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GENERAL AGREEMENT ON TARIFFS AND TRADE

SUMMARY RECORD OT THE SIXTEENTH MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 November 1958, at 2.30 p.m.

Chairman: Mr. L.K. JHA (India)

Subjects discussed:
1. Expansion of International Trade
2. Freight dumping
3. Rhodesia and Nyasaland Tariff
4. Norwegian Schedule - Report by Working Party on Schedules
5. Anti-dumping and countervailing duties
6. Article XXVIII: Danish request

1. Expansion of International Trade

The CHAIRMAN stated that the observer for the Food and Agriculture Organization wished to make a statement in connexion with one of the topics of the programme of action which the CONTRACTING PARTIES were preparing to promote further expansion of international trade.

Mr. SINARD (Observer for the FAO)[1] referred to the activities of the FAO in the field of agricultural support policies which had a bearing on the programme of action which the CONTRACTING PARTIES were contemplating. He called attention to document INF/63 which set out recent Resolutions of the FAO Council and the FAO Conference. At its session in Rome from 27 October to 7 November, when discussing problems relating to agricultural support measures, the Council had expressed the belief that "an endeavour should be made to deal effectively with those agricultural support measures which threatened to have a disruptive effect on the pattern of international trade in agricultural products." The Council had decided that the FAO should co-operate in any enquiry of the CONTRACTING PARTIES in this field as it had co-operated in the preparation of the Experts' Report.

[1] The full text of Mr. Sinard's statement is reproduced in document W.13/47.

Mr. Sinard recalled that in 1955 the Conference - the supreme governing body of the FAO - had set up an expert working party to analyse and report on agricultural support measures. After discussing the report of the Working Party at its 1957 Session, the Conference had resolved to pursue the study. It had set up an expert working party which should "recommend guiding principles designed to minimize the adverse effects of agricultural support policies on international trade, and to be taken into account by Member governments in establishing or reviewing their agricultural policies". The Conference had emphasized that the problems of agricultural support measures were likely to vary widely between countries (e.g. between countries at different stages of economic development, or between importing and exporting countries), and that this must be reflected in any recommendations or code of principles. It had therefore recommended that support measures should first be studied on a regional basis, and that in the light of these regional discussions a final meeting should be held on a world basis to develop "guiding principles" on agricultural support measures, which Member governments should take into account in framing their policies. These would be somewhat similar in concept to the FAO guiding principles on surplus disposal and would be aimed primarily at minimizing obstacles to trade. Such "guiding principles" would, of course, be available to Member governments of FAO for study and consideration immediately after a meeting of the expert working party, which would be held in April 1959, if agreement were reached at that meeting. If approved by the Council and Conference, the "guiding principles" would presumably be referred to governments for their decision as to their individual adherence. A regional meeting had already been held at New Delhi in March 1958 to study the special problems which agricultural support measures raised in conditions peculiar to the countries of Asia and the Far East. A similar meeting in the Latin American region was proposed for February 1959. Agricultural support measures had also been examined on a commodity basis in the special study groups of the Committee on Commodity Problems, notably the Grains Study Group in June 1958 and the Dairy Products Panel.

The reports of these various meetings, together with the original report of the first expert working party, would provide the basic documentation for the final April meeting. Mr. Sinard emphasized that the participation of GATT observers at this meeting would be wholeheartedly welcomed. The meeting would certainly be concerned with very much the same difficulties which the CONTRACTING PARTIES were facing with respect to trade and tariffs. One probable outcome of the April meeting would be recommendations for some machinery to make a regular review of agricultural support measures, particularly in their international effects, primarily on trade, and of consistency of these measures with the recommended "guiding principles". The Conference of FAO had already, in 1957, encouraged governments to move towards a system of voluntary consultations with each other. In this the new action envisaged resembled the proposals now before the CONTRACTING PARTIES.

This in broad terms was the current FAO programme in this field as it had recently been endorsed by the Council. In doing so the Council had stressed that FAO's interest was not limited to the effects of support measures on

international trade, but was concerned at least as much with their effects on agricultural production and development, on the consumption of agricultural products, as well as on the stabilization of agricultural prices and incomes which was the primary objective of and justification for support measures. Because of the inter-relationship of all these aspects, the Council had considered that the work of FAO in this field "could not be subordinated to the work of any other agency, but that a very useful purpose could be served by continuing close co-operation on these matters with GATT and other interested agencies".

The CHAIRMAN thanked Mr. Sinard for his informative statement. The CONTRACTING PARTIES would no doubt wish to take account of the activities of the FAO when considering the report of the drafting group on the terms of reference of the Committee on Expansion of International Trade.

2. Freight Dumping (MGT/128/58)

The CHAIRMAN stated that this item had been proposed by the delegation of South Africa which had submitted a memorandum in connexion therewith.

Mr. STEYN (South Africa) said that the memorandum referred to (MGT/128/58) explained the nature of the problem which he had been instructed to place before the CONTRACTING PARTIES and at the outset he wished to record that it raised issues of considerable concern to his Government as the existence of a young developing industry in South Africa was at stake.

The South African paper producing industry was still in the early stages of development, and consequently had to cope with the problems normally experienced by infant industries. The industry was based on the use of indigenous materials, and a careful governmental investigation had shown that it had every prospect of developing into an economically sound project. In order, therefore, to assist the industry in overcoming difficulties usually encountered during the establishment period, his Government had decided to grant to it a reasonable measure of tariff protection. The level of the protection granted, having regard to the levels of freight rates and other import costs which prevailed at the time, was considered to be the minimum on which the industry could maintain itself against normal foreign competition. Moreover, in determining the level of protection, due account was taken of the fact that the industry could not supply the country's full requirements, and that it was in South Africa's own interests not to impose duties of a nature which would increase unduly the cost to consumers of both domestic and imported supplies.

Some time after this protection had been granted, the shipping companies serving the trade between South Africa and a contracting party which was an important exporter of paper products, started cutting their freight rate to South Africa only on the types of paper on which the duties had been raised to protect the South African industry. This freight rate declined from 264/- per ton in June to 157/- per ton in September - i.e. a cut of approximately 40 per cent at a time when ocean freight rates on all cargoes conveyed

from that country to South Africa were generally maintained at stable levels. This drastic reduction in the freight rate on paper immediately led to heavily increased imports from that source which had not only undermined the tariff protection granted to the domestic industry but had assumed proportions which might well force it to cease operations in the very near future if immediate corrective action were not taken. Moreover, the freight reduction had also had wider repercussions on the trade of certain other contracting parties which had traditionally exported these particular types of paper to South Africa. When these exporters found that they were losing their share of the South African market as a result of the freight cut they immediately reduced their prices for deliveries to South Africa to levels where they were now clearly dumping their paper, and their exports immediately became liable to the imposition of ordinary dumping duties. In the light of these circumstances, therefore, Mr. Steyn felt sure that the wider implications for the trade of certain other contracting parties of the freight reduction introduced on paper shipments to South Africa from the contracting party in question would immediately be clear to all.

The South African Government had carefully considered the types of action which could appropriately be taken by it to remove the threat to the domestic industry. Since South Africa had not entered into any tariff commitments in respect of the relative items in its Customs Tariff, it was at liberty to counteract the effect of the freight reduction from the one contracting party by means of an increase in the normal duties on the products in question. There were, however, important considerations which his Government believed, made this course of action impracticable and undesirable. Firstly, the earliest occasion on which Parliamentary authority could be obtained for any increase in the normal tariff rates would be towards March or April 1959. The South African industry, however, must be immediately protected if the threat to its existence was to be averted. Secondly, the raising of the particular tariff rates would affect the export trade of all contracting parties with a share in South African imports of the products in question. Thirdly, it was not certain that a further increase in the normal tariff rates would not again be countered by a cut in the freight rate on shipments from the contracting party in question, in which case the tariff rates would have to be raised still further. Finally, it would clearly not be in the best economic interests of his country to raise normal duties for protective purposes to levels which it itself regarded as excessive in the light of the particular circumstances of the industry to be protected.

It had long been an established principle of his Government's policy to grant protection to secondary industries only through the medium of the tariff. Moreover, in determining the levels of tariff protection to be granted to individual industries, the South African Government necessarily had to bear in mind the effects which such protection was likely to have on costs in general, and on the gold mining industry in particular. His Government accordingly considered that tariff protection to secondary industries should be granted on a selective basis. It also felt that duties imposed for

this purpose should not exceed levels which it regarded as adequate in the light of the particular circumstances of the industry to be protected. At the same time, it was considered desirable that the level of protection granted should leave reasonable opportunities for foreign competition in the domestic market, provided such competition conformed to recognized principles of fair trading and did not, therefore, disrupt local industry.

In the light of all these considerations, therefore, his Government had concluded that the most appropriate course, and the one least likely to damage the legitimate trading interests of other contracting parties, would be to take action in terms of the anti-dumping provisions of the South African Customs Act. This legislation, which was in force prior to 30 October 1947, authorized the South African Government, in cases of this nature, to impose a freight dumping duty, in the form of a countervailing duty, equal to the difference between the normal rate of freight chargeable and the freight rate actually paid. His Government contended that this course of action would have two obvious advantages in that the freight dumping duty would apply only to particular shipments conveyed by the shipping companies which were now resorting to freight dumping and the duty would be of an entirely temporary nature, ceasing to be operative as soon as the freight rate was restored to the normal level. The imposition of such a countervailing duty in the particular circumstances under reference would therefore provide the most practical solution to the difficulties with which South Africa was confronted, and would be less injurious to the legitimate trading interests of other contracting parties than the raising of the normal rate of duty on a non-discriminatory basis, and would thus be fully in conformity with the spirit and the objectives of the General Agreement.

In conclusion, Mr. Steyn suggested that, if the CONTRACTING PARTIES concurred in the course of action to which his Government had proposed as a solution for the problem, the most appropriate manner for dealing with the matter, whether by reference to Article XXIII or any other applicable provisions of the General Agreement, could perhaps be explored by a small working group in consultation with the secretariat.

Mr. SWAMINATHAN (India) pointed out that when goods were imported from abroad, it was the "cost-insurance-freight" (c.i.f.) price which was of ultimate interest to the importer and it was again this price which determined the tariff and other policies of governments. The question of the "cost" of products entering into international trade had always been the legitimate concern of the CONTRACTING PARTIES. Moreover he recalled that at the last three sessions the question of "insurance" had also been on the agenda. In the view of his delegation it was appropriate, therefore, for the third c.i.f. element, "freight", also to come up for discussion by the CONTRACTING PARTIES.

The South African memorandum presented a case in which it appeared that an arbitrary and sudden reduction in ocean freights had had the effect of subsidized dumping. In this connexion Indian traders had been handicapped

for a long time by discriminatory high freights on some of their goods as a result of which they had suffered in competition with relatively high-cost producers. In another forum recently, his Government had had occasion to refer to ocean freights on the same commodity from India being on a ton-mile basis considerably higher than freights to the same destination from other producing countries at a much greater distance. In the case submitted by the representative of South Africa it seemed that a subsidy was being granted without justification. Although it appeared that the subsidy was the result of voluntary action by shipping companies the effect on the South African industry appeared to be such that it would be fair to contemplate that governmental action might be taken to prevent such harm being caused. In the case of the Indian situation to which he had referred, suggestions had been made to his Government that, failing satisfaction on the question of freights from the shipping companies and conferences, it would be worth studying whether it might be justifiable to apply a countervailing subsidy for exports. Mr. Swaminathan pointed out, however, that it was not his Government's current intention to subsidize exports generally or in any large way. Indeed, the general financial situation and developmental needs would not permit recourse to this remedy to any effective extent. He had referred to this aspect of the matter only in order to illustrate how freights could be an extremely important element in the competitiveness of products entering into international trade. His delegation would revert to these questions more fully at an appropriate time when the CONTRACTING PARTIES undertook their full review of the question of subsidies.

The case presented by the representative of South Africa seemed, prima facie, well-founded. The South African delegation had requested permission from the CONTRACTING PARTIES for the imposition of a countervailing duty. Not having all the facts of the case nor any explanation which the contracting party in question might wish or might be able to give, it would, in the view of his delegation, be premature for the CONTRACTING PARTIES to pass final judgement. On the prima facie case, however, it would seem reasonable for the South African Government to proceed to take the action desired by them if, in their judgement, harm to their industry was imminent and serious. Accordingly his delegation would agree that the appropriate procedures might be examined by a small group in consultation with the secretariat.

Mr. HAGEN (Sweden) said that his delegation welcomed the earnest desire of the South African Government to find solutions to the problems with which it was confronted along lines which would cause minimum disturbance to normal patterns of trade. After a careful study of this question, in the light of Swedish export interest in the products concerned, his delegation had concluded that the CONTRACTING PARTIES should accede to the request by the South African Government to impose a freight dumping duty in the form of a countervailing duty. Accordingly, the Swedish delegation would support a decision to that effect.

Mr. VARGAS-GOMEZ (Cuba) welcomed the initiative of the South African delegation in bringing this matter before the CONTRACTING PARTIES and the opportunity thus provided for contracting parties to express their views thereon. Cuba had also experienced some difficulties in the past as a result of unfair action taken by shipping companies in manupulating freight rates and hence interfering with normal competitive conditions. Indeed, there had been instances where Cuba had obtained a tariff concession with a contracting party designed to stimulate its exports to that market and shipping companies had thereupon increased the freight rates applicable to that product, thus having the effect of nullifying the reduction in duty that had been negotiated. The Cuban delegation felt, therefore, that such practices should be condemned since they were in direct contradiction to the spirit and objectives of the General Agreement which was designed to permit and foster expansion of trade within the framework of fair competition. The case submitted by the representative of South Africa clearly evidenced the prejudicial effects such practices could have on domestic industries. The Cuban delegation would support authority being given to the South African Government to take corrective action as proposed and considered, moreover, that the CONTRACTING PARTIES should study all the wider implications of these practices in general with a view to taking necessary action to protect contracting parties from their detrimental effects.

Mr. RINDAL (Norway) pointed out that his delegation considered shipping questions to be outside the scope of the General Agreement and that problems of this nature were generally not debated by the CONTRACTING PARTIES. Nevertheless, the case submitted by the representative of South Africa had wider implications than questions of a purely maritime nature and in so far as the practices under reference affected international trade in general they should not be overlooked by the CONTRACTING PARTIES. It was a well-known fact that Norway derived a substantial part of its earnings of foreign exchange from its shipping services and the Norwegian Government had always opposed subsidization of such enterprises in any form since it firmly believed that the efficient development and operation of shipping facilities, to the mutual advantage of all concerned, could only be achieved under free competitive conditions. Moreover, the freight tariff reduction in question had not only had consequential effects on other shipping lines traditionally servicing this particular route but had also led to a distortion in the pattern of trade. Furthermore, in such a case as that submitted by the representative of South Africa, where the product concerned had great bulk to value, cost of transportation constituted a significant part of the landed cost; a substantial cut in the freight rate, therefore, to a level far below that which normally prevailed, could seriously interfere with established trade patterns in that product. In the light of the information submitted, therefore, the Norwegian delegation considered that the

situation described by the South African Government could be most effectively dealt with by action as proposed by that Government and accordingly felt that the CONTRACTING PARTIES should agree to the implementation of such procedures.

Mr. MERINO (Chile) pointed out that his delegation felt that the problem submitted touched on certain aspects of international trade which the CONTRACTING PARTIES had not hitherto been able to cope with satisfactorily. Nevertheless the representative of South Africa had clearly evidenced that some of the advantages accruing to his Government under the General Agreement had been impaired and on this account the Chilean delegation would support the South African request.

Mr. GUNDELACH (Denmark) said that while his Government had no direct interest in the matter under discussion, the problem deserved careful examination by the CONTRACTING PARTIES since they had wider implications which could not be overlooked. His delegation therefore was prepared to support action along the lines proposed by the representative of South Africa.

Mr. VAN OORSCHOT (Kingdom of the Netherlands) said that in such cases as the practices under reference, where there had been harmful repercussions on trade, the spirit of the rules of the General Agreement took priority over any narrow legal interpretation. In the case submitted by the representative of South Africa it was clear that as a consequence of external influences that Government found itself in a difficult position with regard to the maintenance of protection for an infant industry which, once established, would be an economically sound project. It was now incumbent on the CONTRACTING PARTIES to find a solution to this difficulty. Although the best procedure would be to submit the matter to a working group for examination, the possibility of conciliation between the two parties should not be overlooked since the best procedure might be for the appropriate government to exert its influence on the shipping companies in question to put an end to the undesirable situation.

Mr. TENNEKOON (Ceylon) considered the prima facie case submitted by the representative of South Africa to be rather convincing and illustrative of the insecurity and difficulties to which less developed countries were subjected in their endeavours to develop and diversify their economies. His delegation therefore supported the suggestion by the representative of South Africa that a small working group examine this matter and report to the CONTRACTING PARTIES.

Mr. SCHWARZMANN (Canada) said that he was not yet in a position to state his Government's views in respect of the problems raised by the representative of South Africa. Nevertheless his delegation felt there would be some merit in a detailed examination of the case submitted and therefore supported the suggestion that had been made in this regard.

Mr. MUNKKI (Finland) pointed to his Government's interest in the South African submission since paper was one of Finland's staple exports in its trade with South Africa. He recognized the importance South Africa attached to the development of a domestic wood-processing industry based on the use of indigenous materials; Finland did not wish to compete with such an industry but merely to participate in filling that part of domestic requirements which the local industry could not meet. Finland relied on the foreign shipping servicing this route, mostly Scandinavian, and these lines based their operations purely on commercial considerations. As the representative of South Africa had pointed out, however, other shipping companies had resorted to a specific freight reduction to this market only on certain types of paper products. Such action had prejudiced the position of other paper exporters to South Africa, including Finland, and certain of them had already been forced out of this market. His delegation therefore appreciated the attitude of the South African Government in directing the corrective measures it proposed to take towards the practices which created the present situation and accordingly would support the request submitted.

Mr. TREU (Austria) said that the appropriate governmental authorities were at present drawing up an inventory of the prejudice caused to the Austrian paper industry as a result of the practices under reference. On the question of principle his delegation's attitude was quite clear in that it considered that such indirect subsidization through differential freight rates tended to disorganize and disintegrate normal competitive channels of international trade. Such practices, therefore, should be condemned since they were of such a nature as to endanger the very edifice of the General Agreement which was designed in particular to ensure equitable conditions of trade. In the light of these considerations, therefore, the Austrian delegation supported the proposal made by the representative of South Africa.

Mr. BENES (Czechoslovakia) was of the opinion that the case presented by the South African representative was well founded and deserved full attention. Although Czechoslovakia's interests were not directly involved, his delegation supported the South African proposal.

Mr. CASTLE (New Zealand) appreciated the difficulty with which South Africa was confronted and expressed the opinion that action should be taken. The proposal before the CONTRACTING PARTIES was reasonable, particularly because it would help to safeguard the legitimate interests of the other contracting parties which were affected. His delegation supported the South African request and agreed that the matter should be considered in a small group.

Mr. PRIESTER (Dominican Republic) also supported the South African proposal. While the Dominican Republic was not directly affected, it had an indirect interest in the issue because it involved serious implications for all the countries which based their duties on the f.o.b. and not on the c.i.f. cost of imports. His Government had experienced similar difficulties when it tried to promote the establishment of new industries.

Mr. RATTIGAN (Australia) stated that on the basis of the facts as they had been presented by the South African representative, it was clear that South Africa was faced with a pressing problem involving a threat of grave injury to an industry and serious disturbance to trade which required an urgent solution. The action proposed seemed to be the least restrictive for trade. His delegation was in favour of examining the issue in a small group.

Mr. JARDINE (United Kingdom) expressed sympathy with the arguments presented by the South African representative. Nevertheless the question raised had wide repercussions which needed to be considered very carefully. If the CONTRACTING PARTIES were to give the ruling which the South African Government sought, they would be authorizing indirectly the imposition of a countervailing duty not permitted by Article VI. The precise limits of that Article had been discussed at the Havana Conference. The CONTRACTING PARTIES should not, therefore, take a hasty decision on the matter when little time had been given for the consideration of the very wide issues raised.

Mr. PAPPANO (United States) said that the matter deserved very careful consideration because it appeared to involve far-reaching issues. While reserving the position of his delegation at this time he hoped that it would be able to make a definitive statement on the issue before the end of the Session. He supported the proposal to establish a small group.

Mr. SUJAK BIN RAHIMAN (Federation of Malaya) referred to the difficulties with which Malaya had been confronted earlier in the year because of a freight dispute between Far-Eastern shipping lines. Freight rates between Bangkok and the United Kingdom had fallen to abnormally low levels, with the result that Malayan exports of timber could no longer compete with those of Ceylon. He supported the establishment of a small group and suggested that consideration be given to an examination in GATT of the wider issues concerning freight.

Mr. SUBARDJO (Indonesia) hoped that a solution could be found to the problem presented by South Africa. The matter should be examined carefully so as to avoid a violation of basic GATT principles. He was in favour of setting up a small group.

Mr. BELL (Federation of Rhodesia and Nyasaland) had not yet received instructions. He expressed sympathy with the difficulties which South Africa faced and approved the suggestion to refer the issue to a small group.

Mr. EMMEL (Federal Republic of Germany) shared the view of other representatives on the complexity of the problem. It was not known whether the freight rate in question was a Conference rate, a rate set by only one shipping line or whether any governmental subsidy was involved. The CONTRACTING PARTIES should proceed carefully and he therefore endorsed the proposal to set up a small group.

Mr. ELEKDAGDAN (Turkey) wished that the matter be referred to a small group.

The CHAIRMAN, summarizing the debate that had taken place, said there had been a great deal of support for the point of view submitted by the representative of South Africa. There had also been general agreement, however, that before the CONTRACTING PARTIES finalized their views on this matter it should be examined in detail by a small working group in consultation with the secretariat. He therefore proposed the appointment of such a group. In view of the fact that the proposal might involve certain tariff changes, he urged contracting parties and observers to treat this matter with the secrecy it warranted.

The CONTRACTING PARTIES approved the establishment of a working group with the following membership:

Cuba	South Africa
Federal Republic of Germany	United Kingdom
India	United States
Sweden	

3. Rhodesia and Nyasaland Tariff (L/914)

The CHAIRMAN recalled that the Decision of 3 December 1955 had authorized the Governments of the Federation and Australia to complete the process of adjustment in preferences effecting each other's trade during the initial life of their trade agreement of 1955. The two Governments had reported to the Intersessional Committee that their negotiations could not be completed within the time-limit and the Committee had agreed that appropriate action should be taken by the CONTRACTING PARTIES at this Session. The delegation of Rhodesia and Nyasaland had prepared a report on the subject (L/914).

Mr. BELL (Federation of Rhodesia and Nyasaland) said that the first part of the report concerned the negotiations between the Federation and Australia, which it had not been possible to conclude in the time allowed, but which would be concluded before 1 July 1959. The second part dealt with the negotiations of the Federation with the Portuguese Government concerning the extension to the whole Federation of the frontier traffic arrangements previously existing between Southern Rhodesia and Mozambique. The Federation had stated at the meeting of the Intersessional Committee in July 1958, that the result of current negotiations with the Portuguese Government would be reported to the CONTRACTING PARTIES. The report indicated that the renegotiated agreement was about to be initialled. A last-minute change had been brought to Article V; for "fresh fish" in the first line the words "fish (excluding canned fish)" should be substituted. The effect of this alteration was to give a concession on dried fish which, along with fresh fish, was duty free from all most-favoured-nation sources. The trade covered by the agreement included live animals, including poultry, fresh and dried fish and unmanufactured products of the soil of a vegetable nature including such unmanufactured foodstuffs as were products of the soil, for example, peas and beans. This trade had been in progress for a long time and, while the duties payable on this traditional traffic were not changed in practice by the agreement, exact items were now provided for and covered by the limitations of precise terminology replacing the generalized form of the previous arrangements. As reported at the meeting in July, most of the imports to which the arrangement applied were destined for Southern Rhodesia and consisted of timber of a variety almost confined to Mozambique. In 1956 imports into Northern Rhodesia and Nyasaland of the commodities covered by the arrangement had amounted to only £10,000. As regards Article VI, the CONTRACTING PARTIES would note that no concessions were being granted to the Portuguese Government at present. The Article referred to the extension to Angola of the same treatment as was applied to Mozambique in the event of appropriate conditions developing in the future. The trade with Angola consisted almost entirely of salt and dried fish: salt would not in any case be covered by the renegotiated agreement and the trade in dried fish was limited to a sun-dried product which was purely local in character and whose production and consumption was virtually confined to the indigenous population. As already indicated, this product was duty free from all most-favoured-nation sources.

The Government of the Federation requested that the CONTRACTING PARTIES agree to an extension of the time-limit provided in the Decision of 3 December 1955, from 30 June 1958 to 30 June 1959, so as to enable the Federation to conclude negotiations with the Governments of Australia and Portugal, both of which were to be completed by 30 June 1959. As stated in the report, any adjustments in the Federal tariff would be communicated to the CONTRACTING PARTIES not less than sixty days before they became effective, in order to give contracting parties which were substantially interested an opportunity for consultation with the Federal Government.

Mr. PAPPANO (United States) reserved the position of his Government.

The CONTRACTING PARTIES instructed the Executive Secretary to submit a draft Decision for consideration at a later meeting.

4. Norwegian Schedule - Report by Working Party on Schedules (L/913)

The CHAIRMAN recalled that this item had been referred to the Working Party on Schedules, which had now submitted its report on the matters raised by the Norwegian Government (L/913).

Mr. WINTERMANS (Netherlands), Chairman of the Working Party, said that the implications of the Norwegian Government's intention to convert a number of specific duties in its schedule into ad valorem duties had been examined. After careful consideration the Working Party recommended that the proposed conversion of specific into ad valorem duties should be treated as an application by Norway for authority under Article XXVIII:4 to renegotiate the concessions affected. It was considered that the circumstances in which the application was made warranted a finding of "special circumstances" within the terms of that Article.

Mr. RINDAL (Norway) said that his Government's memorandum (L/856) made reference to the need for the establishment of a simplified procedure for the conversion of the specific duties, which was envisaged in connexion with the transposition of the tariff into the Brussels Nomenclature as from 1 January 1959. The Norwegian delegation had submitted to the Working Party that, in the past, the CONTRACTING PARTIES had taken the view that such conversions to ad valorem rates did not need to involve negotiations under Article XXVIII if the contracting parties concerned were satisfied that the value of the concessions was not impaired. Although the number of conversions in this case involved less than forty bindings, the Norwegian delegation was aware of the fact that the case would create an important precedent. The Norwegian delegation regretted, however, that their desire for a simplified method had been outweighed by the Working Party's desire to establish procedures which would take account of future cases of this nature. The items in question had been communicated to the CONTRACTING PARTIES by the middle of September and it was considered that sufficient time had been provided for a thorough study by the parties concerned so that agreement could be reached during the Session. A Bill was before the Norwegian Parliament for the entry into force of a new tariff on 1 January 1959. He attached importance to the inclusion of these items in the Eighth Protocol of Rectifications and Modifications.

Mr. VARGAS-GOMEZ (Cuba) expressed his Government's disappointment at the position adopted by the Working Party with respect to Norway's desire to alter the structure of its rates of duty from a specific to an ad valorem basis, similar to the case of Turkey in 1954. It was clear from the Norwegian statement in document W.13/15 that the simplified procedure proposed by Norway would not have weakened the position or reduced the rights of contracting parties under Article XXVIII: interested contracting parties claiming that in a particular case the conversion adversely affected their interests would have had the right to request appropriate negotiations with Norway.

Mr. Vargas-Gomez drew attention to the procedural simplification which allowed for an examination of the new ad valorem rates, and of the principles on which the conversion was based. If in the implementation of these conversions a contracting party thought that its concession had been impaired, then it was free to request negotiation of the item under Article XXVIII. Unfortunately, this simplification was not acceptable to the members of the Working Party, and he regretted that the CONTRACTING PARTIES were not inclined to be flexible in their consideration of problems raised by governments which had constantly honoured their obligations whilst, at the same time, there was a spirit of tolerance with regard to the policy of some governments which violated the rules of the General Agreement.

The CONTRACTING PARTIES adopted the report and approved the recommendation.

The representative of Cuba reserved the position of his delegation.

The CHAIRMAN stated that contracting parties which wished to claim a "principal supplying interest" or a "substantial interest" should address their claims in writing to the Norwegian Government as soon as possible and notify the secretariat. Any claims recognized by the Norwegian Government would be deemed to be determinations by the contracting parties within the terms of paragraph 1 of Article XXVIII. If it were not possible to reach agreement between the Norwegian Government and the government claiming interest, the matter could be referred to the CONTRACTING PARTIES or to the Intersessional Committee.

5. Anti-dumping and countervailing duties (L/908)

The CHAIRMAN referred to the analysis of national laws and regulations on the levy of anti-dumping and countervailing duties which had been submitted at the last Session by the secretariat. It had then been agreed that contracting parties should be invited to submit views and suggestions for further studies. Proposals based on the replies received had been distributed in document L/869 for consideration at this Session. The Norwegian and Swedish delegations had now proposed that a group of governmental experts should be convened in advance of the next Session and had suggested the terms of reference for the group.

Mr. HAGEN (Sweden) reminded the contracting parties that this item had been on the agenda since the Tenth Session. In the view of the Swedish delegation, the problems involved were of great and increasing importance to world trade and experience had shown that anti-dumping and countervailing duties were applied quite differently in different countries. Consequently his delegation was of the opinion that Article VI of GATT was inadequate. Although in the long term a harmonization of legislation and of its application in different countries was desirable, he did not intend to raise either this matter or the revision of Article VI at this stage owing to the complexity of the problem. He wished, however, to propose a limited programme for future action as put forward in document L/908. Mr. Hagen therefore suggested that those countries which had made comments on the secretariat's analysis and other contracting parties which had anti-dumping

legislation or which were interested in these problems should be invited to participate in the work of a group of experts. He supported the suggestions made by the Austrian and United States Governments, summarized in document L/869, that the analysis of the GATT secretariat on national legislation in force should be supplemented so as to cover new legislation and subsequent changes in national laws and legislation. He therefore suggested that contracting parties should communicate such changes to the secretariat.

Mr. SOLBERG (Norway) associated his delegation with the proposal made by the Swedish delegation concerning the establishment of a group of governmental experts to exchange information on certain specific matters relating to the imposition of anti-dumping and countervailing duties. At the last two sessions the Norwegian Government had drawn attention to the fact that dumping practices were growing in international trade. There were diverse opinions among the contracting parties with regard to the interpretation of Article VI, as had been borne out by the case of freight dumping examined earlier in the meeting. The proposal under consideration implied that the major trading nations which had wide experience in the field of anti-dumping legislation should make available the professional knowledge of their experts to officials from other countries with less experience. In the opinion of the Norwegian delegation this was the way in which the contracting parties could co-operate, for the GATT was more than an instrument of commonly-agreed trade policy; it was a forum in which not only trade conflicts could be settled but where views and experience could be exchanged on questions relating to the formulation and administration of national laws in the field of trade policy.

Mr. SCHWARZMANN (Canada) expressed his delegation's agreement to the proposal although he hoped that, in future, countries which wished to propose technical matters of this nature for discussion would do so earlier in the session since a customs officer had been included in the Canadian delegation to participate in discussions on this subject.

Mr. TREU (Austria) supported the proposal as a first step towards modifying the provisions of Article VI. In his view the present wording of this Article did not correspond to practical requirements. Since the General Agreement formed part of Austria's legislation, his Government was bound to apply the general provisions of Article VI even towards contracting parties which considered themselves authorized, on the ground of their own legislation or their economic system, to apply divergent rules in this respect which Austria considered incompatible with reciprocity and equality of rights. Austria, as a small country, was more exposed to price fluctuations on the world market than were larger countries with wider home markets. He therefore hoped that the results of the proposal would lead to an equilibrium which would afford to each country an opportunity to compete with foreign products on the domestic and third markets under equal and fair price conditions. The Austrian delegation was ready to co-operate actively in the proposed studies, but should these be abortive it would have to reserve, in the interest of the domestic economy, further statements on measures which it might be obliged to take.

Mr. ELSON (Federal Republic of Germany), in supporting the proposal, expressed the hope of his delegation that the ultimate goal would be the revision of provisions of the General Agreement covering such duties and also the standardization and unification of legislation in this field.

Mr. BENES (Czechoslovakia) drew attention to the fact that the views of his delegation were contained in the suggestions submitted by contracting parties for future action (L/869). The main purpose of Article VI had been to prescribe certain rules to safeguard the value of agreed concessions and other advantages accruing from the General Agreement against possible impairment by the uncontrolled use of anti-dumping duties. The application of anti-dumping duties could be dangerous unless regarded as an exceptional measure applied to cases of real dumping. He hoped that the secretariat would follow developments closely in its Annual Reports and that the matter would remain on the agenda of the CONTRACTING PARTIES. It was the desire of the Czechoslovakian delegation that participation in the meetings of the group of experts should be open to all contracting parties and not only to countries with anti-dumping legislation.

Miss SEAMAN (United Kingdom) said that it was no secret to contracting parties that her Government did not share the enthusiasm of other governments for modifying Article VI. Nevertheless, the United Kingdom Government was interested in the more limited proposal which had been made by the Norwegian and Swedish Governments. A government which had not had very much experience in the administration of such legislation could profit from the exchange of information. The United Kingdom would be happy to send an expert to learn from others more experienced.

Mr. ROBERTSON (Australia) supported the proposal, but expressed his concern at the difficulty of setting up the proposed group of experts before the next Session in view of the heavy programme of intersessional work to which the contracting parties were committed. If it were to overstrain the secretariat facilities he would propose postponement until after the next Session.

Mr. SWAMINATHAN (India) said that whilst he was happy to support the proposal he shared the fears expressed by Mr. Robertson and requested the Executive Secretary to inform the CONTRACTING PARTIES whether it was feasible to continue with the proposal immediately or whether it should be postponed.

Mr. HAGAN (Sweden) understood the apprehension expressed by the delegates of Australia and India. He wanted to make it clear that the proposal did not intend that all the work should be done before the next Session.

The EXECUTIVE SECRETARY said that this was part of a larger question: that of the whole programme of work to be undertaken during the intersessional period. In view of the fact that a suggested programme was shortly to be circulated, he suggested that the CONTRACTING PARTIES take their decision after examining the detailed programme.

The CHAIRMAN proposed that further discussion be postponed until contracting parties had had time to examine the programme of meetings for 1959.

6. Article XXVIII: Request by Denmark for Authority to enter into Renegotiations (SECRET/100)

Mr. GUNDELACH (Denmark) said that the present Danish tariff nomenclature dated back to 1863 and it was quite obvious that as a result of technical developments in the industrial field this nomenclature had become obsolete. The proposed modernization of the tariff, based on the Brussels Nomenclature, had been carried out in such a manner that no increase in the general tariff incidence would result; it had been unavoidable, however, to effect the change without alterations in the rates of duty on industrial products. For these reasons, therefore, the Danish Government now requested authority to renegotiate certain items in Schedule XXII as enumerated in SECRET/100. Mr. Gundelach recalled that at the Twelfth Session the Danish Government had informed the CONTRACTING PARTIES of its intentions in this regard and, in the light of the Danish memorandum in SECRET/100, he expressed the hope that the CONTRACTING PARTIES would recognize that special circumstances existed. Should the necessary authority be granted, his Government would desire an early completion of the negotiations since it intended to put the revised tariff into effect on 1 January 1959.

Mr. SOLLBERG (Norway) supported the Danish request.

Mr. PAPPANO (United States) was prepared to concur with the Danish request. He pointed out, however, that his delegation had not yet reached a position on those items not initially negotiated with the United States and on which it might wish to consult or negotiate with Denmark.

The CONTRACTING PARTIES, after having heard the statement by the representative of Denmark and in the light of the facts set out in document SECRET/100, agreed that special circumstances existed in the sense of Article XXVIII:4 and decided to authorize the Government of Denmark to enter into renegotiations.

The CHAIRMAN suggested that any contracting party which considered it had a "principal supplying interest" or "substantial interest" in the items should communicate such claims in writing, and without delay, to the Danish Government, at the same time informing the Executive Secretary. Any claim recognized by the Danish Government would be deemed to be a determination by the CONTRACTING PARTIES within the terms of paragraph 1 of Article XXVIII. If no agreement could be reached between the Danish Government and a government claiming interest, the matter might be referred to the CONTRACTING PARTIES or to the Intersessional Committee.

It was so agreed.

The meeting adjourned at 5.0 p.m.