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GENERAL AGREEMENT ON TARIFFS AND TRADE

CONTRACTING PARTIES
Twentieth Session

SUMMARY RECORD OF THE EIGHTH MEETING

Held at the Palais des Nations, Geneva, on Friday, 9 November 1962 at 2.30 p.m.

Chairman: Mr. W.P.H. VAN OORSCHOT (Kingdom of the Netherlands)

Subjects discussed:

1. Balance-of-payments import restrictions - reports on consultations

The CHAIRMAN noted that the Committee on Balance-of-Payments Restrictions had carried out several consultations in the spring of 1962 and that the Chairman of the Committee had presented the reports on these consultations to the Council at its meeting in May; these reports consisted of consultations held with the following countries: Brazil (L/1777), Ghana (L/1778), Greece (L/1776) and Israel (L/1775). The Council had agreed to recommend the adoption of these reports by the CONTRACTING PARTIES. The Chairman enquired whether the CONTRACTING PARTIES were prepared to adopt these four reports in accordance with the Council's recommendation.

The reports were adopted.

The Chairman called on Mr. Naegeli (Denmark), the Chairman of the Committee on Balance-of-Payments Restrictions to present the Committee's reports on the consultations held with the following countries: Denmark (L/1851), Finland (L/1843), India (L/1897), Japan (L/1855), New Zealand (L/1853), Pakistan (L/1787), South Africa (L/1852) and Uruguay (L/1856).

Mr. NAEGELI (Denmark), in presenting the reports, stated that as instructed, the Committee had carried out consultations in 1962 with thirteen contracting parties regarding their balance-of-payments restrictions. Eleven of these consultations, namely those with Brazil, Denmark, Finland, Greece, India, Israel, Japan, Pakistan, New Zealand, South Africa and Uruguay, were held under the established annual or biennial consultation procedures. With Ghana and Ceylon, consultations were held under Article XVIII:12(a) concerning the introduction or intensification of import restrictions. As regards Ceylon, contracting parties would recall that the Committee had been instructed to re-open the consultation in order to take account of the intensification of restrictions put into effect subsequent to the completion of the Committee's discussions in September. This consultation had been held but the report had still to be adopted by the Committee. He therefore wished to present the twelve reports mentioned above for consideration and adoption by the CONTRACTING PARTIES. He drew the attention of the CONTRACTING PARTIES, in particular to the Committee's observations under the General heading in the reports. With reference to the report on the consultation with New Zealand which was completed on 27 September 1962, the Committee had noted with satisfaction that the New Zealand authorities in connexion with the recent relaxations of restrictions, had also found it possible to reintroduce the Token Import Licence Scheme in line with the recommendations made by the Committee during the consultation.

Pursuant to the provisions of Article XV of the General Agreement, the International Monetary Fund had been invited to consult with the CONTRACTING PARTIES in connexion with these consultations. He expressed thanks to the representatives of the Fund for the valuable documentation which the Fund had supplied in connexion with the consultations and for the co-operative way in which they had in general facilitated the work of the Committee.

Mr. SUZUKI (Japan) said with reference to paragraph 22 of document L/1855, that during the consultation with Japan, members of the Committee on Balance-of-Payments Restrictions had expressed disappointment that the increases in prior deposit rates which had been in effect since September 1961 had not been rescinded, despite the considerable improvement in foreign reserves. He was pleased to announce in this connexion that the prior deposit rate on some sixty commodities had been reduced from 5 per cent to 1 per cent in keeping with the Committee's recommendations. The change came into effect on 8 October 1962.

Mr. FOX (New Zealand) expressed the appreciation of his delegation for the constructive way in which the consultation with New Zealand had been carried out. It was to be hoped that conditions for trade would improve to the point that the restrictions maintained at present could be further liberalized. It would be optimistic to expect an early and spectacular removal of the restrictions while there was no improvement in the opportunities for trade in agricultural products. Nevertheless, his Government would continue its efforts to take steps to relax the restrictions. Since the consultation had been held, a significant relaxation in a revised import licensing schedule for 1962-63 had been announced, effective 23 October 1962. There was an increase in the allocation of basic licences for 134 items; mainly for consumer goods. Moreover, the Token Import Licence Scheme had been reintroduced in respect of 144 restricted items; the discontinuation of this Scheme earlier in the year had been a matter of concern to the Committee. The New Zealand Government hoped that these measures of liberalization, the details of which were contained in document L/1894, would be seen as evidence of its desire to relax restrictions as soon as the balance-of-payments position permitted.

The CHAIRMAN thanked Mr. Naegeli and the Committee for their work in carrying out these twelve consultations. He also thanked the representatives of the International Monetary Fund for their valuable assistance in the consultations.

The reports were adopted.

2. Disposal of commodity surpluses

The CHAIRMAN recalled that when this item had been discussed at the second meeting, a number of delegations had referred to a suggestion put forward by the Interim Co-ordinating Committee for International Commodity Arrangements in its report to the Economic and Social Council to the effect that the CONTRACTING PARTIES might consider whether forty-five days was sufficient prior notice of intention to liquidate strategic stocks, as provided in the GATT Resolution of 4 March 1955. It had been agreed to revert to this matter at a later meeting. The Executive Secretary had now consulted with the delegations and with the Secretary of ICCICA.

The Resolution of 4 March 1955 provided for two minimum requirements in respect of the liquidation of strategic stocks, namely a period of notice and a recommendation for consultations. While a number of delegations had drawn attention to the desirability of re-examining in the light of existing conditions the general principles set forth in this Resolution, it was recognized that in practice the liquidation of strategic stocks, in particular by the United States, was subject to more stringent rules. Furthermore, ICCICA still had this matter under consideration. Delegates, therefore, believed that time was needed to consider the existing situation and that it was not yet opportune to put forward any formal proposals for a review of the terms of the 1955 Resolution.

The CONTRACTING PARTIES took note of the suggestion made in the ICCICA report and agreed to invite ICCICA to advise the Executive Secretary of any new ideas and suggestions so that they could be submitted to the CONTRACTING PARTIES for consideration at their twenty-first session.

3. State trading and subsidies (L/1872/Add.1)

The CHAIRMAN recalled that, when this question had been discussed at the second meeting, the CONTRACTING PARTIES had had before them certain proposals put forward by the secretariat in document L/1872. During that discussion, additional proposals had been put forward by several delegations and it had been agreed that the discussion should be resumed at a later date in the light of these new proposals. After consultation with a number of interested delegations, the Executive Secretary had distributed certain suggestions for consideration by the CONTRACTING PARTIES (L/1872/Add.1). These suggestions envisaged in January 1963 a new and full response from contracting parties to the existing questionnaires on subsidies and State-trading measures, and a review by the Council in 1963 of the adequacy of the notifications thus submitted.

The suggestions contained in document L/1872/Add.1 were approved.

4. Nicaraguan import surcharges (W.20/11)

The CHAIRMAN recalled that it had been agreed at the fifth meeting to extend the validity of the Decision of 20 November 1959 authorizing the Government of Nicaragua to apply temporary increases in certain customs duties above the levels bound in the GATT Schedule. A text had now been proposed by the Executive Secretary in document W.20/11. The extended period would run until 30 November 1963.

The Decision was adopted by thirty-four votes in favour and none against.

5. European Free Trade Association and the Association Agreement with Finland (L/1893 and Add.1)

Mr. SOMMERFELT (Norway), Chairman of the EFTA Council, made a statement on behalf of the member States and on behalf of the partners to the Agreement between the member States and Finland. Mr. Sommerfelt referred to document L/1893 which contained information on EFTA and on its association with Finland. He noted that by the end of 1962 all EFTA partners would have reduced the tariffs on intra-EFTA trade in industrial products to one half of what they were when the association came into operation on 1 July 1960. This was a considerable achievement in the course of two and a half years, particularly as the tariff reductions had taken place without any apparent detriment to the national industries concerned; nor had there been any major difficulties in operating a free-trade area of this magnitude. The origin criteria and the customs procedures required to implement the origin rules had thus far operated smoothly.

The attention of member countries had been concentrated during the last year on negotiations pending, or already started, with the EEC with a view to accession or association. At the present time, three members of the EFTA, namely the United Kingdom, Denmark, and Norway, were negotiating with the EEC to join the Community as full members. Three others, Austria, Sweden and Switzerland, had applied to negotiate for association with the EEC. Portugal had informed the Community of its desire to establish as soon as possible an adequate form of collaboration with the Six. He recalled that in a recent statement (L/1887) the representative of the EEC had touched upon these matters. The representative of the EEC had said that the Community would now have to determine its precise scope as a European entity, while ensuring that none of its essence was lost. The representative of the EEC had also said that the Community expected the same conviction and the same concern from its partners, for it considered this to be a necessary premise for the successful completion of the endeavours which had been undertaken. Mr. Sommerfelt assured the representative of the EEC that all member countries of EFTA shared the conviction that the very essence of the spirit on which the Rome Treaty was based must be kept and kindled within an enlarged Community; and they felt that a European entity could only be established through the successful outcome of these negotiations.

Referring to the matter of the Association Agreement between the EFTA and Finland, Mr. Sommerfelt recalled the examination of this Agreement last year by the CONTRACTING PARTIES. The Working Party which examined that Agreement had proposed conclusions in its report (L/1521) along the lines of those which the CONTRACTING PARTIES adopted on 18 November 1960 with respect to the EFTA. The CONTRACTING PARTIES, in the meeting on 23 November 1961, had unanimously approved these conclusions. There was no effective difference between the EFTA Agreement itself and the subsequent Agreement between the EFTA and Finland. Finally, Mr. Sommerfelt referred to the statement by the Chairman of the CONTRACTING PARTIES when opening the twentieth session, in which he had included a reference to a special arrangement between Finland and the EFTA countries, which, he had said, did not comply with the basic principles of GATT; he thought the Chairman must, in fact, have been thinking of the trade agreement between Finland and the USSR. (The Chairman confirmed that it was the arrngement with the USSR which he had had in mind.)

Mr. WARREN (Canada) recalled that some of the concerns expressed by his delegation at the time of the examination of the Finland-EFTA Agreement remained unabated. It was not the desire of his Government to pursue the matter at the present time. He welcomed the advances made and noted the assurances given in the report that the CONTRACTING PARTIES would be kept informed of developments.

Mr. PHILLIPS (Australia) referring to paragraph 6 of document L/1893 noted that on 1 July 1962 the third general relaxation of remaining quantitative restrictions had been made in the industrial sector, and that member States had also completely abolished restrictions on a substantial range of items during the past year. He pointed out that the provisions of Article XXIV in no way affected the obligations of contracting parties entering into a free-trade area to apply quantitative restrictions in a non-discriminatory manner, and asked what had been done with regard to the extension to third countries of the liberalization measures under reference. He also noted that quotas established by EFTA countries under bilateral trade agreements should be open to third countries. He expressed disappointment at the general lack of information on bilateral quotas established for agricultural products by individual EFTA countries.

Mr. SOMMERFELT (Norway) replied that the liberalization measures introduced by EFTA member States this year had been extended to apply to all contracting parties. As far as trade in agriculture was concerned, he reminded contracting parties that it was stated in the report that the EFTA Council had decided to postpone action in this field for the time being in view of the current negotiations in Brussels for membership in the EEC.

The CONTRACTING PARTIES took note of the information furnished.

6. French and Italian import restrictions (L/1899)

Mr. GRIFFITH JOHNSON (United States) said that the question of dealing with import restrictions which were maintained inconsistent with the General Agreement had come before the CONTRACTING PARTIES many times in past sessions and in connexion with a variety of agenda items. In the view of his delegation, the problem of unjustified import restrictions was one that was central to the GATT, and one that cut across many of the objectives of the General Agreement. With respect to the Italian import restrictions, his Government and the Government of Italy had made satisfactory progress in bilateral consultations under Article XXIII:1. These consultations were continuing, and his delegation would report to the Council at its next meeting on the progress made. His Government wished to request the CONTRACTING PARTIES to take specific actions under paragraph 2 of Article XXIII with respect to import restrictions maintained by France on items on which the European Economic Community had given tariff concessions to the United States.

Mr. Griffith Johnson then drew the attention of the CONTRACTING PARTIES to the limited scope of his Government's complaint on the import restrictions maintained by France. The complaint did not involve the entire range of restrictions maintained by France against United States trade; it was to be hoped that eventually all the restrictions would be eliminated. United States exports, particularly agricultural exports, to France faced a number of difficult problems. While it was recognized that there were problems in this sector, there was a clear distinction between those agricultural products

subject to variable import levies under the common agricultural policy and those subject to customs duties. The complaint by his Government concerned only import restrictions maintained by France on products subject to ordinary customs duties rather than variable levies and products on which the EEC countries had made tariff concessions in the recently-concluded tariff negotiations under the GATT. His Government had bargained in good faith during these negotiations, and had given equivalent concessions in its schedules for EEC tariff concessions on these items. The continued application of the restrictions by France nullified or impaired these concessions and denied to United States exporters and to the exporters of other contracting parties the protection afforded by Article XI of the General Agreement. While his Government had long been concerned with such barriers to trade, the new United States Trade Expansion Act, while providing for greatly enlarged authority to negotiate for a reduction of trade barriers, had specific provisions aimed at the removal of unjustified import restrictions which burdened existing tariff concessions. His Government had patiently sought the removal of the import restrictions maintained by France in many bilateral representations. With several other contracting parties they had participated in joint bilateral consultations with the Government of France under paragraph 1 of Article XXII of the General Agreement from 4-6 April 1961. Pursuant to the provisions of paragraph 1 of Article XXIII, his Government made written representations to the Government of France on 3 May 1962, requesting information on plans for the removal of the restrictions. The products affected by these restrictions were listed in the annex to the statement circulated on this subject (L/1899).

A satisfactory settlement had not been reached in the bilateral consultation with the Government of France; it was therefore necessary to have recourse to the use of paragraph 2 of Article XXIII as a final resort to facilitate their removal. Accordingly, his Government was now requesting the CONTRACTING PARTIES to take certain steps at the twentieth session, and certain steps in the future, should the CONTRACTING PARTIES determine that conditions so warranted. Specifically, his delegation wished to request the CONTRACTING PARTIES to find that the import restrictions applied to tariff concession items by France were applied in contravention of Article XI; to find that these restrictions impaired or nullified tariff concessions given to the United States by the EEC; to recommend that the restrictions be removed; to recognize that the circumstances were serious enough to justify recourse to paragraph 2 of Article XXIII; and to authorize the Council to act for the CONTRACTING PARTIES with respect to the Article XXIII action under reference. His delegation would be happy to help in every way possible on this matter, and to supply any additional information needed.

Mr. PHILIP (France) recalled that the French system of import control was based on two liberalization lists of equal importance; one was applicable to the OECD member States and the other to contracting parties. With reference to the GATT list, the number of products remaining subject to restriction at the tiee of the last session consisted of between 350 and 400 tariff items.

Subsequently three new liberalization measures of considerable scope had been introduced in connexion with this list. On 27 January 1962 restrictions had been removed for 125 tariff items or sub-items; subsequently on 12 July 1962 34 industrial products were liberalized; then on 11 October 1962 a new liberalization had been introduced involving 117 items in both the industrial and agricultural sectors. In many instances entire tariff items had been liberalized as the result of the removal of restrictions on sub-items. Regarding liberalization vis-à-vis the OECD countries, the entire industrial sector was now freed from restrictions; this had been accomplished by the recent liberalization of various items of the clock industry. Moreover, there were liberalization measures applicable at the same time to both GATT and OECD countries. In this regard, he referred to the liberalization of agricultural products within the framework of the common agricultural policy for cereals, pig meat, eggs and poultry. Possibly the balance of the GATT versus the OECD liberalization was insufficient. It was perhaps necessary to accelerate the rate of liberalization vis-à-vis contracting parties. Efforts were being made to eliminate the the discriminatory aspects of the restrictive system, particularly as regards countries in the course of development. He pointed out that certain inroads had been made on the agricultural import restrictions; eighteen agricultural products had been liberalized on 11 October 1962. In the past year more than one third of the remaining restrictions on all items had been relaxed. He pointed to the historical reasons for the maintenance of the restrictions and the need for a gradual process of dismantlement. Progress in the right direction had been made under the Rome Treaty and as a result of bilateral discussions. His delegation recognized that the remaining restrictions were maintained contrary to the provisions of the General Agreement and without authorization from the CONTRACTING PARTIES. It was the intention of his Government to continue to eliminate these restrictions and to accelerate their dismantlement. Contracting parties could look forward to more rapid progress in liberalization from the twentieth to the twenty-first session than had been made since the last session. At the same time, a certain degree of moderation was necessary. It was not the view of his delegation that the restrictions on imports in any way nullified or impaired tariff concessions which had been negotiated when the restrictions were in force. The question of the balance of concessions was one that would bear careful examination. If such an examination showed that concessions had been nullified, then certain steps might be taken in order to re-establish the balance.

Mr. PARBONI (Italy) confirmed that his Government had held consultations with the Government of the United States which had resulted in the implementation of a number of liberalization measures which were now being adopted. It was the intention of his Government to continue consultations with a view to making more progress in the elimination of the restrictions.

Mr. HASAN (Israel) requested that his Government be invited to participate in these consultations. He recalled that consultations under Article XXII:2 had been held between his Government and the Government of Italy in December 1961 without satisfactory results. At the meeting of the Council in June 1962, his Government had expressed dissatisfaction at the limited progress made as a result of these consultations, and had expressed the hope that the Italian Government would soon find it possible to abolish completely all restrictions on imports from Israel. Further bilateral consultations were being held. His delegation therefore reserved the right to revert to this matter at a later stage.

Mr. PARBONI (Italy) noted with satisfaction the withdrawal of the item from the agenda by the delegation of the United States. His delegation took note of the reservation made by the delegate of Israel.

Mr. VALLADAO (Brazil) noted the efficacy of Article XXIII procedures and reserved the right of his delegation to revert to those procedures in the future if circumstances warranted such action.

Mr. DATSON (New Zealand) said that if the finding of the examination by the CONTRACTING PARTIES should be that there had been nullification or impairment, the action set in motion by the United States Government was an action of considerable importance for the GATT, whatever might be the particular balance between France and the United States. In principle, the action involved the balance of advantages under the Agreement, particularly the obligations undertaken in 1947-48, and the tariff concessions exchanged since then. In the past his delegation had emphasized that the balance of concessions and obligations made in 1947-48 and since that time had been seriously disturbed. Now perhaps there was a partial move towards the re-establishment of a balance at a lower level. Irrespective of the issues in the particular case under discussion, this matter merited very serious consideration. His delegation fully sympathized with the concern of the United States. It was to be hoped that not too many contracting parties would be forced into a position where they had to appeal to the procedures under Article XXIII. If enough of this type of action were instigated, even the industrial tariff concessions could well suffer from a general downward scaling. If this were to be the case on any major scale, his delegation questioned what then would remain of fundamental value in the General Agreement as it stood and as it was operated at the moment. His delegation saw value in the General Agreement and hoped to have the occasion later to develop its views on this matter, particularly on the question of the potential value of the General Agreement. If contracting parties had faith in the value, in the efficacy, and in particular in the potential value and the potential efficacy of the General Agreement, it was in the interest of all that the conditions which threatened the general downward scaling of concessions at present be removed quickly by effective action in one form or another. The new era of trade negotiations could open the way to such effective action.

Mr. BAIG (Pakistan) commented that the principle involved in the subject matter at present before the CONTRACTING PARTIES was one which had been before the CONTRACTING PARTIES in one form or another on many occasions. His delegation did not, as a matter of principle, favour the maintenance of import restrictions for reasons other than balance-of-payments difficulties. Such restrictions should not be permitted to continue in cases where they prevented the expansion of international trade. His delegation supported the implementation of measures designed to facilitate the realization of the objectives of the General Agreement, and therefore supported moves towards the removal of trade restrictions in general.

Mr. BOSCH (Uruguay) referred to the Article XXIII action instigated by his Government, and said that the request of the United States delegation had the full support of his Government.

Sir EDGAR COHEN (United Kingdom) noted that the comments made by previous speakers had established the general and widespread interest of contracting parties in the removal of import restrictions which were not justified on balance-of-payments grounds. Taking into account the actual difficulties which had been mentioned by the delegate of the United States and which were set out in document L/1899, and the answer given by the delegate for France, the CONTRACTING PARTIES were faced with a claim under Article XXIII that certain specific tariff concessions were being nullified by the use of import restrictions on a fairly extensive list of tariff items. It was difficult to form a concrete judgement on the merits or the difficulties of the particular cases listed in so large a forum. If tariffs had been reduced by a given amount the CONTRACTING PARTIES would have to make a judgement as to the amount of additional trade that might reasonably be expected as a result of that reduction, and would then require particulars of any changes in the import licensing arrangements to judge whether that change effectively frustrated the additional trade which might have been reasonably expected. Alternatively, if a tariff had been bound against increase, and that was all that had been conceded, a judgement would have to be made whether the continuance of an import restriction which was not tightened up could be said to frustrate the benefits to be expected from the binding. The practical course might be to establish a small body to examine the matter in detail with a view to defining the problem and seeking an agreed programme which would reasonably meet the anxieties of the United States on the one hand, while on the other being realistic as to the practical possibilities of the French administration in the somewhat complex context of the work of the Community.

Mr. MATHUR (India) said that reference had been made to the fact that the balance between rights and obligations were being disturbed as between different groups of countries. He thought that this was particularly true with regard to the balance between the industrialized countries and the less-developed countries, and he hoped that it would be possible to redress the balance in due course without proliferation of the type of action provided for in Article XXIII.

Mr. WARREN (Canada) said that over the period in which the European countries had suffered from balance-of-payments difficulties and had imposed restrictions particularly vis-à-vis the dollar area, Canada had been fairly active in pressing for improvements in the position of payments and reserves which would eventually lead to the possibility of the dismantlement of restrictions. Since the period of greater affluence in Europe and of the disappearance of balance-of-payments difficulties for most of these countries, Canada had also been active in endeavouring to ensure that restrictions imposed for balance-of-payments reasons were removed. He thought that like others Canada had been reasonably patient in expressing its expectations. In the case of France there were still certain important restrictions affecting Canadian trade which had been discussed by the authorities of the two countries on various occasions. The Canadian delegation did not at this stage intend to resort formally to the provisions of Article XXIII but it had considered the effects of situations which led contracting parties to resort to paragraph 2 of that Article. While his delegation felt that the simplest way of solving the problem would be for the French Government to eliminate its residual import restrictions, it nevertheless supported the proposal made by the delegate for the United Kingdom that some group should be established to determine the findings requested by the United States.

Mr. HIJZEN (Commission for the European Economic Community) recalled that the Community had negotiated certain concessions on behalf of France in respect of items still under quantitative restrictions. If the United States delegation now required contracting parties to rule formally as to whether concessions granted by the Community were being nullified, he did not consider that the CONTRACTING PARTIES would be ready at the present moment to decide on the matter. He therefore supported the proposal put forward by the delegate for the United Kingdom that the matter should be submitted to a working group for thorough examination.

Mr. GRIFFITH JOHNSON (United States) commented on several points which had been made by other delegations. He agreed with the views of the New Zealand delegation on the undesirability of reducing the overall level of concessions under the GATT and regretted very much the present situation which had forced his delegation to take the steps under consideration. The United States delegation would be pleased to see the French Government make some progress in removing their restrictions, in which event it would be happy to withdraw its present action. He also wished to emphasize as did the delegate for New Zealand that the action proposed by the United States was not a question of retaliation but rather a question of restoring the balance of advantages which had been reached by previous negotiations. In these negotiations the United States had exchanged concessions for those which were now being impaired. It was this balance that the United States was now seeking to correct. In the view of the United States delegation the facts of the situation were not complicated; the United States had granted certain concessions on items of considerable importance tradewise to producers and manufactures in the United States. These concessions had been nullified by the continuance of quota restrictions which were originally imposed for balance-of-payments reasons and the justification from a balance-of-payments point of view had obviously long since disappeared.

In these circumstances it followed that under the procedures provided for in the GATT the United States was entitled to propose compensatory withdrawal under paragraph 2 of Article XXIII.

At this stage the United States delegation would not ask the CONTRACTING PARTIES to attempt to judge the amounts of compensations which were involved but rather to approve the procedure whereby the United States could set its proposals before the Council. If this were agreed the United States would present more detailed reasons justifying the specific proposals which it would wish to put before the Council. He stressed that the United States had been discussing the matter with the French Government for a long time and it was only after very careful consideration and very exhaustive efforts that the United States Government decided it would ask the CONTRACTING PARTIES to enable it to employ the procedures contained in Article XXIII. The United States delegation would only be prepared to consider any approach involving efforts at conciliation if one of the essential elements of such an effort would be a clear indication on the part of the French Government that it was prepared to make significant progress in the lifting of the quota restrictions under discussion. In summary his delegation would suggest that the CONTRACTING PARTIES might note that France did not contest that the measures under discussion were inconsistent with the General Agreement. The CONTRACTING PARTIES might therefore recommend that France eliminate the restrictions. The CONTRACTING PARTIES might also note that insofar as these measures were applied to products which were the subject of tariff concessions they had had the effect of nullifying or impairing such concessions. The CONTRACTING PARTIES might recognize accordingly that the United States would be entitled to propose the application of measures designed to restore the balance of advantages under the General Agreement; and finally that the CONTRACTING PARTIES authorize the Council to consider and decide upon any proposals which might be submitted to it.

Mr. PHILIP (France) said that while he was prepared to accept a recommendation from the CONTRACTING PARTIES requesting the Government of France to speed up dismantling of these restrictions he could not accept the statement that maintenance of those restrictions which had existed before the concessions were negotiated had disturbed the balance of concessions between the United States and France. If a group were set up it should be required to examine the whole matter very carefully in order to obtain a clear view of the situation.

Mr. GRIFFITH JOHNSON (United States) said that in his view the facts of the situation were sufficiently clear to enable the CONTRACTING PARTIES at this time to take the action which his delegation had recommended. However, if it were the general feeling that a special panel should be set up to examine the matter, his delegation would wish the panel to examine specifically two questions. Firstly, whether or not the particular measures taken by France did in fact violate the General Agreement. Secondly, whether these measures or some of them did in fact have the effect of nullifying or impairing concessions negotiated under the Agreement. He felt that if such a panel were set up it could quite easily report back to the CONTRACTING PARTIES during the present session.

Mr. WARREN (Canada) said that he gathered from what the delegate for France had said that because a temporary balance-of-payments restriction was in force at the time a tariff concession was negotiated, it was not open to the country with which the tariff concession had been negotiated, later to claim that failure to remove such a restriction constituted an impairment. If this was the view of the French delegation, such an interpretation would not be acceptable to the Canadian delegation. The restrictions imposed for balance-of-payments reasons were expected to be removed when the cause of the balance-of-payments difficulties had also been removed. It could not be alleged that because a restriction was in force at the time of negotiation there was some right to carry that restriction forward and argue that its continued maintenance did not subsequently constitute an impairment.

Mr. PHILIP (France) referring to the statement made by the delegate of Canada, said he did not consider that the case under discussion could be regarded prima facie as having disturbed the balance of concessions negotiated with the United States. Some form of enquiry would have to be set up to determine whether the quantitative restrictions maintained by France did or did not disturb the balance of those concessions negotiated with the United States.

Mr. PHILLIPS (Australia) said that his delegation's view was that there was a prima facie case of nullification and impairment if in fact the quantitative restrictions were restrictive. Moreover on a number of occasions Australia had been prepared to offer commitments in its tariff in return for commitments in another tariff even though there had been quantitative restrictions in force, but had done so on the assumption that the quantitative restrictions were illegal and would be removed in a short time. His delegation felt that the United States was entitled to some decision in the short term, and that the CONTRACTING PARTIES were entitled to know the true facts of the situation. There did not seem to be any major conflict in these two objectives and it seemed that the establishment of a small panel to obtain the full facts leading to a decision would be the way to handle the matter.

The CONTRACTING PARTIES agreed that a panel[1] be established to deal with this question.

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[1] Later that same day the Chairman announced the following composition and terms of reference:

Chairman: Mr. E. Wyndham White (Executive Secretary)

Members: Mr. C.H. Datson (New Zealand)
Mr. N.V. Skak-Nielsen (Denmark)
Mr. J.H. Warren (Canada)

Terms of reference:

To examine the matter referred to by the Government of the United States to the CONTRACTING PARTIES pursuant to paragraph 2 of Article XXIII relating to import restrictions maintained by France, and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or rulings provided for in paragraph 2 of Article XXIII.

7. Latin American Free Trade Area (L/1861 and Add.1)

The CHAIRMAN recalled that the member States of the Latin American Free Trade Area had submitted a report on the implementation of the Montevideo Treaty. This report had been circulated in document L/1861.

Mr. BARBOSA DA SILVA (Brazil) made a statement providing additional information on behalf of the member States of the Latin American Free Trade Area. His statement was distributed in document L/1861/Add.1.

Mr. PARBONI (Italy) speaking on behalf of member States of the EEC hoped that the implementation of the Montevideo Treaty would contribute to the speedy economic and social development of the Latin American Free Trade Area and to the development of trade between the member States, as well as between third countries. He noted in the report that certain facilities granted to member States would not be extended to third countries because of the Area's balance-of-payments difficulties. An extension of this type of régime could be detrimental to world trade; however his delegation was aware of the balance-of-payments difficulties faced by the Latin American countries and hoped that the restrictions imposed by them would be of temporary duration. His delegation was interested in the Area's rules of origin and would be grateful for further details on the subject. Mr. Parboni expressed satisfaction on the progress made towards the adoption of a common customs nomenclature, a factor he considered would facilitate the expansion of trade. His delegation noted inter alia the contact made between LAFTA and the Inter-American Development Bank with respect to the financing of trade developments within the Area, and it was hoped that information on these matters would be furnished in the next report.

Mr. ONYIA (Federation of Nigeria) said he would take advantage of the occasion to refer to another matter. His delegation had always considered that the principles of the GATT were based on the multilateral nature of the concessions negotiated by its Members and insured by the most-favoured-nation treatment. If this multilateral nature of the arrangements within the framework of GATT ceased to be of significance and the concessions became valueless the principle of the most-favoured-nation treatment would become restricted or limited. Accordingly, his delegation wondered whether indeed the drafters of Article XXIV of the General Agreement intended that a situation should arise wherein Members of the GATT were discriminated against in favour of non-Members. This was a new development which had arisen from the movement towards regional integration and in the view of his delegation the matter should be given serious consideration. The CONTRACTING PARTIES should consider whether paragraph 10 of Article XXIV was not in fact intended to relate only to proposals by Members of the GATT who intended to form a free-trade area or a customs union. His delegation had raised this problem at this point not because it was adverse to the formation of free-trade areas among less-developed countries, but as the GATT now seemed to be moving towards adherence to strict procedure, these matters should be given serious consideration with a view to strengthening the GATT and the principles for which it stood.

Mr. PHILIPS (Australia) said that his delegation had been interested in the progress which had been made in the implementation of the Latin American Free Trade Area, because of the contribution it seemed likely to make to the development of Latin America, and because of its trade effects on third countries. The Australian Government had recently seen fit to stimulate the establishment of direct shipping services between Australia and South America to take advantage of what was hoped would be a marked increase in two-way trading opportunities. While his delegation appreciated the additional information which had been submitted by the member States of LAFTA it felt that it would be helpful to contracting parties to have more detailed information on these important developments. The context of the two documents submitted, fell somewhat short of what contracting parties might have hoped to have had as a basis for their understanding and appreciation af developments in the Area. For example, it had been noted that member countries had exceeded the required 8 per cent reduction of duties in the first round of concessions. However, the lists of items figuring in such reductions were still unavailable. He therefore wished to made a special plea to the members of the Latin American Free Trade Area to endeavour to provide in the future a fuller report on their activities and to provide such information well before the opening of the session so that it could be studied beforehand.

Mr. HIJZEN (Commission of the EEC) said that his delegation had noted with interest the developments which were taking place in implementing the Montevideo Treaty. The system of tariff reduction used in the LAFTA was different from the system employed by the European Economic Community and it would be useful if information were available on the groups of products which had figured in the reductions which had taken place; his delegation was also interested in the progress made on the preparation of a common liberalization list. He welcomed the fact that Ecuador was acceding to the LAFTA arrangements and wished to know whether Ecuador would negotiate under Article 15 or whether another programme for reduction of duties was envisaged under Article 32 of the Montevideo Treaty.

Mr. BARBOSA DA SILVA (Brazil) thanked delegations who had commented on the reports submitted by LAFTA. He had noted with interest the statements made on the different features of the integration which was now taking place in Latin America. He assured the CONTRACTING PARTIES that he would not fail to pass on the comments made, to the Executive Secretary of the LAFTA Standing Committee. With regard to the points raised by the representative of the EEC, the common schedule would be negotiated over the years and preparations for the third conference, which would take place in 1963, would take into account those provisions of the Treaty requiring the transfer of goods from national lists to the common list. With regard to the accession of Ecuador that country would negotiate under Article 5 and its situation as a country at a relatively less-advanced stage of development would be covered by Article 32 of the Montevideo Treaty. As to the degree of the concessions granted so far the preliminary concessions related to goods of animal and vegetable origin. However, measures were being taken to include also in the concessions the largest possible number of products traditionally tradedwithin the Area. An effort was also being made to enlarge the area of concessions to include the industrial sector. With reference to the point made by the delegate of Nigeria, he thought that this was

of general interest and when the matter was taken up at the proper time his delegation would be prepared to join others in considering the various possible consequences of the interpretation of Article XXIV. In conclusion he would convey to the repsonsible authorities the desire of the CONTRACTING PARTIES to be furnished in future with early information on developments within the LAFTA so that they would be able to study the documents prior to their coming to the sessions of the CONTRACTING PARTIES.

The CONTRACTING PARTIES took note of the information furnished.

8. Exports of potatoes to Canada

Mr. GRIFFITH JOHNSON (United States) said that the specific difficulty concerning the exports of potatoes to Canada had been the subject of bilateral discussions for over a year, although discussion of the principle involved went back a number of years. As these bilateral discussions had not so far been successful his delegation considered that the CONTRACTING PARTIES should undertake an investigation of Canada's valuation system as it applied to the exports of potatoes to Canada. On 16 October 1962 Canada had set a fixed minimum import valuation for table potatoes imported into western Canada under Section 40(a) 7(b) of the Canadian Customs Act. This action impaired a concession negotiated with Canada under which the Canadian import duty on potatoes was bound to the United States at 30½ cents per hundred pounds. The Canadian valuation action which had in effect approximately doubled the bound duty at current prices would preclude a significant amount of the United States annual export of potatoes to Canada. His delegation was prepared to outline the details of the case at an appropriate time and place during the session and suggested that for this purpose the CONTRACTING PARTIES might appoint a panel to consider the matter and report back during the session.

Mr. WARREN (Canada) said that in 1961 Canada exported about $225 million worth of farm products to the United States. In the same year, however, Canada imported $467 million worth, which was more than double its exports. Both countries were among each other's best customers for farm products despite restrictions, some of which were considered earlier in the session in connexion with the United States agricultural waiver. This large trade was to be expected in view of the long adjoining border and the nature of agricultural production in the two countries. It was to be expected also that with trade of such magnitude problems would occasionally arise which might be irritating to a greater or minor degree to the parties concerned. This was particularly true in the fruit and vegetable trade sector. The products in this group, including potatoes, made up over 60 per cent of Canada's agricultural imports from the United States. Both countries had a reasonably efficient fruit and vegetable industry. However, because of the variety of climate in the United States and its more southerly location, the season in many parts of that country was considerably advanced on the Canadian production season. By the time Canadian producers were only beginning to market their fruits and vegetables, the United States production season was often at its peak and accordingly prices were normally at their lowest level

for the season. Over the years and through many negotiations, tariff and trade arrangements had been evolved which had permitted the fruit and vegetable markets of the two countries in normal years to operate in a reasonally satisfactory manner permitting a mutually advantageous development of trade.

It must be realized, however, that there would be seasons where difficulties would arise. This was particularly so for fruit and vegetables where the marketing season was often short and changes in supply could result in wide fluctuations in price over a very short period. It was this sort of occurrence that the provisions of the Canadian Customs Act 40(a) 7(b) dealing with fresh fruit and vegetables were designed to cope. It was permissive legislation which was not intended to be concerned with normal trade but with the sporadic, the unusual trade movements, at critically low prices, that could cause serious injury to Canadian producers in the shorter northern marketing season available to them. The legislation provided that if shipments of fresh fruits and vegetables were being imported at values which did not reflect the normal values for that time of year, a value for duty might be established equivalent to the average import value of the previous three years. Just prior to the action presently under discussion being taken, potatoes were entering western Canada from the United States at prices as low as $1.13 per hundred pounds. This compared with average import values at that time of year during the previous three marketing seasons of $2.54 per hundred pounds.

This legislation had been used with the greatest restraint. In fact, the question now raised by the United States resulted from only the second application of its provisions. These provisions had never been applied Canada-wide in the case of potatoes. The previous application occurred in 1961 when a value for duty in accordance with the formula described above to deal with these seasonal problems was also placed on potatoes imported into the western area of Canada. This was removed later in the marketing season. This value for duty did not interrupt the flow of trade from the United States. In fact trade in potatoes by both volume and value increased over the preceding marketing season. When it was considered that total imports of fruit and vegetables into Canada from the United States in 1961 amounted to nearly $300 million, the trade in potatoes presently made subject to the special value for duty, amounting to between $1 million and $2 million was not really very large. Normally, trade in potatoes moved both ways across the border, depending on regional differences in supply and price. Because of this, both countries had in the past, recognized that particular difficulties might be experienced with potatoes in certain years, and the tariffs of both countries on this product had been subject to many negotiations. The United States had recognized these difficulties by inclusion of the tariff quota technique in its tariff on potatoes, whereby there were three levels of rates on the other hand the Canadian tariff was at the same level as the lowest of the three United States rates and there were no quotas.

The United States Government had formally expressed its unhappiness to the Canadian Government regarding this value for duty on potatoes a few days before the opening of the present session. When these little trade problems had arisen on either side of the border in the past, it had usually been possible to solve them in a satisfactory manner through the usual process of discussion between the two authorities. In this instance, just over three weeks after the invocation of Section 40(a) 7(b) of the Canadian Customs Act, the matter was found suddenly on the agenda of the CONTRACTING PARTIES. The Canadian delegation was fully convinced that this was not a matter warranting the invocation of the procedures suggested by the United States. However, his delegation would abide by the wishes of the CONTRACTING PARTIES in this respect. If a panel were established the CONTRACTING PARTIES would naturally expect the United States to demonstrate to their general satisfaction whether or not there had been a real and significant nullification or trade impairment arising from Canada's seasonal action. There could be no question of any consideration of Section 40(a) 7(b) of Canadian law as such. The item before the CONTRACTING PARTIES related to the action taken with respect to the valuation of potatoes. This was permissive legislation and his delegation would only agree if the CONTRACTING PARTIES wished to discuss the actual effects on trade with respect to potatoes. The question brought before the CONTRACTING PARTIES was simply the present instance of the application of the special fruit and vegetable seasonal aspects of Canadian legislation to the import of American potatoes into a part of Canada. Whether the information available on the movement and prices of trade over the last three weeks would be such as to permit any objective determination of the effects on trade of the action which Canada had again this year found necessary to take seemed rather doubtful and perhaps other contracting parties might give their view as to whether the procedures proposed by the United States would be considered useful particularly in view of the heavy work load yet before the CONTRACTING PARTIES. In this connexion, his delegation did not consider that the possibilities open to the United States under Article 22 could have been exhaustively exploited in the short time that had passed. Moreover, there were aspects of a temporary and emergency nature which might be considered relevant to the situation which had arisen.

Mr. GRIFFITH JOHNSON (United States) said that the United States had found that if it were to follow the usual procedures with regard to timing and extensive discussions running over many months, the cause of the discussions would have disappeared before the matter was settled. This was a seasonal matter which came up in September or October as a rule and disappeared some months later. This was the reason why it was considered desirable to bring the problem to the attention of the CONTRACTING PARTIES at this session.

The CHAIRMAN proposed that a panel be established with the following composition and terms of reference:

Terms of reference:

To examine, in accordance with the provisions of paragraph 2 of Article XXIII, the question submitted to the CONTRACTING PARTIES by the Government of the United States concerning the application of values for duty on potatoes under the Canadian Customs Act on 16 October 1962, and to report thereon to the Council.

Chairman: Mr. J.H.C. Schell (Kingdom of the Netherlands)

Members:

Mr. F.P. Donovan (Australia)

Mr. A. Holland (Norway)

Mr. K. Jacobi (Switzerland)

This was agreed.

The meeting adjourned at 6 p.m.