has repeatedly denounced the European Community as the ‘economic arm of NATO’, fearing the discriminatory effects of the CET duties, of the provisions of the common agricultural policy and of a common trade policy. The USSR also sees in the enlargement of the EEC ‘an increasingly close union between the American monopolies (holding that British accession to the European Community will reinforce penetration by US corporations into Europe) and the German ones’.⁹ The USSR does not therefore intend to allow its own allies to treat with the EEC on a bilateral basis but only as a group, so as to reinforce COMECON. The example of the European Community is thus a particularly dangerous one for the USSR since, besides reminding the European countries in the East that the division of Europe only serves the voracity of imperialist neighbours, it incites the allied countries to indulge in similar experiments (as was seen in the spring of 1968 with the spectacular cementing of relations between Prague, Bucharest and Belgrade, a development once again frustrated by armed intervention by the Soviet Union).

Nevertheless, on the whole it must be acknowledged that the seriousness of the obstacles of a political nature has been gradually eroded. East–West relations seem to be governed more and more by economic factors rather than by political ones. This is proved by the fact that neither the war in Vietnam, nor the Czechoslovak crisis, nor Soviet penetration in the Mediterranean have checked the expansion of trade. Nor must it be forgotten that the convening of a Conference on European Security and the possibility of a balanced, parallel and progressive reduction in the armed forces on the two sides should give a much more vigorous boost to East–West trade by reducing the importance of its political aspects, the more so as the socialist countries intend to propose the creation of a permanent international organisation, open to all European countries, to provide a basis for effective economic and technological cooperation.¹⁰

At the technical economic stage the excessive rigidity of the centralised planning system is the main obstacle. The opening up of the socialist countries to Western Europe demands the allocation of much greater powers of decision to the State undertakings. But as various Western observers have pointed out, the leaders in the socialist countries, having recognised the validity of the economic reforms, have been over-diffident in implementing them.¹¹ The defects of the system (unrealistic prices and production costs; bureaucratic commercial channels; long and complicated negotiations; non-convertibility of currencies, etc.) remain. To these criticisms the socialist countries reply, *inter alia*, that even in the West few prices reflect accurately the cost of production; that the restrictive practices of national and international cartels often hinder trade; and that the liberal rules of GATT were laid down for highly industrialised countries without considering the special requirements of countries in the East and developing countries. The socialist countries also denounce the application in relation to them of the instruments left over from the cold war (higher customs duties; foreign exchange restrictions; quantitative restrictions; import licences, etc.) and the integration processes (especially those of the EEC) which, in sectors of great importance (especially in the agricultural sector), create almost insuperable obstacles. On the subject of economic reforms it is therefore necessary to point out that the communist leaders, having decided to support the cause of a decentralised, profit motivated system, can only proceed gradually. The realisation in depth of the economic reforms entails considerable risks for the socialist countries, whose economies, apart from having to withstand foreign competition, will have to face periodical balance of payments crises. The economic policy of the Eastern bloc countries consequently aims for the most part at the introduction of pragmatic adjustments, not at reconstructing the entire system.¹² Much of the difficulty of trade with the East has a very practical basis, however. In particular, the communist countries have insufficient reserves of

scarce foreign exchange. For this reason, besides conducting trade with the West on a bilateral basis and making transactions conditional on the opening of credits for deferred payment at a low rate of interest, the socialist countries resort to complex operations of credit switching, and for a certain variable amount of the contracts conclude compensation agreements (that is to say, require Western operators to accept as the counterpart of their sales to the East products that in general are difficult to place). This last practice, which concerns about 20 per cent of East–West trade, works however to the disadvantage of the socialist countries themselves, which often have to pay higher prices in consequence for the Western products.¹³ Not only that, but not being encouraged either to furnish quality goods adapted to Western requirements or to make a more effective marketing effort, the socialist countries seem incapable of re-establishing equilibrium in their trade by selling to the West finished products and industrial equipment. In this way, besides limiting East–West trade, a situation is perpetuated in which the Eastern bloc countries supply raw material, foodstuffs and petroleum on a par with the less-developed countries. This delicate position in the balance of payments of the Eastern bloc countries forms in the long run the principal obstacle to an increase in East–West trade.

The future development of East–West trade depends essentially on the capacity of the East to supply and of the West to absorb a much greater variety and volume of manufactures. It is quite clear that exports of agricultural materials and produce are increasingly inadequate to pay for the whole of the imports needed by the East to meet the requirements of economic development. Moreover, a better balance in the structure of exports by the socialist countries is called for in view of the fact that the integration of the East in the world economy depends on an increase in trade with the USA, an increase which, despite important supplies of oil and gas, seems conditioned by the supply of manufactures (adapted to Western requirements). The socialist countries should therefore make a greater effort in this direction, especially as the summit meeting between Nixon and Brezhnev in May 1972 demonstrated the will of the USA to make inroads into the socialist countries' markets. Moreover, the strength of the American efforts (attested also by a reduction in the embargo lists, by sales to the USSR of IBM computers, by the conclusion of agreements with Occidental Petroleum, General Electric Co. etc.) should be matched by a development in relations with the EEC which, as Brezhnev himself recognised, 'is now part of the actual situation in Western Europe'.¹⁴ In fact, from 1 January 1973 it will only be possible to conduct further negotiations on trade agreements with the East through the EEC, while from 31 December 1974 all the bilateral trade agreements in force will have to be replaced by agreements concluded with the Community authorities direct.

Industrial and commercial collaboration

Overcoming the obstacles of a political and technical economic nature will take time. A prospect of long term development in East–West trade should not however mean accepting the propositions put forward in this dialogue passively. Brandt's *Ostpolitik* has the great merit of looking into the future and anticipating negotiations for a full commercial understanding between the EEC and Comecon.¹⁵ It should not be forgotten, however, that with the convocation of a conference on European security the East–West dialogue could develop with greater rapidity, especially as the *Ostpolitik* of the USA and the protection of the American market can only hasten this economic–commercial encounter between the two blocs into which Europe is today divided. But even if the expansion of trade is destined (for structural reasons) to develop gradually, more intensive developments are to be expected throughout the 1970s in the conclusion of agreements for industrial and commercial collaboration (such as production in common of particular products; the acquisition in common of a licence from a third country for the production of products in both markets; the constitution of mixed companies (so-called 'trans-ideological companies') for the planning, sale and coordination of supplies in third country markets, etc.). These agreements open up new channels which will be to everyone's advantage. The Western countries can utilise (at low cost) the productive capacity of the East, will have better possibilities of penetrating the markets of the East and can participate in the completion of export orders obtained by socialist undertakings in third countries. The socialist countries, on the other hand, will have the advantage of saving scarce foreign exchange, of giving local production a share in profitable transactions (by recourse to advanced Western technology), of making use of the commercial organisation of the partners to place their own products in foreign markets and of reducing the risks of irregularity in supplies and outlets by more even distribution over a period.

GATT and state trading

The fundamental principles of the General Agreement on Tariffs and Trade contrast sharply with trade conducted completely by the state. In this case the agreements intended to reduce customs barriers and prevent discrimination could, if the state authorities so desired, be made ineffective without great difficulty. State trading falls within the orbit of GATT (and in particular of Article XVII) if it relates to the state trading organisations operating in countries with a free market economy. In creating or maintaining a state undertaking or in granting exclusive or special privileges to any undertaking,

the contracting parties must ensure that such undertaking acts in its buying and selling operations relating to imports and exports on the basis of the principles of non-discrimination prescribed by GATT as regards government measures regarding imports and exports effected by private concerns. The state trading undertakings must effect purchases and sales exclusively on the basis of considerations of a commercial nature (as regards price, quality, availability, possibility of sale, transport and other conditions pertaining to purchases and sales) in order to permit the free play of competition. Alongside these obligations of a negative character, contracting parties having the use of state trading undertakings are also subject to obligations of a positive nature. Thus, in accordance with paragraph 4 of Article XVIII the contracting parties are obliged to notify the operations realised by the state undertakings that they have established. In particular, on the basis of the procedures adopted by GATT in 1957, 1959 and 1960, the contracting parties are required to furnish detailed information, as well as on the import and export operations effected by them, on the nature and object of the state undertaking created.

The provisions of Article XVII, while proving efficacious for controlling state undertakings in the free market countries, do not serve to regulate trade relations with countries in the Eastern bloc. The rules of GATT, which were inspired essentially by liberal and multilateral considerations, contain no regulations suitable for governing exchanges between countries with an economy based on private enterprise and countries with a planned economy in which foreign trade is directed by the state. A free economy country joining GATT assumes a series of important undertakings in the matter of tariff levels, quantitative restrictions, subsidies, dumping, customs administration, etc. These undertakings give exporters an assurance of better access to markets in the importing countries. Most of these undertakings have little relevance, however, to countries with a planned economy. If such countries were admitted to GATT, particular obligations would be imposed on them to put them, as regards the obligations themselves, on the same footing as countries with a free market economy. To solve this problem it has been suggested that the planned economy countries should conclude bilateral agreements with the contracting parties requiring them to import altogether a minimum amount of products in return for the benefits accruing to them from the obligations assumed by the contracting parties on the basis of the GATT principles. Bilateral agreements, however, could lead to discrimination against third countries. Furthermore, there would be a risk that by a sort of Gresham's Law bilateralism could drive out multilateralism. It is considered preferable, therefore, that the planned economy country should conclude a multilateral agreement with all the other contracting parties as a whole. The total value of the goods to be imported by the planned economy

country should also be the subject of periodical revision in the light of changing conditions. Agreements should thus be drawn up to distribute the minimum quotas of the aggregate amount among the contracting parties on the basis of a reciprocal agreement or of some agreed formula (such, for example, as distribution according to the quota attributable to each contracting party for a certain base period, account being taken of changes that occur in the volume of trade after such period).

The search for a *modus vivendi* between the two commercial systems (state trading and free enterprise) has been encouraged by the evolution of East-West trade and in particular by the liberalisation under way in the economy of the Eastern bloc countries. In fact, the socialist countries, besides granting a certain liberty of action to their own undertakings and conforming to the principles of a market economy, have displayed a certain tendency to move towards multilateralism and the convertibility of payments. Tripartite agreements have been concluded between Czechoslovakia, India and Pakistan, and between the USSR, Burma and Czechoslovakia. Similarly goods supplied by Canada to Comecon countries have been paid for in foreign exchange which one of the socialist countries had accumulated in other Western countries. The liberalisation of trade in Eastern bloc countries was evidenced by the creation, in 1964, of the International Bank for Economic Cooperation (authorised to grant short term credits to Comecon countries and to set up a system for the multilateral settlement of commercial transactions) and, in 1970, of the International Investment Bank (authorised to grant medium and long term credits to Comecon countries, and to finance multinational projects and facilitate purchases in Western countries of machinery and licences to manufacture).

Parallel with the liberalisation of the commercial system of the Eastern bloc countries, there was a progressive evolution of the GATT system, an evolution characterised by a change in the principle of non-discrimination (in the direction of regionalisation for the development of customs unions and free trade zones) and by adaptation of the mechanism of the most-favoured nation clause especially as regards the developing countries.

Such a development of the GATT system could not fail to have positive repercussions also in the state trading countries. A conciliatory move was therefore made by the contracting parties on the basis of a pragmatic approach, case by case, according to the nature of the various socialist countries.¹⁶ In this way a flexible application of the General Agreement, that is recourse to the waiver procedures (suspension of the undertakings to the USA in 1951) and the consultation procedures (especially in the matter of dumping and of export subsidies), enabled Czechoslovakia, a founder member of GATT before becoming a popular democracy, to continue to benefit from its status as a contracting party. Adhesion to GATT by Yugo-

slavia, however, came about gradually, in successive stages, closely related to the progressive liberalisation of her economic and commercial system. In fact, both the declaration by the contracting parties of 25 May 1959 (which established institutional relations between GATT and Yugoslavia) and her provisional accession in 1962 corresponded to two successive stages in the liberalisation of the Yugoslav economic and commercial system. The Kennedy Round finally provided the occasion for according Yugoslavia the status of a full contracting party, she having adopted a customs tariff of her own. Poland, on the other hand, not having a customs tariff like Czechoslovakia and Yugoslavia, could only participate in the work of GATT on the basis of special conditions. But even in this case – the most important one as Poland had a planned economy with full state trading – the conciliatory approach by GATT helped to open up Poland to trade with the West. In fact, in the Kennedy Round Poland negotiated an agreement with the contracting parties for her accession as a full member of GATT. Under this agreement, signed on 18 September 1967, Poland assumed an obligation to increase the total value of her imports from all the member countries of GATT by at least 7 per cent per annum, and to participate in annual consultations that would enable the contracting parties to verify the observance of the undertakings assumed and to proceed with the necessary adjustments. Poland, for her part, has secured most-favoured nation clause treatment, the concession of contractual duties for some of her typical export products and the progressive elimination of quantitative restrictions that are inconsistent with the provisions of Article XIII of the General Agreement.

Results of the Kennedy Round

‘The bridge built pragmatically between positions that are seemingly irreconcilable from the point of view of principle’, observed Bohdan Laczkowski, the permanent representative of Poland in GATT, ‘is still a fragile structure.’¹⁷ Poland, in fact, though adhering to GATT, has not yet succeeded in obtaining the complete removal of the quantitative restrictions imposed on her by the other contracting parties. The countries which, at the time the Protocol of Accession was signed, were applying quotas to imports of Polish goods have been authorised to maintain them until the expiry of a period of transition, the date of which (anticipated by Poland as the end of 1974) was not yet agreed upon at the fifth annual consultation at the end of 1972. In addition, the notifications to the GATT working group (which deals with the annual revision of trade relations with Poland) of the quantitative restrictions imposed on Poland have proved inadequate and insufficient. In particular, the so-called ‘consolidated list’ notified to GATT by the EEC is somewhat

more discriminatory as regards Poland than in relation to other contracting parties. The contracting parties have also taken precautionary measures against the possibility that Poland might export goods by dumping. Poland's Protocol of Accession in fact incorporates some escape clauses inspired by Article XIX of GATT. Further difficulties, on the other hand, concerned the basic formula of the Protocol of Accession itself. Poland did not at the outset observe the purchase undertaking it had given. The increase in Polish imports from the member countries of GATT in 1967–1968 amounted to 6 per cent rather than 7 per cent. The modest results achieved by the Kennedy Round in the agricultural sector fell short, moreover, of the expectations of Poland and the other Eastern bloc countries. The EEC's common agricultural policy, which emerged intact and even reinforced from the Kennedy Round, caused a check in the increase in farm exports from the socialist countries to the EEC. Czechoslovakia, having obtained no significant concessions in the agricultural sector and only modest advantages for some of her typical industrial export products (tractors, certain machine tools, etc.), consequently confined herself in the Kennedy Round to granting certain linear tariff reductions and to consolidating the customs exemption for a certain number of products, and withdrew her initial offer of a quantitative undertaking for purchases from the member countries of GATT of 30 per cent in five years.¹⁸ Similarly, Yugoslavia, not having obtained any concession in the Kennedy Round for her sales to the EEC of 'baby beef'¹⁹ confined herself to consolidating the customs tariff rates introduced in July 1965.

Code of conduct for East–West cooperation

The Kennedy Round, however, came at the right moment for putting East–West trade on a multilateral footing. Notwithstanding the difficulties encountered in its application, Poland's Protocol of Accession to GATT stands as a model to encourage the accession of other socialist countries. In particular the idea of a periodical revision of the evolution of East–West trade relations is destined to burgeon. Suitable adjustments can be introduced moreover. Thus as regards Poland herself (which in 1968–71 succeeded in meeting its purchases commitments from the territories of the contracting parties in accordance with the Kennedy Round obligations) the purchase undertaking of 7 per cent is now assessed over a period of two years, and will later be assessed over three. This is simply to take account of inevitable oscillations in Poland's foreign trade. Similarly, upon Rumania's accession to GATT the purchase undertaking was agreed in more general terms simply by referring to the percentage increase laid down in the economic development plan.

Thanks to an attitude of pragmatic realism, closer collaboration between

state trading countries and market economy countries has thus been inaugurated within the framework of GATT, and the negotiations in progress at Villa Le Bocage for the accession of Hungary are an indication that commercial cooperation is set to make further progress. It is under the auspices of GATT that the socialist countries can best safeguard their commercial interests, especially in relation to the EEC, which constitutes the most important outlet. Moreover, it is only by accession as a full member to GATT that the socialist countries can overcome the obstacle of customs tariffs protecting the markets of the Western countries by automatically getting the benefit of the most-favoured nation clause. It is obvious, in short, that removal of the quantitative restrictions can be more easily secured through GATT than by bilateral negotiation.²⁰

The state trading countries in the Eastern bloc can assume the position due to them in world trade on the basis of their industrial potential only if they use convertible currencies. The Western countries must accordingly do all in their power to facilitate this process. Besides easing tension, collaboration between East and West will even out international trade (which is too heavily concentrated in the Western world and so too exposed to recessions and neo-protectionist tendencies) and raises the possibility that in the 1980s the area from the Atlantic to the Urals may become the biggest market in the world.²¹

Notes

¹ J. V. Stalin, *Economic Problems of Socialism in the USSR*, Foreign Languages Publishing House, Moscow (1952) pp. 34–35.

² 'La ruée vers l'Est' *Le Monde*, Paris (18 August 1970).

³ S. Pissar, *Les armes de la Paix*, Editions Denöel, Paris (1970), p. 43.

⁴ *Pravda* (6 April 1966).

⁵ It will be observed, moreover, that a relatively substantial part of trade between the EEC and Eastern Europe concerns exchanges between the Federal Republic and the Democratic Republic, so that the latter has become so to speak a sort of 'associate member' of the EEC.

⁶ Financing by Eximbank, until a short time ago only granted to Yugoslavia and Poland, has also been extended to Rumania.

⁷ Economic Commission for Europe, 'Recent changes in Europe's trade' *Economic Bulletin for Europe* vol. 23, no. 2, New York (1972).

⁸ 'Non sara' liberalizzato il commercio Usa-Paesi comunisti' *24 Ore-Il Sole* (6 June 1969) Milan.

⁹ *Analyse Léniniste de l'Impérialisme et du Capitalisme Contemporain*, Moscow, Editions de l'Université (1969) p. 180.

¹⁰ N. Ecobescu et S. Celac, 'Pour une organisation de sécurité et de coopération en Europe' *Le Monde* (22 May 1971).

¹¹ S. Pisar, *Les armes de la Paix*, *op. cit.*, p. 43.

¹² A. Nove, 'Le Commerce Est-Quest', in *L'Avenir des Relations Economiques Internationales*, Calmann-Levy, Paris, 1971, pp. 143-160.

¹³ W. A. Dymza, 'Compensation agreements in East-West trade' *American Economic Review* (February 1970).

¹⁴ A. Jacob, 'Moscou: M. Brejnev reconnaît la "réalité" de la C.E.E.' *Le Monde* (21 March 1972).

¹⁵ M. Scheel: 'L'URSS devra s'habituer à avoir la Cee comme partenaire' *Le Monde* (18 September 1970).

¹⁶ GATT, *Declarations des observateurs de la Hongrie et de la Bulgarie*, Sr.24/1 (16 November 1967) p. 4.

¹⁷ B. Laczokowski, 'Poland's participation in the Kennedy Round', in *Economic Relations after the Kennedy Round*, *op. cit.*, p. 93.

¹⁸ Z. Augenthaler, 'The socialist countries and GATT', in *Economic Relations after the Kennedy Round*, *op. cit.*, pp. 75-76.

¹⁹ Facilities for the import of 'baby beef' were subsequently provided by the EEC in the trade agreement (non-preferential) which came into force on 1 May 1970. See: *Journal Officiel des Communautés Européennes*, 58/7 (13 March 1970).

²⁰ K. Kock, *International Trade Policy and the GATT 1947-1967*, *op. cit.*, p. 215.

²¹ 'L'URSS ne veut pas être tenue à l'écart des future négociations commerciales et monétaires' *Le Monde* (23 May 1972).

8 The Third World can wait

World markets are controlled by the developed countries

Economic development in the 1960s favoured the emergent countries. Out of 100 countries, 42 recorded in the period 1960–69 an average annual increase of 5 per cent in the national product. For certain of them, the average increase in the national product was even higher. This was the case in Libya (21·8 per cent), Hong Kong (10·2 per cent), Taiwan (9·9 per cent), South Korea (9·2 per cent), Israel (9 per cent), Iran (8·8 per cent), Thailand (8·8 per cent), Panama (8·1 per cent), Mauritius (7·9 per cent), Zambia (7·9 per cent), Togo (7·6 per cent), Ivory Coast (7·5 per cent), etc.¹ The favourable trend in the 1960s did not solve the basic problems of development in the third world however. The rapid rise in the birthrate in the emergent countries (an average of 2·6 per cent per annum for the period 1960–69, compared with 1·2 per cent in the developed countries with a free market economy and 1·1 per cent in the socialist countries) considerably reduced the impact of the progress achieved. The increase in income per head (in real terms) amounted in the period 1960–69 (for the emergent countries as a whole) to only 2·4 per cent per annum. The relative position of the emergent countries thus declined: the total population of the third world rose to 61 per cent of the population of the world in 1970, compared with 57 per cent in 1960, while the emergent countries' share of the national product of the whole world dropped to 12·3 per cent in 1970, compared with 12·5 per cent in 1960. Moreover, the rapid increase in the birthrate, which determines the size of the labour force, caused massive unemployment. It is estimated that about one third of the male labour force in Asia, Africa and Latin America is today out of work, thus presenting contemporary society with one of the most serious crises that has ever faced humanity. In this situation it is essential that the emergent countries should reinforce the development in their economic systems out of their own resources by recourse to international economic cooperation and the intensification of trade with the developed countries.²

The financial aid granted by the industrialised countries is not in itself an adequate response to the economic requirements of the third world. Although this has risen in absolute terms from \$9·2 to 18·3 milliard over the years 1961–1971, as a percentage of the gross national product it has dropped from 0·95 per cent in 1960 to 0·83 per cent in 1971, falling short of the objective of 1 per cent of the gross national product. Furthermore, part of the aid has been eaten away by inflation and exchange rate adjustments, and part is

absorbed by repayments of loans contracted previously and payment of interest. A considerable part of the aid, on the other hand, being earmarked for purchases of goods from the developed countries, does not deserve the name, since in reality it is a form of subsidy to industry in the rich countries. Private investment, in contrast to the decline in government aid, shows a rising trend (even expressed as a percentage of the national product, as can be seen in Table 8.1 in the case of the USA), and in some sectors has produced industrial expansion of a high order, especially where it benefits from the system of generalised preferences, but even so it is not able to make a contribution of decisive importance towards improving the economic situation in the third world.

It is foreign trade, rather, that can play a leading role in financing development programmes in the emergent countries. The value of exports by the third world accounts for over 78 per cent of the total flow of foreign exchange. Compared with total aid of about \$15 milliard, exports by the emergent countries amounted in 1970 to \$55 milliard (compared with \$27.3 milliard in 1960). In the 1960s, therefore, the emergent countries achieved encouraging results from foreign trade. Not only was there a substantial decline in the need to import essential foodstuffs (wheat, rice and maize) as a result of an increase in domestic production (stimulated by recourse to new varieties with a high yield), but exports rose in value at a rate of 6.2 per cent per annum over the years 1962–68 and by 11.6 per cent between 1969 and 1970. In particular there was a rapid increase in exports of manufactured articles (especially clothing, footwear, textiles, light machinery products, machine parts, furniture and manufactured foodstuffs), so that exports by the emergent countries rose more sharply than world trade in the sector (14.2 per cent per annum over the period 1960–69, compared with 10.8 per cent for world trade). The proportion of manufactured goods in total exports by the emergent countries rose accordingly from 9.3 per cent in 1960 to 16.8 per cent in 1969.³ But the basically unfavourable tendency of foreign trade in the emergent countries did not change. In the 1960s the increase in exports by developed countries was greater than that of the emergent countries (8.8 per cent per annum in 1960–68 and 15.6 per cent per annum in 1969–70). Consequently the emergent countries' share of world trade continues to decline (17.6 per cent in 1970, compared with 21.3 per cent in 1960), so that world markets are increasingly dominated and controlled by the rich countries (whose share of world trade rose in 1970 to 71.7 per cent). Moreover, direct trade between the emergent countries themselves also tends to decline, so accentuating the dependence of the emergent countries on the markets of the developed countries, which in 1970 absorbed 74 per cent of exports from the third world. On the other hand, trade between the economic groupings of the developed countries (EEC, EFTA, Comecon and preferential trade between the USA

TABLE 8.1
Financial aid from the industrialised countries to the less-developed countries

Contribution of the donor countries		Government aid		Private aid		Total	
		1961	1971	1961	1971	1961	1971
All industrialised countries	absolute value (million dollars)	5,197	7,718	3,106	9,288	9,249	18,285
	percentage of GNP (at market prices)	0.53	0.35	0.32	0.42	0.95	0.83
of which:							
USA	absolute value (million dollars)	2,943	3,324	1,102	3,541	4,549	7,045
	percentage of GNP (at market prices)	0.56	0.32	0.21	0.34	0.86	0.67

^a The difference between Government and private aid is made up by other official flows. Source: DAC, *Development Co-operation 1972 Review*, Paris, December 1972.

and Canada in the automobile sector) rose to 24 per cent in the period 1960–1970. Consequently the emergent countries' share of the total imports of the developed countries forming part of the economic groupings fell to 25 per cent in 1970 (compared with 30 per cent in 1960). Also unfavourable is the trend of the terms of trade, since the emergent countries mainly export raw materials and foodstuffs, the prices of which stagnate (and consequently decline in real terms), whereas they import mainly industrial plant and machinery, the prices of which are adjusted to take account of inflation and currency fluctuations. Exports of raw materials, on the other hand, are largely conditioned by the trend of the economy in developed countries while the demand for foodstuffs obeys Engel's Law. And the fact that the exports only concern a single product or a few at the most makes the emergent countries highly vulnerable to market fluctuations. The tendency towards a greater diversification of market outlets is under way, especially as regards Japan (which shows the highest increase in imports from the emergent countries) and the socialist countries. A particularly glaring case is that of Latin America, whose dependence on the American market declined to 29·5 per cent in 1970, compared with 41·9 per cent in 1960. However, this is not yet a general tendency. Africa's dependence on the EEC rose from 43·7 to 46·3 per cent in the period 1960–1970.

Obstacles to the trade of less-developed countries

The difficulties encountered by the emergent countries in international trade are largely attributable to the existence of a vast, sometimes formidable, range of tariff and non-tariff obstacles. The level of customs duties in the industrialised countries bears particularly heavily on homologous competing products. On the other hand the application of relatively low duties to non-competing products (e.g. tropical products) is offset by the existence of high taxes on consumption which, besides restricting exports by the emergent countries, produce revenue for the developed countries. Often, moreover, the tariff protection on raw materials is nil, while progressively higher taxes are levied on the processed products, so that the effective protection works out considerably higher than the nominal tariff. Since, furthermore, the tariffs increase at the various stages of processing of a product (tariff escalation) the effective rate of protection on the added value exceeds the nominal rate quite considerably. Although the method of appraisal of effective protection and its validity is still in dispute,⁴ there is no doubt that in the majority of cases the effective protection is regularly higher than the nominal rate of protection.⁵ In the classic case of oleaginous products, for example, the EEC (and for that matter the other industrialised countries as well)

provides exemption from duty, only to impose a duty of 10 per cent on the semi-processed product and one of 15 per cent on refined oils, so that the effective rate of protection on the oils amounts to almost 150 per cent. Thus tariff escalation encourages the emergent countries to export raw materials and agricultural products, and discourages the processing on the spot of their own products. And the fact that certain of the emergent countries, notwithstanding the high level of effective protection, have succeeded in penetrating (to some extent) the markets of developed countries does not weaken the force of these observations. As has already been pointed out, notwithstanding the progress achieved in the 1960s, exports of manufactured goods accounted in 1970 for only 16.8 per cent of total exports by the emergent countries. Moreover, the relative success achieved in the export of manufactured products relates to a limited number of countries (Hong Kong, Taiwan, Israel, South Korea, etc.), and most of the developing countries still depend in the main on the export of raw materials and agricultural products.

Exports from the emergent countries are also hampered by the quotas imposed on imports by all the developed countries in various forms (global or country by country quotas, quotas applied on a multilateral basis such as those under the Cotton Textile Agreement concluded by GATT, etc.). In recent times, moreover, the progressive deterioration in free trade tendencies (tendencies which were reaffirmed in the 1960s and which culminated in the Kennedy Round) has induced various developed countries to introduce 'voluntary' quota systems (for synthetic and woollen textiles, meat, canned mushrooms, etc.) and other restrictive measures (ceilings, discretionary concession of import licences, etc.) which slow down the rate of exports from emergent countries. Furthermore, in the agricultural sector the policies of support for markets and prices adopted by developed countries to safeguard their own producers often raise prohibitive barriers to imports from the emergent countries. The EEC system of variable levies in particular represents a practically insuperable obstacle. But protection by the EEC is not an isolated case. Japan, at one time a heavy importer of rice from the emergent countries of Asia, today has substantial surpluses, since she pays her own farmers three times the prices ruling in international markets. The USA, on the other hand, with its highly productive agricultural system, is a competitor of the emergent countries to be reckoned with. The most glaring case is that of oilseeds products, in which the USA has rapidly become the world's biggest exporter of soy beans, throwing entire sectors of the less-developed countries into disarray (especially the countries producing groundnuts). Very numerous also are the non-tariff and para-tariff barriers (complex customs clearance procedures, arbitrary customs valuations, discriminatory fiscal treatment, etc.). It need only be recalled here that on the basis of legislation dating back to 1897 the USA automatically imposes countervailing duties on exports

enjoying any form of subsidy, and that all the industrialised countries impose strict health regulations which make it practically impossible to import those products (beef for example) in which the emergent countries have considerable export potential, and of which production in the rich countries is inadequate.

Tariff concessions in the Kennedy Round

In particular sectors the tariff concessions granted by the developed countries in the Kennedy Round represent a positive contribution in favour of the emergent countries. A study of GATT⁶ shows that over half the trade in non-cotton textiles has been exempted from all tariff restrictions and that reductions of 50 per cent have been made in over half the trade in leather products and over one third of the trade in foodstuffs and non-ferrous metals. The modest tariff reductions made in the Kennedy Round on cotton textiles and articles of clothing were a consequence of the increase in quotas in the long term agreement in this sector (an agreement which, as stated above, has been extended), while the disappointing tariff reductions for tropical products are explained by the fact that the EEC was not able to grant substantial concessions because of the preferential treatment granted to the AASM (African and Madagascar) countries. Moreover, a paper prepared by the UNCTAD GATT International Trade Centre pointed out that the tariff reductions in the Kennedy Round also concerned numerous manufactures, so that new prospects were opened up for exports from the emergent countries.⁷ And finally, it should not be forgotten that, notwithstanding its shortcomings, the food aid programme (promoted within the framework of the International Wheat Agreement) has proved very useful to various less-developed countries and that the developed countries extended to all less-developed countries (members and non-members of GATT) the tariff concessions agreed upon before the final date of 1 January 1972. However, the fact that the principle of reciprocity was not applied in relation to the emergent countries, leaving the vast majority of the less-developed countries in a passive role (thus hampering any real negotiations), strengthened the reputation of GATT at the Kennedy Round as a club for rich countries. 'The developing countries participating in these negotiations' ran a joint statement by the developing participating countries when the Kennedy Round came to an end, 'wish to state that the most important problems of most of them in the field of trade taken up within the framework of these negotiations still remain unsolved. These developing countries deeply regret that they are not in a position to share, to the same extent, the satisfaction of the developed countries at the conclusion and the achievements of the Kennedy Round'.⁸ Moreover, eight countries which had participated in the negotiations in Geneva (the UAR,

Ghana, Uganda, Cyprus, the Ivory Coast, Malta, Nigeria and Togo) abstained from signing the final agreement and so from giving their assent.

The Secretary of UNCTAD, furthermore, in a study of the effects of the Kennedy Round in relation to the emergent countries,⁹ stated that:

- 1 Quantitative restrictions and other non-tariff barriers continue to be applied to a vast number of products.
- 2 No improvement has been achieved in access to the markets on the basis of changes in fiscal measures or internal support policies.
- 3 The effective protection, although reduced in various cases, remains a serious obstacle to the access of manufactured goods and semi-manufactures to markets in the industrialised countries.
- 4 Fairly modest results have been achieved regarding regional tariff systems, because, although the preferential margins obtained by certain emergent countries have in some cases been eliminated, in many other cases they have been maintained or consolidated.

Generalised preferences for the third world

The idea of granting non-reciprocal and non-discriminatory generalised tariff preferences on a temporary basis in favour of manufactured and semi-manufactured goods from the emergent countries was officially discussed at the first UN Conference on Trade and Development in 1964. But it was only in the autumn of 1970, after the second UNCTAD conference in New Delhi had expressed the unanimous agreement of all the delegates of the 132 participating countries to operate a mutually acceptable system of generalised preferences, that the special committee on preferences, set up by UNCTAD, succeeded in reconciling the positions of the industrialised countries and so in deciding how it should work in practice. Notwithstanding the long delay in bringing this complex operation to a head, the implementation of preferential tariff treatment for finished and semi-manufactured goods from the emergent countries was a great stride forward. On the economic plane the developed countries recognise the necessity for redistributing manufacturing activities on a world scale. In particular, the rich countries should step up the tendency towards productive specialisation in the sector of advanced technology and abandon a good part of the other sectors to the poor countries. Moreover, besides promoting productive specialisation in industrial activities on an international scale, the system of preferences, leading in the developed countries to a run-down of the sectors which often provide the main source of protectionist movements, should reinforce free trade tendencies.

But it is primarily on the political plane that the provision of generalised

preferences in favour of the third world assumes major importance. 'Nothing like this has ever happened before', declared Manuel Perez Guerrero, Secretary General of UNCTAD. 'There has been a departure from the most-favoured nation principle, and, furthermore, from exchange of concessions on a basis of reciprocity.' The adoption of generalised preferences amounts to modifying considerably the trend of commercial policy over the last 25 years. Article 1 of the GATT Charter, now officially waived for a period of 10 years, provided for the automatic extension to all the contracting parties of customs concessions granted by a developed country to any emergent country. Under the system of generalised preferences, on the other hand, the economic advantages deriving from it will be for the exclusive benefit of the emergent countries. Furthermore, the developed countries, in extending the preferences to almost all the emergent countries, have assumed a political obligation to avoid all discrimination. On the other hand, up to the time of the decision to promote the scheme of preferences only a few developing territories, notably Latin America, did not enjoy any preferences in the markets of the developed countries. Half of Africa already enjoyed preferences from the EEC, and another half of Africa and a good part of Asia were already in receipt of preferences from the Commonwealth. The major preoccupation of the developed countries, therefore, has been to find a system that on the technical plane could be accepted by all the emergent countries in order to achieve political recognition.

A better solution, both from the political and the economic point of view, was that adopted by the EEC which, in contrast to the other industrialised countries that have excluded various products of particular importance to the emergent countries, has decided to grant from 1 July 1971 free entry to its own markets to all industrial products (relating to Chapters 25–99 of the Brussels nomenclature) from practically all the emergent countries. In addition, as a safeguard, for so-called 'sensitive' products (that is to say for products in which the emergent countries are already competitive) the EEC is providing on a strict basis for import free of duty within the limits of fixed quantitative 'ceilings' calculated in a way that is relatively advantageous to the emergent countries (that is on the value¹⁰ of the EEC imports in 1968 plus a supplementary amount which, at 5 per cent of the value of Community imports from the industrialised countries, automatically implies an annual increase in the ceiling itself). Moreover, to ensure that the preferential system does not benefit the more competitive of the emergent countries (such as Hong Kong) imports on a duty free basis from any one country must not exceed half the ceiling fixed. Special measures (providing for imports on a duty free basis up to the basic amount of the ceilings, that is to say the value of imports from the beneficiary countries in 1968 excluding the supplementary amounts) have been adopted by the EEC only for transistors, dish washers

(because of the inclusion of Hong Kong among the beneficiary countries), petroleum derivatives, plywood (in response to a request by AASM) and especially certain textiles.¹¹ In particular, for cotton textiles and substitute products in the conditional list of the Kennedy Round (which contained certain articles of artificial and synthetic fibre and other textile fibres) the EEC offer was made only to seven countries (Colombia, India, Jamaica, Mexico, Pakistan, the UAR and South Korea) and was limited to the period of validity of the agreement (that is to say up to 30 September 1973, subject to extension). For jute and coconut products the EEC has offered preferential quotas to India, Pakistan and Yugoslavia. Finally, for other textile products and carpets which are the subject of particularly important purchases the EEC has excluded the 'independent territories' (that is to say Hong Kong). Thus the automatic system of EEC preferences, having avoided the presentation of lists of exceptions, has been well received, and has modified the third world's impression of a Community solely concerned to safeguard its own interests and those of the associated countries.¹²

Japan's scheme of preferences, which came into force on 1 August 1971, also provides for exemption for practically all industrial products. There are ten exceptions, however, (petroleum and its derivatives, gelatine and its derivatives, certain articles of wood, raw and made up silk, footwear and certain articles of clothing). Moreover, for another 57 products the tariff reduction is limited to 50 per cent. As in the case of the EEC arrangements, Japan has set ceilings for each group of products calculated for each fiscal year (April/March) on the value (or for certain products on the quantity) of imports by the beneficiary countries in 1968 (basic quota) plus a supplementary amount equal to 10 per cent of the value (or volume) of Japanese imports from sources other than the emergent countries (in relation to the two years preceding the period in which the ceilings were set). And just as for the EEC scheme the imports on an exemption basis from any single country may not exceed half the ceiling set. The United Kingdom plan grants exemption for all products relating to Chapters 25–99 of the Brussels Nomenclature, excluding however almost all types of textiles and certain products subject to revenue duties (matches, lighters, aromatic alcohol, etc.). The USA's plan provides exemption for products in Chapters 25–99 of the Brussels Nomenclature to the exclusion, however, of certain products of particular interest to the emergent countries (textiles, footwear and petroleum products). In addition, to safeguard its domestic industry, the USA proposes to include an escape clause providing for the suspension of preferences in case of market disruption. This approach has been criticised by the EEC and Japan, who *inter alia* have pointed out that the adoption of ceilings makes it possible to assure the less competitive emergent countries of participation in the advantages of preference and that recourse to the escape clause will inevitably lead

to political disagreement with the emergent countries as it is difficult to provide an objective definition of 'market disruption' and the exporting countries are likely to claim that they are victims of protectionism in the developed countries.

Undoubtedly the implementation of generalised preferences will be an encouraging first step towards allowing the emergent countries to penetrate the markets of the developed countries. Nevertheless, various reservations must be made. First of all, it must be pointed out that the implementation of the preferences represents a further episode in the struggle under way between the main protagonists in international trade, especially between the EEC and the USA. It is precisely on the theme of preferences that the USA has waged a fierce battle against the EEC and, to a lesser extent the United Kingdom, to secure the abolition of regional preferences (granted respectively to the associated countries of the Community and to the Commonwealth), and of reverse preferences (granted by the associated countries to the EEC) making this an essential prerequisite of their adherence. And if in the final phase of the negotiations the USA has said it is prepared to grant preferential treatment also to countries which already enjoy regional preferences or which grant reverse preferences, this is still subordinate to the abolition, gradual though it may be (up to 1975), of such special preferences. In this way, as long as the regional and reverse preferences remain in force and until such time as the countries directly concerned agree to abolish them, even gradually, the USA's preferential scheme will be applied essentially only in relation to Latin America, thus considerably restricting the scope of the American concessions. The instrumental nature of the scheme of preferences for the main protagonists in international trade is confirmed, moreover, by the position adopted by Japan, who will withdraw the preferences from emergent countries which do not revoke within three years the discriminatory measures applied under Article 45 of GATT to Japanese goods. In addition, it is disturbing that the implementation of the preferential scheme of the USA has been seriously delayed. In the present difficult balance of payments situation it is difficult for the USA to obtain ratification from a Congress dominated by neo-protectionist tendencies. It is clear, however, that the impasse which the US administration faces in this sector can have serious consequences for the emergent countries, especially if the ratification of the US preferential system shares the fate of the Geneva Protocol for the abolition of the ASP. Both the EEC and Japan have repeatedly stressed the importance of 'burden sharing' (the principle of a fair distribution of burdens among all the industrialised countries), so that they might be induced to review their own offers. Furthermore, the other developed countries as well (the Nordic countries, Switzerland, Canada, Austria and New Zealand) might be induced to restrict further the scope of their scheme of preferences.

And as regards these last mentioned industrial countries it must be remembered that the list of the products excluded is substantial: Ireland, and to a lesser extent Switzerland, have presented a long list of exceptions; the Nordic countries have claimed exceptional treatment for all textiles, footwear and various articles of glass; Austria for all the items in the long term agreement on cotton textiles; New Zealand for articles of wood, footwear and aromatic alcohol; and Canada for perfumes, edible gelatine, eucalyptus oil and various articles of wood. Besides, Austria has adopted an escape clause providing for the withdrawal or suspension of preferences if imports rise more than 25 per cent above the level in a specified reference period; Canada proposes to grant reductions of not more than $33\frac{1}{3}$ per cent by applying an escape clause in case of market disruption; and Switzerland to grant linear reductions of 30 per cent subject to the exceptions in a first phase lasting for two years, and to reserve the right to introduce special modalities for various products in a second phase. The socialist countries, for their part, besides granting tariff reductions (especially in the case of Hungary and Czechoslovakia), have expressed an intention to include in their economic plans suitable measures for expanding imports from the emergent countries. It is more a question of declarations of intent, however, than of positive undertakings, so that it is not possible for the emergent countries to count on continuing advantages. Furthermore, the concessions by the socialist countries seem to depend on an expansion in their trade with the beneficiary countries. On the other hand, withdrawal of the preferences is possible at any moment, since no undertaking was entered into with GATT, and for the rest there is no consolidation of the margin of preference so that the donor countries remain free to reduce or eliminate the tariffs on the basis of the most-favoured nation clause either unilaterally or in pursuance of international agreements. The principle of 'self-election' in establishing the identity of the developing countries has thus not been fully observed. The EEC, recognising as beneficiaries the member countries of the 'group of 77', has excluded Israel from preferential treatment, while Japan has excluded Hong Kong. As far as the EEC scheme itself is concerned, some perplexity is occasioned by the distribution of the tariff quotas (37.5 per cent for the German Federal Republic, 27.5 per cent for France, 20.3 per cent for Italy and 15.1 per cent for Benelux). In fact, this pattern of distribution, based on criteria of a general economic order (partly foreign trade, gross national product and population) is different from that which would be arrived at by reference to the distribution of the trade of the member countries with the third world. For many products, for example, 80 per cent of exports of products from the third world to the EEC concerns the German market, and only 10 per cent the Italian market. Thus for these products the distribution pattern would entail the sterilisation of part of the preferential quotas, a sterilisation which would be aggravated by the fact

that in certain member countries quantitative restrictions are still in force. Because of these mechanisms it is consequently doubtful whether the emergent countries can benefit as a whole from the tariff quotas which, in the view of the Commission, amount to over \$1 milliard, that is to say one eleventh approximately of total imports into the EEC of manufactured and semi-finished goods from the industrialised countries. Nor should it be forgotten that the position of the EEC, like that of Japan, in relation to processed agricultural products (comprised in the first 24 chapters of the Brussels Nomenclature) is in the main a negative one. The EEC, in fact, has produced a positive list which excludes many products exported by the emergent countries and has limited its agricultural offers to a level of imports equal to \$30 million (\$36 million for Japan and over \$130 million under the US scheme). Moreover, the tariff reductions specified for the products included in the positive list also appear in various cases to be insufficient and in any case they are not uniform. There is therefore, *a posteriori*, an escape clause which, in certain circumstances and for certain products, provides for the suspension of the preferences. More interesting is the United Kingdom's offer in the sector of processed agricultural products. The United Kingdom, however, has expressly reserved the right to review its offers following its accession to the EEC, and since the extension of the agricultural policy to the United Kingdom will inevitably increase the amount of agricultural protection it is clear that the alignment of the British offers to those of the Community will be of a restrictive nature for the emergent countries.

Last but not least, it is arguable whether the international productive specialisation stimulated by the generalised preferences sees the emergent countries as the true beneficiaries. In all probability the principal advantages will accrue to the multinational companies established (or to be established) in those countries. Such companies, in fact, can secure a double advantage, one from the low wages ruling in the emergent countries (at the production stage) and one from the high wages paid in the developed countries in the form of purchasing power (at the consumption stage). All will depend, however, on the balance of power that will be established between foreign capitalists and local governments, and in particular on the amount of profits which the governments of the emergent countries succeed in getting re-invested on the spot.¹³

International agreements on basic products

Wholly inadequate to the requirements of the third world are the results achieved by international agreements on basic products. The new international agreement on sugar (which came into force on 1 January 1969) left in sus-

pense the question of participation by the USA and the EEC. America's abstention is attributable to motives that are more political than economic, since Washington does not view with favour the eventuality of signing an agreement of which Cuba is the principal beneficiary. The EEC's abstention, on the other hand, is due to internal motives which are capable of giving rise in future to some negative consequences for the international agreement. If the policy of selling off any surpluses of Community sugar on the world markets continues, the new international agreement (which certainly has the merit of supporting prices) runs the risk of not succeeding in stabilising prices in the international market and so of losing any value. This is a real danger because, after the disastrous harvest in Cuba in 1971/72, beet growers in the EEC set about expanding their production under the pull of the high prices ruling in the international market. It was for this reason that Paul Prebisch, the Argentine economist who held the post of Secretary General of UNCTAD until 1 March 1969, repeatedly asked the EEC to adhere to the UNCTAD proposals and in particular to accept an export quota of 300,000 tons, but in vain. After many attempts an international agreement on cocoa was reached in 1972. However, the USA does not participate in this agreement, which considerably limits the benefits for the developing nations. For tea the exporting countries, namely Ceylon, India and certain African countries, agreed to put into operation at the beginning of 1970 a world agreement of the type already in force for coffee and sugar. This agreement, however successful, could establish a dangerous precedent for UNCTAD's operations. The desire of the tea exporting countries to devise an agreement outside UNCTAD as quickly as possible could mean, in fact, that the emergent countries are beginning to tire of the unfruitful meetings of this great international forum. In March 1973 the international agreement on olive oil was postponed until December 1978. This postponement presented no difficulty however, since the olive oil agreement is based exclusively on a common desire for international cooperation on the part of a limited number of countries and makes no provision for minimum and maximum prices nor for stock control. No agreement has been reached on other products, even though new and ponderous economic studies have been presented by the UNCTAD secretariat. For oilseeds, fats and oils (one of the typical sectors in which chaos reigns in world markets) activity was limited to constituting, under the auspices of the FAO, a working group to improve the statistics, in which considerable gaps arose from the fact that various developed countries which are big exporters cloak even the basic data in secrecy. The Wheat Agreement, as we saw in Chapter 6, lost much of its effect with the suppression of the price spread. And the two major agreements – those on tin and coffee – have been under great strain. The tin agreement was threatened by the fact that the regulating stock could not fulfil its purpose properly because of its

inadequate size. And the agreement on coffee – by far the most important – has been suspended because the United States would not accept a compromise on the revision of prices to offset the inflationary movements that occurred in 1971 in almost all the developed countries.

In actual fact the very validity of the agreements on basic products is challenged today.¹⁴ Such agreements tending as they do to maintain the existing patterns of production and to distribute resources irrationally, are proving inefficient. Agreements on basic products are also unfair, as their cost falls almost exclusively on the consumer countries without allowing for their varying levels of development. Similarly, the advantages of the agreements on basic products are enjoyed by the producing countries without distinction. And as the major world exporters of primary products are the rich countries (especially the USA, Canada and Australia), there is not a strong case for the conclusion of agreements of this type; and a new strategy is called for. In particular, to safeguard the interests of the third world effectively, a global strategy might well be based on a plan designed on the one hand to maintain a relatively constant price for industrial goods imported from the developed countries, and on the other hand to increase the price of basic products exported from the emergent countries (though providing, in order to secure the consensus of the developed countries, that the proceeds of such increase should be reinvested in the purchase of industrial products from the rich countries).¹⁵ And in view of the reluctance and lack of political will of the developed countries it only remains to adopt positions of strength to obtain the alignment of prices of raw materials. Often only positions of strength prove effective. This emerged clearly in the case of petroleum when the producing countries succeeded for the first time in imposing not only an increase in prices but an additional increase to take account of inflation and the devaluation of the dollar (on the basis of which all the transactions are invoiced). And if it is true that the emergent countries are often divided among themselves, it does not follow that the situation cannot change. Greater unity among the producing countries can reinforce the claims of the less-developed countries to obtain more remunerative prices.

The present situation is a critical one for the emergent countries. There is no time to spare. New technologies are replacing natural products with synthetic substitutes at an increasing rate. If the emergent countries do not take action soon, in a short time they will no longer have any real power to resist and will have to bow before the contractual pressures of the rich countries.

A position of strength and constructive action

The crisis precipitated by Nixon on 15 August 1971, which seriously affected

the emergent countries (currency reserves expressed in dollars suffered a sharp loss; the terms of trade in relation to the countries that revalued deteriorated; aid was reduced; and the introduction of the US preferences was postponed), reinforced the determination to act. Both in GATT and in UNCTAD the emergent countries denounced the American protectionist measures, stressing that responsibility for the monetary crisis was all due to the developed countries and pointing out that the developing regions constituted an outlet of considerable importance to the industrialised countries. Furthermore, in the International Monetary Fund the emergent countries presented a united front in demanding participation in the reform of the international monetary system. In addition, the OPEC (petroleum exporting) countries, encouraged by the nationalisation of 51 per cent of the French petroleum interests in Algeria, have now obtained a participation (of at least 20 per cent) in the big oil producing companies. And the admission to UNO of China, a country which enjoys much sympathy in the third world, should furnish the emergent countries with the lead they need for conducting on a firmer basis their stand against the developed countries, all the more so as it is a question of dealing with protectionism not only in the USA but also in Europe (especially with the extension of the common agricultural policy to the United Kingdom) and in Japan.

Nor should a position of greater firmness stand in the way of a constructive course of action. In particular, to combat protectionism the emergent countries should demand that any agreement (bilateral or multilateral) which limits the expansion of their exports should provide for a special mechanism by means of which the protected industries in the developed countries, apart from needing to justify themselves by furnishing all the facts (prices, productivity, investment, staff employed, etc.) should adopt a modernisation plan to enable them to remove the restrictions as rapidly as possible. Finally, since future commercial negotiations will have as their central theme the harmonisation of non-tariff barriers, the developing countries should consider giving their active participation (presenting liberalisation offers of their own) to avoid the frustration of attending as silent partners, as occurred in the Kennedy Round. The range of non-tariff and para-tariff barriers applied by the majority of the emergent countries (originally adopted to protect nascent industries but subsequently used to excess) prevents the planners from assessing the efficiency of their own industries and leads to high costs of production in those sectors in which imports are essential. It is thus in the interests of the less-developed countries to simplify customs procedures in sectors in which imports cannot but assist internal production and investment.

The emergent countries, moreover, should rely more on their own strength ('self-reliance'), promoting for example valid forms of commercial integration, possibly on a regional basis. And in this connection a favourable view can be

taken of the decision adopted in GATT, in February 1972, by sixteen countries (Brazil, Chile, Korea, Egypt, India, Israel,¹⁶ Mexico, Pakistan, Peru, the Philippines, Tunisia, Turkey, Uruguay, Yugoslavia, Greece and Spain) to reduce by 50 per cent over five years the customs duties on the bulk of the goods which these countries trade with one another.

Notes

¹ UNCTAD, *Review of International Trade and Development 1971*. Td/B/369, Add. 1 (9 August 1971) p. 50.

² H. B. Malmgren, *Trade for Development*, Overseas Development Council, Washington D.C. (1971) p. 2.

³ UNCTAD, *Review of Trade in Manufactures of the Developing Countries 1960–1970*, Td/111 (10 December 1971).

⁴ B. Balassa, *Effective protection: a summary appraisal*, *Proceedings of the Effective Tariff Protection Conference* sponsored by GATT, Geneva (December 1971) pp. 247–260.

⁵ GATT, *Tariff Study, Summary Table N.3, Tariff and Trade Profiles by Stages of Processing*, Geneva (July 1970).

⁶ GATT, *The Results of the Kennedy Round for Developing Countries*, Com. Td/48/Rev. 1 (21 November 1967).

⁷ International Trade Centre UNCTAD/GATT, *Analyse des tendances récentes et évaluation des perspectives des importations des pays de la Cee et des États-Unis en provenance des pays de développement* (17 April 1968) Geneva.

⁸ *Joint Statement by the Developing Participating Countries in the Kennedy Round Negotiations*, GATT Press Release No. 994 (30 June 1967).

⁹ UNCTAD, *The Kennedy Round Estimated Effects on Tariff Barriers*, Td/6/Rev. 1, New York (1968).

¹⁰ Nevertheless for certain textiles and footwear the standard ceiling is expressed in volume rather than in value.

¹¹ 'La Commission de Bruxelles prépare un élargissement prudent de l'accès au marché textile des Six' *Le Monde* (5 January 1971).

¹² Ph. Simonnot, 'Les préférences tarifaires de la Cee en faveur du tiers-monde' *Tiers Monde* (October–November 1971).

¹³ UNCTAD, *The Generalized System of Preferences*, Td/124/Add. 1 (9 March 1972).

¹⁴ M. Radetzki, 'Is it useful to establish international commodity agreements?' *Skandinaviska Banken Quarterly Review* no. 4 (1968) Stockholm.

¹⁵ 'Face à la détérioration des termes de l'échange les Africains demandent un "commodities round"', *Marchés Tropicaux* (4 September 1971).

¹⁶ A special formula was adopted to exempt Israel and Egypt – both participants in the agreement – from having to grant one another the concessions extended to the other partners. ‘Seize Pays en voie de développement ont signé un accord tarifaire’ *Le Monde* (27–28 February 1972).

9 Convergence of European Interests

Substantial tariff reductions in the industrial sector

After almost five years of heavy preparatory work and intense negotiations the Kennedy Round, the most important commercial negotiations of all time, closed officially in Geneva on 30 June 1967 with the signing of the so-called 'final act' by 46 countries. The signatory countries account for about 75 per cent of world trade, and even if the original object of the negotiations – a linear tariff reduction of 50 per cent for all products – was not achieved, the results were clearly positive. The customs tariffs of the principal industrialised countries (relating to world trade of the order of \$40 milliard) were to be reduced over the period 1968–1972 by an average of 35 per cent, or by six times as much as was achieved at the preceding negotiations promoted by GATT at the Dillon Round.

In particular, the tariff reductions agreed in Geneva for industrial products in the period 1968–1972 represented an achievement without precedent. The original aim of tariff reductions of the order of 50 per cent was achieved for a good number of items. According to estimates by the GATT secretariat two thirds of the tariff reductions were of the order of 50 per cent, one fifth ranged from 25 to 50 per cent and the rest were below 25 per cent.¹ Moreover, as far as the results as between the USA and the EEC are concerned, the linear reductions by the USA, according to estimates made by the Office of the Special Representative for Trade Negotiations, amounted to \$1,799 million (or 82 per cent of the total value of the American tariff concessions), while the linear reductions by the EEC amounted to \$1,301 million (or 47·7 per cent of the total value of the Community tariff concessions).

The level of protection provided by customs duties in the principal industrial countries was therefore considerably reduced and harmonised. On 1 January 1972, although some important differences remained in certain industrial sectors, the level of the average global tariffs of the principal international trading countries varied from 8 to 11 per cent. The highest average tariff is in Japan (11·5 per cent), followed by the United Kingdom (10·4 per cent, which upon accession to the EEC should come down to the CET level, however), the USA (9·4 per cent) and the EEC (8·2 per cent).

There has been a considerable reduction, moreover, in the relative spread of rates, variations in which from country to country (especially between

the EEC and the USA, as we saw in Chapter 3) were the principal cause of the problem of tariff disparities. On 1 January 1972 99.1 per cent of the EEC rates fall in tariff classes of 0.1–20, compared with 91.3 per cent in the USA, 98.7 per cent in Japan and 97.8 per cent in the United Kingdom. And since tariff rates of over 20 per cent only represent 0.9 per cent in the EEC, 8.7 per cent in the USA, 1.3 per cent in Japan and 2.2 per cent in the United Kingdom, the incidence of the so-called 'tariff peaks' was also drastically reduced on 1 January 1972.²

It needs to be emphasised, however, that the tariff disarmament achieved in the Kennedy Round was neither general, nor uniform, nor absolute. Nominally low tariff rates on imports of goods still exercise a considerable protective effect, since what really counts is the subsidy which the tariff structure as such grants to the industry producing the final product for the protected market. And, since such subsidy works out regularly higher than the nominal tariff rate for almost all the main categories of industrial products, it may be said that the tariff reductions in the Kennedy Round have affected the finished products to a considerably less extent. In this way the disparity in tariff rates relating to products in the raw state, semi-manufactured goods and finished products has been reinforced.³ Still relatively high, however, are the tariffs on goods treated as total or partial exceptions and the tariffs relating to certain groups of chemical products in consequence of the failure to abolish the American Selling Price. Nor should it be forgotten that for certain products a 'ceiling' consolidation was negotiated at the Kennedy Round, which still permits governments to manipulate the tariff instrument since the duties relating to such products can be increased (but not beyond a certain limit). Finally, Canada, Australia and the Republic of South Africa refused to apply the linear rule, and have effected more modest and more selective reductions than the other industrialised countries, a factor of which account must be taken at future negotiations.⁴

In view of such considerations it would be wrong to suppose that with the conclusion of the Kennedy Round the level of tariff protection has become almost irrelevant. At future negotiations the problem of further reducing tariff protection will still be important, especially in certain industrial sectors. There is no doubt that the lowering of the tariff wall effected in the Kennedy Round has increased the relative importance of the non-tariff barriers, all the more so as in a period of severe inflation the protection obtained from customs tariffs alone is eroded and the consolidation of a good part of the GATT tariffs increases the temptation for governments to resort to new and more restrictive non-tariff barriers, especially any that are not prohibited by the GATT Charter. In this sense the Kennedy Round signifies the end of the cycle of classical tariff negotiations and the inauguration of a new phase marked by new problems which must be confronted with a different strategy.

TABLE 9.1

Results of the Kennedy Round as between the USA^a and the EEC
(in US \$ million)

Imports and tariff concessions	TOTAL		Agricultural sector ^b		Non-agri- cultural sector	
	USA	EEC	USA	EEC	USA	EEC
	from EEC	from USA	from EEC	from USA	from EEC	from USA
I Imports, total (1964)	2,948.0	4,615.8	219.6	992.2	2,728.4	3,623.6
A Exempt from duty	270.9	1,466.3	17.3	549.7	253.6	916.6
B Subject to duty	2,677.1	3,149.5	202.3	442.5	2,474.8	2,707.0
II Available for tariff concessions	2,688.9	3,464.6	203.2	464.5	2,485.7	3,000.1
III Tariff reductions:						
A Over 50%	24.1	45.6	1.6	31.8	22.5	13.8
B 50%	1,779.9	1,300.6	16.6	19.9	1,763.3	1,280.7
C 25-49%	118.7	372.7	45.5	51.3	73.2	321.4
D 1-24%	247.3	1,005.4	30.0	117.4	217.3	888.0
E Total	2,170.0	2,724.3	93.7	220.4	2,076.3	2,503.9
IV Consolidated duties	34.1	0.6	28.1	0.3	6.6	0.3
V Non-consolidated duties	11.1	304.4	0.1	17.6	11.0	286.8
VI Total tariff concessions (III E+IV+V)	2,215.2	3,029.3	121.9	238.3	2,093.9	2,791.0

Source: *Report on United Negotiations, 1964-67 Trade Conference*, Office of the Special Representative for Trade Negotiations, Washington, 1967.

^a The US imports have been increased by 10 per cent to allow for the fob-cif adjustment.

^b Excluding cereals.

Non-tariff barriers cannot in general be treated like tariff barriers. In particular, the method which helps to ensure 'equilibrium' or 'reciprocity' is not so easily applied to non-tariff barriers.

Conscious of the growing importance of non-tariff barriers, the contracting parties, on the basis of the decisions taken at the 24th session held in November 1967, appointed a Committee for Industrial Products which at the end of 1970 drew up a comprehensive list of the non-tariff and para-tariff barriers

TABLE 9.2

Level of tariffs for industrial products subject to customs duties in the principal industrial countries on 1 January 1972
(comparison of average tariffs^a for twenty three main categories in Chapters 25-99 of the Brussels nomenclature)

Categories in Chapters 25-99 of the Brussels nomenclature	(Percentage <i>ad valorem</i>)							
	EEC (1967, cif)	USA (1967, fob)	Japan (1967, cif)	UK (1967, cif)	Sweden (1967, cif)	Swit- zer- land (1967, mfn)	Den- mark (1968, mfn)	Can- da ^c (1969, mfn)
Raw hides & skins	5.8	9.6	8.9	13.3	6.4	2.4	9.7	14.2
finished products	9.5	15.6	15.3	19.2	8.8	3.5	15.6	22.5
Synthetic rubber	7.9	4.6	8.7	7.4	10.3	2.5	9.9	14.4
Wood & cork	9.6	10.8	12.2	6.0	2.5	5.3	3.9	13.3
Pulp, paper and paperboard	9.3	5.0	5.6	13.1	3.2	9.2	8.6	15.6
finished products	12.8	6.6	7.2	14.1	3.7	9.7	11.6	16.8
Textiles	13.2	22.6	12.7	16.3	14.2	7.6	13.1	23.8
woollen textiles	13.5	46.5	15.6	17.5	16.4	13.7	12.5	27.2
cotton textiles	14.0	12.1	7.1	17.5	13.0	12.0	11.1	19.6
synthetic & artificial textiles	15.0	27.9	11.8	17.5	13.8	13.3	13.4	29.9
articles of apparel	16.4	25.9	18.6	19.9	17.8	11.0	19.5	25.1
Mineral products & fertilisers	8.7	16.7	9.6	8.4	8.6	4.5	9.4	14.8
Stones & precious metals	6.1	6.4	5.1	11.9	4.3	0.4	15.0	21.8
Minerals & metals	7.0	5.9	6.4	10.7	5.4	3.6	7.5	12.6
iron & steel	6.5	6.7	5.5	10.9	6.2	3.8	6.8	9.5
unwrought aluminium	6.9	4.6	8.4	5.0	0.0	11.2	0.0	3.2
unwrought lead	5.4	8.7	9.0	5.0	0.0	0.2	0.0	14.9
wrought tin	4.7	8.5	7.2	9.2	1.5	0.3	1.5	11.4
Coal & petroleum	4.1	4.2	12.5	5.0	0.9	1.7	2.9	7.4
Chemical products ^b	7.6	8.5	10.7	9.3	8.9	1.9	7.5	13.9
organic	8.1	10.7	10.1	11.3	9.0	0.9	4.9	11.1
inorganic	4.5	4.4	8.9	7.3	4.4	0.8	2.7	13.8
dye-stuffs	9.3	26.8	12.2	13.4	0.0	0.7	0.0	12.5
medical & pharmaceutical products	6.6	5.5	11.9	8.5	11.3	1.1	4.8	15.3
plastics	9.8	8.5	11.8	9.3	9.8	3.4	7.9	14.1
Essential oils	6.5	6.6	13.0	6.2	7.3	3.6	7.5	14.6
Non-electrical machinery	6.5	6.1	11.9	8.6	5.0	2.0	6.2	14.8

Table 9.2 continued

Categories in Chapters 25-99 of the Brussels nomenclature	(Percentage <i>ad valorem</i>)							
	EEC	USA	Japan	UK	Sweden	Swit- zer- land	Den- mark	Can- da ^c
	(1967, cif)	(1967, fob)	(1967, cif)	(1967, cif)	(1967, cif)	(1967, mfn)	(1968, mfn)	(1969, mfn)
Machinery & electrical equipment	8.9	7.4	11.3	11.9	6.7	2.8	9.9	16.0
Means of transport vehicles	8.0	3.8	12.4	12.2	9.9	4.7	7.2	12.6
	11.0	3.5	16.9	13.9	10.2	6.6	7.4	14.6
Photographic and optical instruments	8.8	16.7	9.3	14.2	5.6	2.2	5.6	13.9
clocks & watches	7.1	29.5	14.1	15.9	4.5	1.5	5.6	16.6
Footwear & travel goods	12.6	12.6	16.6	8.6	13.0	8.7	21.6	23.2
Photographic & cinematographic equipment	7.7	3.7	22.0	8.4	3.0	1.0	2.5	16.0
Furniture	8.4	7.5	10.8	10.1	5.1	10.5	6.7	19.1
Musical instruments	8.2	6.9	9.6	8.5	5.9	4.6	11.0	12.9
Toys	13.1	14.4	12.7	12.0	5.9	6.4	8.3	18.3
Works of art	0.0	7.5	0.0	10.0	0.0	0.3	0.0	21.5
Firearms	9.2	11.2	24.0	11.9	3.6	2.8	6.8	15.8
Office furniture	9.5	12.5	19.3	9.7	5.0	4.4	6.7	17.6
Miscellaneous	9.2	12.9	11.6	12.2	7.3	4.5	9.3	18.9
Average global tariffs	8.2	9.4	11.5	10.4	6.1	4.1	8.2	16.2

Source: based on the GATT *Basic Documentation for Tariff Study, Summary Table No. 2 - Tariff & Trade Profiles by Product Categories*, Geneva, July 1970.

^a Average of all the tariff rates relating to a particular category weighted on the basis of the MFN imports of the country concerned at the level of the national tariff line.

^b In case of abolition of the ASP.

^c Tariff level not directly comparable with that of the other countries since about half of Canadian imports enter the market free of duty.

for the industrial products of the member countries of GATT with a view to laying down a suitable procedure for considering the problems in question. Faced with the great complexity of the non-tariff barriers, however, it at once became clear that upon the conclusion of the Kennedy Round any future negotiations would run into considerable difficulties. Apart from the technical difficulty of successfully reconciling the original and new ideas in a still

TABLE 9.3

Distribution of the tariff rates of the principal
industrial countries as at 1 January 1972

Spread	EEC	USA	Japan	UK
Up to 10%	72.1	70.7	58.7	65.7
10.1 to 15%	16.8	8.9	32.1	22.4
15.1 to 20%	10.2	11.7	7.9	9.7
over 20%	0.9	8.7	1.3	2.2
	100.0	100.0	100.0	100.0

Source: Figures compiled on the basis of the *Tariff Study* by GATT, *Summary Table no. 2, Tariff & Trade Profiles by Product Categories*, Geneva, 1970.

unexplored region, many of the non-tariff barriers are connected with objectives of an internal nature (e.g. stimulating employment in areas of low employment, protecting key electoral constituencies, finding substitutes for imports because of balance of payments difficulties, etc.) which, being closely tied up with politics, with the interests of industrial groups in particular sectors, with national legislation, etc. are not easily disposed of.⁵ Moreover, the validity of any future negotiations seems from now on to be conditioned by the participation (and therefore the agreement) of the industrial groups themselves, whether private or national, which have erected barriers (non tariff) somewhat more protective than the (tariff) barriers raised by the respective governments.⁶ In this way, with the conclusion of the Kennedy Round the so-called 'hard cases' have been laid bare, that is to say all the effective obstacles (tariff and non-tariff) which prevent real, effective free trade.

Modest results in the agricultural sector

In the agricultural sector the negotiations, as we pointed out in Chapter 6, dealt in the end almost exclusively with tariff concessions, rather than with the more decisive factors of agricultural policy. Furthermore, the tariff concessions did not seem to meet the requirements of reciprocity, and thus justified the reactions of the farmers, especially in the Community countries. 'The US strategy to give priority to agricultural tariff concessions in the negotiations with the EEC and with other countries', wrote E. H. Preeg,

·did result in a substantial degree of success. The American proposals were adopted'.⁷ 'The results obtained', stated COPA in a relative resolution,⁸ 'seem modest, and open a breach in the Community organisation in the various markets.' 'The EEC', added CIRAI (the Italian Committee for International Agricultural Relations, which takes in Confagricoltura, Coldiretti and Federconsorzi as well), 'has practically abandoned its support for the method of consolidation of the total amounts of support and has thus subjected the agricultural sector to a bilateral type of negotiation, product by product, substantially on the basis of customs tariffs'.⁹

Nevertheless, if the view of the EEC agricultural organisations is accepted that the Community defended the industrial sector better (as in the case of the American Selling Price for example) than the agricultural sector (as in the case of beef), it must also be stressed that the worst dangers that the negotiations entailed for the Community producers (freezing of prices, watering down of the levy system, granting of access guarantees, etc.) were totally averted. The common agricultural policy emerged reinforced from the Kennedy Round. The Six in fact, in view of pressure from France to complete the common agricultural policy and the desire of the Germans to bring the Kennedy Round to a satisfactory conclusion, adopted the financial arrangements and defined the principal market organisations. And the fact that the EEC did not succeed in getting the common agricultural policy accepted on the international plane need not be regretted. The CAP turned out to be unsatisfactory both on the national plane (by the formation of costly surpluses and failure to reduce the gap between farmers' incomes and the incomes from other economic activities, and on the international plane (by promoting sales at dumping prices in world markets thanks to financing by FEOGA), making the need for its revision increasingly obvious. In this sense the position assumed at Geneva by the USA in the Kennedy Round 'of not wishing to confer international respectability on the protective agricultural system of the EEC' was justified.¹⁰ And in view of the high cost involved in operating the common agricultural policy it should be easier for the USA in future negotiations to induce the EEC to mitigate the rigours of its protective agricultural mechanisms. The USA, on the other hand, must be held responsible for not having accepted in the key wheat sector the Community proposal to set the self-sufficiency ratio for the EEC at 90 per cent. In the 1970-71 season the Community's self-sufficiency ratio rose to 102 per cent (compared with 86 per cent in 1966-67), so that at future negotiations the EEC will ask the USA to set its self-sufficiency ratio at an appreciably higher level than that offered at the Kennedy Round.

On the other hand, although the final results concerned some extremely marginal aspects of international agricultural problems, the Kennedy Round had great importance for the agricultural sector. For the first time in the

history of international trade, a serious effort has been made to integrate agriculture fully in the GATT negotiating process. Furthermore, thanks to the negotiating methods formulated by the EEC with the theory of the *montant de soutien* the spotlight has been turned on the real problem, that is to say that any negotiations in the agricultural sector to have real significance should concern all the aspects of national policy (production, prices, support measures, etc.). 'The experience in the Kennedy Round', wrote Irwin Hedges, 'demonstrates that if there is to be another major breakthrough in agricultural trade liberalisation the negotiations must come to grips with domestic agricultural policies'.¹¹ And as new multilateral international negotiations must number among their objects the abolition or at least the harmonisation of non-tariff barriers it is obvious that the agricultural sector cannot be excluded from now on. Immediately after the conclusion of the Kennedy Round, in December 1967, at the 24th session of the contracting parties, besides the industrial products committee an agricultural committee was set up which has prepared an accurate inventory of all the support measures concerning agricultural products, identifying the steps that should be taken with the greatest urgency (that is to say the measures which directly or indirectly influence imports, quantitative restrictions of all kinds, state trading, duties and levies, prices for producers and self-sufficiency ratios and a series of other measures including health regulations). Moreover, as the basic problems in the agricultural sector are always the same, not having been solved in the Kennedy Round and as in some cases they are even aggravated by the increase in protectionist tendencies, it is clear that the ideas formulated at the Geneva negotiations as regards the *montant de soutien*, self-sufficiency ratios, international reference prices, etc. are bound to be revived at future negotiations, as is already clear from the opinion expressed by various countries in the agricultural committee of GATT. Furthermore, the necessity for clarifying certain particularly critical situations prompted the countries directly concerned to resume negotiations immediately after the Kennedy Round was concluded. After a series of negotiations initiated in December 1967, on 15 May 1970 an agreement came into force on skimmed milk powder, by virtue of which the principal importing and exporting countries undertook not to buy or sell skimmed milk powder for human consumption at a price below \$25 per quintal fob for the reference product. This agreement, though not perfect (since the USA is not a signatory and since the utilisation of powdered milk for feeding animals is not controlled), has helped to put an end to the absurd price war which led to sales in world markets at prices ranging from \$13 to 16 per quintal and should provide a starting point for achieving a measure of order in the whole dairy product sector (especially as regards butter and butter products). Moreover, in order not to accentuate the already serious distortions in international

trade in agricultural products, in the sector of non-commercial transactions the donor countries, by a decision taken by GATT in February 1970, undertook to notify the contracting parties in writing of the programmes and procedures adopted. In the poultry sector, on the other hand, the working group appointed by GATT to examine the obstacles to trade recommended in 1971 a limitation of the amount of subsidies for exports from the EEC to the Swiss market.

Towards the creation of an enlarged European Community

The conclusion of the Kennedy Round represented a great success for the Community of the Six. Jean Rey, who had headed the Community delegation in Geneva, had represented the EEC practically alone, thus giving the impression to the principal protagonists at the negotiations of a Community that was solid and compact.¹² The undeniable success achieved by the Community at the Kennedy Round is attributable in large part to the attitude of the French government, which raised no insuperable obstacles to the negotiations. France honoured the undertakings given in the agreements of 11 May 1966 when, certainly to secure approval by the Federal Republic of Germany of the financial regulation for Community agriculture, she declared her willingness to assume an 'open' attitude towards third countries. Italy, on the other hand, displayed an unbelievable sense of indifference to what happened at the Geneva negotiations, to the point that Jean Rey, before taking the final decisions in the name of the EEC, did not consult the Italian government. Attempts to make good these weaknesses included the laudable action of the Italian Permanent Representative at GATT (who combined with his representational duties certain functions on behalf of the Italian Ministry for Foreign Trade), the constant concern of Minister Tolloy and the initiatives of CIRAI (for the agricultural sector), which seconded to Geneva one of its experts. It was clear, however, that too little had been done by Italy having regard to the importance of the negotiations, especially when it is considered that Italy had passed in the course of a few years from being a high tariff country to one with relatively low customs duties.

In relation to the USA, the EEC, dealing for the first time as an equal, stood out as a partner of decisive importance in world trade. The Kennedy Round thus marked the end of indiscriminate economic liberalism in international trade relations, and highlighted on the other hand the growing importance of economic regionalism based on groups of highly industrialised countries.¹³ 'The USA thus found herself facing a strong Europe', wrote Th. Heijzen, 'which although only partly integrated, proved to be less and less disposed to accept American leadership'.¹⁴ And the trial of strength

between the EEC and the USA was even sharper when, as sometimes happened, the United Kingdom made common front with the Community. The Kennedy Round thus marked the end of Western Europe's post war economic dependence and held out a prospect of new times in which Europe would follow its own ends on a basis of effective autonomy. Thus the Kennedy design for economic partnership was superseded by the idea of a Europe economically strong and possessed of objectives considerably different from those of the USA. In this way the principal political incentive of the Kennedy Round was that of finding solutions to avoid commercial conflicts between the principal protagonists in international trade.¹⁵ The Kennedy Round, moreover, by substantially reducing the effects of the economic division of Western Europe promoted the convergence of essential European interests. By the Geneva negotiations the EEC widened the range of its commercial relations in the European zone by concluding important agreements with Switzerland and the Scandinavian countries and drawing nearer to the countries in the East. And the realisation of the loss of importance of the United Kingdom, when faced by the predominant rivalry between the EEC and the USA, reinforced Britain's determination, despite conflicts in some sectors, to accede to the EEC. To this extent the conclusion of the Kennedy Round served as a prelude to the creation at a later date of an enlarged European Community.

Notes

¹ GATT, *The Kennedy Round of Trade Negotiations*, Int (67) 192, July 1967.

² For further details see: E. Preeg, *Traders and Diplomats*, The Brookings Institution, Washington D.C., 1970; J. W. Evans, *The Kennedy Round in American Trade Policy, the Twilight of the GATT?* Harvard University Press, Cambridge, 1971; Th. B. Curtis and J. R. Vastine, *The Kennedy Round and the Future for American Trade*, New York, Praeger, 1971.

³ For general considerations on the matter see: H. G. Johnson, 'Trade challenges confronting commonwealth countries' *International Journal Canadian Institute of International Affairs*, vol. XXV, no. 1 (winter, 1969-70) and the GATT Tariff Study, Summary Table no. 3, *Tariff and Trade Profiles by Stages of Processing*, Geneva (July 1970). For a more detailed analysis see: J. R. Melvin and B. W. Wilkinson, *Effective Protection in the Canadian Economy*, a report prepared for the Economic Council of Canada, Ottawa, Queen's Printer, 1968, p. 56 and Table No. 3.

⁴ Further particulars of the tariff concessions negotiated at the Kennedy Round are to be found in the five volumes of the GATT *Legal Instruments Embodying the Results of the Trade Conference 1964-67*. The principal

protagonists in the Kennedy Round have also published conclusive reports, which are of great interest. For the USA there are the publication of the Office of the Special Representative for Trade Negotiations, *General Agreement on Tariffs & Trade 1964–67*, the Trade Conference Report on United Negotiations, Washington, 1967, and the excellent production by the US Tariff Commission, *Operations of the Trade Agreement Program*, 19th Report, 1967, the White House report, *Twelfth Annual Report of the President of the United States on Trade Agreement Program, 1967* (8 Oct. 1968), Washington, and that of the US Department of Commerce, ‘Kennedy Round impact on promising US exports assessed’, *International Commerce* vol. 73, no. 47 (20 November 1967). For the EEC the report (inexplicably not published, but discussed by the European Parliament) *Relazione della Commissione al Consiglio sui Risultati dei negoziati commerciali di Ginevra nel quadro del GATT*, Brussels (14 Nov. 1967); the publication *Accordi bilaterali negoziati nel corso della conferenza relativa ai negoziati commerciali 1964/67* and the *Relazione generale sulle attività delle Comunità Europee nel 1967*, Brussels (Feb. 1968), pp. 407/418; and the document of the European Parliament prepared by M. H. Kriedmann, *La phase des négociations dans le cadre de l’article XXVII bis du GATT (Kennedy Round) qui s’est terminée le 15 mai 1967 à Genève*, doc. 61 (19 June 1967). For the United Kingdom the official report *The Kennedy Round of Trade Negotiations 1964/67*, presented to Parliament by the President of the Board of Trade, London, 1967. For Switzerland the official report *Message du Conseil Fédéral à l’Assemblée fédérale concernant l’approbation des accords conclus dans le cadre de la sixième conférence commerciale et tarifaire du GATT (Kennedy Round)*, Berne (15 Sept. 1967). For Denmark the official article by the Ministry of Foreign Affairs *Kennedy-runden Forhandlingernes forløb og resultater* ‘Uderings ministeriets Tidsskrift’, no. 35, 8 Sept. 1967, pp. 785–817. For Norway the official publication of the Foreign Affairs Department *Om samtykke til avgivelse av erklæring om gøkjennning av resultate av handelforhandlingene i Geneve 1964–1967* (26 Oct. 1967). For Canada the official report of the Department of Trade & Commerce, *The Kennedy Round, a Detailed Report*, Ottawa, 1967. For Austria an official article by the Federation of Austrian Industries, ‘Die Ergebnisse der Kennedy Runde’, *Ver-einigung Österreicher Industrieller*, Vienna (1967). For Belgium the official article of the Office Belge du Commerce Extérieur ‘Le Kennedy Round faisons le point... Et maintenant?’, *Information du Commerce Extérieur*, no. 41 (28 June 1967). For Ireland the official report *Accession of the Government of Ireland to the GATT*, Dublin (Nov. 1967). For the Federal Republic of Germany the report of the Federal Ministry of Economics *Ergebnis der Kennedy Runde (gewerblicher Sektor)*, Bonn (18 Sept. 1967). For Italy the official report of the Ministry of Foreign Trade and of the National Institute

for Foreign Trade, *Obiettivi e risultati dei negoziati commerciali GATT 1964–1967 (Kennedy Round)*, Rome (1968). For Spain the official article by the Department of Economic Studies of the Ministry of Commerce, *Las Concesiones de España en la Ronda Kennedy*, Madrid (4 July 1968). For New Zealand the official article of the Department of Foreign Affairs, ‘Statement by the Deputy Prime Minister and Minister of Overseas Trade Mr Marshal at the Twenty-Fourth Session of the Contracting Parties to GATT’, *External Affairs* vol. XVII, no. 11 (Nov. 1967) Wellington. For Australia the official declaration of Mr McEwen, the Deputy Prime Minister and Minister for Trade and Industry, *Australia’s Kennedy Round Concessions* (11 July 1967) Canberra.

⁵ R. E. Baldwin, *Non-Tariff Distortions of International Trade*, Allen & Unwin 1970. H. B. Malmgren, ‘La giungla delle barriere non tariffarie ostacola la libertà del commercio’ *Vision* no. 2 (January 1971); G. and V. Curzon, *Hidden Barriers to International Trade*, Trade Policy Research Center, London (1970).

⁶ G., and V. Curzon, ‘After the Kennedy Round, what trade policies now?’ *The Atlantic Trade Study* London (February 1968) p. 20.

⁷ E. H. Preeg, *cit.*, *op.* p. 149.

⁸ COPA, *Résolution de l’Assemblée extraordinaire* (23–24 November 1967) Düsseldorf.

‘CIRAI, *Promemoria sui problemi dell’organizzazione dei mercati mondiali dei prodotti agricoli* (November 1967) Rome.

¹⁰ I. Hedges, ‘Kennedy Round agricultural negotiations and the world grains arrangement’ *Journal of Farm Economics* (December 1967) p. 134.

¹¹ *Ibidem*, p. 1340.

¹² ‘Une grande étape’ *Le Monde* (18 May 1967).

¹³ B. Balassa, *Trade Liberalization Among Industrial Countries, Objectives and Alternatives*, McGraw-Hill (1967) p. 29.

¹⁴ Th. Heijzen, ‘Le point de vue de la Cee: un succès pour l’action commune’ *Revue économique franco-suisse* (July 1967).

¹⁵ G. Weil, ‘Kennedy Round: a hollow success’ *Agenor* no. 2 (1967).

10 Neo-protectionism

Escalation of protectionist measures

The hard bargaining carried on in the Kennedy Round between the principal protagonists in Geneva aroused the resentment of businessmen in the USA, who got the impression that the liberal and clear sighted initiatives of President Kennedy favoured the commercial interests of other countries. This impression was heightened by the fact that the Common Agricultural Policy of the EEC emerged reinforced from the Geneva negotiations and that the American administration, disregarding an explicit resolution by the Senate, had agreed to abolish the ASP. Significant of the general attitude was the stand taken by Thomas Turcan, an authoritative exponent of the interests of the US chemical industry, who declared: 'We have opened the door to allow foreign products to enter our domestic market by making the biggest tariff reductions ever known in the history of the USA, and in return we have only received trifling concessions'.¹ In this situation the lobbies in the US Congress, dissociating themselves from the line taken by the Executive, found fertile ground in the request for measures for the defence of the national industry against 'aggressive foreign competition'. Within a few weeks of the conclusion of the Kennedy Round more than a hundred bills concerning 42 per cent of US imports were presented to Congress by the influential Senators Long, Mills and Dirksen to limit US imports of steel, textiles, lead, zinc, clocks and watches, certain electronic products, mink, meat, fish, dairy products, tomatoes, honey, wine, strawberries, etc.

The flood of 'quota bills' presented to the US Congress aroused a storm of protests from the partner countries and from certain sectors of American industry itself, particularly from the big multinational combines (IBM, Ford, General Motors, Boeing, etc.) forming part of the Emergency Committee for American Trade. The Johnson Administration, surprised by the scale of the protectionist movement, also reacted vigorously. 'Besides prompting retaliation', declared the Ambassador William M. Roth, 'the proposed quotas would insulate the domestic market from outside competition and freeze world trade into the patterns of the past. The result would be creeping stagnation'.²

The Johnson Administration therefore put the accent on the necessity for checking the outflow of dollars (imposing controls on US investment abroad and asking the banks to curtail further their loans abroad), for expanding exports (granting financial aid to undertakings that had combined for the

purpose of selling abroad, increasing the financial guarantees of Eximbank, etc.) and for implementing the programmes of adjustment assistance to companies and producers suffering from foreign competition. And for its part the EEC, together with EFTA, Canada and Japan, declared its readiness, in order to ward off the protectionist danger, to advance to 1 January 1969 the implementation of its own undertakings under the Kennedy Round, provided that by that date the ASP was abolished and the USA took no steps to restrict imports or to grant export subsidies.

The USA, however, did not avail itself of the offer by the partner countries, wishing to retain all the legal resources of the GATT Charter to protect the sectors threatened by foreign competition. Johnson, moreover, in face of the pressures exerted by the protectionist groups, besides being obliged to defer the presentation of a bill on trade (to ensure that Congress did not convert it into an instrument of protection) was moved to adopt some measures of protection. In particular, the USA imposed countervailing duties on the Community exports of tomato purée and canned foods, reinforced the system of quotas for dairy produce, trebled the tariff protection on assorted woollen textiles (imported mainly from Prato in Italy), increased the duties on ski-lifts and parts thereof imported from Italy and applied certain forms of administrative protectionism (relating for example to the use of trade marks and the insertion in the customs regulations of provisions concerning public safety, notably in relation to imports of automobiles).³

The advent of the Nixon Administration to power in January 1969 strongly reinforced the protectionist tendencies. About 270 bills were presented to Congress to limit imports of a wide range of products. Three new factors favoured the protectionists: Nixon's promise to the Southern States to adopt restrictive measures on woollen and synthetic textiles; the increase in the balance of payments deficit; and the changed attitude of the trade unions to US trade policy, and more especially to the multinational companies accused of 'exporting jobs' and so aggravating unemployment in the USA.

To contain the threat of quotas and other restrictive measures by Congress, the Nixon administration which, in this initial phase at least, continued to profess a free trade ideology (with the slogan 'we are free traders at heart') exerted pressure on the partner countries to reduce 'voluntarily' their sales to the USA, in particular their sales of woollen and synthetic textiles, imports of which were rising sharply (the balance of trade in this sector, which had been in surplus in 1961, closed with a deficit of \$1.4 milliard in 1970).⁴

The hopes of Nixon were disappointed at the outset, however. The partner countries rejected the American proposal. In particular, the EEC pointed out that US imports of textiles, although on the increase, accounted for barely 8.5 per cent of internal consumption; that the difficulties of the US industry

were the same as those encountered in the industry in the Community, which was also in a phase of reconstruction; that the American textile industry, even if it did not earn the same high level of profits as other sectors, was in good shape, whereas the industry in the Community found it hard to survive; and that the extension of the Agreement of 1962 to woollen and synthetic textiles would provoke a dangerous switch of exports from the Asiatic countries to the European markets. The EEC finally pointed out that to accept an agreement for voluntary limitation on textiles would prompt other sectors of the American economy (the footwear sector for example) to demand the same treatment, especially as in December 1968 a 'voluntary' agreement had been worked out for steel which limited imports into the USA. In this way, the proliferation of agreements for individual sectors would have ended up by side-stepping the GATT regulations, in particular Article XIX (to which the contracting parties can resort in case of sectoral difficulties) and by calling in question the rules of good conduct in international trade laid down in the General Agreement.⁵ Japan, for her part, an important supplier to the USA and consequently directly involved, maintained that the USA had not established statistically to her satisfaction that a crisis existed in the American textile industry. Indeed, a report by the US Tariff Commission itself in January 1968 had referred to 'a period of spectacular development' since the beginning of the 1960s in the US textile industry.⁶ Moreover, experience of the Long-Term Agreement on cotton textiles had proved disadvantageous to Japan, whose exports had declined appreciably and did not even attain the level of the quotas set. Japan declared, moreover, that she was only willing to consider voluntary restrictions for certain categories of textiles, restrictions which she agreed to work out at multilateral negotiations.⁷

To overcome resistance from the partner countries, in November 1969 Nixon tabled a bill (the Trade Act of 1969) which, though containing certain positive elements (such as the abolition of ASP and the official payment of US contributions to GATT), laid down that the solution of the textile problem called for the adoption of special measures and that adequate measures should be adopted in case of 'illegal' or merely 'unjust' restrictions that might damage US exports. Between April and August 1970 this bill assumed a strongly protectionist character as a result of changes introduced by the Ways and Means Commission of the House of Representatives under the chairmanship of Senator Wilbur Mills, until a short time before an exponent of free trade. Provisions were added providing for the introduction of import quotas for textiles and footwear, the introduction of a protection mechanism that would come into operation automatically whenever the increase in imports exceeded 15 per cent of US internal consumption, and *de facto* fiscal exemption for undertakings specialising in exports. Furthermore, the quotas provided for in the 'Mills Bill' were at the levels attained by US imports in

1967–69, giving rise to drastic reductions in the levels reached by imports in 1970.

The Nixon bill thus amended was adopted in August 1970 by the Ways and Means Commission, and on 18 November 1970 by the House of Representatives. In the meantime the bill had been studied also by the Finance Commission of the Senate, which suppressed two features: the DISC project and the abolition of ASP. In addition, Senator Russel Long combined the Mills Bill with a law on social security in order to facilitate its approval by the Senate. But this crafty manoeuvre by the protectionists did not succeed. In the last days of December 1970, the Senate rejected both projects.

The Senate's refusal to approve the Mills Bill was principally due to the possibility of finding a firm solution for the textile question. Senator Mills himself decided not to support the bill that bore his name when it was realised that its tactical purpose (as an instrument for exerting pressure on Japan) had been so distorted that it had become a dangerous instrument of general protectionism. And the presentation of a new version of the Mills Bill immediately after the vote turning it down in the Senate was aimed specifically at maintaining pressure on the Japanese in the hope that they would yield. The new elements that gave a lead on a solution of the textile problem, one of the most complex disputes of trade policy, were as follows:

1 The EEC, though it had taken a fairly firm stand on the Mills Bill, showed that it had no wish to apply restrictive measures on imports in case of a reflux of Japanese exports to Europe.

2 The Japanese Prime Minister Sato had appealed to the industrialists in the textile sector to arrange a voluntary limitation of exports to the USA. In this way, thanks to the efforts made by the EEC and Japan, informal negotiations between Mills himself and the Japanese Ambassador in Washington, Ushiba, were conducted at a brisk pace so that in March 1971 the Japanese textile federation announced that it was willing, as a 'maximum sacrifice', to control all its exports to the USA on the one basic condition that the other major exporting countries in Asia also participated.

The satisfaction derived from this announcement was short lived. Adopting the propositions of the textile lobbies, Nixon, annoyed at being side-tracked by Senator Mills, rejected Japan's offer out of hand on the grounds that the Japanese industrialists were taking as their reference point the volume of exports in 1970 rather than the volume over the three year period 1967–69; that a global limit was under consideration rather than separate totals for each category of product; and that the concession was for a period of three years rather than a longer one. The official US–Japanese negotiations were thereupon resumed. Mills, 'surprised and disappointed', declined to give his

support to the bill that bore his name, and the Japanese industrialists as a demonstration of good will decided to apply from 1 July 1971 the 'voluntary' restrictions they had announced, notwithstanding that the other Asiatic countries had not followed in their footsteps. But none of this served to diminish the intensity of the protectionist offensive which, if anything, increased in virulence.

The Nixon administration, apart from blocking imports of personal firearms in the interests of internal production, maintaining the archaic oil import quota system (although quotas had to be increased by 50 per cent for refined and raw oil), reinforcing import controls on beef (which, however, had to be suspended for a year starting on 29 January 1973), intensifying the application of various forms of administrative protectionism and suspending the customs valuation regarding Japanese colour television equipment, etc. pressed the European textile producers to favour an international multifibre agreement aimed at limiting imports from less-developed countries,⁸ exerted pressure on South Korea, Taiwan and Hong Kong (to persuade them to accept a programme for the voluntary limitation of exports) and obtained from the Italian government a voluntary limitation of exports of footwear (under the 'statistical visa' procedure). Furthermore, in order to obtain concessions from the partner countries on the commercial plane, the Nixon Administration did not hesitate to resort to heavy political pressure. The appeal addressed by the Japanese Prime Minister, Sato, to his own producers (for a voluntary limitation of textile exports to the USA) was the result of an agreement with Nixon for the restitution of Okinawa. The Nixon Administration, moreover, while rejecting the proposal of Senator Mansfield who in May 1971 had asked for a substantial reduction of the US armed forces in Europe for budgetary reasons, requested the allied countries 'to assume greater collective responsibility in the defence of the free world'.

The protectionist movement increased sharply in intensity in the summer of 1971 when, faced by a sharp deterioration in the US balance of payments, President Nixon's new assistant for international economic affairs, Peter Peterson, sought a 'tougher' policy towards Japan and Europe on commercial policy and 'burden sharing' for defence expenditure, the realignment of the currencies of the partner countries and, as regards American industry, a reduction in taxation, State subsidies and less severe anti-trust legislation.⁹

Following on the heels of these protectionist measures, the measures taken by President Nixon on 15 August 1971 (inconvertibility of the dollar into gold; imposition of a surcharge of 10 per cent on imports; tax incentives for exporters; a tax credit of 10 per cent for industrial firms purchasing machinery 'made in USA'; a reduction of 10 per cent in economic aid to foreign countries; and a price and wage freeze) could only come as a surprise to the unthinking.

According to the statements of Nixon himself, the imposition of a surcharge on imports not subject to quantitative restrictions constituted a minor hindrance rather than direct controls (in the form of a general system of quotas) on the volume of imports. And the tariff surcharge, applied in the past by Canada, the United Kingdom and France,¹⁰ avoided the introduction of heavy administrative machinery, placed no absolute limits on imports and did not call for the subdivision of the sources of supply among importers. The surcharge was to be of a temporary character, moreover, and was not aimed at any country in particular. Furthermore, the decision to institute a surcharge exerted pressure on the partner countries to revalue their own currencies, a necessary step when it is considered that the extraordinary economic development that had taken place in Europe and Japan had not been accompanied by any adjustment of the rates of exchange in relation to the dollar.

Finally, it was not to be denied that President Nixon, faced with the necessity of rectifying an objectively difficult internal economic situation (which in view of the great importance of the US market concerned all the Western countries), besides endeavouring to check internal consumption (by freezing prices and wages and reducing Federal expenditure), saw fit also to impose sacrifices on the partner countries.

The measures of 15 August 1971, castigated by GATT as 'illegal' and 'inappropriate', marked nevertheless the start of a new US commercial policy highly egocentric in nature, founded on the dangerous assumption that America was in a position to dictate laws to the partner countries and, given the modest incidence of foreign trade on the national product, to face with comparative equanimity the possibility of a trade war.

In a report published in October 1971, the Williams Commission, given the task of laying down guidelines for American commercial policy, called on Nixon to adopt a 'tough' attitude to secure removal of the 'unjustified' restrictions on imports of American goods.¹¹ And Nixon himself on 15 October 1971 demanded from Japan and the other Asiatic countries that they should voluntarily limit their own exports of woollen and synthetic textiles under threat of applying unilateral quotas under the 50 year old Trading with the Enemy Act. In November 1971 the US delegation to GATT obtained an undertaking from the contracting parties to proceed to a 'statistical study' for the purpose of establishing to what extent the most-favoured nation clause had suffered erosion through the proliferation of regional and preferential agreements.

On the other hand, the Smithsonian Agreement of 18 December 1971, which provided (in return for monetary realignment by the partner countries) for the suppression of the surcharge and of the even more harmful tax credit for purchases of plant 'made in USA', left many basic problems unsolved.

No settlement has been reached in fact on the question of the US balance of payments deficit which, having its roots in non-commercial causes, can only be dealt with by measures aimed in the internal field at reforming the US economy, and in the external field at reducing the cost of military aid, and at controlling exports of capital and the Euro-dollar market. Still to be solved is the problem of the inconvertibility of the American currency, so that the devaluation of the dollar is of limited value, especially as the 'dollar standard' is still at the centre of the international monetary system. Still open too is the problem of the 'dollar balances', the volume of which is so huge that it is hard to see how equilibrium can be re-established rapidly without disturbing international trade. 'In view of this state of affairs', observed Robert Triffin, 'by the realignment of parities we have only gained a year or two, but unless we move towards an internationalised system to avoid the dangers arising from the existence of a dominant currency, from erratic movements of capital and from the distortion of exchange rates, sooner or later a new crisis will break with even more serious consequences'.¹²

On 13 February 1973 – just over a year after the adoption of the Smithsonian Agreements – the American authorities, faced by an increasing trading deficit (which in 1972 reached \$6.5 milliard as against \$2.1 milliard in 1971) decided again to devalue the dollar by 10 per cent. And since, according to the most optimistic view, a surplus in the US trade balance will not re-emerge before 1975 and a basic monetary reform is still years away,¹³ a new American trade offensive can be expected.

After the concessions extorted from Japan (an undertaking to purchase US products to a value of \$1.1 milliard, and reductions in customs tariffs and in quantitative restrictions) and from the EEC (an undertaking to increase by 1.5 million tons the normal stocks of wheat; to avoid shifts in the trade flows through the concession of restitutions; to hold consultations on the problems of the organisation of duties applicable to manufactured tobacco; to foster imports of oranges and grapefruit by lowering the CET duties and to exempt certain products from the Community mechanism which provides for the application of countervailing duties on agricultural imports from third countries), the American leaders are determined to profit to the utmost from the uncertainties of the partner countries.

Of particular significance in this connection are the statements made by the Secretary of the Treasury, George Shultz, who in his briefing announcing the new devaluation of the dollar said that 'our trade position must be improved; if we cannot accomplish the objective in a framework of freer and fairer trade, the pressure to retreat inward will be intense',¹⁴ and of House Ways and Means Committee chairman, Wilbur Mills, who in an interview to *Der Spiegel*¹⁵ in September 1972 maintained the necessity for greater financial participation in NATO and for establishing a system for the voluntary

limitation of sales in certain sectors (including, in particular, textiles, footwear, electronics, clocks and watches). President Nixon himself, on the other hand, in his proposals to the Congress for new trade legislation, was reported to have decided to include the authority to impose an across-the-board import surcharge when the nation's balance of international payments was in deficit, and parallel authority for a uniform cut in tariffs when the balance of payments was in surplus. And even more serious is the indiscriminate support given by the big trade unions headed by the AFL-CIO to the Burke-Hartke Bill which, introduced in Congress in the autumn of 1971, would if enacted have had drastic effects on imports. Under the Burke-Hartke Bill quotas would be established for all imports, based on the averages of 1965–1969. In addition, American investments abroad, especially by multinational corporations, would be discouraged by a variety of means (for example by withdrawing tax benefits).

An economic cold war is therefore going on between the United States and other countries, and it could develop into a trade war capable of provoking a worldwide business depression. This is not mere speculation. If the absence of retaliation against the import surcharge adopted in August 1971 was due to widespread acceptance of the US Administration's assertion that it was solely a temporary bargaining lever, and to widespread acceptance of the need for a realignment of exchange rates, and if the absence of retaliation against the new textile restraints is due to their very special place in overall US–Japan relations since 1969, no such tolerance by trading partners could be expected in the face of legislation anything like the Burke-Hartke Bill.

On the other hand, the US Government, as before in the case of the Mills Bill, is using the growing protectionist sentiment in Congress as a means of exerting pressure on the partner countries. Thus, by warning of worse protectionist moves of the kind envisaged in the Burke-Hartke Bill, the US Government induced the steel cartels of Europe and Japan to accept a sharp cut in their quotas, an annual rate of increase of only 2.5 per cent in sales to the US market (compared with a 5 per cent growth rate under the 1969–71 quota agreement) and tight tonnage limits on product categories, which further limit competition.

Moreover, the USA risk getting international trade caught up in a series of paralysing restrictive trade practices. The Treasury Department is stepping up its drive against dumping of foreign products in the USA. In particular, the latest move is to consider products sold in the USA at prices below production cost as candidates for the imposition of anti-dumping duties, even if the products are sold at a loss from their country of origin. Similarly, foreign goods the export prices of which do not reflect revised currency values are investigated under suspicion of being dumped. In addition an increasingly more extensive interpretation is being given to 'countervailing

duties' to include the entire system of subsidies to Community agriculture, rebates on exports connected with indirect taxes, notably the Value Added Tax, and all the forms of relief (tax and customs exemption, special tariffs for public services, loans at low rates of interest, etc.) which (as in the case of the 'Michelin Corporation' established in Canada, whose exports to the USA were penalised) reduce industrial costs in depressed areas. Furthermore, the US customs enforce to the letter the current regulations and laws, especially as regards the classification of goods, application of the duties most favourable to the Administration and action against illicit practices. Nor must it be forgotten that customs attachés have been appointed at US Embassies to glean information on the price and cost of foreign goods, nor that enquiries have been initiated into certain products suspected of infringing American patents. Similarly it is to be noted that the US export incentives have been stepped up (particularly as regards the rules governing financing facilities for medium term credits) and that by a law of December 1971 the US Congress introduced the DISC system, the only measure of August 1971 still in force, which, by delaying the payment of taxes on 50 per cent of the profits earned by US enterprises engaged in international trade, artificially boosts American exports.

Reasons underlying neo-protectionism in the USA

The protectionist sentiment that exists in the USA, said A. K. Watson, formerly US Ambassador to France, must be seen in the context of an exasperating inability to secure from trade at long term sufficient income to finance the whole of the country's commitments abroad. The real problem was to finance the country's undertakings (aid to emergent countries and military assistance) out of the trade surplus. Earnings from trade must be sufficient for example to cover the cost of maintaining 250,000 men in the Federal Republic of Germany and the Sixth Fleet, expenses incurred by the USA for the benefit of the entire free world,¹⁶ and the enormous US trade surplus of over \$6 milliard in 1964 has not only disappeared but in 1971, for the first time since 1893, it gave way to substantial deficits in 1971 (\$2.1 milliard) and in 1972 (\$6.5 milliard), further weakening the traditional deficit on the balance of payments.

However, though over the years 1965–1970 US imports undoubtedly increased at more than twice the rate of exports, producing a rapid deterioration in the balance of trade, this is attributable to the effects of inflation, the main causes of which are the cost of the war in Vietnam, the poor functioning of the Gold Exchange Standard, the inadequacy of the country's budgetary and financial administration, the Executive's weakness in face of the ex-

cessive power wielded by the trade unions, the universal extension of indebtedness (the national debt rose to almost half the amount of the national income of the country) and the precarious state of the Federal State and local government finances (the balance sheets for which for the last three years have shown a record deficit of over \$80 milliard).¹⁷ And the balance of payments deficit has reached alarming proportions, since the USA, seeing itself as the central bank of the world, has consistently underestimated the increase in its indebtedness to other countries. Thus in the period 1956–1970 the USA has lost 13 milliard gold dollars and has run up short term debts to foreign countries to the amount of \$43 milliard. And since the American foreign exchange reserves (gold and drawing rights on the IMF combined) amount to barely \$13 milliard, the USA has a deficit of \$27 milliard which is increasing at the rate of over \$10 milliard per annum. Moreover, the measures adopted by the other central banks to keep under control the rampant inflation are undermined by the influx of dollars in search of a higher return. Thus monetary policy in the West is determined in practice in Washington, so that Western Europe is in danger of finding itself tied to the USA in an alternation of inflation and a fight against inflation.

‘The influx of dollars’, according to Trouvain, the manager of the economic research department of the Deutsche Bank, ‘has seriously aggravated what was already a serious measure of inflation caused to a large extent by soaring wages, with the result that to-day we are suffering from more severe inflation than most other countries, the USA included’.¹⁸ ‘Seeing that the really important cause of the growing balance of payment deficits in the USA is to be found in public sector expenditure’, stated R. V. Roosa, formerly Under-Secretary of State of the Treasury, ‘it does not seem possible to improve the position of US relations with foreign countries by simply arranging conditions to produce a trade surplus’.¹⁹ No country, not even the richest power in the world, can go on spending abroad more than it receives from net earnings from trade, from investments abroad and from the money market. In the sector of military expenditure, therefore, the USA, who today has 386 major bases and 2,000 smaller ones throughout the world, should make efforts to reduce the extent of her military apparatus instead of merely exerting pressure on Europe and Japan. Moreover, apart from purchases of US military material by the partner countries, the cost of maintaining American military forces in the Federal Republic of Germany is of the order of \$500–900 million, which is not an exorbitant amount in relation to a balance of payments deficit of some \$10 milliard per annum. According to a statement by G. Ball the USA could maintain her military forces more cheaply in Europe than in the USA. Only a move to withdraw US forces throughout the world would be significant,²⁰ especially as for 1974 the budget for defence will attain the record figure of \$81.1 milliard.

It needs to be emphasised, however, that the main factor in the US balance of payments deficit is the movement of capital and in particular the constant increase in direct investment abroad. 'No item in our balance of payments', points out R. Triffin, 'has been steadier or more regular, year after year, than the gross exports of US capital, principally direct investment and aid to foreign countries, exports which are increasing at an annual rate in excess of \$ 10 milliard'.²¹ In 1970 direct investment by the USA in foreign countries rose, in merely accounting terms, to \$ 78 milliard (compared with \$ 7 milliard in 1946), producing radical changes in the traditional mechanisms of commerce and production. Thus, according to estimates made by R. Vernon, production by the 8,000 subsidiaries of US companies established abroad in the last 25 years amounts to some \$ 200 milliard, or five times the amount of US exports of goods and services. This is increasingly the case with American companies which manufacture abroad products to be sold in the American market, so that an increasingly large proportion of US 'exports' and 'imports' consists of 'internal' transactions by multinational companies (or 'intra-trade' between companies based in the USA and their foreign branches or subsidiaries).²² Moreover, apart from being financed to a growing extent by other countries,²³ American investments abroad provide cover for the repatriation of an increasing volume of profits (over \$ 9.3 milliard in 1971), which is expected to rise to the imposing figure of \$ 17 milliard by 1975 and should make up to a large extent for the deterioration in the balance of trade. The transfer of American production abroad is the basic reason, however, for the changed attitude of the trade unions (especially the AFL-CIO), probably the biggest supporters of protectionism. The unions, which had previously supported free trade and had contributed substantially to the adoption of the Trade Expansion Act of 1962, have now accused the big multinational undertakings based in the USA of 'exporting jobs' and causing serious damage to the already serious employment situation. Various labour intensive items (pullovers, woollen textiles, footwear, radios, etc.) are not able to withstand competition from low wage countries (Taiwan, South Korea, etc.), so that the trade deficit in the sector for products with a low technological content rose in the USA from \$ 1.6 to 6.1 milliard over the years 1964-1970. As had already occurred in the United Kingdom at the end of the 1920s in the case of the jute industry (transferred to India), and in Lancashire in the 1930s in the case of the cotton industry (transferred to Asiatic countries), the US unions had not shown any particular concern about the creation abroad of branches of US companies. But since 1965 American companies have begun to transfer to low wage countries the production of some relatively complex articles (transistor radios, type-writers, etc.), and the unions, particularly in the present economic situation with about 5.5 per cent of the working population unemployed, reacted by protesting at the transfer abroad of a substantial

part of manufacturing industry. The traditional compensation for a loss of jobs in the labour intensive industrial sectors by the creation of new jobs in the high technology sectors is often frustrated by a rapid transfer of technological innovations to foreign countries with an abundance of low wage labour with high productivity. The reasoning of the US unions smacks, however, of economic nationalism. It is idle for the rich countries, especially the USA, to try to produce more textiles, footwear, radios, etc. when these products can be supplied at moderate prices by the emergent countries.

In addition the enquiries by the Emergency Committee on American Trade confirm the validity of the findings of the US Department of Commerce to the effect that for each \$1 milliard exported for direct investment abroad 200,000 jobs are created in the USA, so that altogether the opening up of the USA to the rest of the world, instead of causing a loss of a million jobs (as the unions claim) would have produced a net increase of about 300,000 jobs.

In the long run it is not right that the developed countries should protect themselves against competition from the low wage countries. Instead, the countries with a mature economy should reconstruct their industries of a labour intensive type and confine themselves to producing quality products, and should specialise in industrial sectors requiring a large amount of capital and employing advanced technologies. US industries in the technological sector actually show a substantial surplus (\$9–10 milliard in 1968–1970). And by adopting the principle of admitting finished and semi-manufactured products from the third world to their markets free of duty, the developed countries seem to have grasped what is in their best interests in the long run. Thus in the textile sector there is a strong tendency to transfer the industry from the developed countries to those in course of development. And this is a movement that concerns not only the USA, but the other developed countries as well. In Japan, for example, the increase in wages has prompted the businessman to start up new plants in South Korea. On the other hand, there is some exaggeration in the accounts that vast sectors of US industry are in a disastrous position and that the US market is undergoing a massive invasion from foreign products. Imports only represent about 2·5 per cent of total American production and about 4 per cent of the national product. Even the sectors that make the heaviest claims for quota treatment for imports stand up well to foreign competition. Textile imports, as stated above, only account for 8·5 per cent of internal consumption. Imports of footwear represent 25 per cent of the US market in terms of millions of pairs, but in terms of value no more than 13 per cent, since the bulk of the articles imported (sandals) are cheap and do not compete directly with the American product. Steel imports are on the decline in consequence of the agreement for voluntary limitation accepted by the European and Japanese producers.

The producers in certain sectors, e.g. electromechanical domestic appliances, motor vehicles, etc. are opposed to any restriction on imports, however, since they find it convenient to purchase parts and accessories abroad to complete their own production. 'Rather than seeking protection', declared J. Wayman, the Vice-President of the Consumer Goods Department of the Electronic Industries Association, 'we have learned the lesson of competition'.²⁴ Nor should it be forgotten that direct investment by the USA creates in the partner countries a substantial amount of purchasing power for imports of American products. It is no accident that the USA has a trade surplus with Western Europe where the bulk of her investment is concentrated. And if it were assumed that the whole of the investment abroad by the USA were eliminated, America would suffer a direct loss estimated at \$17 milliard from the inevitable contraction of exports and investment income.²⁵ From an enquiry conducted by the US Chamber of Commerce, however, it seems that the Americans invest abroad not so much to obtain cheap labour as to secure and maintain trade connections that would otherwise be lost to foreign competitors. It is thus clear that direct investment abroad meets the objective requirements of a new international economic organisation (characterised by the internationalisation of production, highly efficient systems of communication and transport, rapid diffusion of technological knowledge, greater flexibility in the distribution of resources, etc.) which no country can afford to neglect. In the face therefore of a radical transformation of international trade, the inevitable short and medium term difficulties encountered in certain industrial sectors must be met not by protective measures (which are bound to provoke retaliation), but by appropriate policies of 'adjustment assistance'. Thus in the textile sector, for example, the difficulties in the USA concern in the main the small undertakings, while a large part of the sector is controlled by some ten big concerns whose profits are rising rapidly all the time. It is to be regretted, therefore, that on this front the USA is lagging behind. Since November 1969 alone, the US Tariff Commission has given favourable examination to 46 cases benefiting 15,000 workers.²⁶

Economists of all persuasions point out, however, that a mature economy such as that of the USA is bound to lose its lead in the export of manufactured goods and to take over as the prime exporter of services. The development of the tertiary sector is going ahead at a rising rate in the USA. It is mopping up an increasing demand and stimulating unproductive investment on a massive scale. Its development is disturbing the power relationships in a finely balanced economy which until a short time ago was geared to the multiplication of goods and productive efficiency. 'The production of goods', observed J. Rozner, Director General of the Inter-European Council, 'is becoming less and less important to the American labour force'.²⁷ The

eruption of a new style of social life and individual behaviour testifies to this at various levels. Modern inflation, in contrast to its classical sources, draws fresh sustenance today from the tertiary sector, so as to increase sharply the disequilibrium in the value relationships in the US economy. The measures taken by the Administration on taxation, credit, discount rates, etc. have overall harmful and deflationary effects in the industrial sector, and are proving ineffectual in the sectors in which the inflationary processes are forming today. The burdens imposed on the productive sector only serve to accentuate the phenomenon of inflation, the most serious expression of which is to be found in the reduction of the coefficients of productivity. The revolt of the younger generations against the consumer society is thus explained by the will to rise above the industrial era to define a new type of society which, though at present in a somewhat confused way, goes beyond a society of mere producers.

The weakening of the commercial strength of America is also to be ascribed to the relative decline of the US economy in the world. The supremacy of the American economy, which was absolute in 1950, has deteriorated gradually, and if in 1972 the US economy still stands first in the world, the economies of Japan and the Western European powers follow close on its heels. Nixon himself, in his speech on the 'changing society' admitted that 'the USA is no longer in a position of complete superiority' and in 5–10 years will have to learn to share her leading role with four other 'centres of power: Japan, Western Europe, USSR and China'. 'This situation', added Nixon, 'represents a development which twenty-five years ago was in nobody's thoughts.' The slowing down of productivity (which increased by barely 2 per cent in the period 1965–70, while in Japan and the Federal Republic of Germany it increased by 14.2 and 5.3 per cent respectively) accounts on the other hand for the relative decline in the American economy. In certain sectors, moreover, the success achieved by foreign products is due not only to a more competitive price, but to elegance, innovations in design and the offer of superior products. 'The troubles of New England's shoe industry', wrote the *Economist* on 27 June 1970, 'are in large measure due to antiquated plants, high costs of production and a general change in taste which makes the American consumer prefer the Southern European and Oriental products.' It is not surprising, therefore, that US companies like Genesco, U.S. Shoe, Brown Shoe, etc. should prefer to purchase outright the entire production of numerous Italian or Spanish factories rather than think of competing or seeking restrictive measures on imports. The increase in imports of steel, however, apart from any industrial vicissitudes (strikes, etc.) is to be explained by the delay of American industry in adopting the oxygen method of the Austrian company Voest, a method which the Japanese adopted rapidly, so that today they possess the most efficient iron and steel

industry in the world. To restore the competitive position of the American economy, the American Administration should therefore exert an enormous effort inside the country to promote the modernisation of plants and stimulate free competition. But instead, yielding to pressures from the protectionists, besides endangering the fortunes of the entire Western economy, all that is done is to favour sectional interests and endanger the entire American economic system in general. The most glaring example in this respect is that of steel. The operation of 'voluntary' quotas is tantamount to granting the US iron and steel producers – according to estimates made by R. V. Vambery – an annual subsidy of the order of \$ 600 million, which could rise in a short time to \$2 milliard.²⁸ It is clear, moreover, that providing permanent protection for the American steel industry results in higher costs for the whole of US industry, the Government and the consumer included. The development of such additional costs under the cloak of protectionism has already increased by 100 per cent the costs of naval construction, the textile industry and many others. The contention must therefore be rejected that the American trade deficit is the result of 'restrictive and discriminatory practices by the partner countries'. In actual fact, the US economy is not an 'open market', as the protectionists aver. If a comparison is made between the level of customs tariffs for industrial products in the USA and the EEC (see Table 9.2 in Chapter 9), it can be said, without going into details, that the US tariff is higher in various sectors (hides and skins, textiles, glass, ceramics, precious metals, nickel and semi-manufactured products thereof, clocks and watches, travel goods and office furniture), whereas the CET is higher in only a limited number of cases (paper and paperboard, aluminium and semi-manufactured products thereof, electrical machinery and equipment and means of transport, especially vehicles). Furthermore, as regards chemical products the ASP practice considerably increases the effect of the US duties. And even if the ASP were abolished, the US tariffs would still be appreciably higher for inorganic products, especially dyestuffs. In any case, however, the US tariff is appreciably wider than the CET and includes a larger number of high customs duties.

If consideration is then given to the quantitative restrictions in the sector of industrial products (see Table 10.1) it will be seen that the restrictions imposed in the USA, besides comprising a relatively high number of products (67 in 1970), concern the largest volume of trade (19.7 per cent of the value of imports in 1970). Quantitative restrictions in Japan comprise a larger number of products (81 in 1970), but cover a smaller proportion of trade (11.4 per cent of the value of imports in 1970). Quantitative restrictions in the EEC, while covering a relatively high number of products (65 in 1970), affect barely 4.3 per cent of the value of imports. It is also significant that quantitative restrictions in the USA are increasing rapidly (from 7 in 1963

to 67 in 1970), whereas those in Japan are declining rapidly (from 132 in 1963 to 81 in 1970), as also are those imposed in the EEC (from 78 in 1963, to 65 in 1970), although at a slower rate.

As regards non-tariff barriers other than quantitative restrictions,²⁹ the USA points out as regards the European countries, *inter alia*, that state orders are often awarded to local producers under administrative procedures which actually exclude any possibility of competition from American undertakings; that road taxes in certain European countries bear particularly heavily on vehicles having engines of a high cylinder capacity and vitiate the efforts of American producers to penetrate the market; that the increase in tax adjustments at the frontier (following the introduction of the value added tax) constitutes an illicit barrier to international trade; that the agreement concluded between France, the Federal Republic of Germany and the United Kingdom (an agreement open to other European countries) on the inspection of electronic elements to encourage their reciprocal acceptance in the European area entails a direct loss of US sales; that the restrictions on the import of coal and similar solid fuels are an obstacle to the establishment of American superiority in this field; and that the existence of many other barriers (such as the embargo on retail sales of pharmaceutical specialities, the impossibility of advertising certain products, etc.) limits American commercial penetration. In addition, in relation to Japan the USA criticises, among other things, the tax of 150–200 per cent on high quality whisky and certain types of wine; the tax of 15–20 per cent on sales of motor vehicles; the annual road tax of \$100–167 imposed on vehicles with engines of a high cylinder capacity; restrictions on investment of capital which prevent the establishment of American subsidiaries; the regulations of 25 September 1963 which in practice restrict State orders for a large number of products (motor vehicles, computers, aircraft, machine tools, etc.) to local producers; the State trade for basic tobacco manufactures; and credit restrictions imposed on all imports, etc.

But none of these barriers is peculiar to Europe and Japan. The USA, and for that matter all the industrial countries, also impose numerous non-tariff barriers. In the matter of customs valuation, the USA, unlike the majority of countries which in 1951 signed the Brussels Convention on the valuation of goods for customs purposes adopting a standard definition of value (based on the 'landed cif value') continues to use national systems of its own, systems not only different, but manifold, going back to the Tariff Act of 1940 as partly amended by the Customs Simplification Act of 1956. The most serious case of customs valuation by the USA, apart from the fully documented case of the ASP, relates to the products (about 1,015, including chemical, mechanical, automobile and textile products) in the so-called 'Final List' as laid down in Section 402 of the US Tariff Act which by valuing some hundreds

of items by anachronistic methods results in increases in the import duties. Furthermore, as the USA do not follow the Brussels Nomenclature (adopted by over one hundred countries including all the industrial countries except Canada), anyone exporting goods to the US market faces the formidable uncertainty of not knowing in advance under which tariff head the goods can be cleared and how much duty will be payable. The US Administration also imposes anti-dumping duties on the basis of the Anti-Dumping Act of 1921 (which as we have seen takes precedence over the international code defined in Geneva at the Kennedy Round), and countervailing duties on an automatic basis (all that is necessary to impose them being to establish the existence of some form of export assistance). The US practices, which do not conform to the international convention, do not provide, moreover, for imports of samples. The Buy American Act of 1933 requires the Federal Government to purchase only US products unless such products are not available or their purchase does not serve the public interest or the price is not reasonable (that is to say is 6 per cent above a foreign offer). A further addition of 6 per cent is made in the case of purchases of material produced in a depressed area or by a small concern. The Department of Defense also applies a margin of 50 per cent between US and foreign products for balance of payments reasons. The 'Buy American' policy, on the other hand, is also followed by a number of states which have their own legislation. In the matter of safety standards as well the US regulations often have a discriminatory slant. The code of the American Society of Mechanical Engineers (ASME), for instance, lays down that the inspector responsible for checking liquid gas containers must be an official of ASME, who generally speaking will not give approval for foreign products. Another very important example concerns the automobile sector, in which the safety rules quite often deliberately ignore the efforts made at international level to harmonise national regulations. Some of such rules, indeed, are held in Europe to be contrary to the real requirements of safety. Other US non-tariff barriers are embodied in health measures, in the Labelling and Packaging Act of 1966, in the import of whisky (assessed as if the alcohol content were 100 per cent proof), and in the opportunity given to the President to increase the duty or impose import restrictions on products which harm or threaten to harm the national industry. VAT, on the other hand, which is considered by the USA as a 'border tax' (meaning that it has the same effects as customs duties), cannot be included among non-tariff obstacles since it is essentially an internal tax which affects in exactly the same way products of Community origin and imported goods, as indeed the Council of GATT implicitly recognised on 10 December 1970 when it approved the report of the special working group for the harmonisation of border taxes appointed in 1968 at the request of the USA itself.³⁰ And the series of barriers (such as the inability of foreign

TABLE 10.1

Quantitative restrictions in the industrial sector in the principal industrial countries^a

Country	Number of products subject to quantitative restrictions		Percentage of total of categories (4 figure items in the Brussels Nomenclature)	Other restrictions in relation to Japan	Percentage of value of imports subject to quantitative restrictions (data relating to 1970)
	1963	1970			
USA	7	67	7	1	19.7
Japan	132	81	9	—	11.4
EEC	78	65	7	73	4.3

Sources: U.S. Department of Commerce, U.S. Department of State, U.S. Senate, Subcommittee on International Trade, *World Trade and Investment Issues*, May 1971, p. 270.

^a The table is only intended to give a general idea of the importance of quantitative restrictions in trade in industrial products, as it is obviously difficult to compare the whole of the quantitative restrictions applied by one country with the whole of the restrictions applied by another country.

undertakings to turn to local sources of finance; the ban that prevents foreign ships from transporting goods between two ports on the American coast; and the application of anti-trust legislation not only to the American subsidiary of a foreign company, but also to the activities of the latter outside the United States) which all direct foreign investment has to face in America hamper the partner countries in their efforts to start production or to bring about commercial expansion there.

On the other hand, there is some justification for US preoccupations in the agricultural sector, even if practically all the industrialised countries protect their own agriculture. EEC restrictions in the agricultural sector relate to 105 categories of products (equal in 1970 to 33.7 per cent of the total value of agricultural imports, the highest proportion of trade in any of the developed countries) and the restrictions in Japan to 62 categories of products (equal in 1970 to 27.9 per cent of total agricultural imports). The US restrictions apply to only 13 categories of products (but the proportion of agricultural trade affected by the restrictions is relatively high: 21.6 per cent in 1970).

Last but not least, among the causes underlying American neo-protectionism, sight must not be lost of the growing importance accorded to domestic problems (unemployment among white collar workers and school leavers, the increase in crime, urban development, pollution, drug traffic, race relations, etc.). For the first time since the end of the 1930s, according to Ambassador Joseph A. Greenwald, who represents the USA in Brussels, they had been obliged to undertake a fundamental revision of their priorities and questions of national interest had to take second place to problems of internal order.³¹ And with greater emphasis the Democratic candidate for the Presidency, George McGovern, is on record as saying that for a quarter of a century America had been preoccupied with the peace of the world, and the time had now come to start worrying about herself.³²

More trade and more tensions across the Atlantic

The United States has greatly benefited by the creation of the EEC. US-EEC trade has more than trebled in the period 1958-1971 (from \$4.5 to 16.7 milliard) and by continuous growth has shown a greater increase than the average for world trade. Thus the United States has earned a sizable surplus in trade with the EEC, almost always in excess of \$1 milliard (\$1.7 milliard in 1971) with the exception of a \$500 million deficit in 1972. Moreover, the United States has benefited greatly from European integration in the sector of direct investment. Nowhere else in the world has American direct investment increased so astonishingly. In the period 1958-1971 US direct investment in the Six member countries of the EEC increased fivefold, to stand in 1971 at \$11.7 milliard (and \$8 milliard in the United Kingdom). And this takes no account of the investment of holdings in Switzerland, Luxembourg, the Bahamas, etc.

In this way US enterprises, whose sales are four times as great as American industrial exports to Europe, have achieved such a prominent position in many key sectors of European industry (automobiles, titanium dioxide, synthetic rubber, computers, etc.) that, according to estimates by the European Commission, about 7 per cent of the West European GNP is accounted for by American direct investment.³³ On the other hand, European investment (by the Six plus the United Kingdom) in the United States - although it has increased so much in the last few years that by 1969 it exceeded the total value of long term American assets in Europe - is mainly in the form of bonds and only to a limited extent (\$3.5 milliard in 1970) in the form of direct investment in production and distribution.

Notwithstanding these facts, in the United States the EEC is today thought of as an 'inward looking' body. In particular, in view of the paralysis be-

setting the process of political unification in Europe and disillusionment with the idea of Atlantic partnership, the USA is not prepared to tolerate economic prejudices in the name of European unity. The USA, according to Mr Samuels, a former Under-Secretary of State, no longer has any reason to believe in the existence of political advantages at long term, nor to accept economic disadvantages at short term. Twelve years before, the USA could remain passive in the face of economic disadvantages at short term, since at that time it was earning huge trade surpluses and Europe was in a relatively weaker position: now Europe is an economic giant in a strong position to withstand competition.³⁴ And since, as we have seen, the EEC's tariff policy in the industrial sector is not such as to impede US exports and in the field of non-tariff barriers every country has something that can be criticised, the USA's attention has come to concentrate on two problems in particular: agricultural protectionism in the European Community and the discriminatory nature of the preferential trade agreements concluded with the countries in the Mediterranean basin and the majority of the African countries.

In the agricultural sector, Washington has pointed out that the introduction of the Common Agricultural Policy has led to a reduction in Community imports of products subject to variable levies. US exports of agricultural products subject to variable levies declined in the period 1964–1970 from \$525 to 451 million, a reduction of 14 per cent, mainly in poultry, tinned vegetable products and, to a lesser extent, coarse grains. Washington also has emphasised the competition in international markets and the displacement it had suffered in its own traditional outlets (Japan, Taiwan, etc.) in consequence of the aggressive export policy followed by the EEC which, to dispose of its own surpluses at reduced prices, resorted to the indiscriminate use of export rebates. 'To this extent', observed H. B. Malmgren, 'the Common Agricultural Policy is really a neo-mercantilist system in which costs are in large part passed on to third countries.'³⁵

To the US criticisms Brussels replies by pointing out that trade in agricultural products between the USA and the EEC, despite difficulties in certain sectors (attributable also to the stagnation in sales of foodstuffs), is very favourable to America. In the period 1964–1971 US exports to the EEC of products subject to the Community regulations rose from \$1.2 to 1.8 milliard, an increase of 50 per cent. And even larger increases occurred in the case of oil-cake, soy beans, fruit juices, unmanufactured tobacco, dried fruit, fresh fruit and citrus fruits. Moreover, about 40 per cent of Community imports of agricultural products from the USA (in particular, imports of soy beans which, in 1971, amounted to \$800 million) are admitted to the EEC duty free without any restrictions whatsoever, and the favourable trend of agricultural trade between the USA and the EEC is confirmed when it is considered that the Community is still the most important outlet for commercial

sales of American agricultural products and that the EEC's deficit from trade in agricultural products with the USA rose from \$243 to 1,140 million over the years 1958–1970.

Brussels also points out that the US criticisms do not take sufficient account of the real problems that European agriculture is seeking to overcome. 'Our agricultural policy', observed R. Dahrendorf, 'represents one effort among many to solve the social and economic problem set by agriculture in industrial countries. The fact that the USA has opted for another system should not prevent her from seeing us through our own eyes, just as we judge her in the light of her own social motives.'³⁶ 'The USA too', added the Commission, 'has had to face up to the social-economic problem of agriculture. The USA, in fact, thanks to the GATT waiver obtained in 1955, is protecting ever more effectively her own vulnerable sectors such as dairy products, beef and mutton, sugar, oil seeds, and even grain.'³⁷ 'And furthermore', went on the Commission, 'if a comparison is made between agricultural support (budget expenses plus the cost borne by the consumer through having to pay higher consumer prices) per person employed in agriculture in the Community and the USA, the result is of roughly the same order of amount.' This is clear from the study prepared by Professors G. Vandewalle and W. Meeusen, who state that 'the proportion of the support measures to income amounts for the EEC to 50.4 per cent and for the USA to 44.3 per cent, which works out at \$1,300 per person in the USA and \$860 in the EEC'.³⁸ But the arguments in defence of the EEC are not at all convincing. While recognising that the agricultural policy, the only common policy that the EEC has succeeded in putting into effect, has had the merit of having been the driving force in the process of European integration, hopefully opening the road (with the resumption of the political dialogue agreed at the summit meetings at the Hague and in Paris) to the realisation of other Community policies, and of having led to the creation of an effective Community budget (from 1975, in fact, all the agricultural levies, all the proceeds from the CET and a proportion of the VAT will be paid automatically into the Community budget to provide for Community expenses, including the expenses of the agricultural sector), it still needs to be said plainly that the Community agricultural mechanisms have yielded some illusory results. On the internal plane, the gap between agricultural and non-agricultural earnings has increased steadily. The agricultural policy has proved to be socially unjust in favouring in particular the richer farmers with extensive estates and abundant resources. The support granted at the wholesale market level, on the other hand, has led to the absorption of a proportion of agricultural earnings by the dealers. Numerous frauds (especially in relation to the bulk products such as grain and butter) have been perpetrated by speculating on the principle of export restitution. The consumer prices of foodstuffs

have risen sharply, accentuating inflationary tendencies and involving the Community in indirect costs estimated by us at about \$6 milliard per annum (see Table 10.2). The Common Agricultural Policy has also encouraged the formation of costly surpluses in sectors in which demand is weaker (cereals in general, sugar, poultry, eggs, pig meat, etc.), while it has not succeeded in stimulating production in the sectors in which demand is high (beef).

TABLE 10.2
The cost of agricultural protectionism^a in the principal industrial countries (US \$ million)

Country	Direct costs ^b			Indirect cost ^c	Total cost
	Price support	Other expenses	Total		
EEC (season 1969/70)					
– budgetary expenses for the Six ^d	1,500	3,500	5,000		
– FEOGA	2,637	355	2,992		
Total	4,137	3,855	7,992	6,276	14,217
UK ^e (season 1969/70)	343	331	674	720	1,394
USA ^f (season 1968/69)	3,750	2,052	5,802	3,420	9,222
Japan (season 1968/69)	829	759	1,588	2,268	3,856

^a The amounts given are expressed in US dollars at the official rate. The data relating to production are taken from the *Production Yearbook of the FAO*, those relating to prices from the EEC/FAO publication, *Prices of Agricultural Products and Fertilizers*, and the UNO publication, *Commodity Trade Statistics*. For Japan we have consulted the publication, *The State of Japan's Agriculture in 1968*, by the Ministry of Agriculture and Forestry. Production calculated at the prices ruling in each country refers to the season 1966/67, while the data relating to the average prices received by the farmers refer to the season 1967/68. We have considered the following products: wheat, barley, rye, oats, maize, other cereals, sugar, potatoes, rice, beef and veal, pig meat, mutton and lamb, poultry, butter, eggs, vegetables, fruit, oil seeds, and wine.

b Direct costs include production subsidies for particular products, general production subsidies, export subsidies, food aid (when it is derived from internal surpluses), and direct support for the incomes of the agricultural population. Although debatable, we have included in the direct costs a good part of the cost of structural improvements as these costs are often of a permanent nature so that they prove essential for keeping inefficient sectors in being. On the other hand we have deducted the proceeds of customs duties and levies.

c The indirect costs are borne by the consumers who pay higher prices. The lack of statistics makes the calculation difficult. Nor can it be assumed that world prices will remain unchanged in the event of the protection being removed. The loss of earnings resulting from special concessions to the agricultural population has not been added to the indirect cost as it represents a mere transfer. The estimate of the absolute level has been made by deducting from the production of each product the relative amount of exports and multiplying the result by the difference between the average prices received by the farmers and world prices. The latter have been taken partly from the EEC publication COM/68/1000, Part D, p. 191 and partly from the FAO Production Yearbook. In particularly difficult cases the world price has been calculated from the unit import values (for the individual products, of course). The results obtained are not definitive. Apart from the technical difficulties, international comparisons of prices are made particularly complex by the qualitative differences between exports from different countries, so that the use of averages can lead to incorrect results as regards individual countries.

d See: Commission for the European Communities, *Report concerning the National Policies for the Agricultural Structures in the Community*, COM (68) 1000, Part F, pp. 80–100.

e See: *Annual Review and Determination of Guarantees*.

f See: *US Statistical Abstract* 1969.

The EEC's self-sufficiency ratio is thus constantly rising, reaching in the 1970/71 season 102 per cent for soft grain, 106 per cent for sugar, 104 per cent for butter, 102 per cent for cheese, 148 per cent for powdered milk and 154 per cent for concentrated milk. Moreover, the EEC is practically self-sufficient in the following sectors: fresh vegetables, pig meat, poultry, eggs, full cream milk, skimmed milk, rye, barley, rice and wine. Surpluses are either destroyed or used as food for livestock by denaturing it at high cost or are sold off below cost in international markets. Consequently, as is seen in Table 10.2 as prepared by us, the cost of agricultural protection in the EEC in absolute terms is the highest in any of the industrial countries (over \$14 milliard per annum, an enormous figure, equal to over half the value of agricultural production by the Six in the 1969–70 season at internal prices,

and a burden that absorbs 3 per cent of the national product of the Six). Moreover, the cost of the FEOGA (the European Guidance and Guarantee Fund for Agriculture) is increasing. It is estimated that the cost of \$2.6 milliard in 1970 will rise to \$4.1 milliard for 1973. There is thus the danger of a further expansion in the Community expenses for agriculture, all the more so as the grain harvest (which reached a record level of 78 million tons in 1972) is increasing steadily and the farmers are pressing for further increases in farm prices. Moreover, on the external plane, the levy system, which insulates the Community market, and the rebate system, which stimulates Community exports, have intensified trade conflicts with third countries. Actually the USA has continued to secure considerable advantages in its trade in agricultural products with the EEC, having largely made good the losses in particular sectors and having sharply increased its exports of products admitted to Community markets free of duty. Quite different is the situation for other third party countries. EEC imports of controlled products from countries in course of development have remained stationary at a level between \$1.8 and 2.2 milliard over the period 1964–1971, while individual countries (e.g. Argentina) have seen a marked drop in their exports. Similarly, EEC imports from EFTA countries have remained fairly steady (at between \$591 and 648 million over the period 1963–1971), while certain countries, such as Denmark, have sustained considerable losses. And exports from state trading countries, though they recovered in 1971, have also suffered a sharp setback. In 1968–69, for example, imports of baby beef from Yugoslavia to a value of \$1,000 had to face a levy at the Community frontier of \$800.³⁹

It is not surprising, therefore, that the Common Agricultural Policy should be continually under attack in almost all the international assizes: FAO, GATT and UNCTAD, all the more so as the EEC exports of controlled agricultural products are rising sharply (from \$1.6 to 2.8 milliard over the years 1964–1971). A revision is called for therefore on more specifically economic and more open lines in relation to third countries. 'It would be a pity, in fact', observed Senator G. Medici, the Italian Minister of Foreign Affairs, 'to continue to defend European agriculture by the methods followed hitherto aimed at a complex and cumbersome market policy without taking effective steps to reduce the cost of production. The development of the European economy is due to the expansion of industry and the services allied to international trade. We are now all agreed that such development should continue, but it is obvious that we cannot pursue an autarkic policy in agriculture, and on the other hand a policy of unqualified liberalism at points where we feel strong'.⁴⁰ S. L. Mansholt, in his memorandum of December 1968, recognised the necessity for shifting action on agricultural policy from support for markets and prices to modernisation of the structure. Mansholt's proposals, however, even though they have been watered down progressively,

have met with resistance from the agricultural organisations, which have been responsible for some serious incidents in Brussels. Consequently, at the marathon of 25 March 1971 the EEC Council of Ministers, divided on the wisdom of inaugurating a costly reform, again increased agricultural prices. And if by the subsequent agreements of 24 March 1972 a first attempt was made to reform the structures (by adopting the first directive of the so-called 'Mansholt Plan'), this attempt, apart from being modest (since the total cost was limited to \$830 million spread over five years), suffers from the risk it entails of widening the gap between already efficient undertakings and the ailing ones. The system of selective aid (embodying the provision of land released by old farmers granted an indemnity for ceasing to work it; guarantees for loans contracted for investments laid down in the development plan; and initial grants and aid for certain specialised production) is limited to promoting enterprises which to a large extent are already competitive. Nor should it be overlooked that under the same agreements of 24 March 1972 further indiscriminate increases were made in agricultural prices (especially in the prices of cereals and milk, that is to say in sectors largely producing surpluses), while quotas were renewed for imports of tomato concentrates from Mediterranean countries, controls were placed on processed vegetable products with no sugar content and steps are being taken to strengthen protection at the frontier against imports of fresh fruit and vegetables. Thus, faced with the political incapacity of European governments to bring about an effective reform, a policy is continued which, on the external plane, sustains protectionist tensions and, on the internal plane, is failing to the point of proving anti-European. The only valid alternative to the present situation is to freeze farm prices and to grant direct aid to the farmers. To realise such a policy, which does not exclude a better structure for agricultural prices, and the adoption of a special regime for the encouragement of cattle breeding (by means of grants and loans on favourable terms), it is necessary to define in regional terms the type of agricultural enterprise considered efficient in order to limit the provision of direct aid to *ailing enterprises desirous of modernisation*. Moreover, the aid should be of a temporary and reducing character to avoid the maintenance of large sectors that are utterly uncompetitive. In addition, the policy of direct aid should be supplemented by a series of measures of a social nature (an early pension scheme, study grants for the sons of farmers, initial assistance for young farmers, credit facilities, etc.).

As far as the Community policy towards the Mediterranean and African countries is concerned, the USA took a stand in 1965 and 1966 against the agreement with Nigeria and East Africa. The US criticisms increased, however, upon the conclusion of the agreements with Tunisia and Morocco in 1969, and with Israel and Spain in 1970, reciprocal concessions of commercial

preferences being particularly liberal in these cases. In the eyes of the USA the adoption of regional trade agreements implies the abandonment of the fundamental rule of non-discrimination, perpetuates the colonial type of relationship in order to ensure exclusive outlets for EEC manufactures (thanks to the granting of reverse preferences) and causes a distortion in world trade which, in the agricultural sector in particular, is prejudicial to the economic interests of the non-participating countries. At GATT, therefore, the USA have called for a particularly strict interpretation of the rules and criteria laid down in Article XXIV of GATT which authorises, by way of exception, the establishment of customs unions and free trade areas. The stand taken by the USA thus concerns today not only the latest agreements but also the Association of African States and Madagascar (AASM), as became clear at GATT during the examination of the second Yaoundé Convention. The USA holds that only the agreements concluded by the EEC with Greece, Turkey and Malta conform to the GATT rules. No other agreement, indeed, stipulates the conditions, modalities and rate of tariff disarmament between the parties concerned, as required to obtain the approval of the contracting parties to GATT. To the criticism from the USA the EEC replied that 'it does not intend to create a self-contained commercial bloc so much as to initiate a policy of development that takes account of the particular historical ties existing between certain nations and the Community'. The EEC, moreover, besides reaffirming its loyalty to the GATT rules, sought to delimit its preferential policy by restricting it to three categories of agreement:

- 1 The agreements with the AASM, the three countries of East Africa, Tunisia and Morocco, in which the Community did no more than assume the responsibilities deriving from the historical links formed prior to its existence.
- 2 The agreements with Greece and Turkey to confer on those countries participation as full members in the Community once their economies are sufficiently developed; and in 1971 a first step was taken in this direction with Turkey, this country having accepted a scheme for the gradual realisation of customs union with the Community.
- 3 The agreements with the other Mediterranean countries (Spain, Israel, the UAR, etc.) and the other African countries to give their products (to a large extent in direct competition with those of the associated countries) similar preferential treatment. It would be inconceivable to grant preferences for citrus fruit for example to Morocco and Tunisia without extending them also to Israel, Spain, Cyprus, etc.

The Community also points out that the preferential agreements are bound, sooner or later, to be incorporated in true and proper association agreements

in accordance with the rules of GATT; that it has never pursued a deliberate policy to secure a zone of influence in this part of the world (since the agreements in question were sought by the Mediterranean and African countries, and were concluded without any coordination between them); that the modest tariff advantages (reduced at the second Yaoundé Convention) granted to the AASM are perfectly consistent with the policy of according special treatment to countries known to be among the poorest in the world; and that the AASM countries are free to lower their duties on imports from the USA and other countries not forming part of the EEC. On the subject of trade distortions, then, Brussels observes that as far as AASM is concerned the actual contracting parties of GATT in December 1970, on the occasion of the examination of the new Yaoundé Convention which came into force on 1 January 1971, formally recognised the absence of trade damage to third countries. In particular, in the period 1958–1971, the USA increased its exports to the 18 African states by 158 per cent, while the Community's exports increased in the same period by 97 per cent only. And the same favourable trend of US exports is confirmed in the Mediterranean area which, however, without Italy and France represents barely 6 per cent of American sales abroad and 3 per cent of their imports. Quite trifling also is the indirect damage suffered by US exports from competition from the products of countries associated with the EEC. Out of about \$1.2 milliard of US farm products in potential competition with products from Mediterranean countries, some three quarters is admitted to Community markets free of duty and for the rest the effective competition from the associated countries is confined to fresh and preserved vegetable products (equal to \$65 million) and tobacco (\$150 million). Nevertheless, even for these products the possibility of replacement by products from the associated countries seems limited by differences in quality and the different seasonal periods of sales. The EEC, however, as already noted, has declared its readiness to follow the trend of imports closely and to consult the USA whenever the latter's export of tobacco to the EEC suffer damage. In February 1972, moreover, the EEC agreed to cut to 5 per cent its duties on oranges for a further two years during the four summer months, and from 6 to 4 per cent the duty on grapefruit for the period of two full years. On the legal plane, finally, seeing that the world (in its commercial and economic aspects) tends to organise itself into a series of regional blocs which establish inter-continental contacts with one another, it is to be observed that 'the inter-governmental free-trade aspect of the original system of GATT', as Th. Flory notes, 'has been adapted to the regional reality' to become a 'world of areas',⁴¹ that is to say, according to the definition of H. Brugmans, a 'universal regionalism',⁴² so that trade can no longer be regulated by the mechanisms of the past.

And, indeed, imports under preferential systems entering into the total

imports of GATT are constantly on the increase, having risen from 10 per cent in 1955 to 24 per cent in 1970, in consequence of the interchanges between the member countries of the EEC and EFTA and the US–Canadian agreement on motor vehicles and parts thereof. But the defensive arguments of the EEC have not allayed criticism. ‘World trade’, declared O. Long, the Director General of GATT, ‘must develop on the basis of the two fundamental principles of the GATT Charter: non-discrimination and reciprocity. The line to follow is consequently that of the generalisation of most-favoured nation treatment. Preferential agreements tend, on the other hand, to undermine the objectives of international trade and to reproduce the dangerous experience of the 1930s. Sight should never be lost of the prime objective of the general liberalisation of international trade. The EEC countries have signed the general tariff agreement. They must consequently either honour it or repudiate it. It is not good for world trade to circumvent the essential rules on which GATT is based. It would be better to amend them’.⁴³ Ambassador O. Long’s observations were shared not only by the USA, but by Canada and various Latin American countries (apprehensive of being required to tighten their commercial links with the USA), who recalled that an amendment of the GATT regulations requires the favourable vote of two thirds of the contracting parties. In consequence, in 1969 the EEC, not commanding a favourable vote in GATT of two thirds of the contracting parties, was vociferously required to withdraw the preferences on citrus fruits granted to Spain and Israel. Nevertheless, the question of preferences is bound to come up again in GATT, seeing that now, with the conclusion of the recent agreements with Spain, Israel, the UAR, etc. the Community preferences for citrus fruits figure again among the Community concessions. And the extension of preferences on citrus fruits to the USA (5 per cent rather than 1·8 per cent) does not at all square with American expectations, the concessions being limited to two years and to the months of June to September. Moreover, the strategy adopted by the EEC towards the emergent countries of the Mediterranean seems incomplete and inadequate. With regard to Israel, the UAR, Malta, etc. the EEC has only regulated trade matters, while with other countries such as Greece and Turkey it has concluded association treaties, while Tunisia, Morocco, Spain, etc. are on the verge of association. On the other hand, the attempt to reconcile the opposing interests of European and Mediterranean farmers⁴⁴ for several competing products (such as citrus fruit, wine, etc.), by limiting the concession of tariff preferences to the offer of a minimum price on the EEC market and by providing an escape clause, did not give good results. Not only have the protests decreased, but it is more and more evident that the policy based on concluding preferential agreements does not take into account, on a global basis, the requirements and the interests of the emergent nations. The EEC

should therefore transform its traditional commercial policy into an external economic policy by defining a global approach towards third countries, particularly towards the emergent nations. Europe needs increasing quantities of raw materials, while the emergent nations need a large variety of industrial products for their modernisation and industrialisation. In particular, Europe and the emergent nations should conclude medium term 'contractual policies' (lasting not less than five years) which should guarantee stable prices and guaranteed markets, especially in the fields of oil and gas supplies as well as agricultural and industrial products. These agreements should be defined at specific conferences (attended by the producers' and consumers' countries) in order to plan the production and the consumption of competitive products. In particular, in the fruit and vegetable sector, threatened by increasing surpluses, it is essential to agree a regulation which would apply at the production stage in order to prevent serious trade wars. And even in the industrial sector, the EEC – besides carrying out specific projects of industrial policy (for example for textiles) – should encourage the creation of free trade areas and customs unions in conformity with the GATT rules. On the other hand, the EEC should extend the activity of the successful European Development Fund (now applied to the AASM countries) to other emergent nations in order to promote the modernisation of the agricultural sector and the starting of specific projects of industrialisation. Moreover, the European Investment Bank should adopt a systematic investment policy to create small and medium sized factories. In addition to providing technical assistance, the EEC should improve the scheme of generalised preferences now in force and should settle the dispute on 'reverse preferences' by granting African countries larger financial contributions and, for some products, as is already done in the case of oleaginous crops, financial aid to stabilise the price. With regard to third countries which are not candidates for EEC membership but wish to conclude commercial treaties with the Community, the EEC should move towards commercial agreements to be considered as a first step towards full membership, or conclude non-preferential commercial agreements including provisions for co-operation between the parties (for example, the insertion of the so-called 'benevolence clause' in case of lack of certain products), exchange of information and consultations on the main international problems. Such a programme may appear to be too ambitious. However, while at the outset its realisation may interest mainly the Mediterranean area (where it is essential to attenuate the dangerous tensions now prevalent in the Middle East), we cannot help being conscious of the fact that Europe depends, in very large part, on imports of raw materials from third countries. Without iron ore and non-ferrous ores, oil, wood, etc. European industry cannot function. In addition, a Community which assumes world responsibilities cannot but answer the demands of

development and prosperity throughout the Southern hemisphere to which we are bound by many historical ties. On the other hand, the cost of such an operation could be more than compensated by the certainty of getting the supplies we need (in a world where the competition for the sources of raw materials is bound to intensify) and by a reduction in the amount actually spent in order to protect the common agricultural market. A European approach of worldwide importance would allow the Community to overstep the limits of regionalism in order to undertake action in the areas we have neglected. And this is the case not only for Asia, but above all for Latin America, in which only recently (with the conclusion of non-preferential agreements with Argentina and Uruguay, and the beginning of negotiations with Brazil), the Community has started to take an interest.

The nature of many industrial and agricultural sectors of Latin America could lead to the introduction of the Community into an area representing one of the richest sources of raw materials in the world. And this without any damage, or without creating any difficulty, to North American investment. Thus, for example, in the primary sector there are agricultural and fishery products which, by their special quality and the fact of being available at different seasons from ours, should form the basis of a European commercial policy based on the principle of complementary supplies. And the same is true of the secondary sector, where an improvement in industrial productivity can be effected by European collaboration. The companies of several Latin American countries are in their degree of development quite similar to the average level of European industries and therefore have to face the same problems. In these cases, European production techniques are more appropriate than those imported from the United States, a country which is notorious for its highly automated industries.

The real problem: the enlargement of the European Community

The emergence on the world stage of a European Community representing over 50 per cent of total world trade is an added source of anxiety to the USA. A Community which unites nine highly developed European countries protected by the Common External Tariff and by levies is bound to produce changes in the currents of trade. 'In particular', according to Palmby, who was responsible for international policy in the US Department of Agriculture, 'the enlargement of the EEC is the most serious problem that American agriculture has to face in the 1970s.'⁴⁵ 'In fact', adds H. B. Malmgren, 'the result of UK entry into the Common Market is the adoption of the variable levy system as it is practised by the EEC, and an alignment to those high support prices. This will raise the level of protection on agricultural imports

into the UK, further encourage home production of cereals and meat, encourage the purchase of French and German wheat as a substitute for imported wheat and feedgrains from third countries such as the United States, and thus further increase competition in the remaining world markets. Moreover, the opening of the UK market to the costly surpluses of the EEC (wheat, sugar, vegetables and fruit, etc.) will reduce the pressure on the Community to change the common agricultural policy.⁴⁶ And in view of the estimates arrived at by the US Department of Agriculture, which following the enlargement foresees an outright loss of \$450 million, it would not be surprising if the American Government has already informed the United Kingdom that as a result of the radical change in the traditional system of 'deficiency payments' it will be taking retaliatory measures. The USA, moreover, has already protested officially to the EEC about the possibility that the enlarged Community might arrange another dozen or so preferential agreements.⁴⁷ Through the enlargement, the African countries Gambia, Ghana, Kenya, Malawi, Nigeria, Sierra Leone, Tanzania and Uganda should obtain a status identical with that already enjoyed by the 18 AASM countries and the Asiatic and Oceanic countries and the West Indies that belong to the Commonwealth, while losing the Imperial tariff, will also have the benefit of special trade agreements. Furthermore, if to all this is added the conclusion of the industrial customs union with the EFTA neutrals which are not seeking full membership of the EEC (Austria, Portugal, Switzerland, Sweden and Finland), and also the conclusion of further agreements with the Latin American countries, the USA must take note that 'the Community will become the centre of an enormous discriminatory geopolitical bloc'.⁸ Indeed, the enlarged EEC will become the world's largest trading unit, bringing together the principal manufacturing countries of continental Europe with a growing number of developing nations, which to a greater or lesser extent regard the Community as the principal market for their commodities. The operation for the enlargement of the EEC magnifies so blatantly the problem of preferential agreements that the USA's preoccupations regarding the Mediterranean policy of the EEC will take second place to the imposing problems which the Community of the nine raises for all the countries not falling within the Community's orbit.

Brussels, while recognising that Britain's adhesion constitutes an event of extraordinary importance for all the countries, points out that the USA will obtain fresh advantages from the enlargement: on the commercial plane, from the fact that British customs duties will conform to the lower tariffs of the common external tariff of the EEC (even though the US goods will have to face competition on the English market from European goods admitted free of duty); and on the investment plane from the fact that US enterprises will be able to count on a larger and more homogeneous consumers' market

than the present where they will be in a position to exploit their technological superiority. Moreover, the effects of economic development deriving from an enlarged EEC will make, sooner or later, for the purchase of more goods from the United States, as was the case after the creation of the Common Market of Six member countries – the more so as Britain's accession to the EEC should reinforce an 'open' common commercial policy. In this respect it is significant that besides the sugar agreement (in favour of Mauritius and the Caribbean Islands) and the butter agreement in favour of New Zealand, a new agreement has been concluded permitting the admission to the EEC of twelve products (paper-pulp, aluminium, zinc, etc.) imported mainly from Canada and Australia, and also that the free trade area agreements on industrial products from the EFTA countries (Austria, Portugal, Switzerland, Sweden, Finland) comply with the terms established by the GATT. And, in addition, while some concessions have already been granted to the USA (i.e. reduction in customs duties on citrus fruit, wheat ensiling undertakings, etc.), the EEC will have to grant compensation (in the form of reductions in other customs duties) in the GATT to those countries which, as a result of the enlargement operation, are bearing an increase in customs duties on specific products exported to the markets of the new member countries.

But the circumspect manner in which the Community is considering the consequences of the operation for the enlargement of the agricultural sector is sufficient evidence that actual difficulties exist.⁴⁹ It must be remembered that, with the exception of certain products (oil seeds, soy beans, oilcake) which will continue to be admitted into the EEC free of duty, the extension to the United Kingdom of the system of variable levies and the alignment of the high Common agricultural prices risk altering certain flows of trade. And for this purpose it is important to note the critical position taken not only by the United States, but also by Canada, Australia, South Africa, Japan, the Eastern countries, Latin America and several other emergent nations. And even the Mediterranean countries, which already receive preferential treatment in the Common Market, will have to face, in several cases, an increased number of obstacles to the British market and to the markets of the other new member countries of the EEC.

The creation of a Community of nine thus accentuates the necessity for revising the common agricultural policy to avoid regular commercial conflicts with third countries. In particular, even if a thorough revision of the CAP can be envisaged only in the framework of new multilateral negotiations in the GATT in order to carry out a general adjustment of the agricultural policies of all industrialised countries, the EEC would considerably reduce the international tension in this field by making the variable levy system more flexible (which should *not* operate when imports from third

countries are justified by the lack of supplies from the member countries) and the mechanism of the rebates granted by the FEOGA which should intervene only on a seasonal view avoiding taking into consideration the fluctuations of the world market in the short term), bringing in a system to control production either by quantity (not intervening beyond certain limits) or quality (applying, for example, a selective price policy and providing assistance according to the quality of the product), granting direct payments to certain categories of farmers (not for production but to supplement family incomes) instead of further increasing the common agricultural prices.

Similarly, with regard to the problem of the preferential agreements, international tension could be reduced if the EEC gave priority to a series of measures aimed at giving the CAP a certain flexibility. For example, the EEC, in addition to the measures mentioned in the previous paragraph, could reduce the rigidity of the rules regarding the import of agricultural processed products, as many emergent nations rely considerably on these products to promote their own industrialisation. And the necessity for such an action is proved by the fact that the preferential agreements concluded hitherto relate mainly to agricultural trade.

In addition, the enlarged EEC should define a global approach towards third countries, particularly towards the emergent nations, with the aim of diversifying its trade. The concentration of international trade in the area of highly industrialised countries – while it has greatly improved the welfare of the Western Nations – has also given rise to increased imbalances, which, in addition to delaying the development of poor countries, today encourages neo-protectionism, especially in the less competitive and less advanced sectors. Therefore, we can welcome the fact that by 1 January 1973 a common commercial policy towards the Communist bloc should come into force, that economic cooperation between Western Europe and Eastern countries is receiving an impetus from the admission of several State-trading countries to the GATT system and from increased industrial collaboration and the early convocation of the European Security Conference (which will also deal with the economic problems of East–West trade). The trend towards a greater diversification of the flow of trade also concerns EEC relations with China. The Chinese economy, even if only now emerging (particularly in the industrial field), is growing at a satisfactory rate, so that within 10–20 years it will absorb relatively large quantities of foreign goods. And considerable developments should take place in European trade with Japan. Having regard to the surprisingly modest level of trade between the EEC and Japan (only 6 per cent of EEC trade is with Japan and only 10 per cent of Japanese trade is with the EEC), Europe could in the short run contribute to the harmonious development of world trade by intensifying trade relations, all the more so as both the EEC and Japan intend to reduce their dependence on the American

market. Furthermore, Europe and Japan can work in close economic cooperation in the technological field (in which certain European industrial sectors take a favourable view of the Japanese technological contribution and in which Japan could realise projects of greater scope) and in the sector of raw material supplies (which are necessary to both blocs). The Japanese, moreover, in connection with the trade agreement under discussion with the EEC, proposed setting up a special consultative organ to harmonise the countries' respective trade and currency policies within the framework of GATT, the IMF and UNCTAD. It can be expected, therefore, that with the accession of the United Kingdom the EEC will reopen negotiations with Japan. The Kennedy Round, apart from the results achieved on the tariff plane, has not in fact provided any solution for the problem of the abolition of reciprocal quotas. The conclusions of a trade agreement between the EEC and Japan, besides promoting the liberalisation of trade between the two blocs (which would certainly have a favourable effect on trade between the two parties and the USA), would also help to safeguard the unity of the Community market, a unity today compromised by the fact that Italy, for example, is blocking the arrival of Japanese cars and motors from Benelux.⁵⁰ The improvement of economic relations with Japan is, however, feared by European businessmen as they are afraid of the overflow of Japanese products from the American market and seem reluctant to penetrate the Japanese market.⁵¹ These fears, however, are exaggerated. Brussels wants to conclude with Japan an agreement which should abolish the Japanese quotas, and remove the Japanese obstacles to models, patents, etc. In addition, Brussels wants to provide an escape clause against market disruption in case of necessity. Japan's competitiveness – as was seen in the glaring case of Zeiss-Ikon⁵² – is based on the adoption of advanced technologies, rather than on the myth of low wages. The Japanese operations are undoubtedly bolder and enjoy the total support of their governmental apparatus and of a practical credit system. But they have their weak points. To start with they are not very skilled in marketing, and their major commercial successes in international markets have been achieved through foreign agents. In point of fact, a certain amount of cooperation with Japan is indispensable in international markets, especially in the case of textiles and iron and steel products in which Europe and Japan compete for exports to the USA and other markets. European businessmen should not blink the fact that the Japanese market offers the best opportunities for sales of a vast range of products with a high technological content. The few European undertakings which have succeeded in penetrating the Japanese market report high profits and rising expansion. Furthermore, a trade agreement with Japan may represent the great opportunity for getting a foothold in the Asiatic market, a potentially very rich market which, surprisingly, Europe has so far almost

completely ignored. On the other hand, whatever the outcome of the negotiations in Brussels, Japanese exports to Europe (and the whole of the Mediterranean basin) are all set to increase very rapidly.

Finally, the EEC should conclude special agreements (for example non-preferential commercial treaties) based on reciprocity with India, Canada, South Africa, Australia and New Zealand.

The world is waiting for Europe to play its role

The interests and functions of the United States and Europe need not necessarily be identical. The world needs a Europe that, by a clear and far-sighted policy, should take the initiative in playing an original and outstanding intermediary role. In particular, Europe should take the opportunity of its enlargement to direct its energy, not to extending an agricultural policy which is a failure, but to suggesting a new pattern of society (different from the American affluent society, which, even if it has fascinated us for a long time, is today displaying its limitations), and to answering the desire for development of the whole Southern hemisphere and the imagination of the young.⁵³

Specifically in economic matters, Europe should expedite the coming into effect of the economic and monetary union, and therefore favour an industrial policy (which allows the growth of industries with a high technological content and the promotion of multinational enterprises in the forms and within the limits which are necessary to protect the legitimate interests of each country), a policy for sources of energy, a transportation policy, a social policy, a harmonious regional and urban development, an adequate protection of the environment and of the quality of life. Europe, moreover, cannot evade the problem of its defence by sheltering under the NATO nuclear umbrella, which risks losing all its credibility with the possible withdrawal of US troops. It is therefore indispensable that Europe should also start a medium term common defence policy (for example, by resuming the CED project); in the meantime ensuring the actual participation of Europe in the essential decisions, including those on atomic weapons, taken under the 'burden sharing' principle requested by the United States.⁵⁴

The necessity for uniting Europe does not aim at undermining the close solidarity with America. 'A European monetary zone', declared R. Ossola, 'has never been intended to become a bloc opposed to other monetary areas. Our aim remains a world system'.⁵⁵ 'And the working of A European policy', R. Gardner said, 'could simplify the adoption of a big programme of co-operation to liberalise trade in the interests of international economic equilibrium'.⁵⁶ And the fact that a stronger Europe would be in a better position

than in the past to bargain with the United States on world rules for commerce, investment and money less geared to American specifications, should not worry excessively our partners on the other side of the Atlantic. The forces and stimuli of fair competition constitute after all the very basis on which the Western world is built. And better Atlantic cooperation in the economic, technological, social and strategic sectors will more than compensate injured interests, and could constitute a stabilising factor for the whole international system. In addition, the initiative of Europe is indispensable when it is considered that today the United States, after the failure of the Vietnamese policy, does not have the necessary political strength to lead the world and, worried by domestic problems, is obliged to make a basic revision of its national priorities.

We agree, on the other hand, with the United States about the danger that Europe does not have solid and coherent bases on which to build its political will. If the enlargement brings out factors which could unify Europe, we do not yet see those elements which could really induce the European countries to speak with a single voice. Thus, for example, we do not see that it is possible to contemplate rigid exchange rates within the EEC or even a common currency for the monetary union, when there is not a supranational authority able to impose coherent guidelines. Another significant fact is the division of Europe between a bloc of countries (the Benelux countries, France, the German Federal Republic, Denmark, Sweden, Norway and Austria) adopting joint floating of exchange rates against the dollar, and a number of other European countries (the United Kingdom, Italy, Ireland) floating independently against the dollar as well as against the other Community currencies. Thus, Europe, while with the enlargement it becomes economically more powerful and more conscious of its political role, does not have the essential instruments to enforce its will. Actually, today disrupting factors (such as the awakening of nationalism in every European country) and a retreat towards the intra-governmental type of cooperation are weakening the European process of unification.

To overcome these dangerous trends and the delicate organisational phase of the enlargement operation, the European political class (which we wish could be reinvigorated by the inclusion of younger and better prepared elements) should be conscious of the absolute necessity of creating common centres of decision making. Such centres should be based on democratic principles, giving vitality and imagination to the European policy to meet the wish for international solidarity of the new generations to which today Europe appears as a too centralised and too bureaucratic corpus.⁵⁷

In developing such an action Europe needs more than ever the political support of the United States, who, renewing her policy of consultation and cooperation, should rebuild the Atlantic partnership taking into account the

profound changes that have occurred in international economic relations, the new political problems of defence in view of the envisaged reduction of the American troops and the detente in East–West relations. Thus, in the next few years of closer European unification, the United States should encourage Europe to give its external economic relations a higher priority. To follow a different approach would be to devalue further Atlantic relations to a point of crisis for the unity of the Western world.⁵⁸

An American attitude of indifference and neglect or, even worse, the unilateral imposition of new measures such as those of August 1971 or the attempt to obstruct the process of European unification in an Atlantic free trade area, could have divisive effects. Particularly, under the impulse of the diplomatic offensive of the USSR (which will materialise in the European Security Conference and in trade negotiations between the EEC and the COMECON) Western Europe could adopt a neutral position such as Finland's.⁵⁹

Reviving the practices and institutions of Atlantic partnership

The United States and an enlarged EEC should therefore begin as soon as possible a large scale effort to improve pragmatically, in all its aspects, the operation of a renewed Atlantic partnership so that solutions of differences between the two continents can be achieved in a broader context.

With this aim in mind and in order to avoid misunderstanding, it would be necessary to organise the dialogue between the two continents by creating, for example, a mixed parity committee between the American government and the EEC countries, the latter speaking with the united voice of the European Commission. Such a committee should have the task of dealing with daily problems of trade, investment and monetary matters with which the governments are faced in order to prevent conflicts, to avoid discrimination and to suggest constructive solutions. These consultations should take place on a continuing basis, i.e. they should take place on all economic situations and not only at moments of acute difficulties. They should therefore be undertaken within an institutional framework, at the Atlantic level. In fact, the numerous – non-political – problems which have occurred between America and Europe in the past few years have seldom been openly and specifically discussed on a multilateral basis.⁶⁰

In order to return to the habits and practices of close consultation within the Atlantic world it appears necessary, first of all, to agree on the desirability of creating common ground for the preparation of new trade negotiations with the GATT framework. Its aim would be to make the procedure easier (the US administration will have to seek a mandate from Congress, the

European Commission will have to obtain one from the Council) and to place the negotiations within a larger context. In fact, in the new round it will be necessary to deal with the further reduction of tariffs, the harmonisation of NTBs, the organisation of world agricultural markets as well as with the establishment of a code of behaviour with regard to state trading countries to integrate them in the world economy and realise new more effective multilateral action in favour of developing countries. In addition, it will be necessary to settle the so-called 'irritating problems', that is the minor problems which represent dangerous sources of friction in the Atlantic Alliance (i.e. to harmonise, according to American wishes, the electric sector and the licensing regime used in Europe, and, according to European wishes, customs valuation and anti-dumping procedures), and also to initiate common action to avert, by special procedures, the pressure of neo-protectionist groups. No agreement, even if its aim is to allow the so-called 'orderly marketing adjustment', should be permitted solely for restrictive purposes if it is not objectively justified. 'The aim', as stated by H. B. Malmgren, 'must always be orderly adjustment, expansion of trade and a return to liberal conditions of access in due course'.⁶¹

Similarly, common action is indispensable to create special procedures to help producers and workers to adapt to the changes imposed by sharper international competition. General plans for reorganisation (for the less competitive sectors) should be studied together to initiate, within a multilateral framework, the readjustment of some economic activities (i.e. of textiles) in a relatively orderly way without causing trade wars and damage to the workers.

It is also in the interests of both parties to provide a basis for agreement on the realisation of better coordination of monetary and fiscal policy, to ensure stability in the international system of payments. In particular, it would be quite useful to direct and coordinate capital movements to establish a measure of equilibrium between deficit countries and countries with a surplus. Thus, for example, the United States should follow a restrictive policy on credit by increasing the rates of interest (though without delaying her economic recovery), while Europe, as well as Japan, should follow a policy of expansion, including the lowering of rates of interest. In addition, while the American government should halt the excessive increase of liquidity, stimulated by the uncontrolled expansion of Federal expenditures, a programme aimed at liberalising capital movements would find a consenting Europe, provided that the American obstacles to European direct investment are removed.

Increased economic cooperation on both sides of the Atlantic can also touch on several industrial sectors: the space industry (especially on the post-Apollo programme); the nuclear industry (especially the nuclear power

stations and the delivery of enriched uranium); the aeronautics industry; the non-strategic armaments industry (to coordinate military research in order to limit very costly competition),⁶² etc. Similarly, specific consultations should be started on the problems concerning the activity of multinational enterprises and the efforts undertaken by some countries to regulate them. Also in the field of defence considerable developments are possible if the United States accepts the principle of the reciprocity of nuclear deterrents. The United States, in fact, could encourage the creation of a European nuclear force of additional deterrents (by consenting to French–British cooperation in this field) in the interests not only of Europe but of the whole Western world.

And, while Europe and America should also incorporate Japan in the consultations on problems of common interest, it is essential to coordinate jointly the preparations for the round of East–West negotiations (concerning the European Security Conference and MBFR, where European interests are central, and SALT II as well, which, unlike SALT I, will also have a significant European component).

Finally, the United States and the EEC should develop a joint effort to contribute – within the competent international organisations whose activities, especially with regard to the United Nations, should be revised to adapt them to the new tasks – to realise a better distribution of incomes in the world, to face the explosion of violence, to protect us from pollution, to fight poverty, unemployment and drug traffic.

Within this institutionalised mechanism of the Atlantic partnership, it would be easier to develop a more efficient action towards developing countries which could be encouraged by the development of Euro-American investment, the promotion of their exports to the American and European markets, the improvement of the scheme of generalised preferences of the EEC (while hoping for speedy approval of the US preferential scheme by Congress), by the fostering of the economic integration process, and the setting up of specific working groups to consult on the consequences of the EEC enlargement, the reform of the international monetary system and the new trade negotiations which should start in GATT in 1973.

Thus, the Atlantic partnership would be renewed and the essential interdependence between America and Europe confirmed.

Notes

¹ ‘Reazioni USA agli accordi del Kennedy Round’ *24 Ore-Il Sole* Milan (2 July 1967).

² Address by William Roth before the American Paper Institute, Waldorf Astoria Hotel, New York City (19 February 1968).

³ The USA imposed countervailing duties on French goods in consequence of the measures taken by France in 1968 to restore her balance of payments. These duties were removed on 1 February 1969.

⁴ For a full analysis of the problems of the US textile industry see: US House of Representatives, Committee on Ways and Means, *Hearings on Tariff and Trade Proposals*, Part 5 (20–21 May 1970), pp. 1211–1615.

⁵ J. Audenars, 'Aujourd'hui les textiles, demain...?' *Journal de Genève* Geneva (4–5 April 1970).

⁶ D. S. Graham, 'U.S. Tariff Commission against textile import quotas' *The Financial Times* (12 December 1968).

⁷ See the declaration of the Association of Japanese Textile Importers Inc. included in the Hearings of the Committee on Ways and Means (May 1970) pp. 66–67.

⁸ 'Les industriels du vêtement réclament la réunion d'une conférence textile mondiale' *Le Monde* (30 November 1970).

⁹ 'Le rapport Peterson: comment les États-Unis doivent regagner leur compétitivité' *Le Monde* (1 February 1972).

¹⁰ It may be noted that France and the United Kingdom, while imposing a tariff surcharge to restore their own balance of payments, granted no fiscal incentives to their own exporters. The US measures in this field thus constituted discriminatory measures never put into effect until 15 August 1971. See: 'DISC, Un large système de subvention à l'exportation' *Journal de Genève* (17 September 1971).

¹¹ *United States International Economic Policy in an Interdependent World*, Washington (July 1971).

¹² R. Triffin, 'Il dollaro nuovo' *L'Espresso* Rome (30 August, 1971).

¹³ M. Volcker: 'La fin du conflit vietnamien n'apportera pas de solution aux difficultés de paiements des États-Unis' *Le Monde* Paris (1 June 1972).

¹⁴ J. L. Rowe, 'Nixon to seek new broad tariff power' *The International Herald Tribune* (14 February 1973).

¹⁵ 'Vade retro prodotto straniero' *L'Espresso* Rome (10 October 1972).

¹⁶ A. K. Watson, 'Les facteurs favorables au protectionnisme' *Agence Europe* (11 November 1971).

¹⁷ Ph. Courteny, 'La crise la plus grave de la société américaine' *Le Monde* (9 March 1971).

¹⁸ 'La posizione del dollaro' *24 Ore-Il Sole* Milan (22 May 1971).

¹⁹ R. V. Roosa, 'La balance des paiements des États-Unis et le dollar: évolution au cours des années soixante et perspectives pour les années soixante-dix' *Problèmes Economiques* Paris (22 October 1970) No. 1190.

²⁰ US Senate, Committee on Finance, *Hearings before the Sub-Committee on International Trade*, First Session on World Trade and Investment Issues (17–21 May 1971) p. 344.

- ²¹ R. Triffin, 'Il panorama internazionale oggi e domani', in 'Verso una moneta europea', supplement to No. 5 of *Lo Spettatore Internazionale* Rome (September–October 1970) pp. 46–47.
- ²² Sections 803:30 and 807 of the US Tariff Code provide specifically for the application of lower customs duties to imports of goods manufactured abroad by subsidiaries of US companies.
- ²³ The proportion of funds raised abroad by US companies rose from 29 per cent in 1959 to 46.6 per cent in 1969. See: 'Les investissements américains en Europe sont payés par les Européens, indique un rapport de la Commission de Bruxelles *Le Monde* (19 August 1970).
- ²⁴ US Senate, Committee on Finance, *Hearings before the Subcommittee on International Trade, op. cit.*, p. 255.
- ²⁵ *Ibidem*, pp. 126–127.
- ²⁶ *Ibidem*, p. 593.
- ²⁷ J. Rozner, 'Aux sources de l'inflation américaine' *Le Monde* (23 June 1970).
- ²⁸ R. V. Vambery, 'The American steel industry, the cost of protection to the nation' *Journal of World Trade Law* (January/February 1971), p. 27.
- ²⁹ F. Bergsten values at \$100 milliard the cost of the restrictions to American consumers. See: American Importers Association, *The Cost of Import Restrictions to American Consumers*, New York (1972). See also: US Department of Trade, 'Non-tariff barriers: an inventory' *International Commerce* vol. 76, no. 32 (21 September 1970).
- ³⁰ 'Le Gatt admet la validité de l'application de la Tva (VAT) à la frontière' *Agra Europe* Paris (10 December 1970).
- ³¹ 'Protectionism in America' *Europe Documents* (3 November 1970).
- ³² 'McGovern on his way' *The Economist* (June 10 1972).
- ³³ 'Gli investimenti americani nella CEE' *Documentazione Europea*, Brussels (1970).
- ³⁴ 'Europa–USA, Rottura in vista' *Vision* no. 1 (November 1970).
- ³⁵ H. B. Malmgren, 'The outlook for trade policy' *The Atlantic Community* vol. 8, no. 3 (1970) p. 373.
- ³⁶ R. Dahrendorf, 'Comunita, Stati Uniti, Giappone: Problemi e Prospettive di politica commerciale' *Bollettino Cee*, no. 2 (1971) p. 25.
- ³⁷ *La Comunità Europea e gli Stati Uniti: 1972*, Nota d'informazione della CEE, Brussels (June 1972).
- ³⁸ EEC Commission, *Comparaison entre le Soutien accordé à l'Agriculture aux États-Unis et dans la Communauté*, edited by Professors G. Vandenwalle and W. Meeusen, Brussels, 1971.
- ³⁹ See: P. Uri, *Un Avenir pour l'Europe agricole*, Institut Atlantique, Paris (December 1970); J. Marsh and C. Ritson, *Agricultural Policy and the Common Market*, PEP, London (March 1971); A. Zeller, *L'imbroglia*

agricole du Marché Commun, Calmann-Lévy, Paris (1970); and my article, 'Chi paga i conti dell'Europe Varde', *Politica Internazionale*, Florence (January 1970).

⁴⁰ 'Necessaria la riforma strutturale della politica agricola italiana', interview with sen. G. Medici *24 Ore-Il Sole* Milan (20 December 1969).

⁴¹ Th. Fleury, *Le Gatt, Droit International et Commerce Mondial*, *op. cit.* pp. 164–166.

⁴² H. Brugmans, 'Europe and America' *European Review* (Summer 1970), London, p. 18.

⁴³ 'Attention aux accords préférentiels, Avertissement de M. O. Long' *Journal de Genève* (12 February 1970).

⁴⁴ See my book: *I rapporti fra la Politica Agricola Comunitaria e i Paesi del Mediterraneo*, Istituto di Tecnica Agraria, Rome, September 1971.

⁴⁵ 'Bon voyage to Britain' *The Economist* (5 June 1971).

⁴⁶ H. B. Malmgren, 'Trade wars or trade negotiations? Non-tariff barriers and economic peacekeeping' *The Atlantic Council of the United States*, Washington D.C. (1970) p. 43.

⁴⁷ 'The United States gives Britain a warning', *Agency Europe*, Brussels (5 November 1970).

⁴⁸ H. B. Malmgren, *The Outlook for Trade Policy*, *art. cit.*, p. 379.

⁴⁹ 'The European Commission considers that the application of the Community Preference by the United Kingdom will not cause sudden changes in the current of world trade' *Agency Europe* (23 February 1971) pp. 3–4. See also: J. Poelmans and J. Lecomte, *L'Agriculture européenne et les Pays tiers*, Presses Universitaires de Bruxelles (1962); Th. Geiger, *Transatlantic Relations in the Prospects of an enlarged European Community*, British–North American Committee (November 1970) pp. 52–53.

⁵⁰ The total list of Japanese products subject to quota in the EEC countries includes a good 90 tariff items, so that about two thirds of the non-liberalised imports into the Community consist of goods coming from Japan. See: European Parliament, *I rapporti commerciali fra i sei e il Giappone*, report by M. Baas, Doc. 212 (2 February 1970) p. 29.

⁵¹ 'Europe and Japan: rivals or partners' *European Trends* no. 25 (November 1970).

⁵² A. Vernholes, 'Zeiss Ikon a succombé devant les Japonais' *Le Monde* (12 October 1971).

⁵³ *Europe's Role in a World in Danger*, a general plan of campaign suggested by Mr Mansholt, Europe Documents, Brussels (28 February 1972).

⁵⁴ M. Tatu, 'L'Europe entre les grands, Un problème insoluble: la défense commune' *Le Monde* (7 October 1972).

⁵⁵ R. Ossola, 'Problemi monetari mondiali e regionali', *Euro-Cooperazione* Banco di Roma, Anno I^o–no. 1 (June 1972).

⁵⁶ 'Mercato mondiale unico', a lecture by Richard N. Gardner, *La Stampa* (26 June 1971).

⁵⁷ A. Spinelli, *Voix, Indépendance et Persounalité de l'Europe*, Association pour l'étude des problèmes de l'Europe, Paris (7-8 July 1972).

⁵⁸ R. Schaetzel, 'Momento della verità per i rapporti USA-Europa' *24 Ore-Il Sole* Milan (27 September 1972).

⁵⁹ M. Duverger, 'Les deux Europe' *Le Monde* (26 May 1972).

⁶⁰ Committee for Economic Development, *The United States and the European Community*, a statement by the research and policy committee, New York (November 1971); C. Gasteyger, *Les relations Europe-Amérique, A la croisée des chemins*, Institut Atlantique, Paris (March 1972).

⁶¹ H. B. Malmgren, *Trade for Development*, Overseas Development Council, Washington D.C. (1971) p. 52.

⁶² J. Isnard, 'Les États-Unis proposent à leurs alliés de coordonner certains recherches militaires' *Le Monde* (4 July 1972).

11 New Multilateral Negotiations for the Reform and Expansion of International Trade

New expansion in international trade

The progress achieved in the liberalisation of trade in the last twenty five years has produced a spectacular expansion of world trade. In the postwar period of highest economic development from the end of 1958 to 1971 the total fob value of exports throughout the world more than trebled, from \$108 to \$346 milliard, whereas production only doubled in the same period. This is a development without parallel in world trade. Not only has an established secular tendency been overthrown, as the expansion of trade had previously always been contained within the limits of production, but international trade has become a motive force in economic development promoting the prosperity of nations, their stability and their international co-operation.

The crisis of 15 August 1971, while it reduced the rate of expansion of world trade (which increased in 1971 by barely 6 per cent in terms of volume), in no way upset the basic trend. The economic recovery in progress in most of the industrialised countries provides grounds for thinking that the development of world trade may be going ahead at an unchanged rate. Furthermore, it could even be claimed that the crisis of 15 August 1971 has had a salutary effect: it made the world understand that international economics is interdependent and indivisible and that isolationism represents an extremely onerous alternative in terms of employment and economic development. And on this point it is significant that practically all the countries were concerned to do nothing that could touch off a chain reaction. However, the re-establishment of a climate that favoured the restoration of the process of liberalisation of international trade, a process which concerns relations between the highly industrialised countries and East-West trade relations as well, is subject to reconciling foreign interests, which tend to be expansive with domestic interests that are inherently protective. Thus, the emphasis will be not so much on expanding trade as on finding some agreement to avoid adverse effects on trade. In fact, if a certain amount of protectionism

has to be accommodated, as it seems it must be, the sensible thing to do is to consider all possible ways of limiting its more harmful effects. For example, the conclusion of a multifibre agreement in the GATT framework, despite its clear disadvantages for the concept of international division of labour, could be a minor price to pay for opening the road to new multilateral trade negotiations. Similarly, a concerted effort of 'orderly marketing' should be made in certain sectors to prevent too keen competition for export outlets. Moreover, an agreement of the amounts of compensation for loss of agricultural and industrial trade from the Common Market after its enlargement is essential to start new negotiations in the GATT, although it is to be hoped that claims by the United States are kept moderate.

The Nixon Round

In February 1972 the three protagonists in the field of world trade (the EEC, the USA and Japan) undertook to embark on new multilateral negotiations in GATT, and in November the Contracting Parties in GATT, assembled at the 28th Session, decided to set up a committee to prepare for the Nixon Round and a meeting at ministerial level to be convened in Tokio in September 1973 to conduct the trade negotiations, which should be concluded in 1975. These negotiations, which in all probability will actually get under way in Geneva in the spring of 1974, will be principally concerned with:

- 1 The dismantling of the remaining tariff reductions,
- 2 The organisation of world agricultural markets,
- 3 The harmonisation and reduction of non-tariff barriers,
- 4 The proliferation of world trade agreements,
- 5 The adoption of suitable adjustment mechanisms,
- 6 The implementation of new programmes in favour of the less-developed countries.

As regards customs duties, the American proposal for a complete elimination of customs duties over 5 to 10 years (to be extended to the emergent countries on the basis of the most-favoured nation clause) undoubtedly presents considerable advantages.¹ The realisation of their complete abolition (whether at medium or long term) would provide a new impulse for the expansion of world trade, partly in consequence of the psychological impact of having a clearly defined objective to achieve over a certain period of years. Furthermore, the long and arduous debates on the subject of tariff disparities, tariff escalation, tariff nomenclatures, the complications associated with specific and mixed duties, customs valuations, etc. (matters on which agreement – as

was seen in the Kennedy Round – is practically impossible) would be obviated. Finally, this move would automatically solve the problem of preferential trade agreements by putting all countries on the same plane.

On the other hand, the elimination of customs duties will also meet the requirement of concentrating attention at the new round of negotiations on the real problems of international trade (non-tariff barriers in particular).² The instrument of customs duties, in fact, retains a certain importance practically only in the case of certain semi-manufactured products (products normally imported from developing countries), since in these cases a moderate nominal protection is reinforced by a considerable measure of effective protection. In the case of labour intensive products, on the other hand, the comparative advantage of industries in the emergent countries is already sufficient to overcome the protective effect of customs duties. It is no accident in fact that the industrial countries resist imports of labour intensive products by recourse to the imposition of quotas and to so-called voluntary agreements for the limitation of exports. Even in the case of capital intensive products, moreover, productive specialisation enables customs duties to be overridden as an instrument of protection. And in certain cases a point is reached at which the tariff weapon is counter productive, since foreign investment is attracted to the area (as has happened in the EEC for the purpose of circumventing the CET) and local industry is moved to appeal to its own government for subsidies and other non-tariff measures to enable it to face competition from multinational companies.

Notwithstanding the advantages it holds out, however, the theory of zero tariffs still comes up against certain objective difficulties. Embarking on a plan for the total elimination of customs duties would make sense only if a programme were adopted simultaneously for the removal of other barriers to trade at the same rate, which would require substantial coordination of social and economic policies in the industrialised countries, and this would obviously be fairly difficult to achieve. Furthermore, in all probability a large number of products would be placed on the lists of exceptions, which would thwart the purpose of a general plan for the dismantlement of customs tariffs. Moreover, although the doctrine of comparative advantages may be valid on the theoretical plane, there is no positive proof that all the participants in the negotiations would obtain equal benefits. Certain countries, indeed, might have exchange parity problems to face in consequence of unforeseen deficits in the balance of payments.³

In the present situation, which is also characterised by the fact that the enlargement of the European Community will require at least five years for its full realisation, it therefore seems more realistic to aim at reducing customs duties to a specified level over ten years (not exceeding 5 per cent for example), especially as for Europe the CET is still an important distinguishing feature

and as the American proposal could in consequence be adjudged by certain member countries of the EEC to be no more than an attempt to absorb the Community into a vast Atlantic free trade area.

The reduction of customs duties could be effected by adopting the linear approach (reductions for instance of 10 per cent per annum over a period of ten years), an approach which, to reduce the higher level of protection enjoyed in general by American industry, could be combined with suitable techniques for tariff harmonisation. And such a course would not necessarily entail excessive work, since the amount of the 'tariff peaks', as we have seen in Chapter 9, was sharply reduced on 1 January 1972 (at the time of the last tariff reductions agreed at the Kennedy Round). All the tariffs in excess of 30 per cent for example could be reduced by 3 per cent per annum, those above 20 per cent by 2 per cent per annum, etc. until the agreed floor of 5 per cent is established over ten years.

To obtain the agreement of the USA to such elimination of the tariff peaks it would be necessary on the European side to decide to lower the high protective level of the common agricultural policy. It is clear that the CAP represents the major obstacle to the successful outcome of the forthcoming multilateral trade negotiations.

In this case, as in that of customs duties, the USA is proposing the adoption of a plan marked by great simplicity, that is to convert all the protective elements in the agricultural sector into equivalent fixed duties, the level of which would be frozen and subsequently reduced gradually over a certain number of years to arrive at a specified floor (that is to say, specified maximum levels of protection) for example 20–30 per cent *ad valorem* in ten years' time. In addition, such a plan could be integrated by suitable measures to eliminate export subsidies over an equivalent period and to reduce the discriminatory effect of the preferential agreements (for example by gradually increasing the preferential duties to the level of the most-favoured nation clause over a certain period such as ten years). Finally, in cases in which reductions in the existing amount of support might cause a drop in agricultural earnings suitable forms of compensation (direct aid, tax relief for the undertakings, etc.) would be provided for.⁴

The US plan in the agricultural sector, while it has the advantage of simplicity and of providing for selective reductions according to the product or the sector concerned, seems unacceptable to the EEC. In substance the US plan entails the dismantling of the CAP, and while this is undoubtedly desirable having regard to the disastrous results achieved by the CAP, nevertheless from a realistic point of view (the reactions of the Community agricultural organisations and of certain important member states of the EEC, which are known to derive substantial economic advantages from the application of the CAP) it would be more practical for the EEC to move towards a

revival of the theory of the *montant de soutien* by consolidating every three years the percentage rates of protection – and so blocking the maximum level of levies – for certain bulk products (cereals, dairy products and sugar) in return for an undertaking by third countries to observe specified minimum prices (floor prices). Moreover, apart from compensation measures, the application of adequate quantitative restrictions would reassure the European agricultural organisations. In addition, even if the agreements regarding consolidation were to be negotiated every three years the participating governments should be free to appeal to a suitable international committee (composed of agricultural experts of proven impartiality) for an annual examination of the execution of the agreements, on the basis of which they would be able to make adjustments in their own farm prices having regard to the objective development of production and trade in the preceding year. Furthermore, all the countries participating in the agreement should undertake to follow trade policies which as far as possible ensure a harmonious expansion of trade within the limits fixed by the international reference prices agreed. It should thus be possible to set up in the EEC an import regime based on a system of fixed levies (which could also be reduced whenever world prices rise above the international reference prices). And, at the domestic level, a regime of direct aid to integrate the incomes of specific farmers. If the time available – the negotiations should be concluded by 1975 – is not sufficient for dealing with the problem of the coordination of agricultural policies (and therefore with the problem of the direct international control of the national policies of farm support), the countries participating in the agreement could adopt an effective programme of international cooperation by intervening in the world market to purchase the surpluses when prices drop or threaten to drop below the international reference price, that is to say for commercial transactions.⁵

As regards non-tariff barriers, the main difficulty in the negotiations is the problems the governments face in evaluating reciprocity in global terms rather than by sectors. Many non-tariff barriers do not lend themselves to any reliable quantitative evaluation. Moreover, even if non-tariff barriers are to be found in all countries, in this particular sector concessions require to be made by Japan, whose market is protected by a wide range of obstacles, often not easily identifiable. Moreover, as already mentioned, the validity of the negotiations in this sector seems conditioned by the participation (and consequently the consent) of the industrial groups (private and public) which, in various cases, have erected non-tariff barriers rather more protective than the tariff barriers raised by the governments.⁶ In this sector, but not in this sector alone, close collaboration and effective participation in the new Geneva negotiations are therefore called for with the industrial groups and business leaders to overcome the principal difficulties and to establish

realistic guidelines, rules and codes of conduct, and suitable procedures for consultation. The Industrial Products Committee of GATT distinguishes two main categories of non-tariff barriers:

- 1 Those which hamper or produce distortions in international trade.
- 2 Those which have 'incidental restricting effects' on trade.

In particular, the negotiations should concern: quantitative restrictions, the methods of customs valuation, anti-dumping duties, countervailing duties, the practices relating to public contracts, government aids to industry, fiscal practices and industrial standards, And, indeed, certain codes of conduct (relating to methods of customs valuation, procedures for obtaining authorisation for imports and technical standards) have already been drawn up and submitted to the governments for approval. The principal difficulties seem to relate to the quantitative restrictions and countervailing duties. As regards import quotas Japan is also seeking discussion of the problem of the so-called 'voluntary' agreements for the limitation of exports, while on the subject of countervailing duties, the USA is invoking the 'grandfather clause', that is to say claiming that its own legislation takes precedence over the rules of GATT. In these cases, however, it is clear that it is desired to bring out the close interdependence that exists between the problems to be faced and solved. In the case of countervailing duties the position adopted by the USA is explained by the desire to secure from Europe the revision of the system of concessions of refunds on agricultural exports.⁷

The problem of preferential agreements should be reconsidered in the light of the results of the discussions on customs duties and agricultural questions. Moreover, another valid strategy for avoiding the proliferation of preferential trade agreements would be to conduct multilateral negotiations between developed countries only on a conditional most-favoured nation basis whereby only the parties to an agreement would be allowed to benefit from it.⁸ Trade discrimination against the rest of the world (that has resulted from the use of the custom union exceptions to Article 1 of GATT), in order to sanction EFTA and EEC, can best be counteracted if the rest of the world, and specifically the United States, make use of the same technique of bargaining. This would allow all developed countries to establish bilateral freer trading blocks with anybody else (provided they let in all who follow the same rules). And, of course, the benefits of all tariff cutting agreements should be extended non-reciprocally to all developing countries on an unconditional most-favoured nation basis. Moreover, the principle of conditional treatment could be an effective sanction against governments which do not comply with international agreements, while up till now it has been impossible for signatory countries to the GATT to withdraw concessions to those trading

partners who do not comply with internationally agreed rules of behaviour.

As regards the less-developed countries on the other hand, the first requirement (apart from a general move towards tariff de-escalation) is selective action of a more searching nature with regard to certain basic products (especially in the sector of oleaginous products). Moreover, to improve access to markets in the developed countries it will be necessary to abolish quantitative restrictions or at least justify them on the basis of objective international recognition: to improve the system of generalised preferences (by increasing the duty free quotas, including processed agricultural products, etc.); to accelerate the implementation of the system of generalised preferences in the USA, as further delay in its introduction could compromise the whole system; to abolish the revenue duty imposed on certain tropical products such as tea, coffee, bananas, cocoa, etc.; and to accelerate the tariff reductions agreed by the developed countries in favour of the emergent countries without this involving any obligation as regards reciprocity. The EEC, moreover, should abolish the 'reverse preferences' and, together with the USA and Japan, should launch an effective aid programme in favour of the poorer emergent countries to compensate them for the loss of the preferential margins. Moreover, access measures should be supplemented by powerful and broadly based drives for expansion of export oriented production, diversification and export promotion, including the training of exporters and foreign trade specialists, the development of market studies, the adaptation of products to foreign demand, improved marketing techniques and research for new end uses. Furthermore, the central theme of the new negotiations, and more particularly the new element of a programme in favour of the emergent countries in GATT, should turn on the adoption of a series of big multinational contracts for cooperation at medium and long term that will ensure guaranteed outlets for the emergent countries for a selective range of products between, on the one hand, the big three in world trade (the EEC, the USA and Japan), and on the other hand, the big underdeveloped areas (Asia, Latin America, Africa and the Middle East).⁹ And such a strategy, which must obviously be studied in detail, would have political advantages to its credit. It is accepted, in fact, that the USA is now in favour of the multilateralisation of its relations with Latin America, and that the EEC – as was made clear at the second Yaoundé Convention, at which the preferences received by its African associates were substantially diluted – is tending to disengage itself from its system of preferences with African and Mediterranean countries, in order to put its relations with the less-developed countries on a better footing.¹⁰ On the other hand, such a strategy would enable the emergent countries to play an active role in the new negotiations by offering countervailing advantages in return for trade concessions. In particular, through long term contracts, the developing nations could ensure

regular supplies of raw materials, provide investment schemes giving sufficient guarantees to foreign investors and reduce their own tariffs and non-tariff barriers in the specific deals concluded.¹¹

Adjustment mechanisms

An effective recasting of the process of liberalisation of world trade is subordinated, however, to the adoption of suitable adjustment mechanisms that take due account of the new characteristics of international economic conditions. The new phase of economic recovery is characterised, in addition to persistent inflation, by high unemployment. In the USA, notwithstanding the fact that the national product may rise in 1973 by almost 10 per cent, unemployment numbers over 5 million persons. Unemployment has also reached substantial proportions even in countries like Sweden, the United Kingdom and Canada which had enjoyed almost uninterrupted full employment over the preceding forty years. On the other hand, the comprehensive redistribution of economic power in progress among the industrialised countries in the Western world (characterised by the spectacular economic expansion of Japan, the emergence of the Europe of the Nine and the erosion of the economic dominance of America) has sharpened competition in all international markets and has given rise in certain cases to particularly difficult situations, especially under the pressure of exports by Japan and the low wage countries. And, as under the present GATT Article 19 'Emergency Act on Imports of Particular Products' countries have experienced difficulties in presenting an adequate case for the application of safeguard action, it is imperative to define an international system of rules and procedures of a multilateral nature to counter the disorganisation of markets and the consequences that such disorganisation entails as regards the employment situation.¹²

In particular, it is essential to establish on a permanent basis an international organ for conciliation and arbitration (composed of highly qualified persons well versed in the problems of international trade) to which individual undertakings can also turn to report any illegal damage caused by international competition, which would of course have to be proved. For this purpose it might be useful to transfer to the international level through GATT the machinery of the US Tariff Commission, which works satisfactorily. In addition, when the differences are serious enough to spark off real trade wars (even if they are limited to particular products and particular sectors) special conferences would have to be organised (with the participation of representatives of the government, the industries and the trade unions) at which the parties concerned would get together to restore objective condi-

tions to the market (e.g. by limiting direct and indirect subsidies, exchanging particulars on production and marketing, discussing problems regarding outlets, etc.). Moreover, if in certain cases some protection – always temporary and non-discriminatory – has to be provided (because large sectors of a major industry can be seriously damaged by international competition or when the assistance to workers kept unemployed seems inadequate), no agreement (bilateral or multilateral), even one designed to effect a so-called ‘orderly marketing adjustment’, should be permitted to serve merely restrictive purposes. The object of any agreement should be an expansion of international trade and the rapid re-establishment of objective conditions to the market. Any industry that seeks to be protected should therefore be required, besides producing proof of damage, to submit a plan for its modernisation, the actual implementation of which should be periodically checked by some international review or multilateral surveillance to ensure that the system is not abused. Finally, it will be essential to set up an international social security fund to help the producers and workers to adapt to the changes imposed by international competition. This fund (which could be managed jointly by GATT and the ILO, and which could be fed in part by contributions from the various states and in part out of a modest levy on the total value of exports by the industrialised countries) would need to intervene promptly with adequate subsidies to assist the workers and the entrepreneurs hit by the negative effects of changes occurring in the economic organisation of the world. And these measures of immediate assistance would have to be supplemented by others to facilitate the reabsorption of the unemployed workers (by retraining courses for example), and to safeguard the rights already acquired (relating to pensions and social assistance, for example).¹³

Furthermore, the adjustment mechanisms should not be restricted to playing a purely sectoral role, but should serve a wider purpose. Thus to effect a material improvement in the position of the less-developed countries and ensure that they too will benefit by the principle of the international division of labour, general reconstruction plans (related to the sectors in which the resistance offered by the protectionist groups is strongest) should be studied (with the collaboration of the trade unions, businessmen and national authorities in the countries concerned) and submitted at the international level to set in motion the reorganisation of certain economic activities (textiles for example) in a relatively orderly manner without provoking conflicts (which would inevitably strengthen the neo-protectionist forces) and without causing damage to the workers. Furthermore, since the concentration of trade in the hands of the highly industrialised countries is excessive (in 1971 exchanges between the developed countries represented 69.9 per cent of world trade compared with 17.7 per cent for the emergent countries), which encourages neo-protectionist tendencies, it is necessary to

provide facilities and incentives to stimulate both an increase in trade between rich countries and poor ones and an increase in trade among the regional areas in course of development (Arab Common Market, Andes Pact, Central American Common Market, etc.). And if the incentives fail to restore the balance of international trade in favour of the emergent countries, consideration could be given to introducing suitable mechanisms that would penalise exports to the industrialised countries (by imposing levies, for example, the proceeds of which would finance the construction of infrastructures in the poor countries). In addition, to restore balance to international trade it would also be necessary to introduce a suitable mechanism of adjustment as between the industrialised countries themselves.

In this connection the most striking case is provided by Japan, who, having made the mistake of routing too much of her exports to the American market, is now engaged in redirecting her foreign trade towards Europe and the Asiatic area, especially China. It is less difficult for Japan to import raw materials from China than from the USA and Australia; and moreover by 1985 the Chinese market could develop sufficiently to supplant the American market to a large extent especially if the rapprochement between China and Japan is consolidated. Thus, suitable rules laid down at the international level could provide for penalties whenever total exports from a particular country (or exports from certain sectors in a country) are concentrated in one or a few markets or if they exceed a certain agreed maximum. Parallel incentives could be established and agreed to encourage increases in imports by accelerating the removal of tariff and non-tariff barriers, especially in the case of a country with a trade surplus. On the other hand, in certain cases which could be defined at the international level, a substantial revision is called for of trade policies which, in a spirit of neo-mercantilism, give excessive priority to exports and ignore the precarious situation of many depressed areas in that very country. In all too many highly industrialised countries the present situation no longer calls for a policy which grants priority to the development of exports so much as the adoption of a policy which grants priority to social development (to solve the housing crisis, the pollution problem, etc.) and the improvement of the quality of life. And the pursuit of such a policy would mean, on the internal plane, providing for the social development which has hitherto been largely overlooked, and, on the external plane, permitting a more balanced and integrated development of trade and of investment and services.

New orientations of East–West trade

The new multilateral trade negotiations might also provide an opportunity

to agree on a definition of a 'code of conduct' for East–West cooperation designed to: standardise and codify commercial terms, practices and usages; reach agreement on a reciprocal basis to apply the normal systems of advertising and sales promotion; establish direct relations between importers and exporters without recourse to intermediaries; do away with the inconveniences of bilateralism through clearing arrangements, the settlement of deficits in strong currencies and the transfer of claims owed from one Eastern country to another; extend to the Eastern bloc countries all the advantages of the GATT regulations in return for an undertaking to purchase specified quantities of products over a prescribed period; conclude trade agreements for periods of 3 to 5 years subject to annual review; settle transactions in convertible currencies; suspend quota arrangements and licences, adopting special escape clauses; achieve progress in the matter of commercial arbitration, industrial property and commercial credits; establish contacts that could lead to forms of cooperation in the fields of industry and commerce; ensure as regards dumping that the countries in the East will agree to submit to arrangements permitting the assessment of their costs of production and their methods of price fixing; and authorise Western firms to establish representative offices in the Eastern bloc countries.¹⁴ The development of East–West trade relations under the auspices of GATT seems to depend on the action taken by the USSR, who, as the leading COMECON country, has a major interest in maintaining a certain political distance between socialist countries and capitalist countries. This explains the sharp criticism directed by the USSR at GATT, which is accused of being 'weighed down by facts', of having 'played too modest a role in eliminating the non-tariff barriers', and of having 'been violated with impunity all too often'.¹⁵ The USSR, however, now aware of the importance of multilateral trade as an instrument for obtaining products with a high technological content, should be prevailed on to assume medium term multilateral undertakings on a non-discriminatory basis.¹⁶ Development on these lines is confirmed not only by the conclusion of a colossal multi-billion dollar agreement to develop Russian gas with US capital, but also by the payment (between 1972 and July 2001) of \$772 million due to the United States on the basis of the Lend-Lease debt (of \$11.1 billion) going back to the second world war (for which Russia had never offered to repay more than \$300 million), the setting up in Moscow of a large trade centre for foreign businessmen and the agreement to submit disputes which cannot be settled to a third country for arbitration. Thus, in return, the USA have authorised the US government Export–Import Bank to extend credits and guarantees for the sale of goods to the Soviet Union (while previously only Yugoslavia, Poland and Rumania had received this benefit) and promised to seek congressional authorisation for the extending of regular tariff rates (most-favoured nation treatment) to Soviet imports.¹⁷

It should be remembered, moreover, that commercial and economic cooperation is in substance the most important of the subjects to be discussed at the Conference on European Security. The problem of security for the USSR has already been largely solved. The problem of the two Germanies has reached a solution. Relations between the Federal Republic of Germany and Poland have returned to normal with the recognition of the Oder-Neisse line. And on the delicate question of the balanced reduction of the armed forces (MBFR negotiations) the USSR does not seem disposed to make any material concession at present as it foresees the withdrawal (though possibly gradual) of US armed forces from Europe in the near future.

On the economic questions to be debated at the Conference on European Security, the principal themes have already been outlined by the West.¹⁸ They concern industrial collaboration (including the development of petroleum resources and raw materials by countries in the East), the pragmatic improvement of commercial relations (e.g. by perfecting the exchange system, favouring the commercialisation of products from the Eastern countries intended for export, etc.), the development of transport systems, tariff reductions (by the Western countries) in return for non-tariff concessions (by countries in the East), the accession to GATT of new state trading countries (notably Hungary – whose accession is imminent – Bulgaria and more especially the USSR), and the development of monetary, financial and credit relations. And it is clear that under all these heads, close coordination is called for between the Western powers to obviate unilateral concessions and serious political repercussions (especially as regards the SALT II and MBFR negotiations) on the unity of the Western world.¹⁹

The monetary conditions of the negotiations

An effective resumption of the process of liberalisation of trade is conditioned by the necessity for clarifying the most important monetary matters. Thus, the USA should adopt measures (pending the reform of the international monetary system) to safeguard Europe against any losses deriving from further devaluations of the dollar. For this purpose, the partial agreement of the Paris conference of 16 March 1973 is encouraging. Moreover, since the deficit of the US balance of trade is covered to an increasing extent by earnings from foreign investment (which in 1975 are expected to rise to \$17 milliard, compared with \$3.6 milliard in the period 1964–1967), the USA cannot at the same time obtain substantial advantages from her direct investments and also enjoy a trade surplus. The capital exported by the USA stimulates her production abroad which obviously takes the place of potential American exports. Moreover, in all probability by 1980 the trade balance of Europe

and Japan will also be in deficit in consequence of the transfer of a considerable part of their production to the emergent countries.²⁰ Consequently the Bretton Woods concession, whereby only the disequilibrium of the current items in the balance of payments is considered in altering the monetary parities, should be revised by including in it also the movement of capital at long term.²¹

Europe, for its part, should accept the idea of regarding the dollar as being convertible not into gold but into the goods, services and shares of US undertakings. And in a world in which everything is changing (production, wages, etc.), Europe should maintain and reinforce a joint floating of its exchange rates, avoiding the folly of adopting absurd *dirigist* measures such as the two-tier exchange market. Actually, under a regime of flexible exchange rates every country is compelled to cope with its own inflation problem. Moreover, disequilibria (in surplus or in deficit) in the balance of payments can be rapidly corrected by appropriate internal policies, thus avoiding the consolidation of restrictive practices in international trade, especially in the form of more extensive 'voluntary' agreements.²² And the fact that the new monetary system will have to maintain its unity, if it is to avoid splitting the world up into hostile blocs, does not mean that it will be incompatible with the creation of a European monetary area which would be less dependent on the dollar for internal transactions. In fact, the creation of a European monetary zone seems desirable both to extricate Europe from the direct influences of the monetary policy of the Federal Reserve Board System in the USA (through the Euro-dollar market, fluctuations in interest rates, the influence of loans and repayments, etc.), and because the creation of decentralised reserve systems should encourage the reintegration in the international commercial and currency system of the State trading countries. The COMECON countries and China seem bent on participating in the international dialogue on the reform of the international monetary system, having grasped that they can occupy the position due to them in world trade only if they use convertible currencies.²³ The Western countries should therefore employ every means available to facilitate this process. Apart from making for an easing of tension, the integration of the state trading countries in the world monetary system would make a positive contribution to the balance of world trade.

On the other hand, it would be wrong to suppose that the international monetary system can function purely on the basis of new monetary instruments of the special drawing rights variety. Apart from the consideration that to realise such a project it would be necessary to delegate to a world central bank the power to issue a new currency when the states concerned have no intention of sacrificing one of the principal attributes of their sovereignty, how can it be imagined that in the world of 1980 the more

extensive trade between the countries with free market economies and the USSR and China can be conducted exclusively on a monetary basis created by the West? Gold is therefore bound to play an essential part in the new monetary system as well. And if a new parity for the dollar in relation to gold will certainly not solve the basic problems of a new monetary standard, an increase in the price of gold will enable the international monetary system to remain anchored to the dollar for a few more years until Japan and Europe are in a position to assume fully their own responsibilities in the monetary field as well. Another matter altogether, on the other hand, is the question of the dollar balances, for which, to avoid damage all round, a compromise must be reached providing for their consolidation. It is clear, moreover, that to remove the uncertainties engendered by more frequent adjustments of exchange rates a central institution could be set up with international participation offering some measure of currency assurance for international trade. In particular, such a body could offer forward exchange contracts covering trade transactions at levels that would not harm the operations in any way. This would furnish the necessary guarantees of stability for international trade and investment and would provide an alternative to the present system of fixed parities. And to achieve such an objective it would not be necessary to create new forms of international bureaucracy. It would be enough, in fact, to rely for the preparation of the exchange contracts on the commercial banks, who would then have the right to discount or cover them at the central institution.

Finally, to help the less advanced countries in their efforts to expand the economy, ways and means should be studied to ensure a better distribution of international liquidity. In fact, as R. Triffin points out, 'under the present system for distributing Special Drawing Rights, the lions' share goes to the rich countries, and, what is worse, this shareout is completely automatic depending on the IMF quota of the country concerned so that SDR's are distributed blindly and are at the mercy of national policy, whatever it happens to be, even if it is abhorrent to the international community'.²⁴

Negotiations to take in international investment

Future negotiations cannot be confined purely to commercial and currency problems, but will also have to take in the problem of international investment. The intensification of international economic relations has given rise to a series of new forces which, disregarding any ideological and political constraints of individual states, tend to consider the world as a single big market. And this attitude of the business community concerns both the Western world and the Eastern world, In fact, in the West the multinational

companies have multiplied in number and size under the influence of scientific and technological advances, the rapidity of communications, the prospect of being able to apply the principles of productivity on an international scale and the multiplication, without limit or control, of the Euro-dollar. It is thus estimated that the book value of investments effected outside national territory in 1971 by all the countries in the Western zone (for the purpose of producing goods and services abroad) comes to about \$350 milliard, of which about half would be for the American account. It is also estimated that this large volume of investment, which can be set for purposes of comparison against the gross national product of the USA (\$1,150 milliard), of the whole Western area (\$1,900 milliard), and of the EEC (\$500 milliard), produces a turnover of around \$500 milliard. Foreign production by the USA alone amounted in 1970 to about \$250 milliard, an impressive figure when it is considered that the total value of American exports in the same year was about \$43 milliard. Moreover, in the East as well the expansion of trade with Western countries prompted socialist state enterprises and private capitalist companies to create 'joint ventures' which are a forerunner of the transideological undertaking. And in Japan the invisible ties of the *oyabun-kabun* – a kind of relationship between master and apprentice which lasts a lifetime – which no foreign company can hope to sever, make of Japanese economic strength an immense powerful corporation ('Japan Inc.' as the Americans call it).

However, the free wheeling ways of multinational companies are stirring increasing misgivings.²⁵ A report of the US Tariff Commission, published on 12 February 1973, shows, for example that US multinational companies can unleash a currency crisis by shifting only 5 per cent of their liquid assets. The trade unions, besides accusing the multinational companies of exporting jobs, claim that the development of such companies is one of the principal causes of the present inflation. Prices are not fixed by the multinationals on the basis of costs, but on the basis of investment strategy. In particular, the increase in prices reflects the necessity for maximising the 'cash flow', as the undertakings have enormous liquidity requirements for modernising their plant. In the USA, long-term investments amounted to \$235 milliard in the period 1966–1970 and will rise to \$418 milliard in the period 1970–1975. The Chase Manhattan Bank, moreover, estimates that in the 1970s the American oil producing industry will need \$500 milliard, the chemical industry \$300 milliard and the plastics industry \$200 milliard. And sums such as these of unprecedented amount can only be obtained by increasing cash flow. Thus, when sales decline, rather than reducing prices to stimulate sales, prices are increased to maintain profit levels. And realising such a policy is all the easier when it is known that most prices of consumer products are inelastic and most prices are the result of understandings, open or undisclosed. 'Govern-

ments must awaken out of their hypnotic obsession with ineffectual wages and incomes policies, based upon the fallacy that wages are the root cause of inflation', declared Mr C. Levinson, the secretary of the International Federation of Workers in the Chemical Industry, who went on to say that government anti-cyclical measures only apply to the traditional low growth sectors which continue to make relatively high use of manpower, while the sectors with a high concentration of capital which are steadily assuming control of the world economy evade the government net.²⁶ Furthermore, big investment by the multinationals is aimed for the most part at the rationalisation of production making for rising structural unemployment. At the national state level, on the other hand, the *dirigist* policies followed in the last twenty five years hardly accord with the universal character of the economic activity pursued by the multinational companies. An important point in this respect is that the multinational companies producing abroad a large part of what they sell or importing products or parts of articles for sale on the home market obstruct the efforts of the state to improve its own balance of trade by manipulating the exchange rates. By no means negligible, therefore, are the social and political powers of the EEC countries, who subordinate their support for European integration on condition that the Community institutions are in a position to control effectively the activities of the multinational companies and the American undertakings already operating in the economic area of the Community. The French Government, in a proposal submitted in October 1972, has applied for the adoption at the European level of a regulation containing two main points:

- 1 Power to refuse all foreign investments, except minority participations (less than 20 per cent) in stock exchange securities.
- 2 The granting of approval for proposals which, in terms of new jobs, assist the European economy and which in addition are not managed entirely from abroad, but refusal of authorisation in sectors in which it is desired to promote the formation of a big European industry.

The Belgian Government, moreover, has turned down the purchase of the 'Union des Propriétaires Belges' (insurance) by a British group, and the Federal Republic of Germany, although it has opened its doors to foreign capital, has stopped Firestone taking over Continental and Phoenix, two big rubber firms. The EEC experts hold, moreover, that the limit has already been reached in many sectors: calculating machines, certain branches of electronic components (integrated circuits), the automobile industry and packaging, while the limit is not far off for pharmaceutical products, telecommunications and other branches of the electronics industry (semiconductors).²⁷ In some cases, furthermore, the European Commission has

specifically intervened. The Commission has thus made, subject to Brussels approval, an agreement for technical research in common between Colgate-Palmolive and the German Henkel company into detergents for textiles on condition that the two companies, while conducting research together (through a joint subsidiary formed in Switzerland), remain separate and competitive in the production and distribution of their products; and it has heavily fined the Commercial Solvents Corporation of New York and the latter's Italian subsidiary, the Istituto Chimico Terapico Italiano (ICI) of Milan, on charges of trying to eliminate the firm of Laboratories Chimico Giorgio Zoja of Milan, the principal competitor of CSC in the Common Market, which produces a very precious drug for the cure of tuberculosis (dextro-ethambutolo), by refusing supplies of essential raw materials and preventing by every means – thanks to its international position – indirect supplies.²⁸ Moreover, despite the rejection by the European Court of the heavy fine imposed by the Commission on Continental Can (accused of a too dominant position in the control of its subsidiary Europaemballage), Brussels now seeks powers to stop all mergers it does not consider to be in harmony with the economic policy of the EEC.

To prevent the encouragement of neo-protectionist tendencies it is therefore essential to call an international conference to draw up a code of practical and ethical rules embodying obligations and rights for the multinationals which will be universally accepted. Thus as regards the obligations the code should call for: the absolute fidelity of the multinationals to the governments of the countries in which they operate; abstention from any action implying support for external political influences, even if they are disguised as economic interests; management based on low costs obtainable from sound plant and good organisation in favour of the purchasers; limitation of the profit to a fair return, commensurate with the risk, on the capital invested and any earnings that may be reinvested; participation of local capital when it is available on fair legal and moral terms; the employment and full utilisation of local manpower; guarantees for the workers of the maintenance of their own earnings (and increases in accordance with the rate of expansion of the sector in which they are employed), account being taken in the calculation of investments of the cost of structural unemployment. The rights, on the other hand, should be based on the following concepts: any nationalisation, partial or total, must derive from laws correctly promulgated and must be covered by fair indemnities; a fair profit on invested capital, on the reinvestment of earnings and on the revaluation of assets must be transferable together with the remuneration for effective technical services; the fiscal system must not be discriminatory and must avoid double taxation of the same income; property in the name, patents and technical know-how must be respected; local credit, objective conditions being equal, must treat all undertakings alike; and when

the behaviour of particular foreign undertakings is deserving of censure, any measures it is thought fit to take must not penalise those which have behaved correctly and have operated in the interests of the local economy.²⁹

And some form of international coordination of policy toward multinational companies – in the form of a GATT-like body (as proposed by Charles P. Kindleberger) or in the form of an international convention or treaty (as proposed by Herbert Maier of the International Confederation of Free Trade Unions) – is needed not only to avoid growing conflicts in such areas as job security, taxation, anti-trust regulations, securities issues and trading with enemy nations but also to orientate the world on a path towards global efficiency in resource allocation, production and distribution of goods.³⁰

Reinforcement of coordination between the institutions

Big new multilateral negotiations call for international cooperation and permanent consultation under the aegis of the existing organisations (GATT, IMF, OECD, UNCTAD). Hence the necessity that GATT should collaborate closely with the IMF to improve the coordination between the monetary system and the commercial system both as regards the rules and as regards their application, avoiding however any subordination of commercial policy to monetary policy. In addition, under the new commercial negotiations GATT should work in closer collaboration with the other international organisations. Thus any new negotiations aimed at lowering the barriers to trade in agricultural products should pass through the following separate successive stages:

- 1 Definition by the OECD of some form of coordination in establishing the objectives of the industrialised countries as regards medium term agricultural production and expansion of trade in agricultural products.
- 2 Organisation under the auspices of FAO–UNCTAD of conferences on the products to draw up a flexible plan for world trade over a period of 3 to 5 years.
- 3 Negotiations in GATT to ensure the maintenance of equilibrium between the various countries on the basis of indications provided by consultations organised by the OECD and FAO–UNCTAD that take account of the importance of the social components.

Similarly, GATT should consult with the European Economic Commission (EEC) on the definition of a code of conduct for East–West cooperation, with UNCTAD to agree on a programme for action in favour of the emergent countries, with ISO (International Standard Organisation) to work out

suitable formulae for the harmonisation of non-tariff barriers and with the OECD in certain sectors, such as that of export credits, since discussion in that centre should result in more rapid agreement among the interested parties.

On the other hand, if it is not considered worth while establishing new international institutions, the new tasks should be entrusted to those bodies which already possess pioneering experience. Thus, as far as the introduction of an international procedure regarding multinational companies is concerned, the OECD is certainly the most appropriate international forum, as the activities of this organisation have already covered several aspects of the subject. Similarly, since the Member Countries of OECD have already accepted some commitments on various aspects of international trade in services (which now account for about one quarter to one third of current international payments and include such items as banking activities, earnings on capital, films, insurance, royalties, tourism, etc.), further work aiming at ensuring liberalisation and non-discrimination on the so-called 'invisibles' (especially in the fields of insurance, air transport and tourism) should be entrusted to the OECD.

Notes

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ISBN 0 347 01013 X

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