

14 October 1970

GREECE - PREFERENTIAL TARIFF QUOTAS TO THE USSR

*Report of the Working Party adopted on 2 December 1970
(L/3447 - 18S/179)*

1. At its meeting on 28 April 1970, the Council discussed the question of the provisions of the Special Protocol with the Government of the USSR, signed by the Government of Greece in December 1969, which provides for special tariff treatment of certain products imported from the USSR within specific quota limits. At its July 1970 meeting, the Council received a formal request by Greece for a waiver under Article XXV:5 to cover tariff quotas granted by Greece to the USSR, and established a Working Party with the following terms of reference:

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

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

2. The representative of Greece explained that the objective of the Special Protocol was to facilitate imports of industrial products from the USSR in order that balance could be restored in the Long-Term Clearing Agreement between the two countries, which at present showed a large credit balance (\$6,200,000) in favour of Greece. A continuation of this surplus would make it difficult for the USSR to maintain its purchases of agricultural products of special export interest to Greece through this clearing mechanism. Greece had not been able to find adequate markets for these products, in particular, tobacco, citrus fruits and raisins, in industrialized GATT countries and consequently significant stocks of these products had accumulated, to the great detriment of State finances.

3. The purpose of the tariff quotas was to offset the competitive disadvantage faced by the USSR exports of industrial products, resulting from the reductions of the Greek tariff vis-à-vis the EEC, which had been implemented under the Agreement of Association between Greece and the Community. Arrangements of this kind had been envisaged in Article 21 of the Agreement of Association.

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

5. The representative of Greece did not believe that the terms of the Special Protocol would cause any trade diversion. He emphasized that the total amount of the products covered by the tariff quotas was limited to \$4,252,000, representing in 1969 only 0.30 per cent of total Greek imports and only one-sixth of imports from the USSR. Furthermore, the Protocol would expire on 31 December 1971. He also pointed out that over the first six months of the operation of the Protocol, of the seventy-five products under quota only thirty had been imported from the USSR; the value of these quotas opened was \$2,470,000, and the actual imports of these thirty products totalled \$1,216,000. No movement had been recorded in respect of the other forty-five products.

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

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

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

9. The representative of Greece pointed out that to place the tariff quotas on a most-favoured-nation basis would reduce the possibility of achieving the desired balance of trade with the Soviet Union. The renewal of Greece's trade agreement with the USSR had been made conditional on achievement of this balance. Furthermore, as regards the bilateralism to which certain delegations had referred, Greece had had to adopt this approach because of the need, during the current transitional period of its economic development, to face problems deriving from its trade with the planned economy countries.

10. Pointing to the information supplied by the Greek delegation to the effect that the trade results had been negligible - imports of Soviet-produced machinery, for instance, were unlikely to reach the limits of the tariff concession - some members of the Working Party were of the view that placing the tariff quotas on a most-favoured-nation basis could not damage Greek interests. The representative of Greece observed that having regard to the small size of the quotas and their limited use, they were not likely to justify any extension of the concessions. Furthermore, those concessions had been granted to the Soviet Union regardless of whether or not one or other party would have the possibility of making use of them; any extension of the tariff quotas to the contracting parties would run counter to the desired objective, which was to limit the trade deficit.

11. A major objection of principle was raised by most members of the Working Party to the granting of a waiver to cover preferential tariff treatment. The Protocol was not compatible with Greece's obligations under Article I of the General Agreement. Approval of the provisions of the Protocol, through a waiver, would set a serious precedent which could then be invoked by any contracting party. It could also encourage pressure from non-GATT countries for similar arrangements in connection with bilateral trading agreements. Furthermore, it would constitute a serious erosion of order in international trade, as formulated in the General Agreement. Such a waiver, even if granted in a case with limited trade effects, could not fail to create a serious precedent, which could well be used in cases involving large trade effects.

12. In reply to this last point, the representative of Greece recalled the numerous waivers granted to other countries in economic circumstances which, in his opinion, had been far from presenting the gravity and exceptional character of those cited by Greece in support of its request. The fear that a serious precedent might be set was not well founded in logic, taking into account on the one hand the practical results of the application of the tariff concessions granted to the Soviet Union, and on the other hand, the inauspicious reception which the Council and the Working Party had given to the Greek request.

Conclusions

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

14. One delegation shared the general concern over the question of principle regarding discriminatory preferential agreements, including the special agreement concluded between Greece and the Soviet Union; because of the concrete aspects of the problem, however, this delegation was of an open mind regarding all solutions.

15. One delegation was of the view that exceptional circumstances, within the meaning of Article XXV:5, did exist. In order to take account of the fear expressed by the Working Party that the grant of a waiver would set a precedent, as well as of the fact that discriminatory tariff quotas were inconsistent with the provisions of the General Agreement, and to take into consideration the economic and political problems with which Greece was confronted, that delegation suggested that the Working Party consider a waiver, limited in time - until June 1971 - not renewable and drafted so as clearly to exclude its possible use as a precedent. It should be clearly stated that the sole purpose of such a waiver of limited duration would be to enable Greece to bring the Special Protocol into line with the provisions of the General Agreement. No other member of the Working Party expressed support for this proposal.

16. A large majority of the members of the Working Party does not recommend that a waiver be granted as requested by the Government of Greece.