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GENERAL AGREEMENT ON TARIFFS AND TRADE

COUNCIL

MINUTES OF MEETINGS

Held at the Palais des Nations, Geneva,
From 22 February - 2 March 1961

Chairman: Mr. J.H. WARREN (Canada)

Subjects discussed:

1. Membership of Council

The Chairman informed representatives that Nigeria had now become a member of the Council. Further, as important matters affecting their customs tariffs and schedules were to be discussed at the present meetings, Ceylon and Indonesia had requested that they be co-opted when the items concerned were under discussion; this was noted.

2. Adoption of agenda (C/6/Rev.1)

With reference to the proposed item 12, the Executive Secretary referred to the note which had been distributed to representatives (Spec(61)45) on the subject of commercial policy problems of newly-independent countries. He outlined what he had in mind in making the proposals contained in the note.

The provisional agenda, including the item referred to by the Executive Secretary, was adopted.

3. Provisional accession of Switzerland (L/1384)

In the Declaration on the Provisional Accession of Switzerland, the Government of Switzerland undertook that, following the entry into force of the Declaration, it would consult with the CONTRACTING PARTIES with a view to finding solutions compatible with the basic principles of GATT to the problems in respect of which Switzerland found it necessary to make reservations on the application of certain Articles of the General Agreement. The major problem related to the measures taken by the Swiss Government for the protection of its national agriculture pursuant to the Federal Law of 3 October 1951. The consultation was initiated at the seventeenth session and the statement then made by the representative of Switzerland was distributed in document L/1384.

The representative of Switzerland recapitulated some of the main points in the statement he had made at the seventeenth session (L/1384). Inter alia he stressed that the protective measures used by Switzerland were the minimum necessary to maintain a hard-core of Swiss agricultural production; that the Swiss agricultural population, manual workers and the number of farms were consistently declining, while the increase in productivity was only sufficient to maintain agricultural incomes; that Switzerland's agricultural policy was neither expansionist nor aggressive; that, on a per capita basis, Switzerland was a very large importer of agricultural products; that, as the increase in agricultural production was well below the world average and as the Swiss population was increasing, agricultural exporting countries could count on the stability of the Swiss market. The representative of Switzerland then discussed the statistics of Swiss imports of agricultural, fishery and forestry products in 1960, which had been distributed during the meeting of the Council; he pointed out that, excluding State trading, Switzerland complied with the requirements of Article XI in respect of a large proportion of such imports. In conclusion, the representative of Switzerland asked that, bearing in mind the generally liberal character of Swiss import policy,

Switzerland's particular situation and the desirability of a realistic approach being made to this problem, the CONTRACTING PARTIES should try to find a formula which would permit Switzerland's full accession to the GATT.

In the general discussion which followed various views were expressed. While it was recognized that the full accession of Switzerland to the GATT was most desirable, the suggestion that Switzerland should be given what amounted to a permanent derogation from Article XI gave rise to concern on the part of several representatives. It was pointed out that, while it was true that certain contracting parties had been granted temporary waivers in the agricultural sector, they still had obligations which applied to all sectors of their trade. To grant a country a permanent derogation from the provisions of Article XI was a different matter and would establish a most undesirable precedent. It would create a serious imbalance between rights and obligations and would run counter to the whole GATT concept of reciprocity. It was not sufficient to talk about maintaining the present degree of access to the Swiss market; there had to be an expectation of increasing access for agricultural exporters. It was not unreasonable to suggest that Switzerland should take positive steps to align its system more closely to that required by GATT as a precondition to possible full GATT membership.

Some representatives expressed the view that, as the work of Committee II was still in progress, the status quo in respect of Switzerland's position should be maintained pending the outcome of the Committee's work. There was a suggestion that to reach a settlement of the case of Switzerland at this stage might prejudice the conclusions of Committee II and other current work of the CONTRACTING PARTIES in the agricultural field. Other representatives felt that it might be possible to work out a formula providing for Switzerland's full accession to GATT, while leaving the problems involved in the Swiss agricultural restrictions to be settled when the final conclusions of Committee II were available. Others thought there might, in any case, be scope for modifying the existing relationship between Switzerland and the CONTRACTING PARTIES. One representative expressed the view that it should be possible to work out a formula which provided for Switzerland's full accession and which was so defined, in the light of Switzerland's very special historical, geographical and topographical situation, as not to create a precedent for the future.

Following the discussion, it was decided that the exchange of views in the Council should be followed by informal meetings between Switzerland and interested contracting parties. The Council was later informed that, during these meetings, contracting parties had asked the Swiss representatives additional questions about various aspects of Swiss agricultural policy, while the discussion had also covered a number of suggestions as to how progress might be made in finding solutions to Switzerland's reservation in a manner which would be in conformity with the General Agreement.

Finally, the Council agreed that the consultation with Switzerland in accordance with the terms of the Declaration on the Provisional Accession of Switzerland should be continued. For this purpose, a small group of contracting parties, drawn mainly from important agricultural exporters to the Swiss market was appointed, with the following membership:

Australia	Netherlands
Canada	New Zealand
Denmark	United States
France	Uruguay

Other contracting parties which considered that they had an important interest in the products covered by Switzerland's reservations in the Declaration would be free to participate in the work of the group.

The group would meet on 6 and 7 April. It was felt that it should be possible for the group, at that meeting, to suggest a time-table for further discussions with Switzerland, on the completion of which it would submit a report either to a meeting of the Council or to a session of the CONTRACTING PARTIES, whichever was the earlier.

4. Application of Article XXXV to Japan (C/5, C/8, C/9)

At the seventeenth session, the Japanese Government requested the CONTRACTING PARTIES to review the operation of Article XXXV insofar as it had been used in connexion with the trading relations between a number of contracting parties and Japan. Provision for such a review is made in paragraph 2 of the Article. The CONTRACTING PARTIES agreed that a review should be carried out, but the Council was asked to make recommendations regarding the scope and timing of the review. To facilitate the Council's consideration of this question, the Executive Secretary put forward certain proposals in document C/5.

After the Executive Secretary had explained to the Council the scope and intention of his proposals, the representative of Japan put forward certain further suggestions; inter alia he proposed the establishment of a working party at the May session of the CONTRACTING PARTIES and the preparation of material for the working party by the secretariat in the meanwhile. The text of the statement of the representative of Japan was distributed in document C/8.

There was general support in the Council for Japan's proposal that a working party be established and some representatives urged that the working party should meet at an early date and complete its task by May. There were, however, differing views in the Council as regards the terms of reference that should be given to such a working party. Some representatives considered it essential that, if a true understanding of the problems involved was to be reached and solutions to those problems found, the causes underlying the invocation of Article XXXV should be examined. Other representatives said they would find such a proposal unacceptable, on the grounds that Article XXXV was an integral part of the General Agreement and could not be considered in isolation. Further, the view was expressed that the review should essentially be of a factual character and that it should not impinge on the work of the Committee on Market Disruption. Several representatives stressed the need to examine the effects of the invocation of Article XXXV on Japan's trade and on the trade of contracting parties generally; any such examination should not be confined to the effects on Japan's trade and

on the trade of those contracting parties which invoked Article XXXV. There was agreement that there was no question of the working party, if it were established, considering the revision of Article XXXV.

Following this initial discussion, the Council appointed a small group of contracting parties to meet and report back to the Council. The recommendation of the group concerning the terms of reference of the proposed working party were distributed in document C/9. The Executive Secretary explained that, while the headings proposed in document C/9 represented a simplification of those proposed both in the secretariat paper (C/5) and by the representative of Japan (C/8), they did not mean the exclusion of other elements relevant to the review. As regards the question of the timing of the review, the group considered that this should be left to the meeting of the Council in March. At that time it would be decided whether or not there should be a session of the CONTRACTING PARTIES in May and arrangements regarding the establishment of the working party could be made in the light of that decision.

Certain representatives underlined the importance they attached to the fact that the proposed terms of reference in document C/9 should be regarded only as guidelines for the working party. In their view it would be in order for a member of the working party to propose examination of the basic problems which had resulted in the invocation of Article XXXV; in fact, such examination might flow from the examination of the background material to be prepared. Moreover, any appropriate recommendations which might emerge would need to take into account the experience and attitudes adopted by those contracting parties which had not had resort to Article XXXV, while the phrase "existing trade relationships" should, they considered, be regarded as going beyond formality or legality and covering the actual trading opportunities provided by countries.

It was agreed that:

(i) the Council should decide, at its meeting towards the end of March, either to recommend to the May session of the CONTRACTING PARTIES that a working party be established at that session or, if it was decided that the CONTRACTING PARTIES should not meet in May, the Council should itself proceed in May to establish a working party to meet at an early date;

(ii) the terms of reference of the working party should be as follows:

1. Against the background of a report by the Executive Secretary on the origins of Article XXXV and a factual account of its application in the case of Japan, to review under paragraph 2 of the Article as requested by the Government of Japan, the operation of the Article in this case, with particular reference to:

(a) the existing trade relationships between Japan and each of the countries which have invoked Article XXXV;

(b) the effects of the invocation of Article XXXV on Japan's trade and the repercussions on the trade of other contracting parties;

(c) the widespread invocation of Article XXXV vis-à-vis Japan by governments acceding to the GATT under Article XXVI:5(c) and Article XXXIII.

2. To submit a report on this review together with any proposals the working party may wish to put forward as to recommendations that might appropriately be made by the CONTRACTING PARTIES pursuant to paragraph 2 of Article XXXV.

(iii) paragraph 1(a), (b), (c) of the terms of reference should only be regarded as guidelines for the working party and the discussion of other relevant matters would not be precluded.

(iv) the secretariat should be requested to put in hand preparation of the necessary documentation.

The representative of Austria reserved the position of his delegation as regards the possibility that the Council, and not the CONTRACTING PARTIES themselves, might decide to set up a working party.

5. German import restrictions

At their seventeenth session, the CONTRACTING PARTIES held a consultation with the Government of the Federal Republic of Germany under the terms of paragraph 3 of the Decision of 30 May 1959. In the report on the consultation (L/1380, paragraph 22) it was noted that the Governments of Australia and Uruguay were at that time holding direct discussions with the German Government regarding access to the German market for their exports and reserved their right to revert to the question at the next session of the Council or of the CONTRACTING PARTIES. The Australian Government had requested a discussion at the present Council meeting.

The representative of Australia said that the bilateral discussions between Australia and the Federal Republic of Germany referred to at the seventeenth session had now been concluded. The outcome of the discussions was unsatisfactory from Australia's point of view. While his delegation was not requesting the Council to take any action on this matter at this stage, it would be understood that Australia's dissatisfaction must inevitably affect his Government's attitude when the next consultation with the Federal Republic under the Decision took place in November 1961 and when the Decision expired in 1962. The representative of Uruguay said that the position of Uruguay remained unchanged and his Government therefore continued to reserve its right to revert to this question at a later date.

Some representatives, in stressing the need for all the terms of the waiver to be fully observed, expressed the view that, during the next consultation with the Federal Republic, particular attention should be paid to examining the experience which contracting parties had had in connexion with paragraph 2(c) of the Decision.

6. Italian import restrictions

At the close of the discussion on Italian import restrictions at the seventeenth session the CONTRACTING PARTIES agreed that: "Should the Government of the United States, prior to the next meeting of the Council of Representatives, request the CONTRACTING PARTIES to review the Italian import restrictions which were no longer justified for balance-of-payments reasons, the Chairman should promptly appoint a Working Party, representative of the contracting parties for this purpose."

The United States made such a request in a communication received on 13 February and the Chairman of the CONTRACTING PARTIES accordingly appointed a Working Party with the following composition and terms of reference:

Composition

Chairman: Mr. B. SWARD (Sweden)

Members

Australia	Ghana	New Zealand
Belgium	France	Norway
Brazil	Italy	United Kingdom
Canada	India	United States
Denmark	Japan	Uruguay

Terms of reference

(i) To consider, on the basis of the request of the United States, the Italian import restrictions which are no longer justified for balance-of-payments reasons and which were the subject of consultations under paragraph 1 of Article XXII; and

(ii) To report promptly thereon, as appropriate, to the Council.

The Chairman said it should be understood that the Working Party had been established within the framework of paragraph 2 of Article XXII.

There was some discussion on the question of the venue for the meeting. The Italian Government had requested that, exceptionally, the meeting of the Working Party should be held in Rome. The view was expressed that only exceptional reasons could justify the meeting being held elsewhere than in Geneva. It was pointed out that the reasons adduced for holding the meeting in Rome could equally be invoked in the future by other contracting parties wishing a consultation of this sort to take place in their capitals; an undesirable precedent might thus be established. Some representatives thought it might be difficult for their governments to provide adequate representation for a meeting in Rome, particularly as a meeting of Committee III would be taking place in Geneva at the same time. There was, in addition, the question of expense both for delegations and for the secretariat.

The representative of Italy said that his Government's request for the meeting to be held in Rome was based on important technical grounds. For a question of this importance it was obviously desirable that Italian departmental experts should be readily available for detailed advice. Consultations of this kind were exceptional within GATT and there was not much danger of a precedent being established as regards the place of future meetings. The Italian Government had undertaken to meet the expenses involved for the secretariat.

The Executive Secretary expressed the view that, as consultations on residual import restrictions had to be very thorough, it was important that the departmental experts of the government concerned should be readily available. From the point of view of their effectiveness, there was much to be said for holding meetings of this sort in the capital of the country concerned. In this case the Italian Government had agreed to meet the expenses of the secretariat. It was for consideration whether, in the future, these expenses might be borne by the budget of the CONTRACTING PARTIES, if it were agreed that holding consultations in national capitals was most conducive to the effective conduct of the consultations.

Most of the representatives who spoke were prepared to accept the Italian request that the meeting be held in Rome. While some of these representatives hesitated to depart from the principle of holding meetings in Geneva, they nevertheless felt that, for purely practical reasons and in order to make the conduct of the consultation as effective as possible, the Italian request should be acceded to.

It was agreed that the meeting of the Working Party should be held in Rome.

7. Australian import restrictions

At the seventeenth session the representative of Australia informed the CONTRACTING PARTIES of a further step by his Government towards the abolition of import restrictions with the removal, on 1 October 1960, of the final element of discrimination in the residual controls. He went on to say that, although his Government was not yet able to indicate its plans and intentions as regards the removal of the few remaining restrictions, it would do its best to make such a statement before 1 March 1961.

Having recalled the limited scope of remaining restrictions and having referred briefly to developments in Australia's economic and financial situation over the past year or so, the representative of Australia explained to the Council that, in the light of that situation, his Government did not consider it practicable at present to make further progress in removing the residual controls. He regretted, therefore, that he was not in a position to make a statement on this subject. The absence of further action did not, however, indicate any change in the Australian Government's intention to make a full statement concerning the remaining restrictions at the earliest practicable date.

The representative of the United States regretted Australia was unable to report further progress in the removal of restrictions, but said that the reasons for this were appreciated.

8. Residual import restrictions - procedures (L/1394)

At the seventeenth session the CONTRACTING PARTIES adopted procedures (L/1394) for dealing with new and intensified import restrictions applied for balance-of-payments reasons and with residual import restrictions. Under paragraph 7 of the procedures, contracting parties were invited to communicate lists of import restrictions which they were applying contrary to the provisions of GATT and without having obtained the authorization of the CONTRACTING PARTIES. When this paragraph was under consideration at the seventeenth session, the view was expressed by some contracting parties that it would be more satisfactory if all restrictions were reported, including those which the contracting parties concerned considered to be consistent with GATT. The CONTRACTING PARTIES requested the Council to consider more closely the extent and scope of the notifications which contracting parties were invited to communicate under paragraph 7 of the procedures. In this connexion, the Executive Secretary, in the advance agenda (C/3) for the Council's meeting, had suggested two possibilities which might be considered by the Council.

In commenting on the more limited of the alternatives proposed by the Executive Secretary, some representatives expressed the view that, if the question of the conformity of the restrictions with the provisions of GATT was left to the contracting parties concerned, there would be a natural tendency to notify fewer restrictions. Further, it would be undesirable to put on to other contracting parties the onus of requesting a contracting party to include additional restrictions in its notification. In the view of these representatives, all quantitative import restrictions and similar practices should be notified. There would be considerable advantages if this were done. For example, the complete information thus provided would enable contracting parties to have an overall view of the restrictions that were being applied and would give an indication of the interpretation which different contracting parties were giving to provisions of the GATT. The point was made that certain restrictions which a notifying country might disregard might be of considerable importance to an exporting country. Moreover, the greater the knowledge contracting parties had about the number and extent of import restrictions, the more progress would the CONTRACTING PARTIES be likely to make in this field. It was suggested that, where restrictions were clearly in conformity with GATT provisions or where certain restrictions had already been notified to the secretariat in connexion with the work of GATT committees or for other reasons, these could simply be referred to in the notification.

One representative said that there were points of substance as well as of procedure to be considered. In particular, there was the question of the discriminatory application of import restrictions by contracting parties no longer invoking Article XII. He suggested, for the consideration of the Council, that the notifications should highlight those restrictions where there was discrimination against certain contracting parties. Further, although this

might be somewhat outside the scope of the present discussion, he would suggest the introduction of a system of periodic consultation with those contracting parties which were applying restrictions discriminatorily; such an arrangement might well have beneficial effects.

A majority of the representatives who spoke, however, favoured the adoption of a procedure for a more limited form of notification. In particular it was suggested that the restrictions to be notified should be limited to those which the contracting parties concerned considered to be incompatible with GATT and to those which, although incompatible, were permitted under the terms on which that contracting party was provisionally applying the General Agreement. It should be open to contracting parties to request the inclusion of particular restrictions in these categories which they considered should have been notified by another contracting party. These representatives expressed the view that the more limited form of notification would enable attention to be focussed on the main issue, namely the need for the elimination of restrictions incompatible with GATT and in particular those residual restrictions no longer justifiable on balance-of-payments grounds. This objective might well be impeded if all restrictions had to be notified; long delays could result and a lot of detailed work would be involved in the examination of the lists. Moreover, restrictions over a broad field were already examined in such bodies as the Committee on Balance-of-Payments Restrictions, the Panel on Subsidies and Committees II and III. Purely on the basis of practicality and advantage, therefore, it would be best to make a start on those restrictions admitted by contracting parties to be incompatible with GATT. One suggestion put forward was that the Council itself should be able to request the inclusion of additional restrictions. The point was also made that, even if a particular restriction were not notified, any contracting party which considered its interests to be adversely affected by that restriction would no doubt avail itself of the existing GATT procedures for consultation or redress.

It was <u>agreed</u> that:

1. (a) the import restrictions to be notified by contracting parties in accordance with paragraph 7 of the procedures in L/1394 should be the following:

   (i) those import restrictions which, in the judgment of the notifying government, are inconsistent with the provisions of the General Agreement and in respect of which no authorization has been obtained from the CONTRACTING PARTIES;

   (ii) import restrictions which are as described in (i) but the maintenance of which, in the judgment of the notifying government, is permitted under the terms on which that government is applying provisionally the General Agreement;

(b) any contracting party, when requested to do so by another contracting party, should promptly supply the CONTRACTING PARTIES with information on any restriction which has not been included in the list sumitted under paragraph 7 of the procedures, as defined in (a) above but which, in the opinion of the requesting contracting party, should have been so included.

2. Contracting parties should be invited to communicate their lists of restrictions to the Executive Secrotary by 1 May 1961. It was further agreed that the effectiveness of the above procedure will be reviewed at a later date.

9. Ceylon import restrictions and tariff increases (L/1419, C/M/3)

The Council was informed at its meeting on 9 February (C/M/3) of certain measures taken by the Government of Ceylon in connexion with current balance-of-payments difficulties. The statement made by the representative of Ceylon at that meeting was distributed in document L/1419.

(a) Intensification of import restrictions

The Council, at its meeting on 9 February (C/M/3), initiated a consultation with the Government of Ceylon under Article XVIII:12(a) on the substantial intensification of Ceylon's import restrictions. The consultation was referred to the Committee on Balance-of-Payments Restrictions.

The Committee met during the period of the present meeting of the Council and its report was distributed in document L/1427. The Council took note of the Committee's report and recommended its approval by the CONTRACTING PARTIES.

(b) Temporary customs tariff increases

As agreed at the Council's meeting on 9 February (C/M/3) the Council, at its present meeting, examined the question of the temporary 5 per cent tariff increase affecting seventy-one items in the Ceylon Schedule. The International Monetary Fund had been invited to consult under Article XV in this connexion.

The representative of the International Monetary Fund invited the attention of the CONTRACTING PARTIES to background material the Fund had provided. That material brought out the fact that Ceylon had experienced large deficits in its balance of payments and consequently a heavy loss of foreign reserves. The Fund believed that the trend toward intensification of restrictions had arisen in large measure from internal inflationary pressures. Certain corrective fiscal and monetary measures had been initiated and the Fund believed that such corrective action would have to be

pursued vigorously. In the meantime the various restrictive and temporary tariff measures undertaken did not go beyond the extent necessary to stop a serious decline in Ceylon's monetary reserves. Further, the fiscal effects of the tariff increase did not appear to be in excess of what was required to restore budgetary equilibrium.

After hearing the views of a number of representatives, who spoke in favour of granting Ceylon a waiver under appropriate conditions, the Council approved the text of a draft decision (C/W/14), granting a temporary waiver from the provisions of Article II, for submission to the CONTRACTING PARTIES.

Thirteen representatives who indicated that they were already in a position to vote on the decision voted in favour. Postal votes will be sought from all other contracting parties.

(c) Terminal date for renegotiations

At its meeting on 9 February (C/M/3) the Council examined the action taken by Ceylon in withdrawing concessions on 105 items included in Schedule VI. The Council considered that the action could be regarded as having been taken under paragraph 3(a) of Article XXVIII. The understanding was reached that contracting parties affected by the withdrawal of these items would undertake to refrain from taking the action open to them under that paragraph, pending the completion of renegotiations. The Council considered that for this purpose it would be necessary to establish a terminal date for the renegotiations.

It was agreed, with the concurrence of Ceylon, that the terminal date for the renegotiations entered into by Ceylon should be 31 March 1961. The representative of Ceylon said that his government was appreciative of the undertaking by other contracting parties not to take any action open to them under paragraph 3(a) of Article XXVIII until after that date, and that for its part it would be prepared to accept that action by other contracting parties under that paragraph could be taken at any time up to 30 September 1961.

10. Indonesian tariff reform (L/1361, Add.1 and 2)

At the seventeenth session the Government of Indonesia requested a waiver to cover action taken in August 1960 when rates of duty were raised on certain items enumerated in Schedule XXI, pending the outcome of renegotiations under Article XXVIII (L/1361). The CONTRACTING PARTIES did not complete the examination of the Indonesian request. They accordingly took note of the statement of the representative of Indonesia and of document L/1361 and agreed to refer the examination of the request to the present meeting of the Council,

with instructions that the Council make recommendations to the next session of the CONTRACTING PARTIES, or submit, if it were considered appropriate, a draft decision to contracting parties for a vote by postal ballot. Since the seventeenth session, the Government of Indonesia had submitted the texts of the relevant Decrees, lists of products and new rates of duty (L/1361/Add.1 and Add.2).

The representative of Indonesia referred to the documentation which had been made available to contracting parties and gave further explanation of the measures which had been introduced by his Government and the reasons for them. He repeated his Government's readiness to enter into renegotiations as soon as was practicable in respect of those bound items on which there had been duty increases.

After hearing the views of several representatives, the Council approved the text of a draft decision (C/W/15), granting Indonesia a temporary waiver from the provisions of Article II, for submission to the CONTRACTING PARTIES. Seven representatives, who advised that they were in a position to vote on the decision voted in favour. Postal votes will be sought from all other contracting parties.

11. Uruguayan import surcharges

The representative of Uruguay requested the Council to give consideration to the granting of a waiver to Uruguay to permit the application to items included in Schedule XXXI of surcharges introduced in September 1960. Having referred to the information already available to contracting parties in the report (L/1237) of the Committee on Balance-of-Payments Restrictions on its consultation with Uruguay, he gave the Council further information on the economic and financial situation in Uruguay in support of his Government's request for a waiver. The text of the statement of the representative of Uruguay has been distributed in document L/1426/Add.1.

It was noted that the delegation of Uruguay had transmitted to the secretariat a list of the bound items affected by the surcharges, as well as the text of the Decree of 29 September 1960 imposing the surcharges, and that these would be circulated to contracting parties as soon as possible.[1] It was agreed that, in view of the limited time available, it would not be possible to deal with this item at the present meeting of the Council and that it should be discussed at the next meeting of the Council. In the meantime, the Executive Secretary was requested to invite the International Monetary Fund to consult with the CONTRACTING PARTIES with respect to this question.

12. Continued application of schedules - Decision of 19 November 1960 (L/1397)

It was agreed that, in the text of the Decision of 19 November 1960, the words "Article XXVIII" in the fifth paragraph of the preamble and in paragraph 4 of the operative part of the Decision were intended to read "Article XXVIII (revised)". The Executive Secretary was requested to circulate a note to contracting parties drawing attention to this error.

13. Completion of renegotiations under Article XXVIII:1

Under paragraph 1 of Article XXVIII, concessions provided for in Schedules to the GATT may be withdrawn or modified as a result of negotiation and consultation following upon notification of such intention submitted during a certain period of 1960. The modifications or withdrawals were to be made effective on 1 January 1961. By the Decision of 19 November 1960, the CONTRACTING PARTIES extended this closing date for negotiations up to 31 March 1961. It was provided in that Decision, however, that the Council could fix a later date for the completion of any negotiations which may not have been completed by 31 March 1961. Some contracting parties were now requesting a further extension of the closing date.

It was agreed that the closing date for the completion of renegotiations under Article XXVIII:1 should be extended beyond 31 March 1961. The new closing date would be decided upon at the meeting of the Council on 24 March.

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[1] See L/1426 and Add.2

14. Australian schedule - renegotiations under Article XXVIII:4 (SECRET/138)

The Council had before it a request from the Australian Government (SECRET/138) for authority under paragraph 4 of Article XXVIII to enter into renegotiations for the modification or withdrawal of certain concessions in Schedule I. The details of the items affected, together with statistical data, were given in document SECRET/138.

The representative of Australia explained that the items concerned had been included in the original list of withdrawals notified by Australia under the "open season" arrangements. The withdrawal action on these items had, however, first been deferred and then finally removed. Since then the Australian Tariff Board had conducted enquiries regarding the degree of protection for these items. The Board had submitted its recommendations which the Australian Government now wished to implement. It was against this background that his Government's request had been submitted to the CONTRACTING PARTIES; in effect it represented a wish, as it were, to have the items concerned reinstated on the original list of withdrawals notified by Australia.

The Council found the existence of "special circumstances" and agreed that Australia should be granted authority to renegotiate the items notified in document SECRET/138 in accordance with Article XXVIII, paragraph 4.

The Chairman said that any contracting party which considered that it had a "principal supplying interest" or a "substantial interest", as provided in paragraph 1 of Article XXVIII, should communicate such claim in writing and without delay to the Australian Government, and at the same time inform the Executive Secretary. Any such claim recognized by the Australian Government would be deemed to be a determination by the CONTRACTING PARTIES within the terms of paragraph 1 of Article XXVIII.

15. Organization for Economic Co-operation and Development (L/1410)

Since this question was discussed by the CONTRACTING PARTIES at the seventeenth session, a Convention[1] to establish the OECD has been drawn up and signed by the member governments of the OEEC and by the United States and Canada. The Convention was now before the countries concerned for ratification.

During the Council's discussion, a number of representatives referred to the concerns and apprehensions which their delegations had expressed at the sixteenth and seventeenth sessions concerning the possible effects the creation of the OECD might have, both on the interests of those contracting parties which would not be members of the new organization and on the GATT. These concerns continued to exist and there was still the fear that contracting parties would be confronted with a fait accompli in the trade field. One representative referred to statements which the Secretary-General of the OECD was reported in the

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[1] Copies of the Convention were distributed to contracting parties with document L/1410.

Italian press to have made in Rome; these statements appeared to reveal a narrow conception of the scope and competence of GATT. The point was made that the fact that the Executive Secretary had not submitted a report to the Council indicated that there was nothing of a positive nature to report. This was disappointing, as it meant that the requests of contracting parties for explanations and assurances were not being met by the potential member countries of the OECD. It meant, moreover, that it was still impossible to judge what damage would be done to the trade interests of other countries by the establishment of the OECD, or to see whether and, if so, in what fields it might be possible to harmonize the activities of the OECD and the GATT. Until these explanations were forthcoming, it was understandable that many contracting parties would continue to be concerned about the possible functions of the OECD in the trade field and the extent to which these functions might impinge on the competence of GATT. It was important that this question should be on the agenda for the next session of the CONTRACTING PARTIES. In the meanwhile, detailed information should be provided showing the scope and extent of the OECD's proposed activities in the trade field, where the activities of the OECD and the GATT would overlap, and the extent to which the OECD might impinge on the competence of GATT.

During the discussion the point was also made that, while the right of countries to organize themselves in a group was not denied, the effect of such a grouping on rights and obligations under the GATT was of great importance. In the case of some contracting parties, there had already been an erosion of GATT rights over the years. If the OECD impinged on the competence of GATT and further upset the balance between rights and obligations, some contracting parties might have to review the question of their trading relationships.

The Executive Secretary said that, when the question of liaison with the GATT was under discussion in the Preparatory Committee in Paris, the Deputy Executive Secretary had informed the Committee that, when the OECD came into being, an invitation to the CONTRACTING PARTIES to be represented at meetings of the Trade Committee would be submitted to the CONTRACTING PARTIES for their decision. He had added that if a GATT representative were to participate, however, this could only be after there had been a clear delineation of the rôle of the Trade Committee. The Executive Secretary went on to propose that, when the OECD came into being and had considered what particular activities it intended to undertake in the trade field, there should be a discussion between the OECD and the GATT. This would be a discussion based on the facts of the situation. The Executive Secretary expressed the view that a formal arrangement between the two organizations, which would represent a firm understanding between the governments concerned in the trade field, would be desirable. He would be prepared to consult with the Secretary-General of the OECD as to when it would be opportune for such a discussion to take place.

Views were expressed by the representatives of some of the potential member governments of the OECD. It was pointed out that the OECD was, in a sense, the successor of the OEEC which had played a major rôle in the reconstruction of Europe after the second world war and which had thus made

an important contribution to the development of world trade. Any fears that the OECD would represent the creation of another preferential area were unjustified. The Convention provided that the OECD members would pursue the objectives of the Organization in a manner consistent with their objectives in other international organizations. One of the aims of the OECD was to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations. It was worth noting, in fact, that in the OECD co-operation between the member governments in certain fields would not go as far as was the case in the OEEC. It was correct to say that the OECD, which would also occupy itself with such questions as the co-ordination of aid to the less-developed countries and the confrontation of economic policies, had a wider scope than the GATT. It was also true that the OECD would have a Trade Committee and it was understandable that contracting parties to the GATT attached importance to this fact. There would be considerable merit in the Executive Secretary consulting with the Secretary-General of the OECD with a view to finding the best way of allaying the misgivings which had been expressed by contracting parties. A possible answer would be for the Secretary-General to be invited to attend a session of the CONTRACTING PARTIES so that he would have the opportunity of explaining the intentions of the OECD as regards its activities in the trade field.

It was agreed that this item should be retained on the agenda for the next session of the CONTRACTING PARTIES, subject to further discussion on the matter by the Council at its meeting prior to that session. In the meantime, the Executive Secretary would consult with the Secretary-General of the OECD on the question of when, and how, the proposed activities of the OECD in the trade field and the relationship between the OECD and the GATT could best be discussed.

16. Commercial policy problems of newly-independent States

In document Spec(61)45, distributed to members of the Council, the Executive Secretary made proposals for assisting the newly-independent States in dealing with the problems they have to face in connexion with questions of commercial policy. Briefly, the proposals envisage the establishment of a panel of experts, whose services could be made available to newly-independent countries at the request of those countries. In presenting his proposals, the Executive Secretary outlined to the Council what he had in mind.

The Council recognized the importance of the Executive Secretary's proposals. It was accepted, however, that in view of the short time that had elapsed since the proposals were put forward, and because of the many aspects of the question that needed consideration by governments, it would only be possible at this stage to have a general, preliminary exchange of views.

During the discussion, many points were put forward. It was stressed that the success of a scheme of this sort must depend on the wishes and requirements of the newly-independent countries themselves. Any request for assistance of the kind envisaged must be on the initiative of those countries. For this reason, it was important that they should be closely consulted in the further development of the proposals. The view was expressed that the newly-independent

countries would avail themselves of the services of experts made available; it was important that the experts selected should be able to advise on the kind of practical, technical problems which confronted the newly-independent countries.

Some representatives stressed the need to give careful thought and study to the question of the type of assistance the CONTRACTING PARTIES were best fitted to offer. The possible field was a broad one. For example, such assistance might be intended to make countries more familiar with the GATT rules. It might consist of the study by experts of such technical questions as tariff structures, customs administration, etc. It might include advice on the broadest aspects of commercial policy. It was necessary to consider too whether, in fact, GATT was the right international body to offer the kind of assistance that might be envisaged. In this connexion an enquiry was made as to whether the scheme was to be considered as a special effort by the CONTRACTING PARTIES or whether it would fall within the general framework of United Nations technical assistance activities. It was agreed that it would in any case be desirable for the Executive Secretary, in the elaboration of his proposals, to consult closely with the technical assistance authorities of the United Nations.

On the other hand the suggestion was made that the Executive Secretary's proposals should be agreed in principle and that the question of finance, functions and composition of missions, etc. should be considered later; the important thing was to embark on the scheme and then to proceed pragmatically. It was also suggested that any scheme formulated should be broadly conceived and that an attempt should not be made to define too closely the functions and size of missions, etc. Individual cases and problems would vary considerably. Sometimes, for example, an extended visit by one expert might be more advantageous than a shorter visit by a large mission. Questions of detail should in any case be the subject of discussion and agreement between GATT and the requesting government at the time a request was put forward. The point was also made that, if and when a scheme were developed, co-operation with United Nations regional economic commissions would also be desirable.

Various other views were put forward by representatives. In particular, the value of the fellowship programme was stressed and the suggestion was made that, after fellows had completed the programme with the GATT secretariat, they might be seconded to the secretariat for a further period of six to nine months; although this was outside the actual scope of the Executive Secretary's proposals, it was, nevertheless, a closely related question. It was also suggested that officials of the country requesting the visit of experts would gain valuable experience by joining the experts, both for the period of the preparatory work in Geneva and for the duration of the experts' stay in the requesting country. The point was made that there might be value in officials of newly-independent countries visiting other less-developed countries to see how similar problems had been dealt with in those countries. An enquiry was made about the status of experts who might be made available, and who would continue to be paid, by the providing government. Mention was

also made of the question of reporting by missions. One view expressed was that it would be desirable for such missions to be considered as being private in character. Another view was that a mission should also report back to the standing panel of experts; this would ensure, as it were, a continuous confrontation of the problems investigated and make more likely the necessary follow-up. One representative welcomed the provision in the Executive Secretary's proposals in document Spec(61)45 for the possible extension of the scheme to include contracting parties entitled to invoke Sections A, B and C of Article XVIII. It was noted that the administrative and financial aspects of the Executive Secretary's proposal would require careful consideration.

The Executive Secretary made the following comments on some of the points that had been raised in the discussion:

(a) the suggestion that the completion of the fellowship programme with the GATT secretariat should be followed by the secondment of certain fellows to the secretariat for a period deserved consideration;

(b) while experts provided by governments were seconded for the tasks envisaged, they would have the status of international civil servants;

(c) it was quite clear that the services of the experts would only be provided to those newly-independent countries which requested them. When such a request was received, there would be detailed consultation with the government concerned regarding the scope of assistance required and on this would depend the size of the mission, etc.;

(d) it might well be desirable not to attempt to define too precisely in advance what the functions of the experts generally should be. Each case and each service asked for should be considered ad hoc;

(e) he had taken it for granted that there would be close co-operation with other interested organizations. He was willing to elaborate the proposals he had submitted to the Council and in so doing would take account of the views which had been expressed and would consult inter alia with the technical assistance authorities of the United Nations.

The Council agreed to examine the question further at an early date on the basis of elaborated proposals to be prepared by the Executive Secretary. In the preparation of further proposals, the Executive Secretary was requested inter alia to consult with the Technical Assistance authorities of the United Nations. Members of the Council agreed to consult their governments with respect to this important matter so that the Council would be in a position to deal with the Executive Secretary's further report in a speedy and effective manner.

17. Central American Free Trade Area (L/1425)

The Government of Nicaragua wrote to the Executive Secretary on 14 February 1961 (L/1425) concerning its trading arrangements with other Central American countries and submitted the text of the General Treaty for Central American Economic Integration; this text will be translated and distributed by the secretariat at an early date.

It was agreed that this matter should be examined by the Council or by the CONTRACTING PARTIES at a meeting at which the Government of Nicaragua could be represented, in order to determine what action is required.

18. French stamp tax (L/1412)

Some years ago the French Government increased the stamp tax on customs revenue from import and export duties and taxes from 2 per cent to 3 per cent. The United States and other governments complained that this increase constituted a violation of France's obligations under the GATT under Article II (increased tax on bound items) and Article VIII (in that the increase was not justified by an increase in the cost of services rendered). That this increase constituted a violation was acknowledged by the French Government which undertook to restore the rate to 2 per cent. In its latest report (L/1412 of 30 January 1961) the French Government announced that the reduction had become effective as from 1 January 1961.

The Council took note of, and welcomed, the French Government's announcement in document L/1412.

19. Italian discrimination in favour of domestic production of ships' plates

The representative of Austria referred to the discussion on this item at the seventeenth session (SR.17/5). During this discussion the Italian representative had made reference to a draft law containing new provisions which had been submitted to Parliament and the examination of which was proceeding. The representative of Austria said that his authorities had not yet heard that the draft law had been implemented. He wished it to be noted therefore that, unless in the meanwhile satisfactory information on this subject was received from the Italian authorities, Austria would wish this item to appear on the agenda for the May session of the CONTRACTING PARTIES unless it were decided not to hold a session at that time, in which case the item should appear on the agenda for the May meeting of the Council.

The representative of Italy agreed with the proposal of the representative of Austria.

20. Committee on avoidance of market disruption

(a) Chairmanship

The Council welcomed the fact that Mr. Grandy (Canada) was prepared to serve as Chairman for a further meeting of the Committee. It was agreed that, after that meeting, the Council would review the question of the chairmanship of the Committee.

(b) Membership

At the request of the New Zealand representative, New Zealand was added to the membership of the Committee.

(c) Joint GATT/ILO study on underlying economic, social and commercial factors (Spec(60)403)

The Executive Secretary explained to the Council that some countries had informed the secretariat that difficulties would arise in providing all the information asked for in the questionnaire in connexion with the study on the textile and clothing industries, which the Committee on Market Disruption had instructed the secretariat to start.

During the period of the Council's meetings an informal meeting took place to consider these difficulties. It was agreed by the main contracting parties that they would submit to the secretariat, before the end of March, data which were more or less readily available, together with an indication of what further information would become available and what date this further information could be sent to the secretariat. It would be useful if the other contracting parties could adopt the same procedure. On the basis of the material collected by the end of March, the position would be reviewed and, if necessary, the Executive Secretary would consult with the countries concerned with a view to agreeing on practical measures for the completion of the enquiry.

21. Arrangements for sessions of the CONTRACTING PARTIES

At the sixteenth session it was decided that the eighteenth session would open on 1 May 1961. At the same session it was agreed that the Council should examine the question of arrangements for meetings of the CONTRACTING PARTIES at Ministerial level.

The Executive Secretary recalled his suggestion at the sixteenth session that there should not be a session of the CONTRACTING PARTIES in the spring of 1961 but that there should instead be an additional meeting of the Council. This suggestion might be reconsidered by the Council in the light of the advance agenda (L/1413) which had been distributed. He reminded the Council that should developments warrant it, for example in connexion with the Tariff Conference, it would always be possible to convene a special session of the CONTRACTING PARTIES. The Executive Secretary then turned to the question of a Ministerial meeting. He considered that the past procedures for such meetings were not the best for taking full advantage of the presence of Ministers. He felt that Ministers should be able to address themselves to concrete issues, some of which might well require political decision, and that these issues should be well-prepared in advance. Further, the Ministerial meeting should be considered as being separate from the session of the CONTRACTING PARTIES;

ideally, the session should be interrupted for a short period to enable the Ministers to meet. It appeared to him that there could be a specific and substantial agenda for a Ministerial meeting in 1961; the programme for trade expansion, originally launched following a Ministerial meeting, would be a suitable basis for such an agenda. By the autumn of 1961 Ministers might have a report on the outcome of the tariff negotiations and could consider what steps should be taken to carry forward further tariff reductions in the future. The work of Committees II and III was likely to have reached a stage by the autumn which would merit the attention of, and in the case of some of the problems involved, possibly political decisions by Ministers. The Executive Secretary stressed again his view that a Ministerial meeting should be carefully prepared in advance by officials and that the study and analysis of the issues to be considered by Ministers should be sufficient to permit precise definition of those issues. For this reason it might be preferable to set a target rather than a precise date for a Ministerial meeting.

In the discussion that followed it was pointed out that the decision taken at the sixteenth session to hold a spring session in 1961 was in large part motivated by the expectation that, at that time, the second phase of the tariff negotiations would have been sufficiently advanced to merit the attention of the CONTRACTING PARTIES. The point was also made, however, that the decision to hold a spring session in fact arose out of an agreement to continue in 1961 the existing arrangements for two sessions a year and to review these arrangements as a whole at the November session in 1961.

Some representatives were prepared to agree, in the light of the items on the advance agenda, that a spring session of the CONTRACTING PARTIES could be dispensed with and that there should instead be an additional meeting of the Council. Should there be items on the agenda of the Council of interest to non-Member contracting parties, these could be co-opted for the discussion of those items. Other representatives, however, considered that the May session should be retained. It was pointed out that developments in connexion with the Tariff Conference could be such as to make a session of the CONTRACTING PARTIES, or even a Ministerial meeting, in May very necessary. There was also particular concern about the effect the dispensing with the May session of the CONTRACTING PARTIES could have on the work of, and the progress made by, Comittees II and III; there was a feeling that the work of these two Committees had reached a stage where early guidance by the CONTRACTING PARTIES might well be necessary. On the other hand some representatives felt that, provided the work of the two Committees appeared on the agenda for a Ministerial meeting later in the year, it might be sufficient if, during the interim period, the Committees' next reports were dealt with by the Council.

There was support for the suggestion that the Council should leave in abeyance the question as to whether or not the CONTRACTING PARTIES should hold a session in May and that it should meet again before the end of March to take a decision on this question. If it were eventually decided to hold a session of the CONTRACTING PARTIES in May, the Council could still meet prior to the session to deal with the items within its competence on the agenda for the session, while the CONTRACTING PARTIES themselves would have a reduced agenda including the major items such as the Programme for Trade Expansion.

It was agreed as follows:

(a) that the Council should meet on 24 March to consider whether to recommend that the session of the CONTRACTING PARTIES scheduled to be held in May 1961 should be cancelled and that instead a meeting of the Council should be held at that time;

(b) that, if it were decided to hold the session of the CONTRACTING PARTIES in May, this would be preceded by a meeting of the Council. In that event the Council at its meeting on 24 March would decide which of the items on the provisional agenda for the session should be dealt with by the Council, leaving the matters of widest interest (such as the Programme for Expansion of Trade) for the session;

(c) that, at its meeting on 24 March, the Council would give further consideration to the question of a Ministerial meeting in the autumn of 1961. If it were agreed that a Ministerial meeting should be held at that time, the Council would also consider when it should meet again to discuss and put in hand the necessary preparations for such meeting.

It was noted that a special session of the CONTRACTING PARTIES could always be convened at three weeks' notice should urgent circumstances, e.g. developments in connexion with the Tariff Conference, warrant it.

22. Future work of the Council

In document C/4 the Executive Secretary referred to a number of questions which would require the attention of the Council during 1961. The conclusions reached by the Council in respect of these questions were as follows:

(a) Review of the procedures for dealing with residual import restrictions[1] (L/1394)

The Council was instructed by the CONTRACTING PARTIES at the seventeenth session (SR.17/8) to review the above procedures, which are contained in document L/1394, and to submit a report to the CONTRACTING PARTIES at their session in November 1961.

It was agreed that the review would be undertaken by the Council at its meeting in September.

(b) Impact of commodity problems upon international trade

At the seventeenth session (SR.17/6) a number of suggestions were made regarding the procedure for dealing with this item in future years and the Council was instructed to make arrangements for the CONTRACTING PARTIES' consideration of the item in 1961.

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[1] See page 9 for the Council's discussion concerning the scope and extent of the notifications to be submitted by contracting parties under paragraph 7 of the procedures.

It was agreed that the Council, at its meeting in September, would discuss this question and endeavour to identify the particular problems, if any, to which the CONTRACTING PARTIES should give attention; at that time the Council might also make arrangements for consideration to be given to any such problems prior to the November session of the CONTRACTING PARTIES. It was confirmed that this procedure would not prejudice the possibility of the Working Party on Commodities meeting.

(c) Disposal of commodity surpluses

It was agreed that the procedure for dealing with this question proposed by the Executive Secretary in document C/4 should be tried for an experimental period; accordingly, contracting parties which had disposed of commodity surpluses since the seventeenth session would be invited to submit reports by 1 September 1961. These reports, which would cover the disposal of commodity surpluses, the liquidation of strategic stocks and disposals from stocks otherwise held by government agencies, should either give details of such disposals or should make precise reference to the documentation of other international organizations where these activities were described. From the information thus provided the secretariat would prepare a document which would be considered by the Council at its meeting in September. Following this consideration the Council would recommend to the CONTRACTING PARTIES whether and, if so, which aspects of this question should be discussed by the CONTRACTING PARTIES at their session in November 1961, although it would be understood that, as requested at the seventeenth session, the item would appear on the agenda at the request of any contracting party.

(d) Reports under waivers

It was suggested at the sixteenth session, by the Special Group on Organization (L/1200), that reports on action taken under waivers should be examined by the Council in order to expedite the work of sessions of the CONTRACTING PARTIES.

During the discussion in the Council there were differences of opinion as regards the extent to which the Council should take over the consideration of reports under waivers. Some representatives stressed the point that the raison d'être of the Council was to facilitate and expedite the work of the CONTRACTING PARTIES at sessions and that it should, therefore, consider these reports. Other representatives, however, explained the difficulties that would arise for some delegations in connexion with the manning of the working parties which the proper examination of the reports would require. Further, the view was expressed that an increase in the size of delegations and the establishment of a number of working parties might tend to change the intended character of meetings of the Council and make them more like sessions of the CONTRACTING PARTIES;

It was agreed that:

(i) in 1961, the reports under agricultural waivers should be considered by the CONTRACTING PARTIES at their November session and not by the Council prior to that session. The Council recommended, however, that the CONTRACTING PARTIES should consider whether or not the Council should be asked to deal with such reports in future years.

(ii) It was agreed that the examination of the Saar and United Kingdom waivers and the review of the Italy/Libya waiver should be carried out by the Council at its meeting in September. The contracting parties concerned were requested to submit the relevant reports or documentation to the secretariat before 1 September.

(e) Consultations with Yugoslavia and Poland

Some representatives said that the difficulties in manning working parties, referred to in connexion with the question of the examination of reports under agricultural waivers, might also arise in the context of these consultations. It was also suggested, however, that it might be possible and appropriate for the Council itself to conduct the consultations. One representative, who had been Chairman of the Working Party which had conducted the first consulation with Yugoslavia at the seventeenth session, expressed considerable doubt, in view of the probable scope of the consultation, whether this would be feasible.

It was agreed that, as an experiment, the consultation with Yugoslavia would be carried out by the Council at its meeting in September; it would be open to the Council to decide the most appropriate method of work for this task. Depending on the results of that experiment, the Council would recommend to the CONTRACTING PARTIES whether future annual consultations with Yugoslavia and Poland should be conducted by the Council or by the CONTRACTING PARTIES.

(f) Finance and administration

It was agreed that:

(i) a Budget Working Party would meet prior to the Council meeting preceding the session of the CONTRACTING PARTIES at which the budget was to be considered in order to examine the budgetary and administrative proposals of the Executive Secretary. The report of the Working Party would be considered by the Council and would then be submitted, together with the Council's recommendations, to the CONTRACTING PARTIES.

(ii) at an appropriate future meeting of the Council the Executive Secretary would put forward proposals for the extension of the use of Spanish as an official language.

(g) September meeting of Council

It was noted that the agenda for the Council's meeting in September 1961 will include, inter alia, the following items:

(i) review of the procedures for dealing with residual import restrictions,

(ii) procedures for dealing with the item: Impact of Commodity Problems upon International Trade,

(iii) disposal of commodity surpluses,

(iv) the Saar, United Kingdom and Italy/Libya waivers,

(v) consultation with Yugoslavia under the Declaration of 25 May 1959,

(vi) preparations for sessions of the CONTRACTING PARTIES, including a timetable for the first week of the November session, and the probable work programme for the CONTRACTING PARTIES and the Council in 1962,

(vii) the 1962 budget.